

# IDAHO ADMINISTRATIVE BULLETIN

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# Preface

*The Idaho Administrative Bulletin is published once each month by the Department of Administration, Office of the Administrative Rules Coordinator, pursuant to Section 67-5203, Idaho Code. The Bulletin is a monthly compilation of all administrative rule-making documents in Idaho. The Bulletin publishes the official rulemaking notices and administrative rule text of state agency rulemakings and other official documents as necessary.*

*State agencies are required to provide public notice of rulemaking activity and invite public input. The public receives notice of rulemaking activity through the Idaho Administrative Bulletin and the Legal Notice published monthly in local newspapers. The Legal Notice provides reasonable opportunity for public input, either oral or written, which may be presented to the agency within the time and manner specified in the Rulemaking Notice published in the Bulletin. After the comment period closes, the agency considers fully all information submitted in regard to the rule. Comment periods are not provided in temporary or final rule-making activities.*

## **CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN**

*The Bulletin is cited by year and issue number. For example, Bulletin 06-1 refers to the first Bulletin issued in calendar year 2006; Bulletin 07-1 refers to the first Bulletin issued in calendar year 2007. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 07-1 refers to January 2007; Volume No. 07-2 refers to February 2007; and so forth. Example: The Bulletin published in January of 2007 is cited as Volume 07-1. The December 2006 Bulletin is cited as Volume 06-12.*

## **RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE**

*The Idaho Administrative Code is published once a year and is a compilation or supplemental compilation of all final and enforceable administrative rules in effect in Idaho. In an effort to provide the reader with current, enforceable rules, temporary rules are also published in the Administrative Code. Temporary rules and final rules approved by the legislature during the legislative session, and published in the monthly Idaho Administrative Bulletin, supplement the Administrative Code. Negotiated, proposed, and pending rules are only published in the Bulletin and **not** printed in the Administrative Code.*

*To determine if a particular rule remains in effect, or to determine if a change has occurred, the reader should refer to the **Cumulative Rulemaking Index of Idaho Administrative Rules**, printed in each Bulletin.*

## **TYPES OF RULEMAKINGS PUBLISHED IN THE ADMINISTRATIVE BULLETIN**

*The state of Idaho administrative rulemaking process, governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, comprises five distinct activities: negotiated, proposed, temporary, pending and final rulemaking. Not all rulemakings involve all five. At a minimum, a rulemaking includes proposed, pending and final rulemaking. Many rules are adopted as temporary rules when they meet the required statutory criteria and agencies often engage in negotiated rulemaking at the beginning of the process to facilitate consensus building in controversial or complex rulemakings. In the majority of cases, the process begins with proposed rulemaking and ends with the final rulemaking. The following is a brief explanation of each type of administrative rule.*

### **NEGOTIATED RULEMAKING**

*Negotiated rulemaking is a process in which all interested parties and the agency seek consensus on the content of a rule. Agencies are encouraged, and in some cases required, to engage in this rulemaking activity whenever it is feasible to do so. Publication of a "Notice of Intent to Promulgate" a rule in the Administrative Bulletin by the agency is optional. This process should result in the formulation of a proposed and/or temporary rule.*

### ***PROPOSED RULEMAKING***

*A proposed rulemaking is an action by an agency wherein the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a "Notice of Proposed Rulemaking" in the Bulletin. This notice must include:*

- a) the specific statutory authority (from Idaho Code) for the rulemaking including a citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking;*
- b) a statement in nontechnical language of the substance of the proposed rule, including a specific description of any fee or charge imposed or increased;*
- c) the text of the proposed rule prepared in legislative format;*
- d) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;*
- e) the manner in which persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent;*
- f) the manner in which persons may request an opportunity for an oral presentation as provided in Section 67-5222, Idaho Code; and*
- g) the deadline for public (written) comments on the proposed rule.*

*As stated, the text of the proposed rule must be published in the Bulletin. After meeting the statutory rulemaking criteria for a proposed rule, the agency may proceed to the pending rule stage. A proposed rule does not have an assigned effective date unless published in conjunction with a temporary rule. An agency may vacate a proposed rulemaking if it decides not to proceed further with the promulgation process.*

### ***TEMPORARY RULEMAKING***

*Temporary rules may be adopted only when the governor finds that it is necessary for:*

- a) protection of the public health, safety, or welfare; or*
- b) compliance with deadlines in amendments to governing law or federal programs; or*
- c) conferring a benefit;*

*If a rulemaking meets any one or all of the above requirements, a rule may become effective before it has been submitted to the legislature for review and the agency may proceed and adopt a temporary rule. However, a temporary rule that imposes a fee or charge may be adopted only if the Governor finds that the fee or charge is necessary to avoid an immediate danger which justifies the imposition of the fee or charge.*

*A temporary rule expires at the conclusion of the next succeeding regular legislative session unless the rule is approved, amended, or modified by concurrent resolution or when the rule has been replaced by a final rule.*

*State law requires that the text of both a proposed rule and a temporary rule be published in the Administrative Bulletin. In cases where the text of the temporary rule is the same as the proposed rule, the rulemaking can be done concurrently as a proposed/temporary rule. Combining the rulemaking allows for a single publication of the text.*

*An agency may, at any time, rescind a temporary rule that has been adopted and is in effect. If the temporary rule is being replaced by a new temporary rule or if it has been published concurrently with a proposed rule that is being vacated, the agency, in most instances, should rescind the temporary rule.*

### **PENDING RULEMAKING**

*A pending rule is a rule that has been adopted by an agency under regular rulemaking procedures and remains subject to legislative review before it becomes a final, enforceable rule.*

*When a pending rule is published in the Bulletin, the agency is required to include certain information in the "Notice of Pending Rulemaking". This includes:*

- a) a statement giving the reasons for adopting the rule;*
- b) a statement of any change between the text of the proposed rule and the pending rule with an explanation of the reasons for any changes;*
- c) the date the pending rule will become final and effective;*
- d) an identification of any portion of the rule imposing or increasing a fee or charge.*

*Agencies are required to republish the text of the rule when substantive changes have been made to the proposed rule. An agency may adopt a pending rule that varies in content from that which was originally proposed if the subject matter of the rule remains the same, the pending rule change is a logical outgrowth of the proposed rule, and the original notice was written so as to assure that members of the public were reasonably notified of the subject. It is not always necessary to republish all the text of the pending rule. With the permission of the Rules Coordinator, only the Section(s) that have changed from the proposed text are republished. If no changes have been made to the previously published text, it is not required to republish the text again and only the "Notice of Pending Rulemaking" is published.*

### **FINAL RULEMAKING**

*A final rule is a rule that has been adopted by an agency under the regular rulemaking procedures and is in effect and enforceable.*

*No pending rule adopted by an agency will become final and effective until it has been submitted to the legislature for review. Where the legislature finds that an agency has violated the legislative intent of the statute under which the rule was made, a concurrent resolution may be adopted to reject the rulemaking or any part thereof. A "Notice of Final Rule" must be published in the Bulletin for any rule that is rejected, amended, or modified by the legislature showing the changes made. A rule reviewed by the legislature and not rejected, amended or modified becomes final with no further legislative action. No rule shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review. However, a rule that is final and effective may be applied retroactively, as provided in the rule.*

### **AVAILABILITY OF THE ADMINISTRATIVE CODE AND BULLETIN**

*The Idaho Administrative Code and all monthly Bulletins are available for viewing and use by the public in all 44 county law libraries, state university and college and community college libraries, the state law library, the state library, the Public Libraries in Boise, Pocatello, Idaho Falls, Twin Falls, Lewiston and East Bonner County Library.*

## **SUBSCRIPTIONS AND DISTRIBUTION**

*For subscription information and costs of publications, please contact the Department of Administration, Office of the Administrative Rules Coordinator, 650 W. State Street, Room 100, Boise, Idaho 83720-0306, telephone (208) 332-1820.*

*The Idaho Administrative Bulletin is an official monthly publication of the State of Idaho. Yearly subscriptions or individual copies are available for purchase.*

*The Idaho Administrative Code, is an annual compilation or supplemental compilation of all final and enforceable temporary administrative rules and includes a table of contents, reference guides, and a subject index.*

*Individual Rule Chapters and Individual RuleMaking Dockets, are specific portions of the Bulletin and Administrative Code produced on demand.*

*Internet Access - The Administrative Code and Administrative Bulletin are available on the Internet at the following address: <http://adm.idaho.gov/adminrules/>*

## **HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN**

*Rulemaking documents produced by state agencies and published in the Idaho Administrative Bulletin are organized by a numbering system. Each state agency has a two-digit identification code number known as the "IDAPA" number. (The "IDAPA" Codes are listed in the alphabetical/numerical index at the end of this Preface.) Within each agency there are divisions or departments to which a two-digit "TITLE" number is assigned. There are "CHAPTER" numbers assigned within the Title and the rule text is divided among major sections with a number of subsections. An example IDAPA number is as follows:*

### **IDAPA 38.05.01.200.02.c.ii.**

*"IDAPA" refers to Administrative Rules in general that are subject to the Administrative Procedures Act and are required by this act to be published in the Idaho Administrative Code and the Idaho Administrative Bulletin.*

*"38." refers to the Idaho Department of Administration*

*"05." refers to Title 05, which is the Department of Administrations's Division of Purchasing*

*"01." refers to Chapter 01 of Title 05, "Rules of the Division of Purchasing"*

*"200." refers to Major Section 200, "Content of the Invitation to Bid"*

*"02." refers to Subsection 200.02.*

*"c." refers to Subsection 200.02.c.*

*"ii." refers to Subsection 200.02.c.ii.*

## DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rulemaking actions (documents) are assigned a “DOCKET NUMBER.” The “Docket Number” is a series of numbers separated by a hyphen “-”, (38-0501-0701). The docket numbers are published sequentially by IDAPA designation (e.g. the two-digit agency code). The following example is a breakdown of a typical rule docket number:

### “DOCKET NO. 38-0501-0701”

“38-” denotes the agency's IDAPA number; in this case the Department of Administration.

“0501-” refers to the **TITLE AND CHAPTER** numbers of the agency rule being promulgated; in this case the Division of Purchasing (**TITLE 05**), Rules of the Division of Purchasing (**Chapter 01**).

“0701” denotes the year and sequential order of the docket being published; in this case the numbers refer to the first rule-making action published in **calendar year 2007**. A subsequent rulemaking on this same rule chapter in calendar year 2007 would be designated as “0702”. The docket number in this scenario would be 38-0501-0702.

Within each Docket, only the affected sections of chapters are printed. (See **Sections Affected Index** in each Bulletin for a listing of these.) The individual sections affected are printed in the Bulletin sequentially (e.g. Section “200” appears before Section “345” and so on). Whenever the sequence of the numbering is broken the following statement will appear:

### (BREAK IN CONTINUITY OF SECTIONS)

## INTERNAL AND EXTERNAL CITATIONS TO ADMINISTRATIVE RULES IN THE CODE AND BULLETIN

When making a citation to another Section or Subsection of a rule that is part of the same rule, a typical internal citation may appear as follows:

“...as found in Section 201 of this rule.” OR “...in accordance with Subsection 201.06.c. of this rule.”

The citation may also include the IDAPA, Title, or Chapter number, as follows”

“...in accordance with IDAPA 38.05.01.201...”

“38” denotes the IDAPA number of the agency.

“05” denotes the TITLE number of the rule.

“01” denotes the Chapter number of the rule.

“201” denotes the main Section number of the rule to which the citation refers.

Citations made within a rule to a different rule chapter (external citation) should also include the name of the Department and the name of the rule chapter being referenced, as well as the IDAPA, Title, and Chapter numbers. The following is a typical example of an external citation to another rule chapter:

“...as outlined in the Rules of the Department of Administration, IDAPA 38.04.04, “Rules Governing Capitol Mall Parking.”

**BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2007**

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
07-1	January 2007	<b>*November 15, 2006</b>	January 3, 2007	January 24, 2007
07-2	February 2007	January 5, 2007	February 7, 2007	February 28, 2007
07-3	March 2007	February 2, 2007	March 7, 2007	March 28, 2007
07-4	April 2007	March 2, 2007	April 4, 2007	April 25, 2007
07-5	May 2007	April 6, 2007	May 2, 2007	May 23, 2007
07-6	June 2007	May 4, 2007	June 6, 2007	June 27, 2007
07-7	July 2007	June 1, 2007	July 4, 2007	July 25, 2007
07-8	August 2007	June 29, 2007	August 1, 2007	August 22, 2007
07-9	September 2007	August 3, 2007	September 5, 2007	September 26, 2007
07-10	October 2007	<b>**August 24, 2007</b>	October 3, 2007	October 24, 2007
07-11	November 2007	October 5, 2007	November 7, 2007	November 28, 2007
07-12	December 2007	November 2, 2007	December 5, 2007	December 26, 2006

**BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2008**

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
08-1	January 2008	<b>*November 14, 2007</b>	January 2, 2008	January 22, 2008
08-2	February 2008	January 4, 2008	February 6, 2008	February 27, 2008
08-3	March 2008	February 8, 2008	March 5, 2008	March 26, 2008
08-4	April 2008	March 7, 2008	April 2, 2008	April 23, 2008
08-5	May 2008	April 4, 2008	May 7, 2008	May 28, 2008
08-6	June 2008	May 2, 2008	June 4, 2008	June 25, 2008
08-7	July 2008	May 30, 2008	July 2, 2008	July 23, 2008
08-8	August 2008	July 3, 2008	August 6, 2008	August 27, 2008
08-9	September 2008	August 1, 2008	September 3, 2008	September 24, 2008
08-10	October 2008	<b>**August 20, 2008</b>	October 1, 2008	October 22, 2008
08-11	November 2008	October 3, 2008	November 5, 2008	November 26, 2008
08-12	December 2008	October 31, 2008	December 3, 2008	December 24, 2006

***\*Last day to submit proposed rulemaking before moratorium begins and last day to submit pending rules to be reviewed by the legislature.***

***\*\*Last day to submit proposed rules in order to complete rulemaking for review by legislature.***

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBER AND THE CURRENT ADMINISTRATIVE CODE VOLUME NUMBERS	
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IDAPA 38	Administration, Department of
IDAPA 44	Administrative Rules Coordinator, Office of the
IDAPA 02	Agriculture, Idaho Department of
IDAPA 40	Arts, Idaho Commission on the
IDAPA 03	Athletic Commission
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IDAPA 07	Building Safety, Division of Electrical Board Plumbing Board Building Codes & Manufactured Homes Building Code Advisory Board Uniform School Building Safety Public Works Contractors License Board HVAC Board
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ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBER AND THE CURRENT ADMINISTRATIVE CODE VOLUME NUMBERS	
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<b>IDAPA 16</b>	<b>Health and Welfare, Department of</b>
<b>IDAPA 45</b>	<b>Human Rights Commission</b>
<b>IDAPA 30</b>	<b>Idaho State Library</b>
<b>IDAPA 11</b>	<b>Idaho State Police</b>
<b>IDAPA 39</b>	<b>Idaho Transportation Department</b>
<b>IDAPA 17</b>	<b>Industrial Commission</b>
<b>IDAPA 18</b>	<b>Insurance, Department of</b>
<b>IDAPA 05</b>	<b>Juvenile Corrections, Department of</b>
<b>IDAPA 09</b>	<b>Labor, Idaho Department of</b>
<b>IDAPA 20</b>	<b>Lands, Department of</b>
<b>IDAPA 52</b>	<b>Lottery Commission, Idaho State</b>
<b>IDAPA 22</b>	<b>Medicine, Board of</b>
<b>IDAPA 23</b>	<b>Nursing, Board of</b>
<b>IDAPA 24</b>	<b>Occupational Licenses, Board of</b> Board of Acupuncture Board of Architectural Examiners Board of Barber Examiners Board of Chiropractic Physicians Board of Cosmetology Board of Dentistry Board of Drinking Water and Wastewater Specialists Board of Environmental Health Specialist Examiners Board of Hearing Aid Dealers and Fitters Board of Landscape Architects Board of Morticians Board of Examiners of Nursing Home Administrators Liquefied Petroleum Gas Safety Board Board of Optometry Board of Podiatry Board of Professional Counselors and Marriage & Family Therapists Board of Psychologist Examiners Real Estate Appraiser Board Board of Residential Care Facility Administrators Board of Social Work Examiners
<b>IDAPA 25</b>	<b>Outfitters and Guides Licensing Board</b>
<b>IDAPA 50</b>	<b>Pardons and Parole, Commission for</b>
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<b>IDAPA 27</b>	<b>Pharmacy, Board of</b>



<b>ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBER AND THE CURRENT ADMINISTRATIVE CODE VOLUME NUMBERS</b>	
<b>IDAPA 29</b>	<b>Potato Commission, Idaho</b>
<b>IDAPA 55</b>	<b>Professional-Technical Education, Division of</b>
<b>IDAPA 59</b>	<b>Public Employee Retirement System of Idaho (PERSI)</b>
<b>IDAPA 41</b>	<b>Public Health Districts</b>
<b>IDAPA 31</b>	<b>Public Utilities Commission</b>
<b>IDAPA 56</b>	<b>Rangeland Resources Commission, Idaho</b>
<b>IDAPA 33</b>	<b>Real Estate Commission, Idaho</b>
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<b>IDAPA 37</b>	<b>Water Resources, Department of</b>
<b>IDAPA 42</b>	<b>Wheat Commission</b>

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2007-15**

**ESTABLISHING THE OFFICE OF ENERGY RESOURCES WITHIN THE OFFICE OF THE GOVERNOR  
REPEALING AND REPLACING EXECUTIVE ORDER 2007-11**

---

*WHEREAS, energy production, generation, transmission and conservation are vital to Idaho; and*

*WHEREAS, long-term energy supplies are critical to the well-being and future of Idaho; and*

*WHEREAS, it is the responsibility of state government to explore energy production and employ measures to reduce wasteful, uneconomical and unnecessary uses of energy, which diminish Idaho's energy resources; and*

*WHEREAS, the Division of Energy was previously assigned to the Idaho Department of Water Resources under Executive Order 2001-06, which expired;*

*NOW, THEREFORE, I, C.L. "BUTCH" OTTER, Governor of the State of Idaho, by the authority vested in me by the Constitution and laws of the State of Idaho do hereby order:*

- 1. Creation of the "Office of Energy Resources" within the Office of the Governor.*
- 2. The Governor shall appoint an administrator (hereafter "Administrator") to lead the Office of Energy Resources (Office). The Administrator shall serve at the pleasure of the Governor and shall be subject to confirmation by the Idaho Senate. The Administrator shall be the official in Idaho designated to oversee energy planning, policy and coordination, and to fulfill the duties provided in this Executive Order.*
- 3. Employees who previously worked for the Division of Energy, within the Department of Water Resources and are employed by the Office shall retain the employment status they enjoyed prior to the promulgation of this Executive Order. The aforementioned employees shall retain their status until they accept promotion or a new job title at which time their status shall change to non-classified. Employees of the Office hired after the effective date of this Executive Order, who did not previously work for the Division of Energy, shall be non-classified for the purposes of Chapter 53, Title 67 of the Idaho Code.*
- 4. The duties, powers and authorities of the Office of Energy Resources shall include:*
  - a) Advising the Governor, the Legislature and other public officials of the State's energy requirements, supply, transmission, management, conservation and efficiency efforts;*
  - b) Coordinating and cooperating with federal and state agencies, departments and divisions, and local governments on issues concerning the State's energy requirements, supply, transmission, management, conservation and efficiency efforts;*
  - c) Pursuing and accepting federal delegation of responsibility and authority for matters that affect the energy supply, transmission, management, consumption and conservation by the citizens of Idaho other than energy codes and standards for buildings and those matters under the jurisdiction of the Idaho Public Utilities Commission;*
  - d) Preparing and, as necessary, implementing contingency plans for the conservation and allocation of energy supplies not otherwise regulated by the Idaho Public Utilities Commission during periods of shortages and supply interruptions;*
  - e) Provide technical assistance to all state agencies, departments, divisions and local governments for energy conservation projects and renewable energy resource opportunities, and help those entities secure funding where available for energy conservation projects and renewable energy resource opportunities;*
  - f) Assisting local governments, school districts and public institutions by providing technical assistance*

- and funding for programs to improve energy management and reduce energy consumption;*
- g) Providing public information and data on energy supplies, transmission, delivery, demands, technologies, efficiency measures and conservation;*
  - h) Promoting energy conservation through research, public information, education, training, technical assistance, funding assistance and other activities;*
  - i) Promoting the utilization of renewable energy resources through funding and technical assistance, research and public information;*
  - j) Assisting in the development of energy-efficient technologies;*
  - k) Entering into other agreements or contracts and do that which is necessary to carry out the provisions of this Executive Order and in the performance of other duties as may be directed by the Governor.*
5. *The Office of Energy Resources may accept private contributions, state or federal funds, funds from other public agencies or any other source. The moneys shall be expended solely for the purposes provided in this Executive Order and accounted for as provided by law.*
6. *All orders, regulations, contracts and licenses which are in effect at the time this Executive Order is signed shall continue in effect according to their terms until modified or terminated.*
7. *The duties, responsibilities and authority of this Executive Order shall not alter any existing responsibilities, jurisdiction or planning functions of state agencies established by state or federal law; nothing in this Executive Order shall be construed to provide or imply any regulatory authority by the Office of Energy Resources over public utilities that are subject to the jurisdiction of the Idaho Public Utilities Commission.*

*This Executive Order shall cease to be effective four years after its entry into force.*



*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho in Boise on this 19th day of October in the year of our Lord two thousand and seven and of the Independence of the United States of America the two hundred thirty-second and of the Statehood of Idaho the one hundred eighteenth.*

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C.L. "BUTCH" OTTER  
GOVERNOR

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BEN YSURSA  
SECRETARY OF STATE

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2007-16**

***ESTABLISHING THE SCHEDULE FOR FLYING THE POW/MIA FLAG***

---

*WHEREAS, the State of Idaho owes a lasting debt of gratitude to all heroic members of our Armed Forces who have risked their safety to defend the lives and liberty of others; and*

*WHEREAS, the State will not forget our Nation's prisoners of war and those missing in action (POWs/MIAs) and the devoted service they have bravely rendered to our country, and neither will the State of Idaho fail to meet its obligation to their families; and*

*WHEREAS, an expression of our State's determination to keep faith with those who have so faithfully served and defended the United States; and*

*WHEREAS, Idaho recognizes the profound suffering of those who continue to await word of the fate of their loved ones, and the State is determined to help them gain the peace and consolation that word will bring; and*

*WHEREAS, the POW/MIA flag symbolizes Idaho's firm and united commitment to securing the release of any American who may still be held against their will, to obtaining the fullest possible accounting for the missing, and to repatriation of all recoverable American remains.*

*NOW, THEREFORE, I, C.L. "BUTCH" OTTER, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby order as follows:*

*The POW/MIA flag shall fly over all state buildings 24/7, 365 days a year or until such time as all our unaccounted for and missing members of the Armed Forces are returned home to their families.*



*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho in Boise on this 24th day of October in the year of our Lord two thousand and seven and of the Independence of the United States of America the two hundred thirty-second and of the Statehood of Idaho the one hundred eighteenth.*

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*C.L. "BUTCH" OTTER  
GOVERNOR*

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*BEN YSURSA  
SECRETARY OF STATE*

**IDAPA 02 - DEPARTMENT OF AGRICULTURE**

**02.04.20 - RULES GOVERNING BRUCELLOSIS**

**DOCKET NO. 02-0420-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-601, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 22 and 23.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact John Chatburn, Deputy Administrator at (208) 332-8540.

DATED this 7th day of November, 2007.

Brian J. Oakey  
Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790  
Boise, Idaho 83701-0790  
(208) 332-8500, Fax (208) 334-4062

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**DOCKET NO. 02-0420-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 22 and 23.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

**IDAPA 02 - DEPARTMENT OF AGRICULTURE**  
**02.04.21 - RULES GOVERNING THE IMPORTATION OF ANIMALS**  
**DOCKET NO. 02-0421-0801**  
**NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is November 19, 2007.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 25-207, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

This rule updates and clarifies the import requirements for Canadian cattle and bison imported into Idaho including individual animal identification, CAN branding and import permit requirements.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

It is necessary to protect the public health, safety and welfare.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact John Chatburn, Deputy Administrator at (208) 332-8540.

DATED this 21st day of November, 2007.

Brian J. Oakey  
Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790  
Boise, Idaho 83701-0790  
(208) 332-8500, Fax (208) 334-4062

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0421-0801**

**201. CATTLE AND BISON IMPORTED FROM CANADA.**

All cattle and bison imported into Idaho from Canada, except those imported directly to slaughter, must: (11-19-07)T

**01. CAN Brand.** Be permanently hot-iron branded with the letters CAN, not less than two (2) inches high nor more than three (3) inches high, placed high on the right hip. (11-19-07)T

**02. Idaho Requirements.** Meet all Idaho import requirements. (11-19-07)T

**03. USDA Requirements.** Meet all USDA import requirements. (11-19-07)T

**04. Individually Identified.** Be individually identified on a certificate of veterinary inspection. (11-19-07)T

**05. Import Permit.** Be accompanied by an import permit issued by the Division. (11-19-07)T

**2042. WHEN PERMITS ARE REQUIRED FOR CATTLE.**

**01. Dairy.** For all intact male and female cattle of dairy breeds not consigned directly to an approved slaughter establishment, or to a specifically approved livestock market. Dairy cattle three hundred sixty-five (365) days of age or older shall be officially identified as provided in IDAPA 02.04.20. The Administrator may require the identification of dairy cattle less than three hundred sixty-five (365) days of age. (5-3-03)

**02. Beef Bulls.** All bulls of beef breeds not consigned directly to an approved slaughter establishment, or to a specifically approved livestock market, except intact male calves accompanying their dams. (5-3-03)

**03. Female Beef Cattle.** All intact female cattle of beef breeds not consigned directly to an approved slaughter establishment or to a specifically approved livestock market that are: (5-3-03)

**a.** From states or areas that are not Brucellosis Class Free; or (5-3-03)

**b.** Not officially vaccinated pursuant to IDAPA 02.04.20, "Rules Governing Brucellosis," except calves over one hundred twenty (120) days of age accompanying their dam; or (4-11-06)

**c.** Under one hundred twenty (120) days of age, except calves accompanying their dam. (5-3-03)

**04. Restricted Areas.** All cattle from areas or states on which Idaho or USDA has imposed restrictions. (5-3-03)

**05. Canadian Cattle and Bison.** All cattle and bison imported into Idaho from Canada, except those imported directly to slaughter, must have an import permit prior to importation. (11-19-07)T

**056. Other.** Cattle of any classification that do not meet other entry requirements. (5-3-03)

**2023. -- 209. (RESERVED).**

**IDAPA 02 - DEPARTMENT OF AGRICULTURE**

**02.04.30 - RULES GOVERNING NUTRIENT MANAGEMENT**

**DOCKET NO. 02-0430-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 22-4903 and 37-401, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 25 through 30.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact John Chatburn, Deputy Administrator at (208) 332-8540.

DATED this 7th day of November, 2007.

Brian J. Oakey  
Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790  
Boise, Idaho 83701-0790  
(208) 332-8500, Fax (208) 334-4062

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**DOCKET NO. 02-0430-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 25 through 30.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**



## IDAPA 02 - DEPARTMENT OF AGRICULTURE

### 02.06.33 - ORGANIC FOOD PRODUCTS RULES

DOCKET NO. 02-0633-0701

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-1103, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The incorporation by reference section IDAPA 02.06.33.004 is being amended to reflect the changes to 7 CFR part 205, National Organic Program, effective October 21, 2007. This date has been updated to the most current date since the publication (publication date, October 3, 2007). The October 21, 2007 date will replace June 25, 2007 to remain in compliance with the National Organic Program.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 31 through 33. The pending rule amends the proposed rule by incorporating the most recent version of the 7 CFR part 205, National Organic Program.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Margaret Misner, Program Manager, at 208-332-8673.

DATED this 8th day of November, 2007.

Brian Oakey  
Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
PO Box 790  
Boise, Idaho 83701  
Phone: 208-332-8500  
Fax: 208-334-2170

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DOCKET NO. 02-0633-0701 - ADOPTION OF PENDING RULE

Substantive changes have been made to the pending rule.

Only those sections or subsections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 31 through 33.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.

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THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 02-0633-0701

***Section 004 (Entire Section)***

**004. INCORPORATION BY REFERENCE.**

The ~~January 2006~~ October 21, 2007 Code of Federal Regulations, (CFR) 7 CFR Part 205 Subchapter M-Organic Foods Production Act Provisions, except sections 205.620 through 205.642, is incorporated by reference. Copies of this document may be obtained from the Idaho State Department of Agriculture (ISDA), 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701 and are also available at the state law library. ~~(3-19-07)~~(\_\_\_\_)

**IDAPA 08 - STATE BOARD OF EDUCATION**

**08.01.05 - IDAHO PROMISE SCHOLARSHIP PROGRAM**

**DOCKET NO. 08-0105-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-105, and Title 33 Chapter 43, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes in the pending rule, therefore, the pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, page 181.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dana Kelly at (208) 332-1574.

DATED this 2nd day of November, 2007.

Tracie Bent  
State Board of Education  
650 West State Street  
PO Box 83720  
Boise, ID 83720-0037  
(208) 332-1582 phone  
(208) 334-2632 FAX

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**DOCKET NO. 08-0105-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, page 181.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

**IDAPA 08 - STATE BOARD OF EDUCATION**  
**08.01.05 - IDAHO PROMISE SCHOLARSHIP PROGRAM**  
**DOCKET NO. 08-0105-0702**  
**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-105, and Title 33 Chapter 43, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes in the pending rule, therefore, the pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 182 through 191.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dana Kelly at (208) 332-1574.

DATED this 2nd day of November, 2007.

Tracie Bent  
State Board of Education  
650 West State Street  
PO Box 83720  
Boise, ID 83720-0037  
(208) 332-1567 phone  
(208) 334-2632 FAX

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**DOCKET NO. 08-0105-0702 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 182 through 191.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## **IDAPA 08 - STATE BOARD OF EDUCATION**

### **08.01.13 - RULES GOVERNING THE OPPORTUNITY SCHOLARSHIP PROGRAM**

**DOCKET NO. 08-0113-0701**

#### **NOTICE OF RULEMAKING**

#### **ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the amendment to the temporary rule is November 2, 2007. This pending rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-105 and 33-107, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The rules for the application process will establish the actual process and an application form, and related eligibility criteria. The rules related to selection will establish the selection process, selection criteria, and timing of the scholarship application, notification and awards. The amendment to the temporary rule clarifies how to equate the ACT scores of GED applicants who do not have high school or college GPA information.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Board of Education amended the temporary rule with the same revisions which have been made to the pending rule.

The complete text of the proposed rule was published in the August 1, 2008 Idaho Administrative Bulletin, Vol. 07-8, pages 33 through 41.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

An appropriation of \$2 million dollars was approved by the Legislature in 2007. Those funds are to be used for the distribution of scholarships for school year 07-08. Also, the legislature appropriated \$5 million dollars to be set in a trust account.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Dana Kelly at (208) 332-1574.

DATED this 2nd day of November, 2008.

Tracie Bent  
State Board of Education  
650 West State Street  
PO Box 83720  
Boise, ID 83720-0037  
(208) 332-1582 phone  
(208) 334-2632 FAX

DOCKET NO. 08-0113-0701 - ADOPTION OF PENDING RULE AND  
AMENDMENT TO TEMPORARY RULE

Substantive changes have been made to the pending rule.

Only those sections or subsections that have changed from the original  
proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative  
Bulletin, Volume 07-8, August 1, 2007, pages 33 through 41.

This rule has been adopted as a pending rule by the Agency and is now awaiting  
review and approval by the 2008 Idaho State Legislature for final adoption.

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THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 08-0113-0701

***Subsection 101.03.a., new Subsections 101.03.c. through 101.03.c.iii., and new  
Subsections 101.05.e. through 101.05.e.iii.***

**101. ELIGIBILITY.**

**03. Academic Eligibility. (6-14-07)T**

**a.** Applicants for the opportunity scholarship are selected as recipients, in part, on the basis of their GPA. An eligible student's GPA, ~~which will be weighted to equalize secondary and postsecondary academic performance,~~ will constitute thirty percent (30%) of the weighting for the selection of recipients of opportunity scholarships. ~~(6-14-07)T~~(11-2-07)T

**c.** The following additional criteria shall be used to determine an eligible student's GPA: (11-2-07)T

**i.** A student who has not yet graduated from secondary school and who has earned more than twelve (12) credits of postsecondary academic credit - for purposes of academic eligibility, the student's GPA shall be the higher of his or her secondary school GPA, or his or her postsecondary GPA, weighted to equalize secondary and postsecondary academic performance. (11-2-07)T

**ii.** A student who has obtained a general equivalency diploma - for purposes of academic eligibility, such student's GPA will be determined by the student's ACT score, equalized to reflect a secondary school GPA. (11-2-07)T

**iii.** A student currently enrolled in an eligible Idaho postsecondary educational institution - for purposes of academic eligibility, such student's GPA will be weighted to equalize secondary and post secondary academic performance. (11-2-07)T

**05. Additional Eligibility Requirements. (6-14-07)T**

e. If a student has attempted or completed more than one hundred (100) postsecondary academic credits, then such student must identify his or her major, the required number of credits necessary for graduation in such major, and shall submit an academic transcript that contains all courses taken and all postsecondary academic credit received. A student shall not be eligible for an Opportunity Scholarship if: (11-2-07)T

i. The student is not meeting satisfactory academic progress at the eligible Idaho postsecondary educational institution the student is attending at the time he or she applies for an Opportunity Scholarship: (11-2-07)T

ii. The student has completed more than one hundred fifty percent (150%) of the courses and academic credit necessary to graduate in such major; or (11-2-07)T

iii. The student is not within two (2) semesters of graduation in such major, based on normal academic course load. (11-2-07)T

### **Subsection 300.01.a.**

#### **300. SELECTION OF SCHOLARSHIP RECIPIENTS.**

**01. Selection Process.** The selection of applicants for the receipt of an opportunity scholarship will be based on the availability of funding for the Opportunity Scholarship Program. In addition, opportunity scholarships will be awarded to applicants, based on ranking and priority, in accordance with the following criteria: (6-14-07)T

**a.** Applicants will be ranked to determine the eligible students with the greatest demonstrated financial need, based on the financial eligibility requirements of these rules, ~~and the eligible students with the highest quantified academic ranking, based on the academic eligibility requirements of these rules. The ranking of applicants will be~~ Then, eligible students shall be selected based on rating criteria that assigns seventy percent (70%) to financial eligibility, and thirty percent (30%) to academic eligibility. In the event that this weighted score results in a tie, an eligible student who submitted his application to the Board earliest in time will be assigned a higher rank. (6-14-07)T(11-2-07)T

**IDAPA 08 - STATE BOARD OF EDUCATION**

**08.02.02 - RULES GOVERNING UNIFORMITY**

**DOCKET NO. 08-0202-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 33-105 and 33-107, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This change adds further definition to the Requirements for Professional Growth. Though it has always been the intention, these changes specifically define "educationally related" credits as being tied to content area, pedagogical best practices, school leadership and/or district need as designated by an administrator. Public hearing testimony was received and considered. It was determined that the rule, as currently written, addresses the comments received. Christina Linder, Director of Certification, responded to the testifier.

There are no changes in the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the August 1, 2007 Idaho Administrative Bulletin, Vol. 07-8, pages 42 and 43.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Christina Linder, 208.332.6886.

DATED this 13th day of November, 2007.

Tracie Bent  
State Board of Education  
650 West State Street  
PO Box 83720, Boise, ID 83720-0037  
(208) 332-1582 phone / (208) 334-2632 FAX

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**DOCKET NO. 08-0202-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-8, August 1, 2007, pages 42 and 43.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**



# **IDAPA 08 - STATE BOARD OF EDUCATION**

## **08.02.02 - RULES GOVERNING UNIFORMITY**

**DOCKET NO. 08-0202-0702**

### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-105 and 33-107, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This change allows out-of-state certificate holders to waive Idaho Praxis II requirements provided they hold a current National Board for Professional Standards Teaching certificate or can supply evidence of passing another state's approved content, pedagogy and/or performance area assessment(s). This rule confers a benefit on K-12 teachers and administrators. This rule change responds to a statewide challenge in meeting federal guidelines for Highly Qualified status and teacher shortages. This allows for greater flexibility and a shorter timeline for bringing highly qualified, out-of-state teachers into Idaho classrooms. No public hearing testimony was received on this rule.

There are no changes in the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the August 1, 2007 Idaho Administrative Bulletin, Vol. 07-8, pages 44 and 45.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Christina Linder, 208.332.6886.

DATED this 13th day of November, 2007.

Tracie Bent  
State Board of Education  
650 West State Street  
PO Box 83720, Boise, ID 83720-0037  
(208) 332-1582 phone / (208) 334-2632 FAX

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### **DOCKET NO. 08-0202-0702 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-8, August 1, 2007, pages 44 and 45.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

# **IDAPA 08 - STATE BOARD OF EDUCATION**

## **08.02.02 - RULES GOVERNING UNIFORMITY**

**DOCKET NO. 08-0202-0703**

### **NOTICE OF RULEMAKING**

#### **ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the amendment to the temporary rule is October 12, 2007. This pending rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 33-105 and 33-107, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This rule change responds to a statewide challenge in meeting federal guidelines for Highly Qualified status and teacher shortages. It also allows for more local control and flexibility in meeting certification requirements, especially in consideration of rural districts. This rule was amended after comment was received from the Deans of Education to answer their concerns that applicants with a bachelor's may not be prepared enough or qualified enough for the pupil personnel services areas.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department has amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the August 1, 2007 Idaho Administrative Bulletin, Vol. 07-8, pages 46 and 47.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Christina Linder, 208.332.6886.

DATED this 13th day of November, 2007.

Tracie Bent  
State Board of Education  
650 West State Street  
PO Box 83720, Boise, ID 83720-0037  
(208) 332-1582 phone / (208) 334-2632 FAX

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**DOCKET NO. 08-0202-0703 - ADOPTION OF PENDING RULE AND  
AMENDMENT TO TEMPORARY RULE**

Substantive changes have been made to the pending rule.

Only those sections or subsections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-8, August 1, 2007, pages 46 and 47.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.

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THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 08-0202-0703

***Subsections 047.02 through 047.02.b.***

**047. ALTERNATIVE AUTHORIZATION - PUPIL PERSONNEL SERVICES.**

The purpose of this alternative authorization is to allow Idaho school districts to request emergency endorsement/certification when a position requiring the Pupil Personnel Services certificate cannot be filled with someone who has the correct endorsement/certification. The exception to this rule is the School Nurse endorsement. The requirements for this endorsement are already defined in Subsection 027.03, of these rules. (6-14-07)T

**02. Initial Qualifications.** The applicant must complete ~~one of~~ the following ~~options:~~  
(6-14-07)T(10-12-07)T

~~a. Option I – The applicant must complete the following: (6-14-07)T~~

~~i. Prior to application, a candidate must hold a Bachelor's and/or a Master's degree in an area closely related to the certificate/endorsement area being pursued; and (6-14-07)T~~

~~ii. Before granting the alternative authorization, the candidate must have been accepted into an approved program and have an approved university plan of graduate study that meets the requirements for the appropriate Pupil Personnel Services certificate/endorsement; and (6-14-07)T~~

~~iii. The employing school district must provide supportive information attesting to the ability of the candidate to fill the position. (6-14-07)T~~

~~b. Option II – The applicant must complete the following: (6-14-07)T~~

~~ia. Prior to application, a candidate must hold a Masters degree and hold a current Idaho license from the Bureau of Occupational Licenses in the area of desired certification; and (6-14-07)T~~

~~iib. The employing school district must provide supportive information attesting to the ability of the candidate to fill the position. (6-14-07)T~~

## **IDAPA 08 - STATE BOARD OF EDUCATION**

### **08.02.02 - RULES GOVERNING UNIFORMITY**

**DOCKET NO. 08-0202-0704**

#### **NOTICE OF RULEMAKING**

#### **ADOPTION OF PENDING FEE RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the amendment to the temporary rule is October 12, 2007. This pending rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 33-105 and 33-107, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This change will provide certification to meet the special needs of virtual schools, distance education and public school/postsecondary partnerships. Postsecondary faculty wishing to teach in K-12 classrooms could qualify for proposed Postsecondary Specialist in order to meet Highly Qualified status without having to earn a standard teaching certificate. Public Hearing testimony was received on this rule to which Christina Linder, Director of Certification, responded. Amendments to the rule were made, in part, based on public comment. Pursuant to Section 67-5228, Idaho Code, transcriptional and clerical changes have been made to the rule and are being published with the Notice of Rulemaking as part of the pending rule. The new version offered herein, includes verbiage originally intended by the Professional Standards Commission. It also includes terminology changes to correspond more closely with the controlling statute.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department has amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the August 1, 2007 Idaho Administrative Bulletin, Vol. 07-8, pages 48 and 49.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger. This fee or charge is being imposed pursuant to Section 33-1205, Idaho Code. The following is a specific description of the fee or charge imposed or increased:

The fee is the same as currently in effect for a basic teaching certificate as established in Section 066 of this rule.

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Christina Linder, 208.332.6886.

DATED this 13th day of November, 2007.

Tracie Bent  
State Board of Education  
650 West State Street  
PO Box 83720, Boise, ID 83720-0037  
(208) 332-1582 phone / (208) 334-2632 FAX

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**DOCKET NO. 08-0202-0704 - ADOPTION OF PENDING FEE RULE  
AND AMENDMENT TO TEMPORARY RULE**

**Substantive changes have been made to the pending rule.**

**Only those sections or subsections that have changed from the original  
proposed text are printed in this Bulletin following this notice.**

**The text of the proposed rule was published in the Idaho Administrative  
Bulletin, Volume 07-8, August 1, 2007, pages 48 and 49.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting  
review and approval by the 2008 Idaho State Legislature for final adoption.**

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**THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 08-0202-0704**

***Section 032, Subsections 032.02 and 032.03.c.***

**032. POSTSECONDARY SPECIALIST.**

A Postsecondary Specialist certificate will be granted to a current faculty member whose primary employment is with ~~from~~ any accredited Idaho postsecondary institution. To be eligible to teach in the public schools under this postsecondary specialist certificate, the candidate must supply a recommendation from the employing institution (faculty's college dean). The primary use of this state-issued certificate will be for distance education, virtual classroom programs, and for public and postsecondary partnerships. ~~(6-14-07)T~~(10-12-07)T

**02. Fees.** The fee is the same as currently in effect for an initial or renewal ~~basic teaching~~ certificate as established in Section 066 of these rules. ~~(6-14-07)T~~(10-12-07)T

**03. Qualifications.** The candidate must: (6-14-07)T

**c.** Complete and pass a criminal history check as required according to Section 33-130, Idaho Code. ~~(6-14-07)T~~(10-12-07)T

# **IDAPA 08 - STATE BOARD OF EDUCATION**

## **08.02.02 - RULES GOVERNING UNIFORMITY**

**DOCKET NO. 08-0202-0705**

### **NOTICE OF RULEMAKING**

#### **ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the amendment to the temporary rule is October 12, 2007. This pending rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 33-105 and 33-107, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. Public hearing testimony was received on this rule and an amendment to the rule was made based on that feedback:

The Idaho Technology Competency Assessment (ITCA) is no longer a relevant measurement of necessary technology requirements in Idaho classrooms. The original intention of the ITCA was to ensure that Idaho educators were proficient with basic technology. All teachers who were certificated prior to 2006 have passed this exam. Idaho teacher preparation program evaluations include an assessment of the integration of relevant technology that covers the intention of the original ITCA. New teachers entering the classroom are far more proficient in technology than is minimally required by the ITCA. Technology competency will be assessed on a case by case basis and mandated only according to individual district requirements. It is the state's intent that certificated personnel are technologically competent and integrate technology into the classroom. Based on public hearing testimony, this rule has been amended. Specifically, "demonstrate proficiency" has been more clearly defined.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department has amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the August 1, 2007 Idaho Administrative Bulletin, Vol. 07-8, pages 50 through 52.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Christina Linder, 208.332.6886.

DATED this 13th day of November, 2007.

Tracie Bent  
State Board of Education  
650 West State Street  
PO Box 83720, Boise, ID 83720-0037  
(208) 332-1582 phone / (208) 334-2632 FAX

DOCKET NO. 08-0202-0705 - ADOPTION OF PENDING RULE  
AND AMENDMENT TO TEMPORARY RULE

Substantive changes have been made to the pending rule.

Only those sections or subsections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-8, August 1, 2007, pages 50 through 52.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.

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THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 08-0202-0705

***Subsection 011.01***

**011. TECHNOLOGY STANDARDS.**

The proliferation of technology in our daily lives makes it essential that certificated educators are technologically literate. The State Board of Education has established a statewide goal that teachers and administrators be trained in the use of technology for education. (5-3-03)

**01. Preservice Competency.** All applicants for initial Idaho certification (Kindergarten through grade 12) from an Idaho approved teacher education program must demonstrate proficiency in relevant technology skills and practices to enhance classroom management and instruction as measured by completion of the credit hour requirements by the approved teacher education program. (~~6-14-07~~)T(10-12-07)T

**IDAPA 08 - STATE BOARD OF EDUCATION**

**08.02.02 - RULES GOVERNING UNIFORMITY**

**DOCKET NO. 08-0202-0706**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-105 and 33-107, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The new version changes the incorrectly cited AAS degree to an AS degree as originally intended. It also allows for para-educators with a minimum of 32 credits of formal education to be considered for the program instead of being limited to an Associated Degree. No public hearing testimony was received for this rule.

There are no changes in the pending rule, therefore, the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 1, 2007 Idaho Administrative Bulletin, Vol. 07-8, pages 53 and 54.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Christina Linder, 208.332.6886.

DATED this 13th day of November, 2007.

Tracie Bent  
State Board of Education  
650 West State Street  
PO Box 83720, Boise, ID 83720-0037  
(208) 332-1582 phone / (208) 334-2632 FAX

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**DOCKET NO. 08-0202-0706 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-8, August 1, 2007, pages 53 and 54.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**



**IDAPA 08 - STATE BOARD OF EDUCATION**

**08.02.02 - RULES GOVERNING UNIFORMITY**

**DOCKET NO. 08-0202-0707**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-105 and 33-107, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This rule will confer a Benefit on school administrators, school board members, parents and students. This rule focuses on the priority need of Idaho's secondary schools to be regionally accredited; minimizes duplication of accrediting efforts between the State of Idaho and the NAAS; reduces state costs by making full use of the services of the NAAS; dispenses with the redundancy of district accreditation for Idaho's many small, rural districts; reduces the burden of state-required paperwork at the district and school levels' and provides local districts with increased opportunities for local autonomy and flexibility in meeting the needs of their student populations by allowing accreditation to be optional at the elementary levels. No public comment was received regarding this rule.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 192 and 193.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Shannon Page, 208.332.6947.

DATED this 13th day of November, 2007.

Tracie Bent  
State Board of Education  
650 West State Street  
PO Box 83720, Boise, ID 83720-0037  
(208) 332-1582 phone / (208) 334-2632 FAX

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**DOCKET NO. 08-0202-0707 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 192 and 193.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

**IDAPA 08 - STATE BOARD OF EDUCATION**

**08.02.02 - RULES GOVERNING UNIFORMITY**

**DOCKET NO. 08-0202-0708**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-105 and 33-107, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Educators holding current certificates from recognized, accredited foreign institutions of education may be issued a three (3) year interim certificate. Professional Standards Commission may grant an extension onto the current three (year) period designated to attain a certificate through the state-approved alternate route. This shall be granted only under extenuating circumstances in order to protect Highly Qualified status.

There are no changes in the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 194 and 195.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Christina Linder, 208.332.6886.

DATED this 13th day of November, 2007.

Tracie Bent  
State Board of Education  
650 West State Street  
PO Box 83720, Boise, ID 83720-0037  
(208) 332-1582 phone / (208) 334-2632 FAX

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**DOCKET NO. 08-0202-0708 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 194 and 195.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

# IDAPA 08 - STATE BOARD OF EDUCATION

## 08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0801

### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is November 2, 2007.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections §33-105 and §33-107, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 16, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Section 023.03:** The change from Education Media Generalist to Library Media Specialist reflects the degree title universities/colleges use most often nationwide for this endorsement. The course titles were changed to reflect university/college course offering titles.

**Section 023.10:** This rule change clarifies the original intent of the Gifted and Talented endorsement and to provide consistency with the wording of other endorsements.

**Section 024:** The word change from “reading” to “literacy” better reflects what is required of a teacher seeking this endorsement. Reading, writing, speaking, and listening are all part of communicating effectively and learning to be critical thinkers. The global marketplace requires effective communication not only in reading but in the other areas as well. There is no demand for the 6-12 endorsement level.

**Section 027:** This terminology change clarifies the requirement of a professional RN license instead of “nursing certificate.”

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

**Subsection 023.03:** Confers a benefit on library media specialists and those seeking the endorsement. This section was amended at the beginning of the year according to standards review by the Professional Standards Commission (PSC) as required by Idaho Code 33-1258.

**Subsection 023.10:** Confers a benefit on gifted and talented teachers. This section was amended at the beginning of the year according to standards review by the Professional Standards Commission (PSC) as required by Idaho Code 33-1258.

**Section 024:** Confers a benefit on literacy/reading teachers and those seeking the endorsement. This section was amended at the beginning of the year according to standards review by the Professional Standards Commission (PSC) as required by Idaho Code 33-1258.

**Section 027:** Confers a benefit on school nurses. This section was amended at the beginning of the year according to standards review by the Professional Standards Commission (PSC) as required by Idaho Code 33-1258.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. This proposed rule change was brought before the Standards Committee of the Professional Standards Commission. It was presented and discussed and the final version was then proposed to the entire Professional Standards Commission for a vote.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Christina Linder, (208) 332-6886.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 23, 2008.

DATED this 13th day of November, 2007,

Tracie Bent  
State Board of Education  
650 West State Street  
PO Box 83720, Boise, ID 83720-0037  
(208) 332-1582 phone / (208) 334-2632 FAX

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0202-0801**

**023. ENDORSEMENTS E - L.**

**01. Earth Science (6-12).** Twenty (20) semester credit hours including course work in each of the following: Earth Science, Astronomy, and Geology. (4-11-06)

**02. Economics (6-12).** Twenty (20) semester credit hours to include a minimum of three (3) semester credit hours of micro-economics, a minimum of three (3) semester credit hours of macro-economics, and a minimum of six (6) semester credit hours of Personal Finance/Consumer Economics/Economics Methods. Remaining course work may be selected from economics and finance course work in one (1) or more of the following areas: Agriculture Science and Technology, Business Education, Economics, Family and Consumer Science, or Marketing Education. (4-11-06)

**043. English (6-12).** Twenty (20) semester credit hours, including three (3) semester credit hours in Linguistics/Grammar, three (3) semester credit hours in American Literature, three (3) semester credit hours in English Literature, six (6) semester credit hours in Advanced Composition, excluding the introductory sequence designed to meet general education requirements. Remaining credits must be completed in the English Department, and must include some course work in Writing Methods for Teachers of Secondary Students. (3-16-04)

**054. English as a New Language (ENL) (K-12).** Twenty (20) semester credit hours to include four (4) semester credit hours in Modern Languages; three (3) semester credit hours in Cultural Diversity; three (3) semester credit hours in ENL Methods; three (3) semester credits in Linguistics; three (3) semester credit hours in Foundations, Federal and State Law, Theory, Testing/Identification of Limited English Proficient Students; one (1) semester credit in ENL Practicum or Field Experience; and three (3) semester credit hours in an ENL related elective. (3-30-07)

**065. Family and Consumer Science (6-12).** (3-16-04)

**a.** Thirty (30) semester credit hours to include coursework in each of the following: Child/Human

Development; Human/Family Relations; Directed Laboratory Experience in Childcare; Clothing and Textiles, Cultural Dress, Fashion Merchandising, or Design Nutrition; Food Preparation, Food Production, or Culinary Arts; Housing, Interior Design, Home Management, or Equipment; Consumer Economics or Family Resource Management; Introduction to Family Consumer Sciences; and, Integration of Family Consumer Sciences or Family Consumer Science Methods. (3-16-04)

**b.** Occupational Teacher Preparation as provided in Sections 034 through 038. (3-16-04)

**076. Foreign Language (6-12 or K-12).** Twenty (20) semester credit hours in a specific foreign language including course work in two (2) or more of the following areas: Grammar, Conversation, Composition, Culture, and Literature; and course work in Foreign Language Methods. To obtain an endorsement in a specific foreign language (K-12), applicants holding a Secondary Certificate must complete an elementary methods course. (4-11-06)

**087. Geography (6-12).** Twenty (20) semester credit hours including course work in Cultural Geography and Physical Geography, and a maximum of six (6) semester credit hours in World History Survey. Remaining semester credit hours must be selected from Geography. (4-11-06)

**098. Geology (6-12).** Twenty (20) semester credit hours in the area of Geology. (3-16-04)

**409. Gifted and Talented (K-12).** Twenty (20) semester credit hours, to include a minimum of three (3) semester credits hours in each of the following: Foundations of Gifted and Talented Education; Creative/Critical Thinking Skills for Gifted and Talented Students; Social and Emotional Needs of Gifted and Talented Students; Curriculum and Instruction for Gifted and Talented Students; and Practicum and Program Design for Gifted and Talented Education. Remaining course work must be in the area of gifted education. ~~(3-16-04)~~(11-2-07)T

**140. Health (6-12).** Twenty (20) semester credit hours to include course work in Organization/Administration/Planning of a School Health Program; Health and Wellness; Methods of Teaching Health; Mental/Emotional Health; Nutrition; Human Sexuality; Substance Use and Abuse; and Theories of Behavior Changes. Remaining semester credits must be in health-related course work. (3-30-07)

**121. History (6-12).** Twenty (20) semester credit hours to include a minimum of six (6) semester credit hours of U.S. History Survey and a minimum of six (6) semester credit hours of World History Survey. Remaining course work must be in History. Course work may include three (3) semester credit hours in American Government. (4-11-06)

**132. Humanities (6-12).** An endorsement in English, History, Music, Visual Art, Drama, or Foreign Language and twenty (20) semester credit hours in one of the following areas or ten (10) semester credit hours in each of two (2) of the following areas: Literature, Music, Foreign Language, Humanities Survey, History, Visual Art, Philosophy, Drama, Comparative World Religion, Architecture, and Dance. (4-11-06)

**143. Journalism (6-12).** Follow one (1) of the following options: (3-16-04)

**a.** Option I: Twenty (20) semester credit hours to include a minimum of sixteen (16) semester credit hours in Journalism and four (4) semester credit hours in English. (3-16-04)

**b.** Option II: Possess an English endorsement with a minimum of six (6) semester credit hours in Journalism. (3-16-04)

**0314. Education Library Media Generalist Specialist (K-12).** Twenty (20) semester credit hours in the field of Education Media or Library Science, including a minimum of ~~fifteen (15) credit hours of course work distributed among each of the following: Material Selection~~ (11-2-07)T

**a.** Collection Development/Materials Selection; (11-2-07)T

**b.** Literature for Youth or Children; (11-2-07)T

- c.** Organization/ of Information (Cataloging and Classification); (11-2-07)T
- d.** School Library Administration/Management of Educational Materials; and (11-2-07)T
- e.** Library Automation/Information Technologies Research Methods and Information Literacy.  
(3-16-04)(11-2-07)T

**15. Literacy (K-12).** Twenty (20) semester credit hours in the area of Literacy including a minimum of three (3) semester credit hours in each of the following areas: Foundations of Reading or Developmental Reading; Reading in the Content Area; Literature for Youth; Psycholinguistics or Language Development; Corrective/Diagnostic/Remedial Reading; and Teaching Writing. To obtain a Literacy endorsement, applicants must complete the Idaho Comprehensive Literacy Course or the Idaho Comprehensive Literacy Assessment. Remaining credits must be taken in the area of teaching literacy. (11-2-07)T

**024. ENDORSEMENTS M - Z.**

**01. Marketing Technology Education (6-12).** (3-16-04)

**a.** Twenty (20) semester credit hours to include course work in each of the following areas: Marketing; Management; Economics; Coordination of Cooperative Programs; Merchandising/Retailing; and Curriculum and Materials Marketing, with remaining credit hours in the field of business. (3-16-04)

**b.** Occupational teacher preparation as provided in Sections 034 through 038. (3-16-04)

**02. Mathematics - Basic (6-12).** Twenty (20) semester credit hours in Mathematics including course work in Algebra, Geometry, and Trigonometry. Six (6) semester credit hours of computer programming may be substituted for six (6) semester credits in Mathematics. (3-16-04)

**03. Mathematics (6-12).** Twenty (20) semester credit hours including course work in each of the following areas: Geometry, Linear Algebra, Discrete Mathematics, Probability and Statistics, and a minimum of three (3) semester credit hours of Calculus. Statistics course work may be taken from a department other than the mathematics department. (4-11-06)

**04. Music (6-12 or K-12).** Twenty (20) semester credit hours to include course work in the following: Theory and Harmony; Aural Skills, Music History; Conducting; Applied Music; and Piano Proficiency (Class Piano or Applied Piano), and Secondary Music Methods/Materials. To obtain a Music K-12 endorsement, applicants holding a Secondary Certificate must complete an elementary music methods course. (4-11-06)

**05. Natural Science (6-12).** An endorsement in: Biological Science, Physical Science, Physics, Chemistry, Earth Science, Geology, or Agriculture Science and Technology. Twenty-four (24) semester credit hours are required in each endorsement area as follows: (4-11-06)

**a.** Biological Science Endorsement. Minimum of eight (8) semester credit hours in each of the following areas: Physics, Chemistry, and Earth Science or Geology. (4-11-06)

**b.** Physics Endorsement. Minimum of eight (8) semester credit hours in each of the following areas: Biology, Chemistry, and Earth Science or Geology. (4-11-06)

**c.** Chemistry Endorsement. Minimum of eight (8) semester credit hours in each of the following areas: Biology, Physics, and Earth Science or Geology. (4-11-06)

**d.** Earth Science or Geology Endorsement. Minimum of eight (8) semester credit hours in each of the following areas: Biology, Physics, and Chemistry. (4-11-06)

**e.** Agriculture Science and Technology Endorsement. Minimum of four (4) semester credit hours in each of the following areas: Biology, Chemistry, Earth Science or Geology, and Physics. Remaining course work must be from the sciences: Biology, Chemistry, Earth Science or Geology, and Physics. (4-11-06)

- 06. Physics (6-12).** Twenty (20) semester credit hours in the area of Physics. (3-16-04)
- 07. Physical Education (PE) (6-12 or K-12).** Twenty (20) semester credit hours to include course work in each of the following areas: Sport, Movement, and Outdoor Skills; Elementary PE Methods; Secondary PE Methods; Student Evaluation in PE; Administration of a PE Program; Safety and Prevention of Injuries; Fitness and Wellness; PE for Special Populations; Exercise Physiology; Kinesiology/Biomechanics; Sports Psychology or Sociology; Motor Behavior; and Current CPR and First Aid Certification. (3-30-07)
- 08. Physical Education/Health.** Must have an endorsement in both physical education and health. (3-30-07)
- 09. Physical Science (6-12).** Twenty (20) semester credit hours in the area of physical science to include a minimum of eight (8) semester credit hours in each of the following: Chemistry and Physics. (3-16-04)
- 10. Psychology.** Twenty (20) semester credit hours in the area of Psychology. (3-16-04)
- ~~**11. Reading (6-12 or K-12).** Twenty (20) semester credit hours in the area of reading including a minimum of fifteen (15) semester credit hours distributed among each of the following areas: Foundations of Reading or Developmental Reading; Reading in the Content Area; Literature for Youth; Psycholinguistics or Language Development; and Corrective/Diagnostic/Remedial Reading. To obtain a Reading K-12 endorsement, applicants holding a Secondary Certificate must complete an elementary methods course. (3-16-04)~~
- 121. Social Studies (6-12).** Must have an endorsement in History, American Government/Political Science, Economics, Sociology, Psychology, or Geography plus a minimum of twenty (20) semester credit hours of which the following are required: a minimum of six (6) semester credit hours of general U.S. history survey; a minimum of three (3) semester credit hours of American Government. The remaining semester credit hours must include course work from all of the following areas: World History, Geography, Economics, Sociology, and Psychology. (4-11-06)
- ~~**132. Sociology (6-12).** Twenty (20) semester credit hours in the area of Sociology. (3-16-04)~~
- 143. Sociology/Anthropology (6-12).** Twenty (20) semester credit hours including a minimum of six (6) semester credit hours in each of the following: Anthropology and Sociology. (3-16-04)
- ~~**154. Technology Education (6-12).** (3-16-04)~~
- a.** Twenty (20) semester credit hours to include course work in each of the following areas: Communication Technology; Computer Applications; Construction Technology; Electronics Technology; Manufacturing Technology; Power, Energy and Transportation; and Principles of Technology. (3-16-04)
- b.** Occupational teacher preparation as provided in Sections 034 through 038. (3-16-04)

**(BREAK IN CONTINUITY OF SECTIONS)**

**027. PUPIL PERSONNEL SERVICES CERTIFICATE.**

Persons who serve as school counselors, school psychologists, speech-language pathologists, school social workers, school nurses and school audiologists are required to hold the Pupil Personnel Services Certificate, with the respective endorsement(s) for which they qualify. (3-16-04)

**01. Counselor Endorsement (K-12).** To be eligible for a Pupil Personnel Services Certificate endorsed Counselor K-12, a candidate must have satisfied the following requirements. The Pupil Personnel Services Certificate with a Counselor endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. (3-16-04)

a. Hold a master's degree and provide verification of completion of an approved program of graduate study in school guidance and counseling from a college or university approved by the Idaho State Board of Education or the state educational agency of the state in which the program was completed. The program must include successful completion of seven hundred (700) clock hours of supervised field experience, one-half of which must be in a K-12 school setting. Previous school counseling experience may be considered to help offset the field experience clock hour requirement. (3-16-04)

b. An institutional recommendation is required for a School Counselor K-12 Endorsement. (3-16-04)

**02. School Psychologist Endorsement.** This endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. To be eligible for initial endorsement, a candidate must complete a minimum of sixty (60) graduate semester credit hours which must be accomplished through one (1) of the following options: (3-16-04)

a. Completion of an approved thirty (30) semester credit hour, or forty-five (45) quarter credit hours, master's degree in education or psychology and completion of an approved thirty (30) semester credit hour, or forty-five (45) quarter credit hour, School Psychology Specialist Degree program. (3-16-04)

b. Completion of an approved sixty (60) semester credit hour, or ninety (90) quarter credit hour, master's degree program in School Psychology. (3-16-04)

c. Completion of an approved sixty (60) semester credit hour, or ninety (90) quarter credit hour, School Psychology Specialist degree program which did not require a master's degree as a prerequisite, with laboratory experience in a classroom, which may include professional teaching experience, student teaching or special education practicum, and completion of a minimum three hundred (300) clock-hour internship within a school district under the supervision of the training institution and direct supervision of a certificated school psychologist. (3-16-04)

**03. School Nurse Endorsement.** This endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. Initial endorsement may be accomplished through completion of the following requirements. (3-16-04)

a. The candidate must possess a valid ~~registered~~ nursing ~~certificate~~ (RN) license issued by the Idaho State Board of Nursing, and a bachelor's degree in nursing, education, or a health-related field from an accredited institution. ~~(3-16-04)~~(11-2-07)T

b. The candidate must possess a valid professional nursing (RN) license issued by the Idaho State Board of Nursing and have completed ~~Nine~~ (9) semester credit hours ~~shall be taken for~~ from a university or college ~~credit~~ in at least three (3) of the following areas: (11-2-07)T

i. ~~assessment of student health~~ Health program management; (11-2-07)T

ii. ~~Child and adolescent health issues;~~ (11-2-07)T

iii. ~~Counseling, psychology, or social work; or~~ (11-2-07)T

iv. ~~Methods of education~~ instruction. (11-2-07)T

c. Additionally, each candidate must have two (2) years' full-time (or part-time equivalent) school nursing, community health nursing, or any area of pediatric, adolescent, or family nursing experience. ~~(3-16-04)~~(11-2-07)T

**04. Provisional Endorsement - School Nurse.** This certificate will be granted for those who do not meet the educational and/or experience requirements but who hold a valid ~~registered~~ professional nursing (RN) license ~~certificate~~ in Idaho. An Interim Certificate – ~~School Nurse~~ will be issued for ~~two~~ (2) three (3) years while the applicant is meeting the educational requirements, and it is not renewable. ~~(3-16-04)~~(11-2-07)T



**05. Speech-Language Pathologist Endorsement.** This endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. Initial endorsement will be issued to candidates who possess a master's degree from an accredited college or university in a speech/language pathology program approved by the State Board of Education, and who receive an institutional recommendation from an accredited college or university. (3-16-04)

**06. Audiology Endorsement.** This endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. Initial endorsement will be issued to candidates who possess a master's degree from an accredited college or university in an audiology program approved by the State Board of Education, and who receive an institutional recommendation from an accredited college or university. (3-16-04)

**07. School Social Worker Endorsement.** This endorsement is valid for five (5) years. Six (6) credit hours are required every five (5) years in order to renew the endorsement. Initial endorsement may be accomplished through possession of a social work certificate issued by the Idaho Bureau of Occupational Licenses, an institutional recommendation, and completion of one (1) of the following options: (3-16-04)

**a.** A master's degree in social work from an Idaho college or university approved by the State Board of Education, or a master's degree in social work from an out-of-state college or university. The program must be currently approved by the state educational agency of the state in which the program was completed. (3-16-04)

**b.** A master's degree in guidance and counseling, sociology, or psychology plus thirty (30) semester credit hours of graduate work in social work education, including course work in all the following areas: understanding the individual; casework method; field placement; social welfare programs and community resources; and research methods. (3-16-04)

**IDAPA 08 - STATE BOARD OF EDUCATION**

**08.02.03 - RULES GOVERNING THOROUGHNESS**

**DOCKET NO. 08-0203-0701**

**NOTICE OF RULEMAKING**

**ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the amendment to the temporary rule is November 2, 2007. This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-105, Idaho Code, and Public Law 107-110, Section 111.b.3.C.ix.III.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Pursuant to Section 67-5228, Idaho Code, clerical corrections have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule. The changes specifically are the correction of the earlier published website where the documents incorporated by reference may be found.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Board of Education amended the temporary rule with the same revisions which have been made to the pending rule. The complete text of the proposed rule was published in the July 4, 2007 Idaho Administrative Bulletin, Vol. 07-7, pages 40 and 41.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Sandra DeKlotz at (208) 332-1580.

DATED this 2nd day of November, 2007.

Tracie Bent  
State Board of Education  
650 West State Street  
PO Box 83720, Boise, ID 83720-0037  
(208) 332-1582 phone / (208) 334-2632 FAX

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**DOCKET NO. 08-0203-0701 - ADOPTION OF PENDING RULE AND  
AMENDMENT TO TEMPORARY RULE**

**Substantive changes have been made to the pending rule.**

Only those sections or subsections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-7, July 4, 2007, pages 40 and 41.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.

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THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 08-0203-0701

**Section 004 (Entire Section)**

**004. INCORPORATION BY REFERENCE.**

The following documents are incorporated into this rule: (3-30-07)

**01. The Idaho Content Standards.** The Idaho Content Standards as adopted by the State Board of Education on November 1, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov/index.asp>. (~~3-30-07~~)(11-2-07)T

**02. The Idaho English Language Development Standards.** The Idaho English Language Development Standards as adopted by the State Board of Education on August 10, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov/lep/index.asp>. (~~3-30-07~~)(11-2-07)T

**03. The Limited English Proficiency Program Annual Measurable Achievement Objectives (AMAOs) and Accountability Procedures.** The Limited English Proficiency Program Annual Measurable Achievement Objectives and Accountability Procedures as adopted by the State Board of Education on August 10, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov/lep/index.asp>. (~~3-30-07~~)(11-2-07)T

**04. The Idaho English Language Assessment (IELA) Achievement Standards.** The Idaho English Language Assessment (IELA) Achievement Standards as adopted by the State Board of Education on August 10, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov/lep/index.asp>. (~~3-30-07~~)(11-2-07)T

**05. The Idaho Standards Achievement Tests (ISAT) Achievement Standards.** Achievement Standards as adopted by the State Board of Education on May 30, 2007. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov/index.asp>. (~~6-14-07~~)F(11-2-07)T

**06. The Idaho Alternative Assessment Extended Content Standards.** The Idaho Alternative Assessment Extended Content Standards as adopted by the State Board of Education on April 20, 2006. Copies of the document can be found at the State Board of Education website at <http://www.boardofed.idaho.gov/index.asp>. (~~11-1-06~~)F(11-2-07)T

**07. The Idaho Alternative Assessment Extended Achievement Standards.** Alternative Assessment Extended Achievement Standards as adopted by the State Board of Education on April 20, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov/index.asp>. (~~11-1-06~~)F(11-2-07)T

**IDAPA 08 - STATE BOARD OF EDUCATION**

**08.02.03 - RULES GOVERNING THOROUGHNESS**

**DOCKET NO. 08-0203-0704**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-105, Idaho Code and Public Law 107-110 ("No Child Left Behind") Section 1111.b.3.C.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This rulemaking will add updated definitions that reflect current terminology and usage, eliminate redundant and outdated language, update the rules to include all assessments in Idaho's state system.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. The complete text of the proposed rule was published in Book 1 of the October 3, 2008 Idaho Administrative Bulletin, Vol. 07-10, pages 196 through 216.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rulemaking is non controversial in nature.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Sandra DeKlotz at (208) 332-1580.

DATED this 2nd Day of November, 2007.

Tracie Bent  
State Board of Education  
650 West State Street  
PO Box 83720, Boise, ID 83720-0037  
(208) 332-1582 phone / (208) 334-2632 FAX

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**DOCKET NO. 08-0203-0704 - ADOPTION OF PENDING RULE**

**Substantive changes have been made to the pending rule.**

Only those sections or subsections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 196 through 216.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0203-0704

**Section 004 (Entire Section)**

**004. INCORPORATION BY REFERENCE.**

The following documents are incorporated into this rule:

(3-30-07)

**01. The Idaho Content Standards.** The Idaho Content Standards as adopted by the State Board of Education on November 1, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov/index.asp>. (~~3-30-07~~)( )

**02. The Idaho English Language Development Standards.** The Idaho English Language Development Standards as adopted by the State Board of Education on August 10, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov/index.asp>. (~~3-30-07~~)( )

**03. The Limited English Proficiency Program Annual Measurable Achievement Objectives (AMAOs) and Accountability Procedures.** The Limited English Proficiency Program Annual Measurable Achievement Objectives and Accountability Procedures as adopted by the State Board of Education on August 10, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov/index.asp>. (~~3-30-07~~)( )

**04. The Idaho English Language Assessment (IELA) Achievement Standards.** The Idaho English Language Assessment (IELA) Achievement Standards as adopted by the State Board of Education on August 10, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov/index.asp>. (~~3-30-07~~)( )

**05. The Idaho Standards Achievement Tests (ISAT) Achievement Standards.** Achievement Standards as adopted by the State Board of Education on August 10, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov/index.asp>. (~~3-30-07~~)( )

**06. The Idaho Alternative Assessment Extended Content Standards.** The Idaho Alternative Assessment Extended Content Standards as adopted by the State Board of Education on April 20, 2006. Copies of the document can be found at the State Board of Education website at <http://www.boardofed.idaho.gov>. ( )

**07. The Idaho Alternative Assessment Extended Achievement Standards.** Alternative Assessment Extended Achievement Standards as adopted by the State Board of Education on April 20, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>. ( )

**08. The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Deaf or Hard of Hearing.** As adopted by the State Board of Education on June 14, 2007. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov/index.asp>. (~~6-14-07~~)( )

09. **The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Blind or Visually Impaired.** As adopted by the State Board of Education on June 14, 2007. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov/index.asp>. (6-14-07)T(\_\_\_\_)

### Subsection 150.03

#### 105. GRADUATION FROM HIGH SCHOOL.

A student must meet all of the following requirements before the student will be eligible to graduate from an Idaho high school: (4-11-06)

03. **Proficiency** (~~Effective January 1, 2006~~). Each student shall achieve a proficient or advanced score on the ~~High School~~ Grade 10 Idaho Standards Achievement Test (ISAT) in order to graduate. A student who does not attain at least a proficient score prior to graduation may appeal to the school district or LEA, and, ~~at the discretion of the school district or LEA, may~~ shall be given an opportunity to demonstrate proficiency of the ~~achievement content standards through some other locally established mechanism.~~ All locally established mechanisms used to demonstrate proficiency shall be forwarded to the State Board of Education for review and information. A district or LEA with an alternate mechanism on file with the Board on the effective date of this rule must re-submit their plans to the Board. Alternate mechanisms must be re-submitted to the Board when changes are made in their plans. (4-11-06)(\_\_\_\_)

### Subsection 107.11

#### 107. HIGH SCHOOL GRADUATION REQUIREMENTS.

11. **Assessment.** A student must achieve a proficient or advanced score on the Grade 10 ISAT in the tenth, eleventh, or twelfth grade. A student is not required to achieve a proficient or advanced score on the ISAT if: (4-11-06)(\_\_\_\_)

a. A student received a proficient or advanced scored on an exit exam from another state that requires a standards-based exam for graduation. The state's exit exam shall be approved by the State Board of Education, and must measure skills at the tenth grade level or above and be in comparable subject areas to the ISAT; (4-11-06)

b. A student ~~appeals for~~ completes another measure ~~approved~~ established by a school district or LEA and reviewed by the Board as outlined in Subsection 105.03; or (4-11-06)(\_\_\_\_)

c. A student has an IEP that outlines alternate requirements for graduation. (4-11-06)

d. The requirement will be phased in providing the following exemptions for the calendar year of ~~2006 and~~ 2007. (4-11-06)(\_\_\_\_)

~~ISAT if:~~ i. ~~Calendar year of 2006. A student is not required to achieve a proficient or advanced score on the~~ (4-11-06)

(1) ~~A student took the ISAT and was within six (6) Rasch Units (RIT points) of proficiency;~~ (4-11-06)

(2) ~~A student has a score of seventeen (17) on the ACT or two hundred (200) on the SAT in English and a score of nineteen (19) on the ACT or four hundred sixty (460) on the SAT in Math;~~ (4-11-06)

(3) ~~A student has an IEP that outlines alternate requirements for graduation;~~ (4-11-06)

(4) ~~A student is considered an LEP student through a score determined on the state language proficiency test and has been in an LEP program for three (3) academic years or less;~~ (4-11-06)

(5) ~~A student received a proficient or advanced score on an exit exam from another state that requires~~

~~a standards-based exam for graduation. The state exit exams must be approved by the State Board of Education, measure skills at the tenth grade level or above and be in comparable subject areas to the ISAT; or (4-11-06)~~

~~(6) A student appeals for another measure approved by the school district or LEA as outlined in Subsection 105.03. (4-11-06)~~

ii. Calendar year of 2007. A student is not required to achieve a proficient or advanced score on the ISAT if: (3-30-07)

(1) A student took the ISAT and was within three (3) RIT points of proficiency; (4-11-06)

(2) A student has an IEP that outlines alternate requirements for graduation or adaptations are recommended on the test; (4-11-06)

(3) A student is considered an LEP student through a score determined on a language proficiency test and has been in an LEP program for three (3) academic years or less; (4-11-06)

(4) A student received a proficient or advanced score on an exit exam from another state that requires a standards-based exam for graduation. The state exit exams must be approved by the State Board of Education, measure skills at the tenth grade level or above and be in comparable subject areas to the ISAT; or (4-11-06)

(5) A student appeals for another measure approved by the school district or LEA as outlined in Subsection 105.03. (4-11-06)

iii. Calendar year of 2008 and subsequent classes. A student is not required to achieve a proficient or advanced score on the ISAT if: (3-30-07)

(1) A student has an IEP that outlines alternate requirements for graduation or adaptations are recommended on the test; (3-30-07)

(2) A student is considered an LEP student through a score determined on a language proficiency test and has been in an LEP program for three (3) academic years or less; (3-30-07)

(3) A student received a proficient or advanced score on an exit exam from another state that requires a standards-based exam for graduation. The state exit exams must be approved by the State Board of Education, measure skills at the tenth grade level or above and be in comparable subject areas to the ISAT; or (3-30-07)

(4) A student appeals for another measure approved by the school district or LEA as outlined in Subsection 105.03. (3-30-07)

### ***Subsection 112.01 and 112.02***

#### **112. ACCOUNTABILITY.**

The provisions in this section apply for the purposes of meeting the “No Child Left Behind” Act and the state of Idaho accountability requirements. (3-20-04)

**01. ISAT Student Achievement Levels.** There are four (4) levels of student achievement for the ISAT: Below Basic, Basic, Proficient, and Advanced. Definitions for these levels of student achievement are adopted by reference in Subsection 004.05. ~~(3-20-04)( )~~

**02. IELA Language Proficiency Levels.** There are five (5) levels of language proficiency for students testing on the Idaho English Language Assessment: beginning, advanced beginning, intermediate, early fluent, and fluent. Definitions for these levels of language proficiency are adopted by reference in Subsections 004.02 and 004.04. ( )

**IDAPA 08 - STATE BOARD OF EDUCATION**

**08.02.03 - RULES GOVERNING THOROUGHNESS**

**DOCKET NO. 08-0203-0705**

**NOTICE OF RULEMAKING**

**VACATION OF PROPOSED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the rulemaking previously initiated under this docket. The action is authorized pursuant to Sections 33-105 and 33-107, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a summary of the reasons for vacating this rulemaking:

Due to public comment the department has decided that additional time is required before advancing the previously proposed math standards.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this vacation of rulemaking, contact Cindy Johnstone, (208) 332-6923.

DATED this 13th day of November, 2007.

Tracie Bent  
State Board of Education  
650 West State Street  
PO Box 83720  
Boise, ID 83720-0037  
(208) 332-1582 phone  
(208) 334-2632 FAX



**IDAPA 08 - STATE BOARD OF EDUCATION**  
**08.02.04 - RULES GOVERNING PUBLIC CHARTER SCHOOLS**  
**DOCKET NO. 08-0204-0701**  
**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-105 and 33-107, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 219 through 221.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Tamara Baysinger at (208) 332-1583.

DATED this 2nd day of November, 2007.

Tracie Bent  
State Board of Education  
650 West State Street  
PO Box 83720  
Boise, ID 83720-0037  
(208) 332-1567 phone  
(208) 334-2632 FAX

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**DOCKET NO.08-0204-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 219 through 221.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

**IDAPA 11 - IDAHO STATE POLICE**  
**IDAHO STATE RACING COMMISSION**  
**11.04.03 - RULES GOVERNING LICENSING AND FEES**  
**DOCKET NO. 11-0403-0801 (NEW CHAPTER - FEE RULE)**  
**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is January 1, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 54-2506, Idaho Code.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this rulemaking will be held as follows:

**January 17, 2008**  
**7:00 p.m. to 9:00 p.m.**  
**Nampa Civic Center**  
**311 3<sup>rd</sup> Street South, Nampa, Idaho**

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The racing commission has been charging fees for licenses however the fees have never gone through the rule making process. In order to regulate racing in Idaho, licensing and charging fees for licensing is required.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This rule confers a benefit to the public safety, health and welfare.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

To define a fee structure according to Section 54-2506, Idaho Code.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

No fiscal impact to the state general fund

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted. The Temporary and Proposed Rulemaking was published in the Idaho Administrative Bulletin, January 2, 2008 and a public hearing is scheduled.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Jacqueline Libengood at 208-884-7082.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 23<sup>rd</sup>, 2008.

DATED this November 9, 2007.

Jacqueline Libengood, Management Assistant  
Idaho State Racing Commission  
700 South Stratford Drive  
P.O. Box 700, Meridian, ID 83680-0700  
Phone: 208-884-7082 / Fax: 208-884-7098

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0403-0801**

**IDAPA 11**  
**TITLE 04**  
**CHAPTER 03**

**IDAHO STATE RACING COMMISSION**

**11.04.03 - RULES GOVERNING LICENSING AND FEES**

**000. LEGAL AUTHORITY.**

This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (1-1-08)T

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited as IDAPA 11.04.03, "Rules Governing Licensing and Fees," of the Idaho State Racing Commission. (1-1-08)T

**02. Scope.** This rule shall govern licensing procedures and the fees charged for licenses by the Idaho State Racing Commission. (1-1-08)T

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of this rule. (1-1-08)T

**003. ADMINISTRATIVE APPEALS.**

Persons may be entitled to appeal commission actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (1-1-08)T

**004. OFFICE -- OFFICE HOURS -- STREET ADDRESS -- MAILING ADDRESS -- TELEPHONE -- WEBSITE.**

**01. Physical Address.** The central office of the Idaho State Racing Commission is located at 700 S. Stratford Drive, Meridian, Idaho. (1-1-08)T

**02. Office Hours.** The central office is open 8 a.m. to 5 p.m., Mountain Time, Monday thru Friday, except holidays designated by the state of Idaho. (1-1-08)T

**03. Mailing Address.** The mailing address for the central office is Idaho State Racing Commission, P.O. Box 700, Meridian, Idaho 83680-0700. (1-1-08)T

**04. Telephone Number.** The telephone of the office is (208) 884-7080. (1-1-08)T

**05. Fax Number.** The facsimile number of the office is (208) 884-7098. (1-1-08)T

**06. Website.** The Racing Commission website is <http://www.isp.state.id.us/race>. (1-1-08)T

**006. PUBLIC RECORDS COMPLIANCE AND AVAILABILITY.**

These rules are public records available for inspection and copying at the Idaho State Racing Commission central office. (1-1-08)T

**007 -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Add-on.** When a person adds an additional license category to an existing license. (1-1-08)T

**02. Admissions.** An association employee who collects admission money for entrance to the racetrack. (1-1-08)T

**03. Authorized Agent.** A person appointed by a written instrument signed and acknowledged before a notary public empowered to transact the business of a stable owner or horse breeder. (1-1-08)T

**04. Apprentice Jockey.** A jockey who has not ridden a certain number of winners within a specified period of time. (1-1-08)T

**05. Announcer.** A person employed by an association to announce during the running of the races. (1-1-08)T

**06. Assistant Starter.** The employee of an association who, under direct supervision of the starter, helps place the starting gate for a race, leads horses into the gate, helps jockeys and handles horses while in the gate until the start. (1-1-08)T

**07. Association.** Any person licensed by the Commission to conduct live and simulcast pari-mutuel wagering. (1-1-08)T

**08. Chart Person.** An official who compiles the statistical "picture" of a race which shows the position and margin of each horse at designated points of call during the race and other data. (1-1-08)T

**09. Clerk of Scales.** The employee of an association responsible for sequestering all jockeys each racing day, weighing all jockeys out and in from races, checking their assigned riding weights versus their actual weights, and reporting all changes. (1-1-08)T

**10. Clocker.** A person who times workouts and races. (1-1-08)T

**11. Commission.** The Idaho State Racing Commission or its designee. (1-1-08)T

**12. Concessionaire.** A person that offers goods or services for sale to the public at a racetrack. (1-1-08)T

**13. Concession Employee.** An employee of a concessionaire or an association employee offering goods or services for sale to the public. (1-1-08)T

**14. Duplicate.** Replacement license for a license that has been lost or destroyed. (1-1-08)T

**15. Emergency Medical Technician.** An emergency responder trained and certified to provide emergency medical services to the critically ill and injured person. (1-1-08)T

**16. Exercise Person.** A rider who exercises horses at a racetrack. (1-1-08)T

17. **Groom.** A person hired by a trainer who cares for a horse at a racetrack. (1-1-08)T
18. **Horsemen's Bookkeeper.** A bonded association employee who manages the horsemen's accounts which covers all monies due horseman in regards to purses, stakes, rewards, claims and deposits. (1-1-08)T
19. **Identifier.** The employee of an association who checks the lip tattoo, other identification, and markings of each horse as it enters the paddock to make sure the correct horses are running in the race. (1-1-08)T
20. **Jockey.** A professional rider licensed to ride in races. (1-1-08)T
21. **Jockey Agent.** A person who helps a jockey obtain mounts in return for a portion of the jockey's earnings. (1-1-08)T
22. **Jocks Room Custodian.** An association employee authorized to regulate the conduct of the jockeys, ensure good order is maintained, and monitors the jockeys. (1-1-08)T
23. **Maintenance.** An association employee hired to maintain the grounds and facility of the racetrack. (1-1-08)T
24. **Medical Professional.** A doctor, physician's assistant, or emergency medical technician licensed or certified in the state of Idaho. (1-1-08)T
25. **Mutuel Employee.** An association that accepts the patrons' money and issues the betting ticket. (1-1-08)T
26. **Office Personnel.** An association employee who works in the office of the racetrack. (1-1-08)T
27. **Official.** Persons licensed by the state to ensure the rules of racing are enforced. (1-1-08)T
28. **Outrider.** The employee of an association who leads the post parade at a racetrack and gets the horses and jockeys to the starting gates on time. (1-1-08)T
29. **Owner.** The person that has legal title to, or has financial control of, a horse utilized for racing in Idaho. However, an interest in the winnings of a horse does not itself constitute ownership. (1-1-08)T
30. **Owner/Trainer.** An owner who conditions and prepares his own horse for racing, with the absolute responsibility to ensure the physical condition and eligibility of the race horse. (1-1-08)T
31. **Paddock Judge.** The employee of an association responsible for getting jockeys and horses in order to go to the starting gate; also checks the equipment used by each horse and supervises the saddling of the horses. (1-1-08)T
32. **Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (1-1-08)T
33. **Photographer.** A person who takes photographs of the winning horses in the winner's circle. (1-1-08)T
34. **Plater.** A blacksmith who shoes horses at a racetrack. (1-1-08)T
35. **Pony Person.** A person on horseback who accompanies a horse and jockey to the starting gate. (1-1-08)T
36. **Racetrack.** The grounds and enclosures of any association where horse racing or pari-mutuel betting occurs under the authority and supervision of the Commission. (1-1-08)T

37. **Racing Secretary.** The employee of an association, who writes the conditions for the races, assigns the weights for handicap races, receives entries, conducts the draw, and is responsible for the operation and organization of the race office. (1-1-08)T
38. **Stable Name.** An assumed business name used by a person for his horse racing operation. (1-1-08)T
39. **Stall Superintendent.** An association employee hired to assign applicants such stabling as deemed proper to be occupied by horses in preparation for racing and shall determine all conflicting claims to stable space. (1-1-08)T
40. **Starter.** The employee of an association responsible for dispatching the horses for a race. (1-1-08)T
41. **State Veterinarian.** A veterinarian employed by the Commission to serve as professional adviser and consultant to the Commission on veterinary matters including all regulatory aspects of the application and practice of veterinary medicine at racetracks. (1-1-08)T
42. **Steward.** A horse racing official who presides over a race meeting, has jurisdiction over all racing officials, rules on protests and claims of foul, and imposes fines and suspensions. (1-1-08)T
43. **Tote Employee.** An employee of a company providing the automated pari-mutuel system that dispenses and records betting tickets, calculates and displays odds and payoffs, and provides the mechanism for cashing winning tickets. (1-1-08)T
44. **Track Superintendent.** The employee of an association responsible for maintaining acceptable racing and training track conditions during a race meet. (1-1-08)T
45. **Track Security.** A person responsible to provide security at a racetrack. (1-1-08)T
46. **Trainer.** The person who conditions and prepares a race horse for racing, with the absolute responsibility to ensure the physical condition and eligibility of the race horse. (1-1-08)T
47. **Valet.** A person who attends riders and keeps their wardrobe and equipment in order. (1-1-08)T
48. **Veterinarian.** A private veterinary practitioner employed by owners or trainers on an individual case or contract basis. (1-1-08)T
49. **Vet Assistant.** A person who assists a state veterinarian. (1-1-08)T
50. **Video Employee.** An employee hired by a photo/video provider to operate the equipment during the running of horse races for the benefit of the stewards and racetracks. (1-1-08)T
- 011. -- 019. (RESERVED).**
- 020. APPLICABILITY.**  
Pursuant to Section 54-2506, Idaho Code, these rules apply to any person that participates, directly or indirectly, in any race meet. (1-1-08)T
- 021. -- 029. (RESERVED).**
- 030. REFUSAL TO ISSUE LICENSE.**  
The Commission may refuse to issue a license and may revoke any license already issued to any person: (1-1-08)T
01. **Convicted.** Who has been convicted of any felony and whose civil rights have not yet been restored pursuant to Section 18-310(2), Idaho Code. (1-1-08)T

**02. Felony Probation.** Who is on probation, or parole for a conviction or withheld judgment for any felony. (1-1-08)T

**03. Misrepresentation.** Who has made any material misrepresentation or false statement to the Commission or its agents in his application for license or otherwise, or who fails to answer any material question on any application for a license. (1-1-08)T

**04. Unqualified.** Who is unqualified by age, skill, knowledge or ability to engage in the activities for which a license is required. (1-1-08)T

**05. Ownership.** Who fails to disclose the true ownership or interest in any or all horses as required by any application. (1-1-08)T

**06. Ejection.** Who is subject to exclusion or ejection from the racing enclosure or is within the classes of persons prohibited from participating in pari-mutuel wagering. (1-1-08)T

**07. Conduct.** Who has committed an act or acts demonstrating financial instability, intemperate habits or has a bad reputation for truth, honesty and integrity, or other similar conduct contrary to the best interest of racing. (1-1-08)T

**08. Narcotics.** Who has been convicted of possession, use, or sale of any narcotic, dangerous drug, or marijuana if such conviction was a misdemeanor, within two (2) years prior to the date of making application for any license. (1-1-08)T

**09. Drug Probation.** Who is on probation or parole for a conviction or withheld judgment for misdemeanor possession, use, or sale of any narcotic, dangerous drug, or marijuana. (1-1-08)T

**10. Not Permitted.** Who is not permitted by law or statute to engage in the occupation for which the license is sought. (1-1-08)T

**11. Violated Rules.** Who has violated or who aids or abets or conspires with any person to violate any provision of the Commission rules or of Sections 54-2501 through 54-2516, Idaho Code. (1-1-08)T

**12. Age.** No person under sixteen (16) years of age shall be issued a license by the Commission. (1-1-08)T

**13. Deny or Revoke.** The commission may deny a license to, or revoke the license of, any person who has had a license revoked or denied by any recognized jurisdiction. (1-1-08)T

**031. -- 049. (RESERVED).**

**050. FINGERPRINTS.**  
All persons applying for licensing pursuant to this chapter must submit to finger printing. (1-1-08)T

**01. Existing Licensees.** Any person that currently holds a valid license from the Commission shall be re-fingerprinted at least every five years. (1-1-08)T

**02. New Applicants.** Any person that applies for a license from the Commission and is not currently licensed must be fingerprinted prior to a license being issued. (1-1-08)T

**03. Fees.** There is a five dollar (\$5) fee for the finger printing and a ten dollar (\$10) fee for processing the finger prints. (1-1-08)T

**051. -- 089. (RESERVED)**

**090. APPLICATIONS.**

All application forms must be filled out completely and legibly. (1-1-08)T

**01. Application Forms.** All applications must be submitted to the Commission on forms obtained from the Commission. (1-1-08)T

**02. Other Forms.** All other forms required to be submitted to the Commission by this chapter must be of a type approved by the Commission. (1-1-08)T

**03. Age.** Applicants between sixteen (16) and eighteen (18) years of age are required to submit an Assumption of Liability Form signed by their guardian and notarized by a notary public. (1-1-08)T

**091. -- 094. (RESERVED).**

**095. ADD-ON.**

Any qualified person may add an additional license category to an existing license by paying the add-on fee unless: (1-1-08)T

**01. Higher Fee.** The fee for the category added is higher than the fee for the existing license category. (1-1-08)T

**02. Additional License.** If the fee for the license category that is requested is higher than the fee for the existing license category, the person must pay the commission the higher fee. (1-1-08)T

**096. DUPLICATE LICENSE.**

The Commission may issue a duplicate license in the event an existing license has been lost or destroyed. (1-1-08)T

**097. -- 099. (RESERVED).**

**100. ADMISSIONS LICENSE.**

All persons applying for an admissions license must submit a completed application signed by an association. (1-1-08)T

**101. -- 109. (RESERVED).**

**110. AUTHORIZED AGENT LICENSE.**

All persons applying for an authorized agent license must submit a completed application and a notarized authorized agent form. (1-1-08)T

**111. -- 119. (RESERVED).**

**120. APPRENTICE JOCKEY LICENSE.**

All persons applying for an apprentice jockey license must submit a completed application signed by a steward and an apprentice jockey certificate signed by a licensed starter, two licensed jockeys, a licensed outrider, and a steward. (1-1-08)T

**121. -- 129. (RESERVED).**

**130. ANNOUNCER LICENSE.**

All persons applying for an announcer license must submit a completed application signed by an association. (1-1-08)T

**131. -- 139. (RESERVED).**

**140. ASSISTANT STARTER LICENSE.**

All persons applying for an assistant starter license must submit a completed application signed by a licensed starter. (1-1-08)T



**141. -- 149. (RESERVED).**

**150. CHART PERSON LICENSE.**

All persons applying for a chart person license must submit a completed application. (1-1-08)T

**151. -- 159. (RESERVED).**

**160. CONCESSIONAIRE LICENSE.**

All persons applying for a concessionaire license must submit a completed application, and: (1-1-08)T

**01. Names of Owners.** The names and addresses of all of the principal owners. (1-1-08)T

**02. Proof of Financial Stability.** A financial statement of assets and liabilities. (1-1-08)T

**03. Type of Business.** The type of business generally engaged in by the applicant. (1-1-08)T

**161. -- 165. (RESERVED).**

**166. CONCESSION EMPLOYEE LICENSE.**

All persons applying for a concession employee license must submit a completed application signed by a licensed concessionaire. (1-1-08)T

**167. -- 169. (RESERVED).**

**170. CLOCKER LICENSE.**

All persons applying for a clocker license must submit a completed application that is signed by an association. (1-1-08)T

**171. -- 179. (RESERVED).**

**180. CLERK OF SCALES LICENSE.**

All persons applying for a clerk of scales license must submit a completed application signed by an association. (1-1-08)T

**181. -- 189. (RESERVED).**

**190. EMERGENCY MEDICAL TECHNICIAN LICENSE.**

All persons applying for an emergency medical technician license must submit a completed application signed by an association and a copy of Emergency Medical Technician Certification. (1-1-08)T

**191. -- 199. (RESERVED).**

**200. EXERCISE PERSON LICENSE.**

All persons applying for an exercise person license must submit a completed application. For a first time licensee the application must be signed by a Steward. (1-1-08)T

**201. -- 209. (RESERVED).**

**210. GROOM LICENSE.**

All persons applying for a groom license must submit a completed application signed by a licensed trainer. (1-1-08)T

**211. -- 219. (RESERVED).**

**220. HORSEMEN'S BOOKKEEPER LICENSE.**

All persons applying for a horsemen's bookkeeper license must submit a completed application signed by an association. (1-1-08)T

221. -- 229. (RESERVED).

**230. IDENTIFIER LICENSE.**

All persons applying for an identifier license must submit a completed application signed by an association. (1-1-08)T

231. -- 239. (RESERVED).

**240. JOCKEY LICENSE.**

All persons applying for a jockey license must submit a completed application and a current physical evaluation from a medical professional. (1-1-08)T

**01. First Time Licensed.** The application for a person that has not been previously licensed as a jockey in Idaho must be signed by a steward; and (1-1-08)T

**02. Physical.** The application must be accompanied by a current physical evaluation from a medical professional. (1-1-08)T

241. -- 249. (RESERVED).

**250. JOCKEY AGENT LICENSE.**

All persons applying for a jockey agent license must submit a completed application and a list of jockeys represented. Each jockey agent may represent no more than two (2) jockeys and one (1) apprentice jockey. (1-1-08)T

251. -- 259. (RESERVED).

**260. JOCKS ROOM CUSTODIAN LICENSE.**

All persons applying for a jocks room custodian license must submit a completed application signed by an association. (1-1-08)T

261. -- 269. (RESERVED).

**270. MAINTENANCE LICENSE.**

All persons applying for a maintenance license must submit a completed application signed by an association. (1-1-08)T

271. -- 279. (RESERVED).

**280. MUTUEL EMPLOYEE LICENSE.**

All persons applying for a mutuel employee license must submit a completed application signed by an association. (1-1-08)T

281. -- 289. (RESERVED).

**290. OFFICE PERSONNEL LICENSE.**

All persons applying for an office personnel license must submit a completed application signed by an association. (1-1-08)T

291. -- 299. (RESERVED).

**300. OFFICIAL LICENSE.**

All persons applying for an official license must submit a completed application signed by an association or commission. (1-1-08)T

301. -- 309. (RESERVED).

**310. OWNER/TRAINER LICENSE.**

All persons applying for an owner/trainer license must submit a completed application. (1-1-08)T

**311. -- 319. (RESERVED).**

**320. OUTFRIDER LICENSE.**

All persons applying for an outrider license must submit a completed application signed by an association. (1-1-08)T

**321. -- 329. (RESERVED).**

**330. OWNER LICENSE.**

All persons applying for an owner license must submit a completed application. All persons listed on the registration papers must obtain an owners license. (1-1-08)T

**331. -- 339. (RESERVED).**

**340. PADDOCK JUDGE LICENSE.**

All persons applying for a paddock judge license must submit a completed application signed by an association. (1-1-08)T

**341. -- 349. (RESERVED).**

**350. PHOTOGRAPHER LICENSE.**

All persons applying for a photographer license must submit a completed application. (1-1-08)T

**351. -- 359. (RESERVED).**

**360. PLATER LICENSE.**

All persons applying for a plater license must submit a completed application. Applications for a first time plater license must be accompanied by a letter of recommendation from an owner or trainer and a business card. (1-1-08)T

**361. -- 369. (RESERVED).**

**370. PONY PERSON LICENSE.**

All persons applying for a pony person license must submit a completed application. If the application is for a first time pony person license, the application must be signed by a steward. (1-1-08)T

**371. -- 379. (RESERVED).**

**380. RACING SECRETARY LICENSE.**

All persons applying for a racing secretary license must submit a completed application signed by an association. (1-1-08)T

**381. -- 389. (RESERVED).**

**390. STABLE NAME LICENSE.**

All persons applying for a stable name license must submit a completed application which includes the identity or identities of the ownership interests involved in the horse racing operation. (1-1-08)T

**01. Changes of Ownership.** Any change in ownership of the horse racing stable must be reported immediately to and approved by the Commission. (1-1-08)T

**02. Trainer.** A trainer who is licensed as an owner or part owner may use a stable name as owner or part owner. However, no trainer may be licensed as a trainer other than in his legal name. (1-1-08)T

**391. STABLE NAME CHANGE.**

**01. Cancellation.** Any person who has been granted a stable name license may at anytime cancel the

stable name license if written notice has been submitted to the Commission and the Commission approves the cancellation. (1-1-08)T

**02. Name Change.** A stable name may be changed at anytime by canceling the existing stable name and submitting a new stable name application with the appropriate fee. (1-1-08)T

**392. STABLE NAMES PROHIBITED.**

No stable name may be: (1-1-08)T

**01. Registered.** Registered by any other person with an Association conducting a recognized meeting, or the Jockey Club (N.Y.) or with another racing authority; (1-1-08)T

**02. Real Name.** The real name of any owner of race horses nor the real or assumed name of any prominent person not owning race horses; (1-1-08)T

**03. Misleading.** Misleading to the public or unbecoming to the sport; (1-1-08)T

**04. Distinguishable.** All stable names must be plainly distinguishable from all other licensed stable names. (1-1-08)T

**05. One Name.** No individual may license more than one stable name. (1-1-08)T

**393. -- 399. (RESERVED).**

**400. STALL SUPERINTENDANT LICENSE.**

All persons applying for a stall superintendent license must submit a completed application signed by an association. (1-1-08)T

**401. -- 409. (RESERVED).**

**410. STARTER LICENSE.**

All persons applying for a starter license must submit a completed application signed by an association. (1-1-08)T

**411. -- 419. (RESERVED).**

**420. STATE VETERINARIAN LICENSE.**

All persons applying for a state veterinarian license must submit a completed application and have a signed contract on file in the Commission office. (1-1-08)T

**421. -- 429. (RESERVED).**

**430. STEWARD LICENSE.**

All persons applying for a steward license must submit a completed application signed by the Commission. (1-1-08)T

**431. -- 439. (RESERVED).**

**440. TOTE EMPLOYEE LICENSE.**

All persons applying for a tote employee license must submit a completed application. (1-1-08)T

**441. -- 449. (RESERVED).**

**450. TRACK SUPERINTENDENT LICENSE.**

All persons applying for a track superintendent license must submit a completed application signed by an association. (1-1-08)T

**451. -- 459. (RESERVED).**

**460. TRACK SECURITY LICENSE.**

All persons applying for a track security license must submit a completed application signed by their employer. (1-1-08)T

**461. -- 469. (RESERVED).**

**470. TRAINER LICENSE.**

All persons applying for a trainer license must submit a completed application. A first time trainer licensee must: (1-1-08)T

**01. First Time Licensed.** All persons applying for a trainer license for the first time must pass the trainer's test and have their application signed by a steward; or (1-1-08)T

**02. Valid License.** Have a current valid trainers license from another recognized jurisdiction. (1-1-08)T

**471. -- 479. (RESERVED).**

**480. VALET LICENSE.**

All persons applying for a valet license must submit a completed application signed by an association. (1-1-08)T

**481. -- 489. (RESERVED).**

**490. VETERINARIAN LICENSE.**

All persons applying for a veterinarian license must submit a completed application and have a current valid license to practice veterinary medicine from the state of Idaho. (1-1-08)T

**491. -- 499. (RESERVED).**

**500. VET ASSISTANT LICENSE.**

All persons applying for a vet assistant license must submit a completed application signed by a state veterinarian. (1-1-08)T

**501. -- 509. (RESERVED).**

**510. VIDEO EMPLOYEE LICENSE.**

All persons applying for a video employee license must submit a completed application. (1-1-08)T

**511. -- 599. (RESERVED).**

**600. LICENSE FEES.**

All persons applying for licenses pursuant to this chapter must pay the Commission the fee associated with the type of license being sought before any license will be issued.

LICENSE	FEE
Add-ons -	\$10
Admission -	\$15
Announcer -	\$25
Apprentice Jockey -	\$50
Assistant Starter -	\$25
Authorized Agent -	\$50

<b>LICENSE</b>	<b>FEE</b>
Chart Person -	\$25
Clerk of Scales -	\$25
Clocker -	\$25
Concession Employee -	\$15
Concessionaire -	\$50
Duplicate -	\$10
EMT -	\$25
Exercise Person -	\$25
Groom -	\$25
Horsemen's Bookkeeper -	\$35
Identifier -	\$25
Jockey -	\$50
Jockey Agent -	\$50
Jocks Room Custodian -	\$25
Maintenance	\$15
Mutuel Employee -	\$15
Office Personnel -	\$15
Official -	\$50
Outrider -	\$25
Owner -	\$50
Owner/Trainer -	\$65
Paddock Judge -	\$25
Photographer -	\$25
Plater -	\$50
Pony Person -	\$25
Racing Secretary -	\$35
Stable Registration -	\$50
Stall Superintendent -	\$25
Starter -	\$25
State Veterinarian -	\$0
Steward -	\$50
Tote Employee -	\$15
Track Security -	\$25
Track Superintendent -	\$25

LICENSE	FEE
Trainer	- \$50
Valet	- \$10
Veterinarian	- \$50
Vet Assistant	- \$15
Video Employee	- \$15

(1-1-08)T

**601. -- 989. (RESERVED).**

**990. PENALTIES.**

Any person violating any of the provisions of this chapter is subject to the penalties provided for in Title 54, Chapter 25, Idaho Code.

(1-1-08)T

**991. -- 998. (RESERVED).**

**999. MINOR VIOLATIONS.**

Nothing in this chapter shall be construed as requiring the Commission to begin enforcement proceedings on minor violations when the Commission believes that the public interest will be best served by suitable warnings or other administrative action.

(1-1-08)T

## IDAPA 13 - IDAHO FISH AND GAME COMMISSION

### 13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-0701

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1101, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Amend references to the Disabled Persons Motor Vehicle Permit License to use terminology consistent with statutory amendment (S 1011). Amend the outfitter allocation rule to clarify the allocation process, to address outfitter concerns, and to be consistent with discussions with Legislative committees. Amend references to the Clearwater deer tag to refer to the White-tailed deer tag.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 259 to 264.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Sharon Kiefer (208) 287-2780.

DATED this 13th day of November, 2007.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut / P.O. Box 25, Boise, Idaho 83707

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#### DOCKET NO. 13-0104-0701 - ADOPTION OF PENDING RULE

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 259 through 264.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**



## IDAPA 13 - IDAHO FISH AND GAME COMMISSION

### 13.01.08 - RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO

DOCKET NO. 13-0108-0701

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1101, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Amend the legal weapon definitions to: 1) allow lighted reticles powered by battery or tritium for telescopic sights; 2) increase the let-off restriction for compound bows; 3) allow the use of lighter arrows and bolts; 4) amend the minimum length for arrows and bolts; 5) require loose powder for muzzleloaders; 6) require muzzleloader projectiles to be within a minimum diameter of the bore diameter; 7) prohibit 209 primers for muzzleloader seasons; and 8) require an exposed pivoting hammer and exposed ignition system for muzzleloader seasons. Add Units 49, 57 and 59 to the list of Big Game Management Units with motorized vehicle use restrictions. Delete controlled hunt boundary descriptions which are set by proclamation and published in the hunting brochure.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 265 through 285.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Brad Compton (208) 287-2756.

DATED this 13th day of November, 2007.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707

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#### DOCKET NO. 13-0108-0701 - ADOPTION OF PENDING RULE

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 265 through 285.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## IDAPA 13 - IDAHO FISH AND GAME COMMISSION

### 13.01.09 - RULES GOVERNING THE TAKING OF GAME BIRDS IN THE STATE OF IDAHO

DOCKET NO. 13-0109-0701

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1101, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Increase the number and type of turkey tags available. Allow Department sponsored youth waterfowl hunts at the Hagerman Wildlife Management Area. Amend references to the WMA pheasant permit to the WMA Upland Game Bird Permit to be consistent with statutory amendment (S 1010). Delete obsolete hunting area descriptions for Chukar Partridge, Gray Partridge, and Quail.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 288 through 295.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Tom Hemker (208) 287-2749 and Don Kemner (208) 287-2748.

DATED this 13th day of November, 2007.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707

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#### DOCKET NO. 13-0109-0701 - ADOPTION OF PENDING RULE

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 288 through 295.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

**IDAPA 13 - IDAHO FISH AND GAME COMMISSION**

**13.01.12 - RULES GOVERNING COMMERCIAL FISHING IN THE STATE OF IDAHO**

**DOCKET NO. 13-0112-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1101, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Amend the commercial species list to add Lake whitefish, delete several species, and correct the names of several species. Allow for the use of gill nets and define gill net requirements.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 296 through 299.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Fred Partridge (208) 287-2773.

DATED this 13th day of November, 2007.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707

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**DOCKET NO. 13-0112-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 296 through 299.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## IDAPA 13 - IDAHO FISH AND GAME COMMISSION

### 13.01.17 - RULES GOVERNING USE OF BAIT FOR TAKING BIG GAME ANIMALS

DOCKET NO. 13-0117-0701

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1101, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Clarify the definition of allowable bait to be consistent with the trapping rules.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 300 and 301.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Brad Compton (208) 287-2756.

DATED this 13th day of November, 2007.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707

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#### DOCKET NO. 13-0117-0701 - ADOPTION OF PENDING RULE

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 300 and 301.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

# IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

## 16.02.08 - VITAL STATISTICS RULES

### DOCKET NO. 16-0208-0701

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-242 and 39-5403, Idaho Code, and Senate Bill 1069 (2007) which modified Sections 39-260 and 39-268, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Based on public comment received, the proposed rule is being amended to clarify the intent of Subsection 850.01.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only the section that has changes that differ from the proposed text is printed in this bulletin. The complete text of the proposed rule was published in Book 1 of the Wednesday, October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 365 through 367.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to the state general fund related to this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact James Aydelotte at (208) 334-4969.

DATED this 25th day of October, 2007.

Sherri Kovach  
Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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DOCKET NO. 16-0208-0701 - ADOPTION OF PENDING RULE

Substantive changes have been made to the pending rule.

Only those sections and subsections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 365 through 367.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.

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THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0208-0701

***Subsections 850.01 through 850.01.b. and 850.03.a.***

**850. REMOVAL OF DEAD BODY OR FETUS FROM PLACE OF DEATH OR STILLBIRTH.**

Before removing a dead body or fetus from the place of death or stillbirth, the funeral director, or person acting as such, ~~shall obtain assurance from the attending physician or the physician's designate that the death or stillbirth is from natural causes and that the physician or the physician's designate will assume responsibility for certification of the cause of death or stillbirth, and receive from the attending physician or the physician's designate permission to remove the dead body or fetus from the place of death or stillbirth, or shall notify the coroner if the case comes within the jurisdiction of the coroner and obtain authorization to remove the dead body or fetus. In addition, the coroner may authorize removal of the dead body or fetus when death or stillbirth is due to natural causes only when there was no attending physician during the last illness, or there was no physician in attendance at the stillbirth, or when the attending physician or the physician's designate is not available or is physically incapable of providing the assurance or permission.~~ must, in accordance with Section 39-268, Idaho Code: ~~(12-26-83)~~( )

**01. Obtain Assurance That Death Is from Natural Causes.** Obtain assurance from the attending physician, physician assistant, advanced practice professional nurse, or his designee, responsible for medical certification of the cause of death or stillbirth: ( )

**a.** That the death or stillbirth is from natural causes; and ( )

**b.** That the attending physician, physician assistant, advanced practice professional nurse, or his designee, will assume responsibility for certification of the cause of death or stillbirth; or ( )

**03. Receive Permission to Remove the Dead Body or Fetus.** Receive permission to remove the dead body or fetus from the place of death or stillbirth from: ( )

**a.** The attending physician, physician assistant, advanced practice professional nurse, or his designee, if the death is from natural causes and all assurances in Subsection 850.01 of this rule have been met; or ( )

## **IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

### **16.02.10 - IDAHO REPORTABLE DISEASES**

#### **DOCKET NO. 16-0210-0701 (CHAPTER REPEAL)**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Sections 39-605, 39-906, 39-1003, 39-1603, 39-4504, 56-1003, and 56-1005, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The Idaho Reportable Diseases chapter of rules is being repealed because the chapter is hard to navigate and understand for compliance of reporting diseases and conditions. The pending rule is being adopted as proposed. The text of the proposed rule was published in the September 5, 2007, Idaho Administrative Bulletin, Vol. 07-9, page 97.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

This rulemaking has no fiscal impact to the state's general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the pending rule, contact Kathryn Turner at (208) 334-5870.

DATED this 9th day of October, 2007.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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#### **DOCKET NO. 16-0210-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-9, September 5, 2007, page 97.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.02.10 - IDAHO REPORTABLE DISEASES

#### DOCKET NO. 16-0210-0702 (CHAPTER REWRITE)

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-605, 39-906, 39-1003, 39-1603, 39-4504, 56-1003, and 56-1005, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The Idaho Reportable Diseases chapter of rules provides for disease surveillance and control and requires specified individuals to report certain diseases and conditions to the Department or Health Districts. These reporting requirements help protect the public from diseases that can be harmful or life-threatening to others if the disease is not reported and contained.

The following revisions are being made to the pending rule: (1) addition of invasive Methicillin-Resistant *Staphylococcus aureus* (MRSA) as a reportable disease, including control measures for specific manifestations of MRSA infections; (2) addition of definitions for "active pulmonary tuberculosis," "cure of tuberculosis," and "fecal incontinence;" and, (3) correction of citation references and minor corrections to the text.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 5, 2007, Idaho Administrative Bulletin, Vol. 07-9, pages 98 through 141.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

The fiscal impact to the state's general fund due to this rulemaking is for publication costs only.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Kathryn Turner at (208) 334-5870.

DATED this 26th day of November, 2007.

Sherri Kovach  
Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail



**DOCKET NO. 16-0210-0702 - ADOPTION OF PENDING RULE**

**Substantive changes have been made to the pending rule.**

**Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.**

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-9, September 5, 2007, pages 98 through 141.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

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**THE FOLLOWING IS THE AMENDED TEXT OF DOCKET 16-0210-0702**

***Subsections 010.20 through 010.28***

**010. DEFINITIONS A THROUGH K.**

For the purposes of this chapter, the following definitions apply. ( )

**20. Fecal Incontinence.** *A condition in which temporarily, as with severe diarrhea, or long-term, as with a child or adult requiring diapers, there is an inability to hold feces in the rectum, resulting in involuntary voiding of stool.* ( )

**21. Foodborne Disease Outbreak.** An outbreak is when two (2) or more persons experience a similar illness after ingesting a common food. ( )

**22. Food Employee.** An individual working with unpackaged food, food equipment or utensils, or food-contact surfaces as defined in IDAPA 16.02.19, "The Idaho Food Code." ( )

**23. Health Care Facility.** An establishment organized and operated to provide health care to three (3) or more individuals who are not members of the immediate family. This definition includes hospitals, intermediate care facilities, residential care and assisted living facilities. ( )

**24. Health Care Provider.** A person who has direct or supervisory responsibility for the delivery of health care or medical services. This includes: licensed physicians, nurse practitioners, physician assistants, nurses, dentists, chiropractors, and administrators, superintendents, and managers of clinics, hospitals, and licensed laboratories. ( )

**25. Health District.** Any one (1) of the seven (7) public health districts as established by Section 39-409, Idaho Code, and described in Section 030 of these rules. ( )

**26. Health District Director.** Any one (1) of the public health districts' directors appointed by the Health District's Board as described in Section 39-413, Idaho Code, or his designee. ( )

**27. Idaho Food Code.** Idaho Administrative Code that governs food safety, IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments," also known as "The Idaho Food Code." These rules may be found at: <http://adm.idaho.gov/adminrules/rules/idapa16/0219.pdf>. ( )

**28. Isolation.** The separation of a person known or suspected to be infected with an infectious agent, or contaminated from chemical or biological agents, from other persons to such places, under such conditions, and for such time as will prevent transmission of the infectious agent or further contamination. The place of isolation will be designated by the Director under Section 56-1003(7), Idaho Code, and Section 065 of these rules. ( )

**Section 050**

**050. REPORTABLE OR RESTRICTABLE DISEASES, CONDITIONS AND REPORTING REQUIREMENTS.**

Reportable diseases and conditions must be reported to the Department or Health District by those required under Section 020 of these rules. The table below identifies the reportable and restrictable diseases and conditions, the timeframe for reporting, and the person or facility required to report.

<b>REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS</b>				
<b>TABLE 050</b>				
<b>Reportable or Restrictable Diseases and Conditions</b>	<b>Section in Rule</b>	<b>Reporting Timeframe</b>	<b>Restrictable for DC = Day Care FS = Food Service HC = Health Care Facility S = School</b>	<b>Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, &amp; Hospital Administrators (Section 020)</b>
Acquired Immune Deficiency Syndrome (AIDS), (including CD-4 lymphocyte counts <200 cells/mm <sup>3</sup> blood or ≤ 14%)	100	Within 3 working days	None	
Amebiasis	110	Within 3 working days	DC, FS, HC	Day Care Facility Food Service Facility
Anthrax (bacillus anthracis)	120	Immediately	None	
Biotinidase Deficiency	130	Within 1 working day (in newborn screening)	None	
Botulism	140	Immediately	None	
Brucellosis (Brucella species)	150	Within 1 working day	None	
Campylobacteriosis (Campylobacter species)	160	Within 3 working days	DC, FS, HC	Day Care Facility Food Service Facility
Cancer	170	Report to Cancer Data Registry of Idaho within 180 days of diagnosis or recurrence (including suspected cases)	None	
Chancroid	180	Within 3 working days	None	
Chlamydia trachomatis Infections	190	Within 3 working days	HC	
Cholera (Vibrio cholerae)	200	Within 1 working day	FS, HC, DC	Food Service Facility

<b>REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS</b>				
<b>TABLE 050</b>				
<b>Reportable or Restrictable Diseases and Conditions</b>	<b>Section in Rule</b>	<b>Reporting Timeframe</b>	<b>Restrictable for DC = Day Care FS = Food Service HC = Health Care Facility S = School</b>	<b>Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, &amp; Hospital Administrators (Section 020)</b>
Congenital Hypothyroidism	210	Within 1 working day (in newborn screening)	None	
Conjunctivitis	080, 090	No reporting required	DC, S	
Cryptosporidiosis (Cryptosporidium species)	220	Within 3 working days	FS, HC, DC	
Cutaneous Fungal Infections	080, 090	No reporting required	DC, S	
Diarrhea (until common communicable diseases have been ruled out)	085	No reporting required	FS	
Diphtheria (Corynebacterium diphtheriae)	230	Immediately	DC, FS, HC, S	Day Care Facility School
Encephalitis, Viral or Aseptic	240	Within 3 working days	None	
Escherichia coli O157:H7 and other Shiga-Toxin Producing E. coli (STEC)	250	Within 1 working day	DC, FS, HC	Day Care Facility Food Service Facility School
Extraordinary Occurrence of Illness, including Clusters	260	Within 1 working day	None	
Fever	085	No reporting required	FS	
Food Poisoning, Foodborne Illness, and Waterborne Illnesses	270	Within 1 working day	None	
Galactosemia	280	Within 1 working day (in newborn screening)	None	
Giardiasis (Giardia lamblia)	290	Within 3 working days	DC, FS, HC	Day Care Facility Food Service Facility
Haemophilus influenzae Invasive Disease	300	Within 1 working day	DC, S	Day Care Facility School
Hantavirus Pulmonary Syndrome	310	Within 1 working day	None	
Hemolytic-Uremic Syndrome (HUS)	320	Within 1 working day	None	
Hepatitis A	330	Within 1 working day	DC, FS, HC	Day Care Facility Food Service Facility
Hepatitis B	340	Within 1 working day	None	

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS TABLE 050				
Reportable or Restrictable Diseases and Conditions	Section in Rule	Reporting Timeframe	Restrictable for DC = Day Care FS = Food Service HC = Health Care Facility S = School	Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, & Hospital Administrators (Section 020)
Hepatitis C	350	Within 3 working days	None	
Human Immunodeficiency Virus (HIV)	360	Within 3 working days	None	
Human T-Lymphotropic Virus	370	Within 3 working days	None	
Jaundice	085	No reporting required	FS	
Lead Levels of Ten Micrograms or more per Deciliter of Whole Blood (ug/dL)	380	Within 3 working days	None	
Legionellosis	390	Within 3 working days	None	
Leprosy (Hansen's Disease)	400	Within 3 working days	None	
Leptospirosis	410	Within 3 working days	None	
Listeriosis ( <i>Listeria</i> species)	420	Within 3 working days	None	
Lyme Disease	430	Within 3 working days	None	
Malaria ( <i>Plasmodium</i> species)	440	Within 3 working days	None	
Maple Syrup Urine Disease	450	Within 1 working day (in newborn screening)	None	
Measles (Rubeola)	460	Within 1 working day	DC, HC, S	Day Care Facility School
Meningitis, Viral or Aseptic	470	Within 3 working days	None	
<i>Methicillin-resistant Staphylococcus aureus (MRSA) Invasive Disease</i>	475	Within 3 working days	None	<b>Note:</b> Only Laboratory Directors need to report.
<i>Methicillin-resistant Staphylococcus aureus (MRSA) Non-Invasive Disease</i>	475, 080, 090	No reporting required	DC, FS, HC, S	
Mumps	480	Within 3 working days	DC, S, HC	Day Care Facility School
Myocarditis, Viral	490	Within 3 working days	None	
<i>Neisseria gonorrhoeae</i> Infections	500	Within 3 working days	None	
<i>Neisseria meningitidis</i> Invasive Disease	510	Within 1 working day	DC, HC, S	Day Care Facility School

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS TABLE 050				
Reportable or Restrictable Diseases and Conditions	Section in Rule	Reporting Timeframe	Restrictable for DC = Day Care FS = Food Service HC = Health Care Facility S = School	Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, & Hospital Administrators (Section 020)
Norovirus	520	Within 1 working day	DC, FS, HC, S	
Pediculosis	080, 090	No reporting required	DC, S	
Pertussis ( <i>Bordetella pertussis</i> )	530	Within 1 working day	DC, HC, S	Day Care Facility School
Phenylketonuria (PKU)	540	Within 1 working day (in newborn screening)	None	
Plague ( <i>Yersinia pestis</i> )	550	Immediately	HC, S	Day Care Facility School
Pneumococcal Invasive Disease in Children less than Eighteen (18) Years of Age ( <i>Streptococcus pneumoniae</i> )	560	Within 3 working days	DC, S	Day Care Facility School
Pneumocystis Pneumonia (PCP)	570	Within 3 working days	None	
Poliomyelitis	580	Within 1 working day	DC	Day Care Facility School
Psittacosis	590	Within 3 working days	None	
Q Fever	600	Within 1 working day	None	
Rabies -- Human and Animal	610	Immediately (human), Within 1 working day (animal)	None	
Relapsing Fever, Tick-borne and Louse-borne	620	Within 3 working days	None	
Respiratory Syncytial Virus (RSV)	630	Within 1 working day	None	<b>Note:</b> Only Laboratory Directors need to report.
Reye Syndrome	640	Within 3 working days	None	
Rocky Mountain Spotted Fever	650	Within 3 working days	None	
Rubella (including Congenital Rubella Syndrome)	660	Within 1 working day	DC, HC, S	Day Care Facility School
Salmonellosis (including Typhoid Fever) ( <i>Salmonella</i> species)	670	Within 1 working day	DC, FS, HC	Day Care Facility Food Service Facility
Scabies	080, 090	No reporting required	DC, S	

<b>REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS</b>				
<b>TABLE 050</b>				
<b>Reportable or Restrictable Diseases and Conditions</b>	<b>Section in Rule</b>	<b>Reporting Timeframe</b>	<b>Restrictable for DC = Day Care FS = Food Service HC = Health Care Facility S = School</b>	<b>Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, &amp; Hospital Administrators (Section 020)</b>
Severe Acute Respiratory Syndrome (SARS)	680	Within 1 working day	DC, S	Day Care Facility School
Severe Reaction to Any Immunization	690	Within 1 working day	None	
Shigellosis (Shigella species)	700	Within 1 working day	DC, FS, HC, S	Day Care Facility Food Service Facility School
Smallpox	710	Immediately	DC, HC, S	Day Care Facility School
Sore Throat with Fever	085	No reporting required	FS	
Staphylococcal Infections <i>other than MRSA</i>	080, 090	No reporting required	DC, FS, S	
Streptococcal Pharyngeal Infections	080, 090	No reporting required	DC, S	
Streptococcus pyogenes (Group A Strep), Invasive or Resulting in Rheumatic Fever	720	Within 3 working days	DC, HC, S	Day Care Facility School
Syphilis	730	Within 3 working days	None	
Taeniasis	085	No reporting required	FS	
Tetanus	740	Within 3 working days	None	
Toxic Shock Syndrome	750	Within 3 working days	None	
Transmissible Spongiform Encephalopathies (TSE), including Creutzfeldt-Jakob Disease (CJD) and Variant CJD (vCJD)	760	Within 3 working days	None	
Trichinosis	770	Within 3 working days	None	
Tuberculosis (Mycobacterium tuberculosis)	780	Within 3 working days	DC, FS, HC, S	Day Care Facility School Food Service Facility
Tularemia (Francisella tularensis)	790	Immediately; Identification of Francisella tularensis - within 1 working day	None	

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS TABLE 050				
Reportable or Restrictable Diseases and Conditions	Section in Rule	Reporting Timeframe	Restrictable for DC = Day Care FS = Food Service HC = Health Care Facility S = School	Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, & Hospital Administrators (Section 020)
Uncovered and Open or Draining Skin Lesions with Pus, such as a Boil or Open Wound	085	No reporting required	FS	
Varicella (chickenpox)	080, 090	No reporting required	DC, S	
Vomiting (until noninfectious cause is identified)	085	No reporting required	FS	
West Nile Virus (WNV)	800	Within 3 working days	None	
Yersiniosis (Yersinia enterocolitica and Yersinia pseudotuberculosis)	810	Within 3 working days; Identification of Yersinia pestis - immediately	FS	

( )

**Section 475 is a New Section.**

471. -- 474. (RESERVED).

**475. METHICILLIN-RESISTANT STAPHYLOCOCCUS AUREUS (MRSA).**

**01. Reporting Requirements.** Each case or suspected case of invasive methicillin-resistant *Staphylococcus aureus* (MRSA), defined as MRSA isolated from a normally sterile site, must be reported to the Department or Health District within three (3) working days of identification by the laboratory director. ( )

**02. Investigation.** Any case of MRSA may be investigated to determine source and recommend measures to prevent spread. ( )

**03. Restrictions - Day Care Facility.** A person who is diagnosed with MRSA infection must not work in an occupation providing personal care to children, or attend a day care facility, if the infection manifests as a lesion containing pus such as a boil or infected wound that is open or draining; and ( )

**a.** The lesion is on the hands, wrists, or exposed portions of the arms, and is not protected by an impermeable cover; or ( )

**b.** The lesion is on another part of the body, and is not covered by a dry, durable, tight-fitting bandage. ( )

**04. Restrictions - Food Service Facility.** A food employee diagnosed with MRSA infection must be managed under IDAPA 16.02.19, "The Idaho Food Code." ( )

**05. Restrictions - Health Care Facility.** A person who is diagnosed with MRSA infection must not provide personal care to persons in a health care facility if the infection manifests as a lesion containing pus such as ( )

a boil or infected wound that is open or draining; and ( )

a. The lesion is on the hands, wrists, or exposed portions of the arms, and is not protected by an impermeable cover; or ( )

b. The lesion is on another part of the body, and is not covered by a dry, durable, tight-fitting bandage. ( )

**06. Restrictions - School.** A person who is diagnosed with MRSA infection must not work in an occupation where there is direct contact with students or attend a private, parochial, charter, or public school, if the infection manifests as a lesion containing pus such as a boil or infected wound that is open or draining; and ( )

a. The lesion is on the hands, wrists, or exposed portions of the arms, and is not protected by an impermeable cover; or ( )

b. The lesion is on another part of the body, and is not covered by a dry, durable, tight-fitting bandage. ( )

476. -- 479. (RESERVED).

### **Subsections 670.06.c. and 670.06.d.ii.**

#### **670. SALMONELLOSIS - INCLUDING TYPHOID FEVER.**

##### **06. Restrictions - Salmonella Typhi.**

c. Any member of a household in which there is a case of Salmonella Typhi must not work in the occupations described in Subsection 670.05.d. of this rule until at least two (2) fecal specimens approved fecal specimens are negative for Salmonella upon testing by a licensed laboratory. ( )

d. All chronic carriers of Salmonella Typhi must abide by a written agreement called a typhoid fever carrier agreement. This agreement is between the chronic carrier and the Department or Health District. Failure of the carrier to abide by the carrier agreement may cause the carrier to be isolated under Section 065 of these rules. The carrier agreement requires: ( )

ii. Specimens must be furnished for examination in a manner described by the Department or Health District; and ( )

### **Subsections 780 (Entire Section)**

#### **780. TUBERCULOSIS.**

**01. Reporting Requirements.** Each case of tuberculosis must be reported to the Department or Health District within three (3) working days of identification. ( )

**02. Investigation.** Each reported case of tuberculosis must be investigated to confirm the diagnosis, identify contacts, associated cases, and the source of the infection. ( )

**03. Active Pulmonary Tuberculosis - Definition.** Tuberculosis disease of the lungs, determined by a physician to be potentially contagious by clinical or bacteriological evidence or by evidence of the spread of the disease to others. Tuberculosis is considered active until cured. ( )



**04. Cure of Tuberculosis - Definition.** *The completion of a course of antituberculosis treatment.* ( )

**05. Restrictions - Day Care Facility.** A person with *active* pulmonary tuberculosis must not attend or work in any occupation in which he has direct contact or provides personal care to children in a day care facility, until he is determined to be noninfectious by a licensed physician, the Department or Health District. ( )

**06. Restrictions - Health Care Facility.** ( )

**a.** A person suspected to have pulmonary tuberculosis in a health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules, until the diagnosis of *active* pulmonary tuberculosis is excluded by a licensed physician. ( )

**b.** A person with active pulmonary tuberculosis in a health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules, until he is determined to be noninfectious by a licensed physician, the infection control committee of the facility, or the Department. ( )

**c.** A person with *active* pulmonary tuberculosis must not work in any occupation in which he has direct contact or provides personal care to persons confined to a health care or residential care facility, until he is determined to be noninfectious by a licensed physician, infection control committee of the facility, or the Department. ( )

**d.** In the event that *active pulmonary* tuberculosis is diagnosed in an employee, patient, or resident, the health care facility must conduct an investigation to identify contacts. The Department or Health District may assist in the investigation. ( )

**07. Restrictions - School.** A person with *active* pulmonary tuberculosis must not attend or work in any occupation in which he has direct contact with students in a private, parochial, charter, or public school until he is determined to be noninfectious by a licensed physician, the Department or Health District. ( )

**08. Restrictions - Household Contacts.** Any member of a household, in which there is a case of *active pulmonary* tuberculosis, must not attend or work in any occupation in which he provides direct supervision of students in a school, personal care to children in a day care facility *or* persons confined to a health care facility, or works in a food service facility, until he has been determined to be *noninfectious by a licensed physician, the Department or Health District.* ( )

## **Section 950**

### **950. DELEGATION OF POWERS AND DUTIES.**

The Director has the authority to delegate to the Health Districts any of the powers and duties created by these rules under Section 39-414(2), Idaho Code. Any delegation authority will be in writing and signed by both the Director and the Health District Board. ( )

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.02.15 - IMMUNIZATION REQUIREMENTS FOR IDAHO SCHOOL CHILDREN**

**DOCKET NO. 16-0215-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-4801, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

In order to protect school children from the spread of certain diseases, the state requires that children be immunized before they enter school. These rules provide clarification of the immunization requirements for school children. The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The word "and" was changed to "or" for clarification of the types of doses that meet immunization requirements in Section 100. The complete text of the proposed rules published in Book 1 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 368 through 371.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year. This rulemaking has no fiscal impact to the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule contact Dieuwke Spencer at (208) 334-5930.

DATED this 26th day of October, 2007.

Sherri Kovach  
Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 332-7347 fax  
kovachs@dhw.idaho.gov e-mail

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**DOCKET NO. 16-0215-0701 - ADOPTION OF PENDING RULE**

Substantive changes have been made to the pending rule.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 368 through 371.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2008 Idaho State Legislature as a final rule.

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THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET NO. 16-0215-0701

***Subsection 100.01.c., 100.02.f., and 100.03.d.***

**100. IMMUNIZATION PROGRAM.**

~~All~~ Immunizations, listed in Subsections 100.01 through 100.04 of ~~these~~ this rules, are required of children upon admission to kindergarten through grade twelve (12) of any Idaho public, private, or parochial school. Immunizations ~~will be recognized if~~ must be administered according to the "General Recommendations on Immunizations" established by the ACIP or their equivalent. These recommendations are available from the Department as provided in Section 004 of these rules. Exemptions from these immunization requirements are provided in Section 110 of these rules. ~~(3-30-07)~~( )

- 01. Measles, Mumps and Rubella (MMR). ( )**
- c. Measles, Mumps, and Rubella (MMR); or ( )**
- 02. Diphtheria, and Tetanus, ~~and Pertussis~~. ( )**
- #f. Diphtheria, Tetanus (DT - Pediatric); ~~and or~~ ~~(3-30-07)~~( )**
- 03. Pertussis. ( )**
- d. Diphtheria, Tetanus and Pertussis (DTP); or ( )**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.02.19 - FOOD SAFETY AND SANITATION STANDARDS FOR FOOD ESTABLISHMENTS  
(THE IDAHO FOOD CODE)**

**DOCKET NO. 16-0219-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-1603, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

To help protect the public against food-borne illnesses, the Department is amending the Idaho Food Code. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 5, 2007, Idaho Administrative Bulletin, Vol. 07-9, pages 142 through 144.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year. This rulemaking has no fiscal impact to the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule contact Patrick Guzzle at (208) 334-5938.

DATED this 15th day of October, 2007.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 332-7347 fax  
kovachs@dhw.idaho.gov e-mail

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**DOCKET NO. 16-0219-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-9, September 5, 2007, pages 142 through 144.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.02.27 - IDAHO RADIATION CONTROL RULES**

**DOCKET NO. 16-0227-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-1041, 56-1043, 56-1044, and 56-1046, Idaho Code, and Senate Bill 1148 (2007).

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 1, 2007, Idaho Administrative Bulletin, Vol. 07-8, pages 62 through 93.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to the state general fund related to this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact David Eisentrager at (208) 334-2235 ext. 245.

DATED this 4th day of October, 2007.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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**DOCKET NO. 16-0227-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-8, August 1, 2007, pages 62 through 93.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## **IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

### **16.03.01 - ELIGIBILITY FOR HEALTH CARE ASSISTANCE FOR FAMILIES AND CHILDREN**

**DOCKET NO. 16-0301-0702**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202, 56-203, 56-209, 56-236, 56-237, 56-238, 56-239, 56-240, 56-242, 56-250, 56-253, 56-255, and 56-257, Idaho Code; 42 CFR, Part 435, 436, 440, 441, 457 and 483.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 372 through 378.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no anticipated fiscal impact to the state general fund related to this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Linda Palmer at (208) 334-5845.

DATED this 30th day of October, 2007.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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#### **DOCKET NO. 16-0301-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 372 through 378.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## **IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

### **16.03.01 - ELIGIBILITY FOR HEALTH CARE ASSISTANCE FOR FAMILIES AND CHILDREN**

**DOCKET NO. 16-0301-0703**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. If approved by the Legislature, the pending rule becomes final and effective on July 1, 2008, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202, 56-203, 56-209, 56-236, 56-237, 56-238, 56-239, 56-240, 56-242, 56-250, 56-253, 56-255, and 56-257, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, page 379.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to the state general fund related to this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Linda Palmer at (208) 334-5845.

DATED this 5th day of November, 2007.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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#### **DOCKET NO. 16-0301-0703 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, page 379.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.03.02 - RULES AND MINIMUM STANDARDS FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITIES

DOCKET NO. 16-0302-0701

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Sections 39-1306, 39-1307, 39-1307A, 39-1307B, 56-1004A, and 56-1005(8), Idaho Code, in response to the conclusion of the pilot project for criminal history and background checks in long-term care settings.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Skilled nursing and intermediate care facilities participated in a pilot project for criminal history and background checks for workers who have access, or provide care to residents in long-term care facilities. The pilot project and federal funding for these checks expired on September 30, 2007.

In order to protect vulnerable adults living in skilled nursing and intermediate care facilities, the Department has decided to continue these criminal history and background checks. This rule change allows a facility to use either the Department's criminal history and background check or another entity's check. The pending rule is being adopted as proposed. The complete text of the proposed rule published in the September 5, 2007, Idaho Administrative Bulletin, Vol. 07-9, pages 145 through 149.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 56-1004A(5), Idaho Code, which requires an applicant for a criminal history and background check to be responsible for the cost of the check.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking has no fiscal impact to the state general fund. A criminal history and background check is paid for by the applicant.

**ASSISTANCE ON TECHNICAL QUESTIONS AND OBTAINING COPIES:** For assistance on technical questions concerning this pending rule, contact Randy May at (208) 334-5747.

DATED this 5th day of October, 2007.

Sherri Kovach  
Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor

P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 332-7347 fax  
kovachs@dhw.idaho.gov e-mail

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#### DOCKET NO. 16-0302-0701 - ADOPTION OF PENDING FEE RULE

**No substantive changes have been made to the pending rule.  
The complete text of the proposed rule was published in the Idaho Administrative  
Bulletin, Volume 07-9, September 5, 2007, pages 145 through 149.  
This rule has been adopted as a pending rule by the Agency and is now awaiting  
review and approval by the 2008 Idaho State Legislature for final adoption.**

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**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.03.03 - RULES GOVERNING CHILD SUPPORT SERVICES**

**DOCKET NO. 16-0303-0701**

**NOTICE OF RULEMAKING - RESCISSION OF TEMPORARY RULE**

**AUTHORITY:** In compliance with Section 67-5221 and 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule previously adopted under this docket. The action is authorized pursuant to Section 32-1214G and 56-203A, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for rescinding the temporary rule:

This docket was adopted as a temporary rule by the Department and published in Book 1 of the October 3, 2007, Administrative Bulletin, Volume 07-10, pages 380 through 382. This rule was required to comply with a federal mandate from the Deficit Reduction Act (DRA) of 2005. The rulemaking set up a process to collect a \$25 annual fee for each child support case that has never participated in a cash assistance program. This Notice of Rulemaking hereby rescinds the temporary rule that went into effect on October 1, 2007. The effective date of this notice of rescission is December 6, 2007.

This temporary rule is being rescinded to reduce the financial impact to the custodial parent household receiving child support payments. This temporary rule is being replaced with a new temporary rule that will be published in the February 6, 2008, Idaho Administrative Bulletin.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the rescission of this temporary rule, contact Kandace Yearsley at (208) 334-0620.

DATED this 7th day of December, 2007.

Sherri Kovach  
Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone  
(208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.03.03 - RULES GOVERNING CHILD SUPPORT SERVICES**

**DOCKET NO. 16-0303-0701**

**NOTICE OF RULEMAKING - VACATION OF PROPOSED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the rulemaking previously initiated under this docket. The action is authorized pursuant to Sections 32-1214G and 56-203A, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a summary of the reasons for vacating this rulemaking:

This docket was published as a proposed rule by the Department in Book 1 of the October 3, 2007, Administrative Bulletin, Volume 07-10, pages 380 through 382. This rule was required to comply with a federal mandate from the Deficit Reduction Act (DRA) of 2005. The rulemaking set up a process to collect a \$25 annual fee for each child support case that has never participated in a cash assistance program. This Notice of Rulemaking hereby vacates the proposed rulemaking.

This proposed rule is being vacated to reduce the financial impact to the custodial parent household receiving child support payments.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this vacation of rulemaking, contact Kandace Yearsley at (208) 334-0620.

DATED this 7th day of December, 2007.

Sherri Kovach  
Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone  
(208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO**  
**DOCKET NO. 16-0304-0701**  
**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-203, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the Wednesday, October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 383 through 385.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to the state general fund related to this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Rosie Andueza (208) 334-5553.

DATED this 30th day of October, 2007.

Sherri Kovach  
Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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**DOCKET NO. 16-0304-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 383 through 385.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2008 Idaho State Legislature as a final rule.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED,  
BLIND, AND DISABLED (AABD)**

**DOCKET NO. 16-0305-0703**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The changes made to the proposed rules are to clarify the definition of pension funds; remove the definition of retirement funds; and change the income producing resource test from a 5% flat rate to an index. The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin.

The complete text of the proposed rule was published in Book 1 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10 pages 386 through 397.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

This rulemaking has no anticipated fiscal impact on the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Susie Cummins at (208) 732-1419.

DATED this 5th day of November, 2007.

Sherri Kovach  
Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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**DOCKET NO. 16-0305-0703 - ADOPTION OF PENDING RULE**

Substantive changes have been made to the pending rule.

Only those sections and subsections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 386 through 397.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.

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THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET 16-0305-0703

**Subsections 005.17 Through 005.24**

**005. DEFINITIONS.**

These definitions apply to IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)": (7-1-99)

**17. Partnership Policy.** *A partnership policy is a qualified long-term care insurance policy as defined in Section 7702B(b) of the Internal Revenue Code of 1986, which meets the requirements of the long-term care insurance model regulation and long-term care insurance model act promulgated by the National Association of Insurance Commissioners (NAIC), as incorporated in 42 USC 1396p(b)(5)(A).* ( )

**18. Pension Funds.** *Pension funds are retirement funds held in individual retirement accounts (IRAs), as described by the Internal Revenue Code, or in work-related pension plans, including plans for self-employed individuals sometimes referred to as Keogh plans.* ( )

**179. Sole Beneficiary.** The only beneficiary of a trust, including a beneficiary during the grantor's life, a beneficiary with a future interest, and a beneficiary by the grantor's will. (7-1-99)

**1820. TAFI Rules.** Idaho Department of Health and Welfare Rules, IDAPA 16.03.08, "Rules Governing Temporary Assistance for Families in Idaho." (7-1-99)

**1921. Title XIX.** Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by the federal and state governments and administered by the states. This program pays for medical assistance for certain individuals and families with low income and limited resources. (3-30-07)

**202. Title XXI.** Title XXI of the Social Security Act, known as the State Children's Health Insurance Program (SCHIP). This is a program that primarily pays for medical assistance for low-income children. (3-30-07)

**23. Treasury Rate.** *The five (5) year security note rate listed in the "Daily Treasury Yield Curve Rate" by the U.S. Treasury on January 1 of each year. The January 1 rate is used for the entire calendar year.* ( )

**214. Working Day.** A calendar day when regular office hours are observed by the state of Idaho. (7-1-99)

## Section 745

### 745. UPWARD REVISION OF CSRA.

If the community spouse's income, including income from his CSA and income-producing resources in his CSRA, is less than the minimum CSANS, the CSRA ~~must~~ may be increased. The CSRA is increased by enough resources, transferred from the long-term care spouse, to raise the community spouse's income to the minimum CSANS. Resources included in the transfer are presumed to produce income ~~of five percent (5%) yearly at the treasury rate, whether or not the resources produce income, or produce five percent (5%)~~. If the community spouse shows he is making reasonable use of his income and resources, to generate income, the Department may waive the ~~five percent (5%) yearly income treasury rate~~ requirement. Actual income produced by the resources transferred to the community spouse is used to compute the CSA. A higher CSA can be requested under Section 727 of these rules. If the transferred resources produce more than ~~five percent (5%) yearly income~~ the treasury rate, the actual income produced is used to determine the additional resources that can be transferred to the community spouse in the CSRA. The long-term care spouse must transfer the resources to the community spouse, or the CSRA is not revised.

(3-30-07)(\_\_\_\_)

## Section 838, Subsections 838.01, 838.02, and 838.02.b.

### 838. ANNUITY AS ASSET TRANSFER.

Except as provided in this rule, when assets are used to purchase an annuity during the look-back period, it is an asset transfer presumed to be made for the purpose of qualifying for Medicaid. To rebut this presumption, the participant must provide proof that clearly establishes the annuity was not purchased to make the participant eligible for Medicaid or avoid recovery from the estate following death. ~~In addition, Proof is met if the participant must show the annuity will be paid out in the participant's expected life, is irrevocable, earns interest at a reasonable rate of return, and names the state as the remainder beneficiary as meets the requirements~~ described in Subsections 838.02 through 838.04~~5~~ of ~~these~~ this rules, ~~unless the annuity is permitted under Section 838.05.~~

(3-30-07)(\_\_\_\_)

**01. Revocable Annuity.** A revocable annuity is an annuity that can be assigned. The surrender amount of a revocable annuity is a countable resource. (3-30-07)(\_\_\_\_)

**02. Irrevocable Annuity.** ~~An irrevocable annuity is an annuity that under no circumstance can be sold or traded for value, including the sale of the stream of income from the annuity.~~ The purchase price of an irrevocable, non-assignable annuity is treated as an asset transfer, unless the requirements of Subsections 838.02.a, 838.02.b., 838.03 and 838.04 of ~~these~~ this rules are met. (3-30-07)(\_\_\_\_)

**b. Annual Interest ~~and Insurer Rating~~ Test.** ~~The Any annuity must is presumed to produce annual interest, at minimum, of at least five percent (5%) that is equal to the treasury rate. A variable rate annuity meets the interest rate test if the average yearly rate for the most recent five (5) year period is five percent (5%) or more. To rebut the five percent (5%) interest test, the participant must show that single premium annuities were not offered by insurers when the annuity was purchased and it would not be practical to exchange the annuity for one with a higher interest rate. The insurer must be rated excellent or superior by an insurance rating firm.~~ (3-30-07)(\_\_\_\_)

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED,  
BLIND, AND DISABLED (AABD)**

**DOCKET NO. 16-0305-0704**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202, 56-203, 56-207 through 209a, and 56-253 through 255, Idaho Code, and the federal Tax Relief and Health Care Act of 2006 (TRHCA), and Deficit Reduction Act of 2005 (DRA).

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 398 through 406.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

The fiscal impact for the income trust issue is \$281,043. The federal match is 70/30, and the total cost to the state general fund is \$84,300.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Susie Cummins at (208) 732-1419.

DATED this 31st day of October, 2007.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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**DOCKET NO. 16-0305-0704 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 398 through 406.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.06 - RULES GOVERNING REFUGEE MEDICAL ASSISTANCE**  
**DOCKET NO. 16-0306-0701 (CHAPTER REPEAL)**  
**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202 and 56-203, Idaho Code; also 45 CFR Parts 400 and 401, and 8 USC 1521.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the Wednesday, October 3, 2007, Idaho Administrative Bulletin, Vol 07-10, page 407.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to the state general fund related to this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Linda Palmer at (208) 334-5845.

DATED this 30th day of October, 2007.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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**DOCKET NO. 16-0306-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, page 407.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**



**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.03.06 - REFUGEE MEDICAL ASSISTANCE**

**DOCKET NO. 16-0306-0702 (CHAPTER REWRITE)**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202 and 56-203, Idaho Code; also 45 CFR Parts 400 and 401, and 8 USC 1521.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the Wednesday, October 3, 2007, Idaho Administrative Bulletin, Vol 07-10, pages 408 through 416.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

This rule change requires updates to the Department's automated eligibility determination system (EPICS) estimated to cost \$1,900. However, no net increase in operational costs is anticipated as a result of this rule change.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Linda Palmer at (208) 334-5845.

DATED this 30th day of October, 2007.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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**DOCKET NO. 16-0306-0702 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 408 through 416.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

# IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

## 16.03.07 - RULES FOR HOME HEALTH AGENCIES

DOCKET NO. 16-0307-0701

### NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Sections 39-2401(2), 56-1004A, and 56-1005(8), Idaho Code, is in response to the conclusion of the pilot project for criminal history checks in long-term care settings.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Home health agencies participated in a pilot project for criminal history and background checks for workers who have access, or provide care to individuals living in their own home. The pilot project and federal funding for these checks expired on September 30, 2007.

The Department has decided to continue to require the Department's criminal history and background check for an individual who is employed or contracted with and has access to patients through a home health agency. These rules were amended to require these checks. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 5, 2007, Idaho Administrative Bulletin, Vol. 07-9, pages 150 through 152.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

This fee or charge is being imposed pursuant to Section 56-1004A(5), Idaho Code, which requires an applicant for a criminal history and background check to be responsible for the cost of the check.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking has no fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS AND OBTAINING COPIES:** For assistance on technical questions concerning the pending rule, contact Randy May at (208) 334-5747.

DATED this 5th day of October, 2007.

Sherri Kovach  
Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor

P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 332-7347 fax  
kovachs@dhw.idaho.gov e-mail

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### DOCKET NO. 16-0307-0701 - ADOPTION OF PENDING FEE RULE

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-9, September 5, 2007, pages 150 through 152.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.03.08 - RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO**

**DOCKET NO. 16-0308-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202, Idaho Code, and 45 CFR Parts 260-265.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the Wednesday, October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 417 through 419.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the state general fund associated with this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Genie Sue Weppner at (208) 334-5656.

DATED this 30th day of October, 2007.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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**DOCKET NO. 16-0308-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 417 through 419.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## **IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

### **16.03.09 - MEDICAID BASIC PLAN BENEFITS**

**DOCKET NO. 16-0309-0702**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202(b), 56-203(g), 56-203(i), and 56-250 through 56-257, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the Wednesday, October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 420 through 423.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to the state general fund related to this rulemaking since the proposed rule amendments simply describe, but do not alter, the current methodology used to set Federally Qualified Health Center (FQHC) reimbursement rates.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Sheila Pugatch at (208) 364-1817.

DATED this 5th day of November, 2007.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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#### **DOCKET NO. 16-0309-0702 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 420 through 423.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.03.09 - MEDICAID BASIC PLAN BENEFITS**

**DOCKET NO. 16-0309-0703**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202(b), 56-203(g), 56-203(i), 56-250 through 56-257, Idaho Code and Title XIX and Title XXI of the Social Security Act, as amended, and the companion federal regulations.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the Wednesday, October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 424 through 427.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Sheila Pugatch at (208) 364-1817.

DATED this 5th day of November, 2007.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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**DOCKET NO. 16-0309-0703 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 424 through 427.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.03.09 - MEDICAID BASIC PLAN BENEFITS**

**DOCKET NO. 16-0309-0704**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202(b), 56-203(g), 56-203(i), 56-250 through 56-257, Idaho Code and Title XIX and Title XXI of the Social Security Act, as amended, and the companion federal regulations.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the Wednesday, October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 428 through 430.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jeanne Siroky at (208) 364-1897.

DATED this 5th day of November, 2007.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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**DOCKET NO. 16-0309-0704 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 428 through 430.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## **IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

### **16.03.09 - MEDICAID BASIC PLAN BENEFITS**

**DOCKET NO. 16-0309-0705**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202(b), 56-203(g), 56-203(i), 56-250 through 56-257, Idaho Code and Title XIX and Title XXI of the Social Security Act, as amended, and the companion federal regulations.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the Wednesday, October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 431 through 436.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Robin Pewtress at (208) 364-1892.

DATED this 5th day of November, 2007.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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#### **DOCKET NO. 16-0309-0705 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 431 through 436.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-0706

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202(b), 56-203(g), 56-203(i), and 56-250 through 56-257, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The Department has reviewed and given due consideration to the public comments submitted for this rule. The comments expressed several concerns including new requirements for prior authorization of speech therapy and occupational therapy, a plan for reviewing the requests for prior authorization, the potential for increased cost to the state, as well as the increased potential for fraud and abuse.

The Department worked closely with the Idaho Occupational Therapy Association and the Idaho Speech and Hearing Association to develop rules that will increase access and ensure that participants will receive the right care at the right time, and, at the same time, prevent over-utilization of therapy services. The Department has conducted research on expected utilization, and there are processes in place to achieve the added responsibilities in a timely manner and to monitor for over-utilization. The Department is not requesting any changes to the proposed rule.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the Wednesday, October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 437 through 452.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

This rule change requires updates to Medicaid's automated billing system estimated to cost \$125,000. However, no net increase in trustee and benefit costs are anticipated as a result of this rule change.

No new services will be implemented with this rule change. Rather, a new provider type will be allowed to bill for therapy services. The improved access to therapy services that may result from this change may increase utilization of these services. However, the proposed rule change also sets new limits on the amount of therapy services that can be provided without prior authorization. It is anticipated that the increased access to therapy services in conjunction with limitations on therapy visits as a result of the prior authorization review will off-set each other.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jeanne Siroky at (208) 364-1897.

DATED this 5th day of November, 2007.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor

P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail



**DOCKET NO. 16-0309-0706 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 437 through 452.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## **IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

### **16.03.10 - MEDICAID ENHANCED PLAN BENEFITS**

**DOCKET NO. 16-0310-0704**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202(b), 56-203(g), 56-203(i), and 56-250 through 56-257, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The Department has reviewed and given due consideration to the public comments submitted for this rule. The comments expressed several concerns including new requirements for prior authorization of speech therapy and occupational therapy, a plan for reviewing the requests for prior authorization, the potential for increased cost to the state, as well as the increased potential for fraud and abuse.

The Department worked closely with the Idaho Occupational Therapy Association and the Idaho Speech and Hearing Association to develop rules that will increase access and ensure that participants will receive the right care at the right time, and, at the same time, prevent over-utilization of therapy services. The Department has conducted research on expected utilization, and there are processes in place to achieve the added responsibilities in a timely manner and to monitor for over-utilization. The Department is not requesting any changes to the proposed rule.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the Wednesday, October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 453 through 466.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to the state general fund related to this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jeanne Siroky at (208) 364-1897.

DATED this 5th day of November, 2007.

Sherri Kovach  
Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

**DOCKET NO. 16-0310-0704 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 453 through 466.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.03.11 - RULES GOVERNING INTERMEDIATE CARE FACILITIES  
FOR THE MENTALLY RETARDED (ICF/MR)**

**DOCKET NO. 16-0311-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Sections 39-1303a, 39-1307, 56-202(b), 56-1004A, and 67-6532, Idaho Code and in response of the conclusion of a pilot project for criminal history checks in long-term care settings.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Intermediate Care Facilities for the Mentally Retarded (ICF/MR) participated in a pilot project for criminal history and background checks for workers who have access, or provide care to residents in long-term care facilities. The pilot project and federal funding for these checks expired on September 30, 2007.

In order to protect vulnerable adults living in ICF/MR, the Department has decided to continue these criminal history and background checks. This rule change allows a facility to use either the Department's criminal history and background check or another entity's check. The pending rule is being adopted as proposed. The complete text of the proposed rule published in the September 5, 2007, Idaho Administrative Bulletin, Vol. 07-9, pages 154 through 158.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 56-1004A(5), Idaho Code, which requires an applicant for a criminal history and background check to be responsible for the cost of the check.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking has no fiscal impact to the state general fund. A criminal history and background check is paid for by the applicant.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Randy May at (208) 334-5747.

DATED this 5th day of November, 2007.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor

P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 332-7347 fax  
kovachs@dhw.idaho.gov e-mail

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**DOCKET NO. 16-0311-0701 - ADOPTION OF PENDING FEE RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-9, September 5, 2007, pages 154 through 158.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.03.14 - RULES AND MINIMUM STANDARDS FOR HOSPITALS IN IDAHO**

**DOCKET NO. 16-0314-0801**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is January 1, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 39-1307, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 16, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Department is adding a new section of rules for the minimum design, construction requirements, standards of care, and services for free standing emergency departments.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Rules are needed to establish criteria for hospitals operating an emergency department located other than on the hospital campus. This type of facility is called a "Free Standing Emergency Department." One of these facilities has been constructed in Idaho and others are planned. New rules are needed to ensure these facilities will be regulated in order to protect the health, safety, and welfare of the public.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, informal negotiated rulemaking was conducted. Representatives from the Department met on several occasions with the Idaho Hospital Association and the following hospitals: St. Alphonsus, St. Luke's and Mercy Medical Center.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Debby Ransom, Bureau Chief, Facility Standards, at (208) 334-6626.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 23, 2008.

DATED this 12th day of October, 2007.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor

P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0314-0801**

**371. -- 3793. (RESERVED).**

**374. FREESTANDING EMERGENCY DEPARTMENT (FSED) - DEFINITION.**

A freestanding emergency department (FSED) means a facility that provides emergency services twenty-four (24) hours per day, seven (7) days per week on an outpatient basis, is physically separate from a hospital, and meets the staffing and service requirements of Section 376 of these rules. A FSED is located within thirty-five (35) miles of the hospital that owns or controls it. An FSED is owned by a hospital with a dedicated emergency department that also meets the staffing and service requirements found in Section 376 of these rules. (1-1-08)T

**375. FREESTANDING EMERGENCY DEPARTMENT (FSED) - STANDARDS.**

**01. Capability of Receiving Ground Ambulance Patients.** An FSED must be capable of receiving patients transported via ground ambulance within the protocols established by a licensed Emergency Medical Services (EMS) Agency Medical Director. Provisions must be made to communicate any reduction or increase in the capability of the FSED to receive specific levels of patients to the local EMS director. (1-1-08)T

**02. Transfer to Inpatient Hospital.** An FSED must transfer each patient requiring inpatient hospital services as soon as a bed is available. (1-1-08)T

**03. Extension of the Main Hospital.** An FSED as an extension of the main hospital must comply with all applicable rules of IDAPA 16.03.14, "Rules and Minimum Standards for Hospitals in Idaho," and Section 39-1307, Idaho Code (1-1-08)T

**04. Availability of Resources and Staffing for Main Hospital and FSED.** Resources and staff available at the main hospital are likewise available to individuals seeking care at the FSED within the capability of the hospital. (1-1-08)T

**05. Prohibited Transfers.** Transferring a patient to a different provider type for surgery, with the intent of returning the patient to the FSED or main hospital for recovery, is prohibited. (1-1-08)T

**06. Written Transfer Agreements.** The hospital which owns and operates the FSED must have written transfer agreements with one (1) or more hospitals which provide the basis for effective working arrangements in which inpatient hospital care or other hospital departments are promptly available to patients when needed. (1-1-08)T

**07. FSED Accreditation.** Each hospital granted deemed status by the Centers for Medicare/Medicaid Services as a result of accreditation must ensure the FSED is included under the same accreditation. (1-1-08)T

**376. FREESTANDING EMERGENCY DEPARTMENT (FSED) - STAFFING AND SERVICES.**

The FSED must be integrated into the main hospital. This integration must be defined in the hospital's policies and procedures, and practices. Additional requirements are as follows: (1-1-08)T

**01. Staffing.** An FSED must be staffed twenty-four (24) hours per day, seven (7) days per week with: (1-1-08)T

**a.** A board certified physician, or board eligible emergency department physician, approved by the governing board as described under Section 200, "Governing Body and Administration," and the medical staff as described under Section 250, "Medical Staff," of these rules; (1-1-08)T

**b.** A qualified licensed professional nurse certified in Advanced Cardiac Life Support and Pediatric Advanced Life Support; and (1-1-08)T

- c.** Additional medical, nursing, and other personnel necessary to meet the needs of patients. (1-1-08)T
- 02. An FSED Must Provide or Arrange for:** (1-1-08)T
- a.** At least one (1) ambulance licensed to the Critical Care Transport level by the EMS Bureau in accordance with: Title 56, Chapter 10, Idaho Code; IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services Physician Commission"; and IDAPA 16.02.03 "Rules Governing Emergency Medical Services." If the ambulance service is not provided directly by the FSED or main hospital, a contract must be in place including a provision that requires a maximum response time of thirty (30) minutes to the FSED. (1-1-08)T
- b.** A communications system that is fully integrated with the main hospital and that is capable of two (2) way radio communications with local EMS agencies in accordance with IDAPA 16.02.03, "Rules Governing Emergency Medical Services." (1-1-08)T
- 03. Nursing Service.** Nursing service at the FSED is a nursing unit as described under Subsection 002.31 of these rules. (1-1-08)T
- 04. Dietary Service.** The FSED must provide dietary services consistent with the needs of each patient. (1-1-08)T
- 05. Laboratory Service.** Basic laboratory service necessary for routine tests, as described under Subsection 350.01 of these rules, must be maintained at the FSED; and (1-1-08)T
- a.** The FSED must be able to perform emergency (stat) laboratory tests on-site necessary to meet the needs of patients served. (1-1-08)T
- b.** Laboratory services must be available twenty-four (24) hours per day, seven (7) days per week; and (1-1-08)T
- c.** Facilities for the procurement, proper storage, and transfusion of blood and blood products must be readily available at the FSED. (1-1-08)T
- 06. Radiology Service.** The FSED must maintain and provide radiology services sufficient to perform and interpret the radiological examinations necessary for the diagnosis and treatment of patients twenty-four (24) hours per day, seven (7) days per week. (1-1-08)T
- 07. Pharmacy Service.** Pharmacy services must be available at the FSED as follows: (1-1-08)T
- a.** The FSED must provide a pharmacy or drug and medicine service for the care and treatment of patients, consistent with the size and scope of the FSED; and (1-1-08)T
- b.** A pharmacist must be available on the premises, or on call, at all times. (1-1-08)T
- 377. NOTIFICATION REQUIREMENTS TO LICENSED EMERGENCY MEDICAL SERVICES (EMS) AGENCIES.**
- 01. Required Notifications to Licensed EMS Agencies.** (1-1-08)T
- a.** On an annual basis, the FSED must send written notice containing the information described in Section 377.01.c of this rule, to all area EMS services and EMS services' medical directors, licensed by the Department's EMS Bureau, that transport to the facility. (1-1-08)T
- b.** Within three (3) business days of any change in capability, the FSED must send written notice containing the information described in Section 377.01.c of this rule, to all area EMS services and EMS services' medical directors, licensed by the Department's EMS Bureau, that may transport to the facility. (1-1-08)T
- c.** The written notice must include the following information: (1-1-08)T

i. A list of capabilities that are not available at the FSED but are available at the main hospital emergency department; (1-1-08)T

ii. A description of the preferred and alternate means by which an ambulance service must make a notification to the FSED that it intends to transport to the FSED. (1-1-08)T

d. The EMS Bureau will identify and provide, upon request from the FSED, the names and mailing addresses of all EMS services and medical directors that must receive notification. (1-1-08)T

**02. Emergency Medical Services Physical Requirements.** (1-1-08)T

a. Ambulance bays must be located close to the emergency suite and the designated treatment rooms holding patients requiring transfer to a hospital for treatment after stabilization. (1-1-08)T

b. If the FSED exists greater than thirty (30) road miles from the main hospital it must include a helicopter landing area inspected and approved for EMS helicopter landing by the Federal Aviation Administration (FAA). (1-1-08)T

c. Where appropriate, features such as garages, landing pads, approaches, lighting, and fencing required to meet state and local codes, rules, and statutes that govern the placement, safety features, and elements required to accommodate helicopter(s) and ambulance(s), must be provided on the campus of the freestanding emergency department. (1-1-08)T

**378. FREESTANDING EMERGENCY DEPARTMENT (FSED) - PLANT, EQUIPMENT & PHYSICAL ENVIRONMENT.**

**01. Building Construction Standards.** General requirements for construction of an FSED are as follows: (1-1-08)T

a. All new construction of an FSED must comply with any and all state and local building, fire, electrical, plumbing, zoning, heating, or other applicable codes adopted by the jurisdiction in which the FSED is located and which are in effect when construction is begun. Where a conflict in code requirements occurs, both requirements must be met, or at the discretion of the licensing agency, the most restrictive will apply. (1-1-08)T

b. The FSED must be structurally sound and must be maintained and equipped to assure the safety of patients, employees, and the public. (1-1-08)T

c. On the premise of an FSED where natural or man-made hazards are present, suitable fences, guards, and railings must be provided to protect patients, employees, and the public. (1-1-08)T

d. Minimum construction standards must be in accordance with the following standards incorporated by reference: (1-1-08)T

i. The 2006 Edition of National Fire Protection Association (NFPA) 101, the Life Safety Code, Chapter 18, New Health Care Occupancies, and the applicable provisions of chapters 1 through 11, as published by the NFPA. The NFPA documents referenced in these regulations are available from the National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322-9908; 1-800-344-3555; and online at <http://www.nfpa.org>, and; (1-1-08)T

ii. The 2006 Edition of the American Institute of Architects (AIA) Guidelines for Design and Construction of Health Care Facilities applicable to a Freestanding Emergency Department and General Hospital. The AIA documents referenced in these regulations are available from the American Institute of Architects, 1735 New York Avenue N.W., Washington, D.C. 20006; 1-800-242-3837; and online at <http://www.aia.org>. (1-1-08)T

e. The FSED must provide a Type 1 Essential Electrical System (generator and transfer switch) in accordance with NFPA 99, 2005 Edition. (1-1-08)T



f. The FSED must provide a Level 1 Medical Gas and Vacuum System (piped gas system) in accordance with NFPA 99, 2005 Edition. (1-1-08)T

**02. Plans, Specifications, and Inspections.** Plans, specifications, and inspections of any new facility construction or any addition, conversion, or remodeling of an existing structure are governed by the following: (1-1-08)T

a. Plans for new construction, additions, conversions, and remodels must be prepared by or executed under the supervision of an architect or engineer licensed in the state of Idaho. This requirement may be waived by the Department in connection with minor alterations provided the alterations comply with all construction requirements. (1-1-08)T

b. Prior to commencing work pertaining to construction of a new building, any addition or structural changes to existing facilities, or conversion of existing buildings to be used as an FSED, plans and specifications must be submitted to, and approved by, the Department. (1-1-08)T

c. Preliminary plans must be submitted and must include at least the following: (1-1-08)T

i. A functional program description as defined in 2006 Edition of AIA Guidelines for Design and Construction of Health Care Facilities; (1-1-08)T

ii. The assignment of all spaces, size of areas and rooms, and indicate in dashed outline the fixed equipment; (1-1-08)T

iii. Drawings of each floor including, but not limited to, the basement, approach or site plan, roads, parking areas, and sidewalks; (1-1-08)T

iv. The total floor area and number of beds; (1-1-08)T

v. Outline specifications describing the general construction, including interior finishes, acoustical materials, and HVAC; (1-1-08)T

vi. The plans must be drawn to scale of sufficient size to clearly present the proposed design, but not less than a scale of one-eighth (1/8) inch to one (1) foot; (1-1-08)T

vii. Before commencement of construction, working drawings must be developed in close cooperation and with approval of the Department and other appropriate agencies; (1-1-08)T

viii. The drawings and specifications must be well prepared and of accurate dimensions and must include all necessary explanatory notes, schedules, and legends. They must be stamped with the architect's or engineer's seal; and (1-1-08)T

ix. The drawings must be complete and adequate for contract purposes. (1-1-08)T

d. Prior to occupancy, the construction must be inspected and approved by the Department. The Department must be notified at least four (4) weeks prior to completion in order to schedule a timely final inspection. (1-1-08)T

e. Buildings used as a FSED must meet all the requirements of local, state, and national codes concerning fire and life safety that are applicable to hospitals. (1-1-08)T

**03. Electrical Safety.** (1-1-08)T

a. A preventative maintenance program must ensure an electrically safe environment within the FSED. Written policies and procedures must be established and implemented to ensure compliance with NFPA 99 Health Care Facilities, 2005 Edition. (1-1-08)T

**b.** Specific restrictions on the use of extension cords and adapters are: extension cords must be used in emergency situations only, be of the grounded type, and have wire gauge compatible to the piece of equipment being used; and (1-1-08)T

**c.** Prohibition of the use of personal electrical equipment by patients and employees. Specific items may be allowed if the hospital adopts formal policies for defining and inspecting them. (1-1-08)T

**04. Smoking.** Because smoking has been acknowledged to be a fire hazard, a continuous effort must be made to reduce its presence in all health care facilities. Written policy governing smoking must be conspicuously posted and made known to all freestanding emergency department personnel, patients, and the public. The policy must include provisions for compliance with Title 39, Chapter 55, Idaho Code "Clean Indoor Air" and Section 18.7 of NFPA 101, 2006 Edition. (1-1-08)T

**05. Emergency Plans for Protection and Evacuation of Patients.** (1-1-08)T

**a.** The FSED must develop a prearranged written plan for employee response for protection of patients and for orderly evacuation and relocation of occupants in case of an emergency in accordance with Section 18.7 of the Life Safety Code, 2006 Edition. (1-1-08)T

**b.** Fire drills must be planned by key personnel and conducted on an unannounced basis. Fire drills must be held as required by Section 18.7 of the Life Safety Code, 2006 Edition. (1-1-08)T

**06. Report of Fire.** A separate report on each fire incident occurring within the FSED must be submitted to the Department within thirty (30) days of the occurrence. The reporting form, "Facility Fire Incident Report" is provided by the Department to secure specific data concerning date, origin, extent of damage, method of extinguishment, and injuries, if any. (1-1-08)T

**09. Maintenance of Equipment.** The FSED must establish routine test, check, and maintenance procedures for alarm systems, extinguishment systems, and all essential electrical systems. Frequency of testing, checks, and maintenance must be in accordance with applicable National Fire Protection Association Standards referenced in Chapter 2 of the 2006 "Life Safety Code" or as adopted by the Idaho State Fire Marshal. (1-1-08)T

**10. Disaster Plans.** (1-1-08)T

**a.** The FSED must have written plans for the care of casualties from both external and internal disasters. (1-1-08)T

**b.** The plans must be developed with the assistance of the local emergency planning committee and all appropriate community resources. (1-1-08)T

**c.** The plan must be reviewed and revised at least annually. (1-1-08)T

**d.** The plan must be a part of the overall community emergency response plan. (1-1-08)T

**e.** As part of the disaster and mass casualty program, a plan for the emergency supply of water must be available. This plan must include at least written contracts with any outside firms, a listing of procedures to be followed, the amounts of water needed by different departments, the means of dispensing water within the facility, and procedures for sanitizing in the case of contamination. Plans utilizing existing piping are recommended. (1-1-08)T

**11. External Disaster Plan.** (1-1-08)T

**a.** The hospital and FSED must conduct a hazard vulnerability analysis and develop a plan for external disasters for the geographic area served and within the capability of each physical location. (1-1-08)T

**b.** The plan must consider the performance of structural and critical non-structural building systems

and the likelihood of loss of externally supplied power, gas, water, sanitary sewer, and communications under local or regional disaster situations. (1-1-08)T

**c.** The plan must contain the following elements: (1-1-08)T

**i.** Storage or a functional contingency plan to obtain; food, sterile supplies, pharmacy supplies, linen, and water for sanitation, sufficient for four (4) days; (1-1-08)T

**ii.** A procedure for notifying and assigning personnel; (1-1-08)T

**iii.** Unified medical command; (1-1-08)T

**iv.** Space and procedure for decontamination and triage; (1-1-08)T

**v.** Procedure for casualty transfer to an appropriate facility; (1-1-08)T

**vi.** Agreement with other agencies for communications. (1-1-08)T

**d.** The External Disaster Plan for the FSED may be an annex or appendix to the Hospital Plan, copies of which must be maintained onsite at the FSED. (1-1-08)T

**12. Internal Disaster Plans.** (1-1-08)T

**a.** The hospital and FSED must conduct a hazard vulnerability analysis and develop a plan for internal disasters for the building and personnel assigned to function in each physical location. The plan must consider the performance of the facility in dealing with an internal emergency such as the loss of building systems, supplied power, gas, vacuum, domestic water, blocked sanitary sewer, and loss of building communications. The plan must contain the following elements: (1-1-08)T

**i.** Those listed in Subsections 378.11. a. through d., of these rules; (1-1-08)T

**ii.** Back up communications; (1-1-08)T

**iii.** Building security and lockdown; (1-1-08)T

**iv.** Internal traffic and crowd control; (1-1-08)T

**v.** Loss of, or isolation of, other related departments; and (1-1-08)T

**vi.** Evacuation or relocation security. (1-1-08)T

**b.** Drills. The plans must be exercised annually at the FSED. (1-1-08)T

**c.** The Internal Disaster Plan for the FSED may be an annex or appendix to the Hospital Plan, copies of which must be maintained on site at the freestanding emergency department. (1-1-08)T

**13. Preventative Maintenance.** The FSED must be equipped and maintained to protect the health and safety of the patient, personnel, and visitors. The FSED must have a written preventive maintenance program to include at least the following elements: (1-1-08)T

**a.** Designation of person responsible for maintaining the facility; (1-1-08)T

**b.** Written preventive maintenance procedures and appropriate inspection intervals in accordance with NFPA 99 and additional mandatory references listed in NFPA 101, 2006 Edition must be made for at least the following: (1-1-08)T

**i.** Heating systems; (1-1-08)T

- ii. Air conditioning and mechanical systems; (1-1-08)T
  - iii. Electrical systems; (1-1-08)T
  - iv. Vacuum systems and gas systems; (1-1-08)T
  - v. All air filters in heating, air conditioning and ventilating systems; and (1-1-08)T
  - vi. Equipment related directly and indirectly to patient care, and any other equipment deemed essential under the emergency plan. (1-1-08)T
- c.** Maintenance and testing of Essential Electrical System, Vacuum, and Gas Systems must be in accordance with National Fire Protection Association 99; Health Care Facilities, 2005 Edition. (1-1-08)T
- 14. Safety.** The FSED and hospital must have a safety committee and must be responsible for at least the following: (1-1-08)T
- a.** There must be comprehensive written safety procedures for all areas of the FSED which must include the safe use of equipment and handling of patients; (1-1-08)T
  - b.** Safety orientation of new employees; and (1-1-08)T
  - c.** Establishment of an incident or accident system for all patients, personnel, and visitors, that includes: (1-1-08)T
    - i. Reporting procedure; (1-1-08)T
    - ii. Investigation of incidents or accident; (1-1-08)T
    - iii. Documentation of investigation and disposition; and (1-1-08)T
    - iv. Evaluation of incidents or accidents and implementation of mitigation efforts. (1-1-08)T

**379. (RESERVED).**

## **IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

### **16.03.15 - RULES AND MINIMUM STANDARDS GOVERNING SEMI-INDEPENDENT GROUP RESIDENTIAL FACILITIES FOR THE DEVELOPMENTALLY DISABLED OR MENTALLY ILL**

**DOCKET NO. 16-0315-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Sections 39-4605, 56-1004A, and 56-1005(8), and 66-317, Idaho Code, in response to the conclusion of the pilot project for criminal history checks in long-term care settings.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Semi-independent group residential facilities for the developmentally disabled or mentally ill participated in a pilot project for criminal history and background checks for workers who have access, or provide care to residents living in semi-independent group residential facilities. The pilot project and federal funding for these checks expired on September 30, 2007.

In order to protect these individuals living in semi-independent group residential facilities for the developmentally disabled and mentally ill, the Department has decided to continue to require the criminal history and background checks for individuals with access to residents. These rules were amended to require these checks. The pending rule is being adopted as proposed. The complete text of the proposed rule published in the September 5, 2007, Idaho Administrative Bulletin, Vol. 07-9, pages 159 through 162.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 56-1004A(5), Idaho Code, which requires an applicant for a criminal history and background check to be responsible for the cost of the check.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking has no fiscal impact to the state general fund. A criminal history and background check is paid for by the applicant.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Randy May at (208) 334-5747.

DATED this 5th day of November, 2007.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor

P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 332-7347 fax  
kovachs@dhw.idaho.gov e-mail

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#### **DOCKET NO. 16-0315-0701 - ADOPTION OF PENDING FEE RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-9, September 5, 2007, pages 159 through 162.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.22 - RESIDENTIAL CARE OR ASSISTED LIVING FACILITIES IN IDAHO**

**DOCKET NO. 16-0322-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Sections 39-3305, 56-1004A, and 56-1005(8), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Residential care and assisted living facilities participated in a pilot project for criminal history and background checks for workers who have access, or provide care to residents in long-term care facilities. The pilot project and federal funding for these checks expired on September 30, 2007.

In order to protect vulnerable adults living in residential care or assisted living facilities, the Department has decided to continue these criminal history and background checks. This rule change allows a facility to use either the Department's criminal history and background check or another entity's check. The pending rule is being adopted as proposed. The complete text of the proposed rule published in the September 5, 2007, Idaho Administrative Bulletin, Vol. 07-9, pages 163 through 165.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 56-1004A(5), Idaho Code, which requires an applicant for a criminal history and background check to be responsible for the cost of the check.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking has no fiscal impact to the state general fund. A criminal history and background check is paid for by the applicant.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Randy May at (208) 334-5747.

DATED this 5th day of November, 2007.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor

P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 332-7347 fax  
kovachs@dhw.idaho.gov e-mail

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**DOCKET NO. 16-0322-0701 - ADOPTION OF PENDING FEE RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-9, September 5, 2007, pages 163 through 165.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.04.03 - RULES GOVERNING FEES FOR COMMUNITY MENTAL HEALTH SERVICES**

**DOCKET NO. 16-0403-0801 (CHAPTER REPEAL)**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is January 1, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 39-3133, 39-3137, and 56-1007, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 16, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking: This chapter of rule is being repealed to avoid confusion and duplication with a chapter of rules being promulgated under IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules," published in this Administrative Bulletin under Docket No. 16-0701-0801.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: To avoid confusion and duplication with a chapter of rules promulgated under IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules."

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking has no anticipated fiscal impact to state general funds.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because these rules are being repealed.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Scott Tiffany at (208) 332-7243.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 23, 2008.

DATED this 26th day of October, 2007.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor

P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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**IDAPA 16.04.03 IS BEING REPEALED IN ITS ENTIRETY.**

## **IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

### **16.05.01 - USE AND DISCLOSURE OF DEPARTMENT RECORDS**

**DOCKET NO. 16-0501-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 9-340(B), 39-242, 39-5403, 56-221, 56-222, 56-1003 and 56-1004, Idaho Code; and 45 CFR 164.502(g)(4).

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 5, 2007 Idaho Administrative Bulletin, Vol. 07-9, pages 166 through 172.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year. N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Jeanne Goodenough, Deputy Attorney General at (208) 334-5537.

DATED this 5th day of November, 2007.

Sherri Kovach  
Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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#### **DOCKET NO. 16-0501-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-9, September 5, 2007, pages 166 through 172.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**



**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.06.01 - RULES GOVERNING FAMILY AND CHILDREN'S SERVICES**

**DOCKET NO. 16-0601-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 16-1629, 56-202(b), and 56-1003, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 5, 2007, Idaho Administrative Bulletin, Vol. 07-9, pages 183 through 190.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

One-time costs projected to revise the Central Registry portions of the Department's child welfare information system known as FOCUS (Family-Oriented Community User System) are estimated at \$40,000; these costs would be covered using existing federal funds. A cost of \$30,000 to state general fund monies is estimated for contract or temporary staff resources to provide retrospective case-by-case reviews for those individuals currently on the registry who petition for removal.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Shirley Alexander at (208) 334-6618.

DATED this 5th day of November, 2007.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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**DOCKET NO. 16-0601-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-9, September 5, 2007, pages 183 through 190.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.06.12 - RULES GOVERNING THE IDAHO CHILD CARE PROGRAM (ICCP)**

**DOCKET NO. 16-0612-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 467 through 494.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

This rulemaking will make necessary changes to the Idaho Child Care Program and will balance the additional expenditures with planned savings.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Genie Sue Weppner or Cheryl Bowers at (208) 334-5815.

DATED this 30th day of October, 2007.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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**DOCKET NO. 16-0612-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 467 through 494.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.06.12 - RULES GOVERNING THE IDAHO CHILD CARE PROGRAM (ICCP)**

**DOCKET NO. 16-0612-0702**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 495 through 497.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 56-202, Idaho Code:

This rulemaking imposes an increase in the co-payment for child care for non-working students requiring them to pay a 31% co-payment that is equal to or less than the average co-payment paid by working students.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the state general fund; however, there will be decreased costs to the federal Child Care Development Fund Block Grant.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Genie Sue Weppner or Cheryl Bowers at (208) 334-5815.

DATED this 5th day of November, 2007.

Sherri Kovach  
Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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**DOCKET NO. 16-0612-0702 - ADOPTION OF PENDING FEE RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 1, pages 495 through 497.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2008 Idaho State Legislature as a final rule.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.07.01 - BEHAVIORAL HEALTH SLIDING FEE SCHEDULES**  
**DOCKET NO. 16-0701-0801 (FEE RULE - NEW CHAPTER)**  
**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED FEE RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is January 1, 2008.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 16-2433, 19-2524, 20-520(i), 20-511A, 39-3137, and 39-309, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 16, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

This new chapter of rules updates the sliding fee scales for the adult mental health, children's mental health, and alcohol and substance use disorders programs and aligns them with the most current version of the federal poverty guidelines. This chapter also implements a fee schedule for persons convicted of a felony or serving on probation or parole.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate because legislation passed during the 2007 Legislature (SB 1149) that requires the Department to implement a fee schedule for persons convicted of a felony or serving on probation or parole.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

Felony offenders in need of assessment, evaluation, and treatment services are being required to pay for a portion of their treatment based on their ability to pay. This rulemaking sets the schedule for these sliding fees based on federal poverty guidelines. Without this rule, access to services may be limited which increases the risk for offenders to endanger themselves and others.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

The fiscal impact of this change is a decrease of \$2,126 in fee collection for Children's Mental Health services, which must be met by state general funds. The estimated fiscal impact on receipts collected for Adult Mental Health services is \$33,672. This fiscal impact is a decrease in collection of fees for the Adult Mental Health services. Neither of these funds will be replaced. There is no anticipated fiscal impact to the alcohol and substance disorders program.

Changes to the computerized billing system to update the current fee table used by the Daily Activity Report (DAR) automated system will be required. The estimated cost to update the fee table will be an annual cost of approximately \$1000.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rulemaking is being implemented to meet the requirements of newly-passed legislation.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Scott Tiffany, Division of Behavioral Health, at (208) 332-7243.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 23, 2008.

DATED this 15th day of November, 2007.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0701-0801**

**IDAPA 16**  
**TITLE 07**  
**CHAPTER 01**

**16.07.01 - BEHAVIORAL HEALTH SLIDING FEE SCHEDULES**

**000. LEGAL AUTHORITY.**

Under Sections 16-2433, 19-2524, 20-520(i), 20-511A, and 39-3137, Idaho Code, the Director is authorized to promulgate, adopt, and enforce rules for the charging of fees for services provided by mental health and substance use disorders providers. Under Section 39-309, Idaho Code, the Board of Health and Welfare is authorized to promulgate, adopt, and enforce rules for the charging of fees for services provided by mental health and substance use disorders providers. (1-1-08)T

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter of rules is IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules." (1-1-08)T

**02. Scope.** These rules provide the sliding fee schedules, based on federal poverty guidelines, and fee determination process for the adult mental health, children's mental health, and substance use disorders programs within the Department. This chapter of rules applies both to voluntary and court-ordered recipients. (1-1-08)T

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations for these rules. (1-1-08)T

**003. ADMINISTRATIVE APPEALS AND COMPLAINT PROCEDURE.**

Administrative appeals are governed by provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (1-1-08)T

**004. INCORPORATION BY REFERENCE.**

No documents have been incorporated by reference in this chapter of rules. (1-1-08)T

**005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE NUMBER -- INTERNET WEB SITE.**

**01. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho. (1-1-08)T

**02. Mailing Address.** The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (1-1-08)T

**03. Street Address.** The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (1-1-08)T

**04. Telephone.** The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (1-1-08)T

**05. Internet Web Site.** The Department's internet web site is found at <http://www.healthandwelfare.idaho.gov>. (1-1-08)T

**006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.**

**01. Confidential Records.** Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (1-1-08)T

**02. Public Records.** The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. (1-1-08)T

**007. -- 009. (RESERVED).**

**010. DEFINITIONS.**

For the purposes of this chapter, the following definitions apply. (1-1-08)T

**01. Ability to Pay.** The financial capacity that is available to pay for the program services after allowable deductions in relation to gross income and family size exclusive of any liability of third party payor sources. (1-1-08)T

**02. Adjusted Gross Income.** Total family annual income less allowable annual deductions. (1-1-08)T

**03. Adult.** An individual 18 years of age or older. (1-1-08)T

**04. Adult Mental Health Program.** A program administered by the Idaho Department of Health and Welfare to serve severely and persistently mentally ill adults. (1-1-08)T

**05. Allowable Deductions.** In determining a person's ability to pay for services, acceptable adjustments to income which are limited to the following: (1-1-08)T

**a.** Court-ordered obligations paid annually; and (1-1-08)T

**b.** Annual dependent support payments; and (1-1-08)T

**c.** Annual child care payments necessary to availability of employment; and (1-1-08)T

**d.** Annual medical expenses. (1-1-08)T

**06. Behavioral Health Services.** Services offered by the Department to improve behavioral health issues or alcohol and substance use disorders. (1-1-08)T

- 07. Child.** An individual under eighteen (18) years. (1-1-08)T
- 08. Children’s Mental Health Program.** A program administered by the Idaho Department of Health and Welfare to serve children with serious emotional disturbance. (1-1-08)T
- 09. Client.** The recipient of services. The term “client” is synonymous with the terms: patient, participant, resident, consumer, or recipient of treatment. (1-1-08)T
- 10. Court-Ordered Obligations.** Financial payments which have been ordered by a court of law. (1-1-08)T
- 11. Court-Ordered Recipient.** A person receiving behavioral health services under Sections 19-2524, 20-520(i), and 20-511A, Idaho Code. (1-1-08)T
- 12. Department.** The Idaho Department of Health and Welfare. (1-1-08)T
- 13. Dependent Support.** An individual that is dependent on his family’s income for over fifty percent (50%) of his financial support. (1-1-08)T
- 14. Extraordinary Rehabilitative Expenses.** Those payments incurred as a result of the disability needs of the person receiving services. They include annual costs for items including, but not limited to, wheelchairs, adaptive equipment, medication, treatment, or therapy which were not included in the medical payments deduction and the annual estimate of the cost of services received. (1-1-08)T
- 15. Family.** A family is an adult, or married adults, or adult(s) with children, living in a common residence. (1-1-08)T
- 16. Family Household.** Persons in a family related by blood, marriage, or adoption. Step parents, step children, adult siblings, and individuals receiving Supplemental Security Income (SSI) are excluded from consideration as a member of the household for income and counting purposes. Income from minor siblings is excluded from household income. The term “family household” is synonymous with the term family unit. (1-1-08)T
- 17. Federal Poverty Guidelines.** Guidelines issued annually by the Federal Department of Health and Human Services establishing the poverty income amount for family units considering the number of persons in the family household. (1-1-08)T
- 18. Legal Guardian.** A representative appointed by a court of law who is responsible for making decisions related to another person. (1-1-08)T
- 19. Parent.** The person who, by birth or through adoption, is legally responsible for a child. (1-1-08)T
- 20. Recipient.** The person receiving services. The term “recipient” is synonymous with the terms: patient, participant, resident, consumer, or client. (1-1-08)T
- 21. Serious Emotional Disturbance.** An emotional or behavioral disorder or a neuropsychiatric condition which results in a serious disability, which requires sustained treatment interventions and causes the child’s functioning to be impaired in at least one (1) of the following areas: thought, perception, affect and behavior. A disorder is considered to be a serious disability if it causes substantial impairment in functioning. Functional impairment is assessed using the Child and Adolescent Functional Assessment Scale (CAFAS). Substantial impairment requires a full eight (8) scale score of eighty (80) or higher with “moderate” impairment in at least one (1) of the following three (3) scales: self-harmful behavior, moods/emotions, or thinking. A substance abuse disorder, conduct disorder, or developmental disorder, alone does not constitute a serious emotional disturbance, although one (1) or more of these conditions may co-exist with serious emotional disturbance. (1-1-08)T
- 22. Sliding Fee Scale.** A scale used to determine an individual’s cost for services based on Federal Poverty Guidelines and the number of persons in the family household. (1-1-08)T

**23. Substance Use Disorders Program.** A program administered by the Idaho Department of Health and Welfare to serve adolescents and adults with alcohol or substance use disorders. (1-1-08)T

**24. Third-Party Payer.** A payer other than a person receiving services or a responsible party who is legally liable for all or part of the person's care. (1-1-08)T

**011. -- 099. (RESERVED).**

**100. CHARGES FOR CHILDREN'S MENTAL HEALTH SERVICES.**

Parents or legal guardians of children with serious emotional disturbance who receive services either directly from the Department's Children's Mental Health program or through Department contracts with private providers are responsible for paying for services provided to their child and to their family. The amount charged for each service will be in accordance with the child's parent(s) or legal guardian(s) ability to pay as determined by the sliding fee scale in Section 300 of these rules. (1-1-08)T

**101. -- 199. (RESERVED).**

**200. CHARGES FOR ADULT MENTAL HEALTH SERVICES.**

Adults receiving services either directly from the Department's Adult Mental Health program or through Department contracts with private providers are responsible for paying for services they receive. The amount charged for each service will be in accordance with the individual's ability to pay as determined by the sliding fee scale in Section 300 of these rules. (1-1-08)T

**201. -- 299. (RESERVED).**

**300. SLIDING FEE SCHEDULE FOR CHILDREN AND ADULT MENTAL HEALTH SERVICES.**

Following is the sliding fee schedule for children and adult mental health services:

<b>TABLE 300 - SLIDING FEE SCHEDULE FOR CHILDREN AND ADULT MENTAL HEALTH SERVICES.</b>	
<b>Percent of Poverty</b>	<b>Percentage of Cost Sharing Responsibility of a Parent, Guardian, or Adult Client</b>
0% - 99%	0%
100%-109%	5%
110%-119%	10%
120%-129%	15%
130%-139%	20%
140%-149%	25%
150%-159%	30%
160%-169%	35%
170%-179%	40%
180%-189%	45%
190%-199%	50%
200% - 209%	55%
210% - 219%	60%



<b>TABLE 300 - SLIDING FEE SCHEDULE FOR CHILDREN AND ADULT MENTAL HEALTH SERVICES.</b>	
<b>Percent of Poverty</b>	<b>Percentage of Cost Sharing Responsibility of a Parent, Guardian, or Adult Client</b>
220% - 229%	65%
230% - 239%	70%
240% - 249%	75%
250% - 259%	80%
260% - 269%	85%
270% - 279%	90%
280% - 289%	95%
290% - and above	100%

(1-1-08)T

**301. -- 399. (RESERVED).**

**400. CALCULATING INCOME TO APPLY THE SLIDING FEE SCHEDULE FOR CHILDREN'S MENTAL HEALTH AND ADULT MENTAL HEALTH SERVICES.**

Prior to the delivery of behavioral health services, an application for services and a "Fee Determination" form must be completed by a child's parent(s) or legal guardian(s) when requesting Children's Mental Health services and by adults requesting Adult Mental Health services. The fee determination process includes the following considerations:  
 (1-1-08)T

**01. Ability to Pay.** Charges are based upon the number of persons in the family household and the income of those persons as determined using the following:  
 (1-1-08)T

**a.** An ability to pay determination will be made at the time of the voluntary request for services or as soon as possible, thereafter.  
 (1-1-08)T

**b.** Redetermination of ability to pay will be made at least annually or upon request of the parent(s) or legal guardian(s) or at any time changes occur in family size, income, or allowable deductions.  
 (1-1-08)T

**c.** In determining the family's ability to pay for services, the Department will deduct annualized amounts for the following:  
 (1-1-08)T

- i. Court-ordered obligations; (1-1-08)T
- ii. Dependent support; (1-1-08)T
- iii. Child care payments necessary for parental or legal guardian employment; (1-1-08)T
- iv. Medical expenses; (1-1-08)T
- v. Transportation; (1-1-08)T
- vi. Extraordinary rehabilitative expenses; and (1-1-08)T
- vii. State and federal tax payments, including FICA taxes. (1-1-08)T

**d.** Information regarding third-party payors and other resources, including Medicaid or private insurance, must be identified and developed in order to fully determine the child's parent(s), legal guardian(s), or adult client's ability to pay and to maximize reimbursement for the cost of services provided. (1-1-08)T

**e.** It is the responsibility of the parents, guardian or adult client to obtain and provide information not available at the time of the initial financial interview whenever that information becomes available. (1-1-08)T

**02. Time of Payment.** Payment for services will be due upon delivery of services unless other arrangements are made. (1-1-08)T

**03. Charges.** Using the sliding fee scale in Section 300 of this rule, an amount will be charged based on family size, resources, income, assets and allowable deductions, exclusive of third-party liable sources, but in no case will the amount charged exceed the cost of the service. (1-1-08)T

**04. Fees Established By the Department.** The maximum hourly fees or flat fees charged for Children's Mental Health services and Adult Mental Health services are established by the Department of Health and Welfare. The fees for services based on Medicaid reimbursement rates may vary according to Medicaid inflationary increases. Fees will be reviewed and adjusted as the Medicaid rates change. Current information regarding services and fee charges can be obtained from regional Children's Mental Health and Adult Mental Health offices. (1-1-08)T

**400. -- 499. (RESERVED).**

**500. SLIDING FEE SCHEDULE FOR ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT SERVICES.**

Adult clients above one hundred seventy-five (175%) poverty are not eligible for services. Following is the sliding fee schedule for adolescent and adult alcohol and substance use disorders treatment services:

<b>TABLE 500 - SLIDING FEE SCHEDULE FOR ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT SERVICES.</b>	
<b>Percent of Poverty</b>	<b>Percentage of Cost Sharing Responsibility of a Parent, Guardian, or Adult Client</b>
0% - 99%	5%
100% - 104%	10%
105% - 114%	20%
115% - 124%	30%
125% - 134%	40%
135% - 144%	50%
145% - 154%	60%
155% - 164%	65%
165% - 175%	70%

(1-1-08)T

**501. -- 599. (RESERVED).**

**600. CALCULATING INCOME TO APPLY THE SLIDING FEE SCHEDULE FOR ALCOHOL AND SUBSTANCE DISORDERS SERVICES.**

- 01. Ability to Pay.** Charges are based upon the number of dependents and family income. (1-1-08)T
- a.** An ability to pay determination will be made at the time of the voluntary request for services or as soon as possible. (1-1-08)T
- b.** Redetermination of ability to pay will be made at least annually or upon request demonstrating that a substantial material change of circumstances has occurred in family size, income, or allowable deductions. (1-1-08)T
- c.** In determining an individual's ability to pay for services, the Department will deduct annualized amounts for: (1-1-08)T
- i.** Court-ordered obligations; (1-1-08)T
- ii.** Dependent support; (1-1-08)T
- iii.** Child care payments necessary for employment; (1-1-08)T
- iv.** Medical expenses; (1-1-08)T
- v.** Transportation; (1-1-08)T
- vi.** Extraordinary rehabilitative expenses; and (1-1-08)T
- vii.** State and federal tax payments, including FICA. (1-1-08)T
- d.** Information regarding third-party payors and other resources including Medicaid, or private insurance must be identified and developed in order to fully determine the individual's ability to pay and to maximize reimbursement for the cost of services provided. (1-1-08)T
- e.** It is the responsibility of the individual requesting alcohol or substance use disorder services to obtain and provide information not available at the time of the initial financial interview whenever that information becomes available. (1-1-08)T
- 02. Time of Payment.** Payment for services is due thirty (30) days from the date of the billing, unless other arrangements are made. (1-1-08)T
- 03. Charges.** Using the sliding fee scale in Section 500 of this rule, an amount will be charged based on family size, resources, income, assets, and allowable deductions, exclusive of third-party liable sources. In no case will the amount charged exceed the costs of the services. (1-1-08)T
- 04. Established Fee.** The maximum hourly fees or flat fees charged for alcohol or substance use disorder services will be established by the Department in collaboration with the Interagency Committee on Substance Abuse Prevention and Treatment and the Board of Health and Welfare. (1-1-08)T
- 601. -- 999. (RESERVED).**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.07.10 - BEHAVIORAL HEALTH DEVELOPMENT GRANTS**

**DOCKET NO. 16-0710-0801 (NEW CHAPTER)**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is January 1, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 39-3133, 39-3134A, and 39-3136, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 16, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Legislature has designated the Department of Health and Welfare as the State Mental Health Authority and has given it the responsibility to help improve, expand, and modify the mental health and substance abuse treatment services delivery system. Funds are appropriated by the Legislature for distribution to regional and community treatment model services in the form of grants. This chapter of rules will provide the framework for grant application requirements, criteria, and distribution for grants to meet the mental health and substance abuse treatment services needed to improve services unique to each region. The regional mental health boards and a development grant advisory group will be utilized to assist in the evaluation and award process of the grants as provided in these rules.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(b)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These rules are needed to meet statutory requirements and to confer a benefit through grant money appropriated by the Legislature to improve mental health services statewide.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

Funds for these grants are set and appropriated by the Legislature. This rulemaking has no anticipated additional fiscal impact to the Department.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Legislature authorized the Department to set procedures for awarding grants.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Scott Tiffany at (208) 332-7243.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 23, 2008.

DATED this 16th day of November, 2007.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0710-0801**

**IDAPA 16**  
**TITLE 07**  
**CHAPTER 10**

**16.07.10 - BEHAVIORAL HEALTH DEVELOPMENT GRANTS**

**000. LEGAL AUTHORITY.**

The Idaho Legislature has delegated to the Department of Health and Welfare, as the State Mental Health Authority, the responsibility to administer grant funds appropriated for mental health and substance abuse treatment services as provided in Sections 39-3136 and 39-3134A, Idaho Code. Under Section 39-3133, Idaho Code, the Director of the Department of Health and Welfare is authorized to promulgate rules to carry out the purposes and intent of the Regional Mental Health Services Act. (1-1-08)T

**001. TITLE, SCOPE, AND OBJECTIVE.**

**01. Title.** The title of these rules is IDAPA 16.07.10, "Behavioral Health Development Grants." (1-1-08)T

**02. Scope.** These rules establish the process and procedures to be used in applying for and awarding behavioral health development grants through the State Mental Health Authority under Title 39, Chapter 31, Idaho Code. Funding is limited and the grant application process is competitive in nature. The applicant must strictly comply with the grant application process and these rules in order for the application to be reviewed and considered. This chapter is not intended to and does not establish an entitlement for or receipt of behavioral health development grant funding. (1-1-08)T

**03. Objective.** The objective of behavioral health development grant funding is to assist the State Mental Health Authority in developing substance abuse or mental health treatment services outlined in Section 39-3128, Idaho Code, including twenty-four (24) hour psychiatric emergency services, short-term psychiatric beds, crisis intervention teams, transitional housing and detoxification facilities as provided in Section 39-3134A(3), Idaho Code. (1-1-08)T

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), the Department may have written materials pertaining to the interpretation of this chapter of rules. These materials are available for public inspection and copying at cost in the Department's main office, as described in Sections 005 and 006 of these rules. (1-1-08)T

**003. APPEALS.**

**01. Award Determinations and Grant Decisions.** The Department may grant, in whole or in part, deny, suspend, revoke, terminate, reserve, limit, define grant criteria, establish scoring criteria, set the terms and

conditions of grant agreements, and the number of programs or entities eligible for behavioral health development grants according to Sections 39-3133 and 39-3134A(3), Idaho Code. (1-1-08)T

**02. Reconsideration.** The Director may, upon a timely written request, reconsider an award determination or a decision, order, or action concerning a behavioral health development grant as provided in Sections 250 and 260 of these rules. (1-1-08)T

**03. Final Order.** The Director's decision on reconsideration constitutes a final order of the Department which is not subject to administrative or judicial review. *Maresh v. State*, 132 Idaho 221, 970 P.2d 14 (Idaho 1999). (1-1-08)T

**004. INCORPORATION BY REFERENCE.**  
No documents are incorporated by reference in this chapter. (1-1-08)T

**005. OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- WEBSITE.**

**01. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (1-1-08)T

**02. Mailing Address.** The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (1-1-08)T

**03. Street Address.** The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (1-1-08)T

**04. Telephone.** The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (1-1-08)T

**05. Internet Website.** The Department's internet website is found at <http://www.healthandwelfare.idaho.gov>. (1-1-08)T

**006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.**

**01. Confidential Records.** Any information covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (1-1-08)T

**02. Public Records.** The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. (1-1-08)T

**007. -- 009. (RESERVED).**

**010. DEFINITIONS.**  
For the purposes of this chapter, the following definitions apply. (1-1-08)T

**01. Administrator.** The Administrator of the Division of Behavioral Health, Department of Health and Welfare, or designee. (1-1-08)T

**02. Applicant.** A person or entity submitting an application for the purpose of requesting a behavioral health development grant from the Department. (1-1-08)T

**03. Application Period.** The period of time specified in the grant application, or, if no date is specified, the period from July 1 to August 1 of the fiscal year for which funding is requested. (1-1-08)T

**04. Appropriations.** Behavioral health funding as set by the Legislature each fiscal year for the Department. (1-1-08)T

- 05. Department.** The Idaho Department of Health and Welfare or its designee. The Department is designated as the State Mental Health Authority under Section 39-3124, Idaho Code. (1-1-08)T
- 06. Development Grant Review Committee.** A committee composed of representatives from the Department of Correction, the Department of Juvenile Corrections, the courts, and the Department of Health and Welfare as designated in Section 39-3134A(3), Idaho Code. (1-1-08)T
- 07. Director.** The Director of the Idaho Department of Health and Welfare or designee. (1-1-08)T
- 08. Eligible Entity.** A legal entity or person, not including a state agency or subdivision of a state agency, which provides substance abuse or mental health treatment services outlined in Section 39-3128, Idaho Code, including twenty-four (24) hour emergency psychiatric services, short-term psychiatric beds, crisis intervention teams, transitional housing and detoxification facilities. (1-1-08)T
- 09. Fiscal Year.** The State of Idaho's accounting period that consists of twelve (12) consecutive months from July 1 through June 30 of the next year. (1-1-08)T
- 10. Grantee.** A person or entity awarded grant funds under these rules. (1-1-08)T
- 11. Regional Mental Health Board.** A regional mental health board for each region or service area consisting of fourteen (14) members in accordance with Section 39-3130, Idaho Code. (1-1-08)T
- 011. -- 049. (RESERVED).**
- 050. REGIONAL SERVICE AREAS.** Idaho has seven (7) regions or service areas for grant distribution purposes. (1-1-08)T
- 01. Region I - Behavioral Health.** The counties of Benewah, Bonner, Boundary, Kootenai, and Shoshone. (1-1-08)T
- a.** Region I Office Address: 2195 Ironwood Court, Coeur d'Alene, ID 83814. (1-1-08)T
- b.** Phone: (208) 769-1406. (1-1-08)T
- 02. Region II - Behavioral Health.** The counties of Clearwater, Idaho, Latah, Lewis, and Nez Perce. (1-1-08)T
- a.** Region II Office Address: 1118 "F" Street, P. O. Drawer B, Lewiston, ID 83501. (1-1-08)T
- b.** Phone: (208) 799-4440. (1-1-08)T
- 03. Region III - Behavioral Health.** The counties of Adams, Canyon, Gem, Owyhee, Payette, and Washington. (1-1-08)T
- a.** Region III Office Address: 3402 Franklin Rd., Caldwell, ID 83605. (1-1-08)T
- b.** Phone: (208) 459-0092. (1-1-08)T
- 04. Region IV - Behavioral Health.** The counties of Ada, Boise, Elmore, and Valley. (1-1-08)T
- a.** Region IV Office Address: 1720 Westgate Dr., Boise, ID 83704. (1-1-08)T
- b.** Phone: (208) 334-0893. (1-1-08)T
- 05. Region V - Behavioral Health.** The counties of Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, and Twin Falls. (1-1-08)T

a. Region V Office Address: 823 Harrison Dr., Twin Falls, ID 83301. (1-1-08)T

b. Phone: (208) 736-2177. (1-1-08)T

**06. Region VI - Behavioral Health.** The counties of Bannock, Bear Lake, Bingham, Caribou, Franklin, Oneida, and Power. (1-1-08)T

a. Region VI Office Address: 421 Memorial Drive, Pocatello, ID 83204. (1-1-08)T

b. Phone: (208) 234-7900. (1-1-08)T

**07. Region VII - Behavioral Health.** The counties of Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, and Teton. (1-1-08)T

a. Region VII Office Address: 150 Shoup, Ste. 19, Idaho Falls, ID 83402. (1-1-08)T

b. Phone: (208) 528-5700. (1-1-08)T

**051. -- 059. (RESERVED).**

**060. GRANT CYCLE AND TIME FRAMES.**

**01. Notification of Annual Grants and Grant Applications.** Subject to appropriations and available funding, under Title 39, Chapter 31, Idaho Code, the Department will publish a notice announcing available behavioral health development grants in a major daily newspaper in each regional service area prior to the beginning of the fiscal year. The notice will specify the available award amount, the closing date for submission of the grant application, and how to obtain grant application forms. The closing date for submission of applications will be no later than August 1 of the fiscal year in which funding is appropriated. (1-1-08)T

**02. Grant Application Submission.** A grant application must be submitted to the Department no later than the date designated in the grant application. If no date is specified in the grant application, the application is due no later than August 1 of the fiscal year in which funding is requested. Applications not submitted within these time limits will be excluded from consideration for grant awards. (1-1-08)T

**03. Unawarded Grant Funds.** Subject to remaining or supplemental funding, the Department may commence another grant award cycle, if time allows. In the event there is insufficient time left in the fiscal year to complete another grant cycle, available funding may be allocated on a pro-rated basis to successful grant recipients or ranked applicants for the fiscal year in which the funding is available. (1-1-08)T

**04. Unused Grant Funds.** All funds not expended in compliance with the terms and conditions of an applicant's award and grant agreement must be returned to the Department within thirty (30) days of the end of the grant's terms and conditions. (1-1-08)T

**061. -- 099. (RESERVED).**

**100. BEHAVIORAL HEALTH DEVELOPMENT GRANTS.**

**01. Develop a Statewide Plan.** The Department, as provided in Title 39, Chapter 31, Idaho Code, and under these rules, will develop a statewide plan for grants in coordination with the other members of the development grant advisory group and from recommendations of the State Planning Council on Mental Health and Regional Mental Health Boards. (1-1-08)T

**02. Grant Applications.** The Department will provide grant application forms, guidelines, and other necessary information no later than July 1 of each fiscal year in which funds have been appropriated. (1-1-08)T

**03. Grant Guidelines and Criteria.** The Department will specify the guidelines and the criteria for each type of grant that is available for the fiscal year in the grant application form. (1-1-08)T



**04. Grant Evaluation, Weighting, and Ranking Process.** The Department will set the evaluation criteria, weighting, and the ranking process to be used each year, based on the needs of the regional mental health service areas and statewide needs. (1-1-08)T

**101. -- 109. (RESERVED).**

**110. GRANT APPLICATION PROCESS.**

**01. Application.** In order to be considered for a grant award, the applicant must submit an original and eight (8) copies of the completed grant application, including a letter of support from the appropriate Regional Mental Health Board, as provided in Section 120 of these rules. (1-1-08)T

**02. Required Information.** Only applications on forms and in formats approved by the Department will be considered for funding. An application that is missing required information will be excluded from consideration for a grant award. (1-1-08)T

**03. Application Purpose.** The grant application and any attachments submitted by the applicant are the primary sources of information for awarding a grant. (1-1-08)T

**04. Limitations.** The following limitations in Subsections 110.04.a. and 110.04.b. of this rule apply to all applications. (1-1-08)T

**a.** A person or legal entity is not eligible to apply for a grant if there are any unresolved audit findings or prior unresolved performance issues from previous grants. (1-1-08)T

**b.** An applicant must receive a letter of support for behavioral health development grant funding from the appropriate Regional Mental Health Board for projects located in the region where the services will be provided. An application cannot be submitted on behalf of a person or entity located in other regions or service areas solely for administrative convenience. (1-1-08)T

**05. Delivery of Applications.** The application must be delivered to the Department as described in Section 005 of these rules. Any application not meeting the closing date requirements will be disqualified. Applications will be considered to have been timely received under one (1) of the following: (1-1-08)T

**a.** An application sent by mail or private commercial carrier no later than the closing date, as evidenced by a U.S. Postal Service date postmark or by a commercial carrier date stamp. An applicant is responsible for obtaining postmark or commercial carrier date stamps; or (1-1-08)T

**b.** A hand-delivered application will be accepted during normal business working hours. In establishing the date of receipt of hand-delivered applications, reliance will be placed on documentary evidence of receipt maintained by the Department. (1-1-08)T

**111. -- 119. (RESERVED).**

**120. REGIONAL RECOMMENDATION BY THE REGIONAL MENTAL HEALTH BOARD.**

**01. Regional Review.** Each Regional Mental Health Board will review and make recommendations to the Development Grant Review Committee on grant proposals to provide services in its region. (1-1-08)T

**02. Regional Recommendation.** Each Regional Mental Health Board will determine which grant proposals to recommend for its region. The Regional Mental Health Board will provide a written recommendation of support to the Development Grant Review Committee for each grant proposal it supports. The applicant must include this recommendation of support with the grant application. (1-1-08)T

**03. No Regional Support.** A grant application not receiving a written recommendation of support from the appropriate Regional Mental Health Board is not complete and will not be considered for grant awards.

(1-1-08)T

**121. -- 129. (RESERVED).**

**130. STATEWIDE RECOMMENDATION BY THE DEVELOPMENT GRANT REVIEW COMMITTEE.**

**01. Statewide Review.** Based upon a timely received application and written recommendation of support from the appropriate Regional Mental Health Board, the Development Grant Review Committee will rank the applications on a statewide basis and make recommendations to the Administrator. (1-1-08)T

**02. Statewide Ranking.** The Development Grant Review Committee will rank applications using such factors as availability of funding, the degree of financial need, the degree of need in the regions and the state, or other factors, including the criteria contained in the grant review and ranking section of the applicable grant application. The applications will be ranked from highest to lowest priority on a statewide basis. (1-1-08)T

**03. Statewide Recommendation.** The Development Grant Review Committee will provide the ranking of applications to the Administrator no later than forty-five (45) days following the closing date designated in the grant application, or no later than September 15 of the fiscal year in which funding is requested. (1-1-08)T

**131. -- 199. (RESERVED).**

**200. GRANT AWARD AND SCHEDULE.**

**01. Determination of Grant Awards.** Absent good cause, the Administrator will award grants on a statewide basis in accordance with the written recommendations of the Development Grant Review Committee and in the amounts approved by the Development Grant Review Committee, until either the grants have been awarded for all ranked applications or there is no more money available in the funding appropriation, whichever occurs first. (1-1-08)T

**02. Notification.** The Department will notify all applicants in writing of the disposition of their grant applications by October 1 of the fiscal year in which funding is requested. Notice of a grant award is not a guarantee of present or future funding. (1-1-08)T

**03. Awarding of Grants.** Grant awards will be formalized through an agreement specifying, at a minimum, the eligible activities for which the grant is to be awarded, the amount of the grant award, the schedule of deliverables and payments, and any additional terms and conditions established by the Department. (1-1-08)T

**04. Acceptance of Grant Award by Grantee.** Acceptance of the grant award is accomplished by returning two (2) copies of the agreement bearing the original signature of a duly authorized representative of the grantee. The copies of the signed agreement are to be returned to the Department within ten (10) business days of the date of the letter transmitting the agreement to the grantee. (1-1-08)T

**05. Disbursement.** Funds for approved grants will be disbursed in accordance with the schedule of payments established in each grant agreement. (1-1-08)T

**06. No Continued Obligation.** Neither the approval of any project nor any grant award will commit or obligate the Department in any way to make any additional, supplemental, continuation, or other awards with respect to any project, proposed project, or portion of the project. A grantee must make separate application in accordance with each grant application and these rules. (1-1-08)T

**07. Not a Waiver.** Failure of the Department to require strict compliance will not be considered a waiver of requirements of these rules or in the grant application. (1-1-08)T

**201. -- 249. (RESERVED).**

**250. RECONSIDERATION OF GRANT APPLICATION.**

No later than fifteen (15) days from the date of written notification from the Department of its award determination, an applicant or a grantee may file a written request for reconsideration with the Director. (1-1-08)T

**01. Contents of Request for Reconsideration.** Any request for reconsideration must contain all pertinent facts supporting the applicant's or the grantee's request for the Director to reconsider and must set forth with specificity all of the facts and reasons that demonstrate the Department's award determination was arbitrary and capricious. (1-1-08)T

**02. Disposition of Request for Reconsideration.** Upon notification of a timely request for reconsideration, the Director will review the request and all relevant data upon which the Department based its award determination. (1-1-08)T

**03. Disposition of Funds Pending Reconsideration.** While a timely and valid request for reconsideration is pending, an amount equal to the grant request under reconsideration will be reserved by the Department. This reserve is established by withholding funds on a pro-rated basis from all successful grantees. (1-1-08)T

**04. Issuance of Decision on Reconsideration.** Following consideration of all relevant data, the Director will issue a written decision, within ten (10) business days of receiving a request for reconsideration. The Director's decision on reconsideration constitutes a final order of the Department which is not subject to judicial review. (1-1-08)T

**251. -- 259. (RESERVED).**

**260. CORRECTIVE ACTION, TERMINATION, OR REDUCTION OF FUNDING.**

**01. Determination of Non-Compliance.** The remedies set forth in this section are cumulative, are not exclusive, and are in addition to any other rights and remedies provided by law or under the grant agreement. If a grantee fails to comply with the terms of the grant application, grant agreement, these rules, or appropriate standards, goals, and other requirements, including performance objectives, the Department will inform the grantee of the deficiency and may take one (1) or more of the following actions: (1-1-08)T

**a.** Suspend grant funding pending an investigation to determine compliance with the grant application, grant agreement, these rules or appropriate standards, goals and other requirements, including performance objectives; (1-1-08)T

**b.** Require the grantee to correct any deficiency; (1-1-08)T

**c.** If feasible, allow the grantee sixty (60) days to develop and implement a quality improvement plan to correct the deficiency within a reasonable period of time; or (1-1-08)T

**d.** Terminate or reduce funding and require the grantee to account for and return awarded grant funds to the Department. (1-1-08)T

**02. Request for Reconsideration.** No later than fifteen (15) days from the date of written notification of corrective action from the Department to a grantee denying, suspending, reducing, or terminating a grant award, a grantee may file a written request for reconsideration with the Director. (1-1-08)T

**a.** Any request for reconsideration must contain all pertinent facts supporting the grantee's request for the Director to reconsider and must set forth with specificity all of the facts and reasons that demonstrate the Department's corrective action was arbitrary and capricious. (1-1-08)T

**b.** Upon notification of a timely request for reconsideration, the Director will review the request and all relevant data upon which the Department based its original decision. (1-1-08)T

**c.** Following consideration of all relevant data, the Director will issue a written decision, within ten (10) business days of receiving a request for reconsideration. The Director's decision on reconsideration constitutes a

final order of the Department which is not subject to judicial review. (1-1-08)T

**261. -- 299. (RESERVED).**

**300. CONFLICT OF INTEREST.**

**01. General Policy.** It is the policy of the Department that grant management and the award process be conducted in an equitable manner, and that public funds be expended in a fair, efficient, and effective manner. Every effort will be made to assure the public that no conflict of interest or appearance of impropriety exists. (1-1-08)T

**02. Covered Person.** These provisions for conflict of interest apply to any person who is an employee, agent, contractor, consultant, official, or officer of the Department, state, city, or county, or who is a member of a Regional Mental Health Board, a member of the Development Grant Review Committee, applicant, grantee, or any sub-grantee receiving funds. (1-1-08)T

**03. Standard of Conduct.** The general standard of conduct is to avoid any action or inaction that might result in, or create the appearance of, any impropriety or conflict of interest. In accordance with this general standard of conduct, a covered person will not vote on any matter in which he has any substantial ownership, potential for personal financial gain, fiduciary or contractual interest, or a direct competitive relationship. Any such relationship must be immediately disclosed as provided in Subsection 300.04 of this rule. (1-1-08)T

**04. Disclosure Procedures.** At or before any meeting during which a conflict of interest arises, a covered person must make a Declaration of a Conflict of Interest, or a potential conflict of interest, either by letter or verbal declaration, and it will be entered into the minutes of the meeting. The declaration must contain the nature of the conflict, the parties involved in the conflict, the impact of the conflict on their duties, and any proposed method of resolving the conflict. The covered person must then refrain from any discussion, recommendation, action, or voting on the matter. (1-1-08)T

**301. -- 309. (RESERVED).**

**310. AUDITS.**

The Department may conduct audits and determine the scope and depth of these audits. (1-1-08)T

**311. -- 349. (RESERVED).**

**350. FRAUDULENT INFORMATION ON GRANT APPLICATION.**

Providing false information on any application or document submitted under these rules is grounds for declaring the applicant ineligible, or for taking any and all remedial action, as provided in Section 260 of these rules. Any and all funds determined to have been acquired on the basis of fraudulent information must be returned to the Department immediately. (1-1-08)T

**351. -- 999. (RESERVED).**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.07.17 - ALCOHOL AND SUBSTANCE USE DISORDERS SERVICES**  
**DOCKET NO. 16-0717-0801 (NEW CHAPTER)**  
**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is January 1, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 39-311 and 56-1003, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than Wednesday, January 16, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

In accordance with Executive Order 2006-18, the Department created a new Division of Behavioral Health. This new division is responsible for administering alcohol and substance use disorders services for adults and adolescents. Currently, there is no chapter pertaining to the oversight of alcohol and substance use disorders services and this new chapter is needed to fill that void.

This rulemaking is primarily being done because there is no formal appeal process in rule for adults or adolescents seeking services from the Department. This rulemaking provides this appeal process benefit and outlines how to appeal a denial of services decision made by the Department. This chapter also defines the scope of voluntary alcohol and substance use disorders services and describes the eligibility criteria, application requirements, individualized treatment plan, and selection of providers under these rules.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate as this rulemaking confers a benefit.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

This rulemaking has no anticipated fiscal impact to the state general fund.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this new chapter was developed primarily to establish the benefit of appeal rights for individuals receiving alcohol and substance use disorders services under these rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Bethany Gadzinski, Division of Behavioral Health, at (208) 334-5756.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, January 23, 2008.

DATED this 5th day of November, 2007.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0717-0801**

**IDAPA 16**  
**TITLE 07**  
**CHAPTER 17**

**16.07.17 - ALCOHOL AND SUBSTANCE USE DISORDERS SERVICES**

**000. LEGAL AUTHORITY.**

The Idaho Legislature has delegated to the Board of Health and Welfare, the responsibility to ensure that clinically necessary alcohol and substance use disorder services are available throughout the state of Idaho to individuals who meet certain eligibility criteria under the Alcoholism and Intoxication Treatment Act, Title 39, Chapter 3, Idaho Code. Under Section 39-311, Idaho Code, the Board of Health and Welfare is authorized to promulgate rules to carry out the purpose and intent of the Alcoholism and Intoxication Treatment Act. Under Section 39-304, Idaho Code, the Department is authorized to establish a comprehensive and coordinated program for the treatment of alcoholics, intoxicated persons, and drug addicts to carry out the purposes and intent of the Alcoholism and Intoxication Treatment Act. Section 56-1003, Idaho Code authorizes the Director of the Department to administer services dealing with the problem of alcoholism and the rehabilitation of persons suffering from alcoholism. (1-1-08)T

**001. TITLE AND SCOPE.**

**01. Title.** The title of these rules is, IDAPA 16.07.17, "Alcohol and Substance Use Disorders Services." (1-1-08)T

**02. Scope.** This chapter defines the scope of voluntary services administered under the Department's Division of Behavioral Health, and describes the eligibility criteria, application requirements, individualized treatment plan requirements, selection of providers, and appeal process under these rules. This chapter is not intended to and does not establish an entitlement for or to receive adult or adolescent alcohol or substance use disorder services, nor is it intended to be applicable to individuals ordered by the court to receive alcohol or substance use disorder services. (1-1-08)T

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations for these rules. (1-1-08)T

**003. ADMINISTRATIVE APPEALS.**

**01. Appeal of Denial Based on Eligibility Criteria.** Administrative appeals from a denial of alcohol and substance use disorder services based on eligibility criteria and priority population are governed by the provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (1-1-08)T

**02. Appeal of Decision Based on Clinical Judgement.** All decisions involving clinical judgment,

including the category of services, the particular provider of services, or the duration of services, are reserved to Department, and are not subject to appeal, administratively or otherwise, in accordance with *Maresh v. State*, 132 Idaho 221, 970 P.2d 14 (Idaho 1999). (1-1-08)T

**004. INCORPORATION BY REFERENCE.**

The following are incorporated by reference in this chapter of rules: (1-1-08)T

**01. ASAM PPC-2R.** American Society of Addiction Medicine (ASAM) Patient Placement Criteria for the Treatment of Substance-Related Disorders, Second Edition - Revised (ASAM PPC-2R). A copy of this manual is available by mail at the American Society of Addiction Medicine, 4601 North Park Ave., Suite 101, Chevy Chase, MD 20815; by telephone and fax, (301) 656-3920 and (301) 656-3815 (fax); or on the internet at <http://www.asam.org>. (1-1-08)T

**02. DSM-IV-TR.** American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DSM-IV-TR) Washington, DC, American Psychiatric Association, 2000. Copies of the manual are available from the American Psychiatric Association, 1400 K Street, N.W., Washington, DC, 20005. A copy of the manual is also available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702. (1-1-08)T

**005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE NUMBER -- INTERNET WEB SITE.**

**01. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho. (1-1-08)T

**02. Mailing Address.** The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (1-1-08)T

**03. Street Address.** The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (1-1-08)T

**04. Telephone.** The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (1-1-08)T

**05. Internet Web Site.** The Department's internet web site is found at: <http://www.healthandwelfare.idaho.gov>. (1-1-08)T

**006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.**

**01. Confidential Records.** Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (1-1-08)T

**02. Public Records.** The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. (1-1-08)T

**007. -- 008. (RESERVED).**

**009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.**

**01. Compliance With Department Criminal History and Background Check.** All current Department employees, applicants, transfers, reinstated former employees, student interns, contract employees, volunteers, and others assigned to programs that involve direct contact with children or vulnerable adults as described in Section 39-5302, Idaho Code, must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." (1-1-08)T

**02. Availability to Work or Provide Service.** Certain individuals are allowed to provide services after the self-declaration is completed as provided in Section 56-1004A, Idaho Code, except when they have disclosed a designated crime listed in IDAPA 16.05.06, "Criminal History and Background Checks." The criminal history check requirements applicable to each provider type are found in the rules that state the qualifications or certification of those providers. (1-1-08)T

**010. DEFINITIONS.**

For the purposes of these rules, the following terms are used as defined below: (1-1-08)T

**01. Adolescent.** An individual between the ages of fourteen (14) and eighteen (18). (1-1-08)T

**02. Adult.** An individual eighteen (18) years or older. (1-1-08)T

**03. Applicant.** An adult or adolescent individual who is seeking alcohol or substance use disorders services through the Department who has completed or had completed on his behalf an application for alcohol or substance use disorder services. (1-1-08)T

**04. ASAM PPC-2R.** Refers to the second edition, revised, manual of the patient placement criteria for the treatment of substance-related disorders, published by the American Society of Addiction Medicine. (1-1-08)T

**05. Biopsychosocial Assessment.** Those procedures by which a substance use disorder clinician evaluates an individual's strengths, weaknesses, problems, needs, and determines priorities so that a treatment plan can be developed. (1-1-08)T

**06. Client.** A person receiving treatment for an alcohol or substance use disorder. The term "client" is synonymous with the terms: patient, resident, consumer, or recipient of treatment. (1-1-08)T

**07. Clinical Judgment.** Refers to observations and perceptions based upon education, experience, and clinical assessment. This may include psychometric, behavioral, and clinical interview assessments that are structured, integrated, and then used to reach decisions, individually or collectively, about an individual's functional, mental, and behavioral attributes and alcohol and substance use disorders service needs. (1-1-08)T

**08. Clinical Necessity.** Alcohol or substance use disorder services are deemed clinically necessary when the Department, in the exercise of clinical judgment, would recommend services to an applicant for the purpose of evaluating, diagnosing, or treating alcohol or substance use disorders that are: (1-1-08)T

**a.** Clinically appropriate, in terms of type, frequency, extent, site and duration, and considered effective for treating the applicant's alcohol or substance use disorder; and (1-1-08)T

**b.** Not primarily for the convenience of the applicant or service provider and not more costly than an alternative service or sequence of services and at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of the applicant's alcohol or substance use disorder. (1-1-08)T

**09. Clinical Team.** A proposed client's clinical team may include: qualified clinicians, behavioral health professionals, professionals other than behavioral health professionals, behavioral health technicians and any other individual deemed appropriate and necessary to ensure that the assessment and subsequent treatment is comprehensive and meets the needs of the proposed client. (1-1-08)T

**10. Clinically Managed High-Intensity Residential Treatment.** Frequently referred to as long term residential care or a Therapeutic Community, twenty-four (24) hour intensive residential program designed to treat persons who have significant social and psychological problems. Individuals who are appropriate for this level of care typically have multiple deficits, which may include criminal activity, psychological problems, impaired functioning and disaffiliation from mainstream values. (1-1-08)T

**11. Clinically Managed Low-Intensity Residential Treatment.** Is a program that offers at least five (5) hours per week of outpatient or intensive outpatient treatment services along with a structured recovery



environment, staffed twenty-four (24) hours per day, which provides sufficient stability to prevent or minimize relapse or continued use. This level of care is also known as a Halfway House. (1-1-08)T

**12. Clinically Managed Medium-Intensity Residential Treatment.** Frequently referred to as residential care, programs provide a structured, twenty-four (24) hour intensive residential program for clients who require treatment services in a highly structured setting. This type of program is appropriate for clients who need concentrated, therapeutic services prior to community residence. Community reintegration of residents in this level of care requires case management activities directed toward networking clients into community-based recovery support services such as housing, vocational services or transportation assistance so that the client is able to attend mutual/self-help meetings or vocational activities after discharge. (1-1-08)T

**13. Contracted Intermediary.** A third party contractor of the Department who handles direct contracting with network providers for treatment services to include network management, claims payment, data gathering per Federal and State requirements and census management. (1-1-08)T

**14. Department.** The Department of Health and Welfare or a person authorized to act on behalf of the Department. (1-1-08)T

**15. Early Intervention Services.** Early intervention services are designed to explore and address an adolescent's problems or risk factors that appear to be related to substance use, i.e., alcohol, tobacco, or other drugs, and to assist the adolescent in recognizing the harmful consequences of substance use. Early intervention services are intended to be a combination of prevention and treatment services for at-risk youth. (1-1-08)T

**16. Emergency.** An emergency exists if an adult or adolescent individual is gravely disabled due to mental illness or substance abuse or dependence or there is a substantial risk that physical harm will be inflicted by the proposed client: (1-1-08)T

**a.** Upon his own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on himself; or (1-1-08)T

**b.** Upon another person as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm. (1-1-08)T

**17. Federal Poverty Guidelines.** Guidelines issued annually by the Federal Department of Health and Human Services establishing the poverty income amount for family units considering the number of persons in the family unit. The federal poverty guidelines for the current year may be found at: <http://aspe.hhs.gov/poverty/>. (1-1-08)T

**18. Functional Impairment.** Difficulties that substantially interfere with or limit role functioning with an individual's basic daily living skills, instrumental living skills, or functioning in social, family, vocational or educational contexts. (1-1-08)T

**19. Gravely Disabled.** An adult or adolescent who, as a result of mental illness or substance abuse or dependence, is in danger of serious physical harm due to the person's inability to provide for any of his basic needs for nourishment, or essential medical care, or shelter or safety. (1-1-08)T

**20. Individualized Treatment Plan.** A written action plan based on an intake eligibility screening and full clinical assessment, that identifies the applicant's clinical needs, the strategy for providing services to meet those needs, treatment goals and objectives and the criteria for terminating the specified interventions. (1-1-08)T

**21. Intake Eligibility Screening.** The collection of data, analysis, and review, which the Department, or its designee, uses to screen and determine whether an applicant is eligible for adult or adolescent alcohol or substance use disorder services available through the Department. (1-1-08)T

**22. Intensive Outpatient Services.** An organized service delivered by addiction professionals or addiction-credentialed clinicians, which provides a planned regimen of treatment consisting of regularly scheduled sessions within a structured program, for a minimum of nine (9) hours of treatment per week for adults and six (6)

hours of treatment per week for adolescents. (1-1-08)T

**23. Medical Detoxification.** Means medically supervised twenty-four (24) hour care for patients who require hospitalization for treatment of acute alcohol intoxication or withdrawal, from one (1) or more other substances of abuse, and other medical conditions which together warrant treatment in this type of setting. Length of stay varies depending on the severity of the disease and withdrawal symptoms. (1-1-08)T

**24. Network Treatment Provider.** A treatment provider who has facility approval through the Department and is contracted with the Department's Management Service Contractor. A list of network providers can be found at the Department's website given in Section 005 of these rules. The list is also available by calling these telephone numbers: 1 (800) 922-3406; or dialing 211. (1-1-08)T

**25. Outpatient Services.** An organized non-residential service, delivered in a variety of settings, in which addiction treatment personnel provide professionally directed evaluation and treatment for alcohol and substance use disorders. (1-1-08)T

**26. Priority Population.** Priority populations are populations who receive services ahead of other persons and are determined yearly by the Department based on Federal regulations and input from the Interagency Committee on Substance Abuse Prevention and Treatment. A current list of the priority population is available from the Department. (1-1-08)T

**27. Recovery Support Services.** These services include: safe and sober housing that is staffed; transportation; child care; family education; life skills education; marriage education; drug testing; peer to peer mentoring; and clinical case management. (1-1-08)T

**28. Residential Social Detoxification.** Means a medically supported twenty-four (24) hour, social rehabilitation residential program which provides physical care, education, and counseling as appropriate for the client's health and safety during his process of physical withdrawal from acute alcohol intoxication or withdrawal, or from one or more other substances of abuse. Social detoxification provides access into care and treatment of alcohol or substance use disorders through monitored withdrawal, evaluation of present or potential alcohol or substance dependency and other physical ailments, and intervention into the progression of the disease through timely utilization of resources. Length of stay in a social detoxification program varies from three (3) to seven (7) days depending on the severity of the disease and withdrawal symptoms. (1-1-08)T

**29. Sliding Fee Scale.** A scale used to determine an individual's cost for services based on Federal Poverty Guidelines and found in IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules." (1-1-08)T

**30. Substance Dependence.** Substance dependence is marked by a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues to use alcohol or other drugs despite significant related problems. The cluster of symptoms can include: tolerance; withdrawal or use of a substance in larger amounts or over a longer period of time than intended; persistent desire or unsuccessful efforts to cut down or control substance use; a great deal of time spent in activities related to obtaining or using substances or to recover from their effects; relinquishing important social, occupational or recreational activities because of substance use; and continuing alcohol or drug use despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been cause or exacerbated by such use as defined in the DSM-IV-TR. (1-1-08)T

**31. Substance-Related Disorders.** Substance-related disorders include disorders related to the taking of alcohol or another drug of abuse, to the side effects of a medication and to toxin exposures. They are divided into two (2) groups: the Substance Use Disorders and the Substance-Induced Disorders as defined in the DSM-IV-TR. (1-1-08)T

**32. Substance Use Disorder.** Includes Substance Dependence and Substance Abuse, according to the DSM-IV-TR. Substance Use Disorders are one (1) of two (2) subgroups of the broader diagnostic category of Substance-Related Disorders. (1-1-08)T

**33. Substantial Material Change in Circumstances.** A substantial and material change in circumstances which renders the Department's decision denying alcohol and substance use disorders services

arbitrary and capricious. (1-1-08)T

**011. -- 099. (RESERVED).**

**100. ACCESSING ALCOHOL AND SUBSTANCE DISORDERS SERVICES.**

Adult and adolescent alcohol and substance disorders services may be accessed by eligible applicants through an application and request for an intake eligibility screening. (1-1-08)T

**101. INTAKE ELIGIBILITY SCREENING AND FULL CLINICAL ASSESSMENT.**

**01. Intake Eligibility Screening.** A screening for eligibility for alcohol and substance use disorders services through the Department is based on meeting priority population and ASAM PPC-2R criteria as incorporated by reference in Section 004 of these rules. If an applicant meets this criteria he may be eligible for alcohol and substance use disorders services through the Department. Applicants not meeting this criteria will be referred to other appropriate community services. All applicants are required to complete an Application for Alcohol and Substance Use Disorders Services either over the telephone or in person at a network treatment provider site. If an applicant refuses to complete the application, the Department reserves the right to discontinue the screening process for eligibility. The intake eligibility screening must be directly related to the applicant's substance dependence or substance-related disorder and level of functioning, and will include: (1-1-08)T

- a. Application for Alcohol or Substance Use Disorders Services, pending document approval; (1-1-08)T
- b. Notice of Privacy Practice; (1-1-08)T
- c. Fee Determination; and (1-1-08)T
- d. Authorization for Disclosure. (1-1-08)T

**02. Full Clinical Assessment.** If the applicant is found eligible for alcohol and substance use disorders services after completion of the intake eligibility screening, the applicant will either be placed on a waiting list to receive a full clinical assessment or will have an appointment made to receive a full clinical assessment with a Department's network treatment provider. (1-1-08)T

**102. ELIGIBILITY DETERMINATION.**

**01. Determination of Eligibility for Alcohol and Substance Use Disorders Services.** The total number of adults and adolescents who are eligible for alcohol or substance use disorders services through the Department will be established by the Department, in consultation with the Idaho Interagency Committee on Substance Abuse Prevention and Treatment. The Department may, in consultation with the Idaho Interagency Committee on Substance Abuse Prevention and Treatment, limit or prioritize adult and adolescent alcohol or substance use disorder services, define eligibility criteria, and establish the number of persons eligible based upon such factors as court-ordered services, availability of funding, the degree of financial need, the degree of clinical need, or other factors. (1-1-08)T

**02. Eligibility Requirements.** To be eligible for alcohol and substance use disorders services through a voluntary application to the Department, the applicant must: (1-1-08)T

- a. Be an adult or adolescent with family income at or below one hundred seventy-five per cent (175%) of federal poverty guidelines; (1-1-08)T
- b. Be a resident of the state of Idaho; (1-1-08)T
- c. Be a member of the priority population; (1-1-08)T
- d. Meet diagnostic criteria for substance dependence, or a substance-related disorder as described in the DSM-IV-TR; and (1-1-08)T

e. Meet specifications in each of the ASAM PPC-2R dimensions required for the recommended level of care. (1-1-08)T

**02. Admission to Treatment Program Requirements.** In order to be admitted into an adult or adolescent alcohol or substance use disorders treatment program, there must be clinical evidence that provides a reasonable expectation that the applicant will benefit from the alcohol or substance use disorder services. (1-1-08)T

**03. Ineligible Conditions.** An applicant who has epilepsy, mental retardation, dementia, a developmental disability, physical disability, mental illness, or who is aged, is not eligible for alcohol and substance use disorders services, unless, in addition to such condition, they meet primary diagnostic criteria for substance abuse, substance dependence, or a substance related disorder as described in the DSM-IV-TR and the specification in each of the ASAM PPC-2R dimensions required for the recommended level of care. (1-1-08)T

**103. NOTICE OF CHANGES IN ELIGIBILITY FOR ALCOHOL AND SUBSTANCE USE DISORDERS SERVICES.**

The Department may, upon ten (10) days' written notice, reduce, limit, suspend, or terminate eligibility for alcohol or substance use disorders services. (1-1-08)T

**104. NOTICE OF DECISION ON ELIGIBILITY.**

**01. Notification of Eligibility Determination.** Within two (2) business days of a receiving a completed intake eligibility screening and risk assessment for outpatient services, and one (1) business day for social detoxification and residential treatment services; the Department, or its contracted intermediary, will notify the applicant or the applicant's designated representative in writing of its eligibility determination. The written notice will include: (1-1-08)T

- a. The applicant's name and identifying information; (1-1-08)T
- b. A statement of the decision; (1-1-08)T
- c. A concise statement of the reasons for the decision; and (1-1-08)T
- d. The process for pursuing an administrative appeal regarding eligibility determinations. (1-1-08)T

**02. Right to Accept or Reject Alcohol and Substance Use Disorders Services.** If the Department, or its contracted intermediary, determines that an applicant is eligible for alcohol and substance use disorders services through the Department, an individual has the right to accept or reject alcohol and substance use disorders services offered by the Department, unless imposed by law or court order. (1-1-08)T

**03. Reapplication for Alcohol and Substance Use Disorders Services.** If the Department determines that an applicant is not eligible for alcohol and substance use disorders services through the Department, the applicant may reapply after six (6) months or at any time upon a showing of a substantial material change in circumstances. Also, if the individual screened is found not to meet admission criteria, but is in need of other types of services, the Department, or its contracted intermediary, will refer the individual to an agency or department which provides the appropriate services needed. (1-1-08)T

**105. -- 199. (RESERVED).**

**200. INDIVIDUALIZED TREATMENT PLAN, SELECTION OF SERVICE PROVIDERS AND AVAILABLE TREATMENT SERVICES.**

The Department's contracted treatment provider will prepare for every client an individualized treatment plan that addresses the alcohol or substance disorders health affects on the client's major life areas. The treatment plan will be based on a biopsychosocial assessment of the client's alcohol or substance use disorders treatment needs. (1-1-08)T

**01. Individualized Treatment Plan.** Overall responsibility for development and implementation of the plan will be assigned to a qualified professional staff member within a Department contracted network treatment

provider program. A detailed individualized treatment plan will be developed within fourteen (14) days following the Department's determination that an applicant is eligible for alcohol and substance use disorders services through the Department. The individualized treatment plan will include the following: (1-1-08)T

- a. The services clinically necessary to meet the client's alcohol and substance use disorders needs; (1-1-08)T
- b. Referrals for needed adjunct services that the alcohol and substance use disorders treatment program does not provide; (1-1-08)T
- c. Goals that the client must achieve; (1-1-08)T
- d. Specific objectives that relate to the goals, written in measurable terms, with targeted expected achievement dates; (1-1-08)T
- e. Frequency of services; (1-1-08)T
- f. Specific criteria to be met for discharge from treatment; and (1-1-08)T
- g. A specific plan for including the family or significant others. (1-1-08)T

**02. Selection of Providers.** The client can choose from among the array of substance use disorders treatment providers approved to provide services. The services must be within the recommended level of care according to ASAM PPC-2R and based on needs identified in the biopsychosocial assessment and resultant individualized treatment plan. The client does not have the option of choosing his treatment provider if he is within the criminal justice system and specific providers have been identified for the client. (1-1-08)T

**03. Treatment Services Available.** Available alcohol or substance use disorders treatment services, as defined in Section 010 of these rules, include: (1-1-08)T

- a. Early intervention; (1-1-08)T
- b. Outpatient services; (1-1-08)T
- c. Intensive outpatient services; (1-1-08)T
- d. Residential social detoxification; (1-1-08)T
- e. Medical detoxification; (1-1-08)T
- f. Clinically managed low-intensity residential treatment; (1-1-08)T
- g. Clinically managed medium intensity residential treatment; and (1-1-08)T
- h. Clinically managed high-intensity residential treatment. (1-1-08)T

**04. Treatment Services Not Available.** Alcohol or substance use disorder treatment services, do not include: (1-1-08)T

- a. Experimental or investigational procedures; (1-1-08)T
- b. Technologies and related services; (1-1-08)T
- c. Electroconvulsive therapy; (1-1-08)T
- d. Treatment or services for epilepsy, mental retardation, dementia, a developmental disability, physical disability, aged or the infirm; or (1-1-08)T

- e. Any other services which are primarily recreational or diversional in nature. (1-1-08)T

**201. -- 299. (RESERVED).**

**300. CHARGES FOR ALCOHOL AND SUBSTANCE USE DISORDERS SERVICES.**

Individuals receiving alcohol and substance use disorders services through the Department are responsible for paying for the services provided. Individuals must complete a "Fee Determination Form," in writing or by telephone, prior to the delivery of alcohol and substance use disorders services. The amount charged for each service will be in accordance with the individual's ability to pay as determined in: IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules," Section 500. (1-1-08)T

**301. -- 999. (RESERVED).**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.07.33 - ADULT MENTAL HEALTH SERVICES**

**DOCKET NO. 16-0733-0801 (NEW CHAPTER)**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is January 1, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 39-3133, and 56-1003(3)(c), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than Wednesday, January 16, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

In accordance with Executive Order 2006-18, the Department created a new Division of Behavioral Health. This new division is responsible for administering mental health services for adults. Currently, there is no chapter pertaining to the oversight of adult mental health services and this new chapter is needed to fill that void.

Currently, there is no formal appeal process in rule for adults seeking mental health services from the Department. This rulemaking provides this appeal process and outlines how to appeal a denial of services decision made by the Department. This new chapter also defines the scope of voluntary adult mental health services and describes the eligibility criteria, application requirements, individualized treatment plan, and selection of providers under these rules.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate as this rulemaking confers a benefit.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

There is no anticipated fiscal impact to the state general fund related to this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this new chapter was developed primarily to establish the benefit of appeal rights for adults receiving mental health services under these rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Scott Tiffany, Division of Behavioral Health, at (208) 332-7243.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, January 23, 2008.

DATED this 5th day of November, 2007.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0733-0801**

**IDAPA 16  
TITLE 07  
CHAPTER 33**

**16.07.33 - ADULT MENTAL HEALTH SERVICES**

**000. LEGAL AUTHORITY.**

The Idaho Legislature has delegated to the Department of Health and Welfare, as the state mental health authority, the responsibility to ensure that mental health services are available throughout the state of Idaho to individuals who need such care and who meet certain eligibility criteria under the Regional Mental Health Services Act, Title 39, Chapter 31, Idaho Code. Under Section 39-3133, Idaho Code, the Department is authorized to promulgate rules to carry out the purposes and intent of the Regional Mental Health Services Act. Under Section 56-1003(3)(c), Idaho Code, the Director is authorized to adopt rules to supervise and administer a mental health program. (1-1-08)T

**001. TITLE AND SCOPE.**

**01. Title.** The title of these rules is, IDAPA 16.07.33, "Adult Mental Health Services." (1-1-08)T

**02. Scope.** (1-1-08)T

**a.** This chapter defines the scope of voluntary adult mental health services administered under the Department's Division of Behavioral Health, and describes the eligibility criteria, application requirements, individualized treatment plan requirements, and appeal process under these rules. This chapter is not intended to, and does not, establish an entitlement for or to receive adult mental health services, nor is it intended to be applicable to individuals ordered by the court to receive mental health services. (1-1-08)T

**b.** The priority population for this chapter is adult individuals, voluntarily seeking mental health services, who are residents of Idaho and have a primary diagnosis of serious and persistent mental illness. However, under certain circumstances, in accordance with the waiver provision in Section 400 of these rules, adult mental health services may be available to those who do not have a primary diagnosis of serious and persistent mental illness. (1-1-08)T

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations for these rules. (1-1-08)T

**003. ADMINISTRATIVE APPEALS.**

**01. Appeal of Denial Based on Eligibility Criteria.** Administrative appeals from a denial of mental health services based on the eligibility criteria under Section 102 of these rules are governed by the provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (1-1-08)T



**02. Appeal of Decision Based on Clinical Judgment.** All decisions involving clinical judgment, including the category of services, the particular provider of services, or the duration of services, are reserved to Department, and are not subject to appeal, administratively or otherwise, in accordance with *Maresh v. State*, 132 Idaho 221, 970 P.2d 14 (Idaho 1999). (1-1-08)T

**004. INCORPORATION BY REFERENCE.**

American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DSM-IV-TR) Washington, DC, American Psychiatric Association, 2000, is hereby incorporated by reference under this chapter of rules. Copies of the manual are available from the American Psychiatric Association, 1400 K Street, N.W., Washington, DC, 20005. A copy of the manual is also available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702. (1-1-08)T

**005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE NUMBER -- INTERNET WEB SITE.**

**01. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho. (1-1-08)T

**02. Mailing Address.** The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (1-1-08)T

**03. Street Address.** The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (1-1-08)T

**04. Telephone.** The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (1-1-08)T

**05. Internet Web Site.** The Department's internet web site is found at: <http://www.healthandwelfare.idaho.gov>. (1-1-08)T

**006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.**

**01. Confidential Records.** Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (1-1-08)T

**02. Public Records.** The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. (1-1-08)T

**007. -- 008. (RESERVED).**

**009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.**

**01. Compliance With Department Criminal History and Background Check.** All current Department employees, applicants, transfers, reinstated former employees, student interns, contract employees, volunteers, and others assigned to programs that involve direct contact with children or vulnerable adults as described in Section 39-5302, Idaho Code, must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." (1-1-08)T

**02. Availability to Work or Provide Service.** Certain individuals are allowed to provide services after the self-declaration is completed as provided in Section 56-1004A, Idaho Code, except when they have disclosed a designated crime listed in IDAPA 16.05.06, "Criminal History and Background Checks." The criminal history check requirements applicable to each provider type are found in the rules that state the qualifications or certification of those providers. (1-1-08)T

**010. DEFINITIONS.**

For the purposes of these rules, the following terms are used as defined below: (1-1-08)T

**01. Adult.** An individual eighteen (18) years of age or older. (1-1-08)T

**02. Adult Mental Health Services.** Adult mental health services include psychiatric clinical services, case management, individual therapy, group therapy, psychosocial rehabilitation (PSR), assertive community treatment (ACT), patient assistance program (PAP), benefit assistance, co-occurring disorders treatment, and pharmacological education. Mental health services do not include educational or vocational services related to traditional academic subjects or vocational training, experimental procedures, habilitation, or any other services which are primarily recreational or diversional in nature. (1-1-08)T

**03. Applicant.** An adult individual who is seeking mental health services through the Department who has completed, or had completed on his behalf, an application for mental health services. (1-1-08)T

**04. Client.** A person receiving mental health services through the Department. The term "client" is synonymous with the following terms: patient, participant, resident, consumer, or recipient of treatment or services. (1-1-08)T

**05. Clinical Judgment.** Refers to observations and perceptions based upon education, experience, and clinical assessment. This may include psychometric, behavioral, and clinical interview assessments that are structured, integrated, and then used to reach decisions, individually or collectively, about an individual's functional, mental, and behavioral attributes and mental health service needs. (1-1-08)T

**06. Clinical Necessity.** Adult mental health services are deemed clinically necessary when the Department, in the exercise of clinical judgment, recommends services to an applicant for the purpose of evaluating, diagnosing, or treating a mental illness and that are: (1-1-08)T

**a.** Clinically appropriate, in terms of type, frequency, extent, site, and duration, and considered effective for treating the applicant's mental illness; and (1-1-08)T

**b.** Not primarily for the convenience of the applicant or service provider, not more costly than an alternative service or sequence of services, and at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of the applicant's mental illness. (1-1-08)T

**07. Clinical Team.** A proposed client's clinical team may include: qualified clinicians, behavioral health professionals, professionals other than behavioral health professionals, behavioral health technicians, and any other individual deemed appropriate and necessary to ensure that the treatment is comprehensive and meets the needs of the proposed client. (1-1-08)T

**08. Department.** The Idaho Department of Health and Welfare or its designee. The Department is designated as the State Mental Health Authority under Section 39-3124, Idaho Code. (1-1-08)T

**09. Emergency.** An emergency exists if an adult individual is gravely disabled due to mental illness or there is a substantial risk that physical harm will be inflicted by the proposed client: (1-1-08)T

**a.** Upon his own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on himself; or (1-1-08)T

**b.** Upon another person, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm. (1-1-08)T

**10. Federal Poverty Guidelines.** Guidelines issued annually by the Federal Department of Health and Human Services establishing the poverty income limits. The federal poverty guidelines for the current year may be found at: <http://aspe.hhs.gov/poverty/>. (1-1-08)T

**11. Functional Impairment.** Difficulties that substantially impair or limit role functioning with an

individual's basic daily living skills, or functioning in social, family, vocational, or educational contexts including psychiatric, health, medical, financial, and community or legal area, or both. (1-1-08)T

**12. Gravely Disabled.** An adult who, as a result of mental illness, is in danger of serious physical harm due to the person's inability to provide for any of his basic needs for nourishment, essential medical care, shelter, or safety. (1-1-08)T

**13. Individualized Treatment Plan.** A written action plan based on an intake eligibility assessment, that identifies the applicant's clinical needs, the strategy for providing services to meet those needs, treatment goals and objectives, and the criteria for terminating the specified interventions. (1-1-08)T

**14. Intake Eligibility Assessment.** The collection of data, analysis, and review that the Department uses to screen and determine whether an applicant is eligible for mental health services available through the Department. (1-1-08)T

**15. Serious Mental Illness (SMI).** Means any of the following psychiatric illnesses as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, Text Revision (DSM-IV-TR): (1-1-08)T

- a. Schizophrenia; (1-1-08)T
- b. Paranoia and other psychotic disorders; (1-1-08)T
- c. Bipolar disorders (mixed, manic and depressive); (1-1-08)T
- d. Major depressive disorders (single episode or recurrent); (1-1-08)T
- e. Schizoaffective disorders; and (1-1-08)T
- f. Obsessive-compulsive disorders. (1-1-08)T

**16. Serious and Persistent Mental Illness (SPMI).** A primary diagnosis under DSM-IV-TR of Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Psychotic Disorder Not Otherwise Specified (NOS) for a maximum of one hundred twenty (120) days without a conclusive diagnosis. The psychiatric disorder must be of sufficient severity to cause a substantial disturbance in role performance or coping skills in at least two (2) of the following functional areas in the last six (6) months: (1-1-08)T

- a. Vocational or educational, or both. (1-1-08)T
- b. Financial. (1-1-08)T
- c. Social relationships or support, or both. (1-1-08)T
- d. Family. (1-1-08)T
- e. Basic daily living skills. (1-1-08)T
- f. Housing. (1-1-08)T
- g. Community or legal, or both. (1-1-08)T
- h. Health or medical, or both. (1-1-08)T

**17. Sliding Fee Scale.** A scale used to determine an individual's cost for services based on Federal Poverty Guidelines and found in IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules." (1-1-08)T

**18. Substantial Material Change in Circumstances.** A substantial and material change in circumstances which renders the Department's decision denying mental health services arbitrary and capricious. (1-1-08)T

**011. -- 099. (RESERVED).**

**100. ACCESSING ADULT MENTAL HEALTH SERVICES.**

Adult mental health services may be accessed by eligible applicants through an application and request for initial intake eligibility assessment. (1-1-08)T

**101. ELIGIBILITY SCREENING AND INTAKE ELIGIBILITY ASSESSMENT.**

**01. Eligibility Screening.** A screening for eligibility for adult mental health services through the Department is based on the eligibility criteria under Section 102 of these rules. If an applicant meets the eligibility criteria, he may be eligible for adult mental health services through the Department. If an applicant does not meet the eligibility criteria, he may be referred to other appropriate services. All applicants are required to complete an Application for Mental Health Services. If an applicant refuses to complete the Application for Mental Health Services, the Department reserves the right to discontinue the screening process for eligibility. (1-1-08)T

**02. Intake Eligibility Assessment.** A qualified clinician will complete an intake eligibility assessment on the Department-approved form. The intake eligibility assessment and supplemental psychiatric, psychological, or other specialty evaluations and tests must be dated, signed, and retained in the applicant's medical record. The intake eligibility assessment must be directly related to the applicant's mental illness and level of functioning, and will include: (1-1-08)T

- a. Application for Mental Health Services, pending document approval; (1-1-08)T
- b. Notice of Privacy Practice (HW 0320); (1-1-08)T
- c. Mental Health Client Profile; (1-1-08)T
- d. Fee Determination Form (HW 0735); (1-1-08)T
- e. Adult Health History Form (HW 0713); (1-1-08)T
- f. Family Health History Form (HW 0715); and (1-1-08)T
- g. Authorization for Disclosure. (1-1-08)T

**102. ELIGIBILITY DETERMINATION.**

**01. The Department Determines Eligibility for Mental Health Services.** The total number of adults who are eligible for mental health services through the Department will be established by the Department. The Department may, in its sole discretion, limit or prioritize mental health services, define eligibility criteria, or establish the number of persons eligible based upon such factors as court-ordered services, availability of funding, the degree of financial need, the degree of clinical need, or other factors. (1-1-08)T

**02. Eligibility Requirements.** To be eligible for mental health services through a voluntary application to the Department, the applicant must: (1-1-08)T

- a. Be an adult; and (1-1-08)T
- b. Be a resident of the state of Idaho; and (1-1-08)T
- c. Have a primary diagnosis of SPMI; or (1-1-08)T
- d. Be determined eligible under the waiver provisions in Section 400 of these rules. (1-1-08)T

**03. Ineligible Conditions.** An applicant who has epilepsy, mental retardation, dementia, a developmental disability, physical disability, or who is aged or impaired by chronic alcoholism or drug abuse, is not eligible for mental health services, unless, in addition to such condition, he has a primary diagnosis of SPMI or is determined eligible under the waiver provisions in Section 400 of these rules. (1-1-08)T

**103. NOTICE OF CHANGES IN ELIGIBILITY FOR MENTAL HEALTH SERVICES.**

The Department may, upon ten (10) days' written notice, reduce, limit, suspend, or terminate eligibility for mental health services. (1-1-08)T

**104. EMERGENCY SERVICES.**

**01. Determination of the Need for Emergency Services.** At an applicant's first visit, and prior to making a final determination of eligibility, the Department will determine whether an applicant needs services to alleviate an emergency as defined under Section 010 of these rules. (1-1-08)T

**02. Identification of the Emergency Services Needed.** If emergency services are clinically necessary, as determined by the Department, the Department will identify the emergency services that are consistent with the applicant's needs and the preliminary findings of the intake eligibility assessment or subsequent assessments and: (1-1-08)T

a. Arrange for the provision of the emergency services; and (1-1-08)T

b. Document in the applicant's record the emergency services that are to be provided to the applicant. (1-1-08)T

**03. Immediate Intervention.** If the Department determines that an emergency exists necessitating immediate intervention, emergency or crisis services will be arranged immediately. (1-1-08)T

**105. NOTICE OF DECISION ON ELIGIBILITY.**

**01. Notification of Eligibility Determination.** Within ten (10) business days of a receiving a completed intake eligibility assessment, the Department will notify the applicant or the applicant's designated representative in writing of its eligibility determination. The written notice will include: (1-1-08)T

a. The applicant's name and identifying information; (1-1-08)T

b. A statement of the decision; (1-1-08)T

c. A concise statement of the reasons for the decision; and (1-1-08)T

d. The process for pursuing an administrative appeal regarding eligibility determinations. (1-1-08)T

**02. Right to Accept or Reject Mental Health Services.** If the Department determines that an applicant is eligible for mental health services through the Department, an individual has the right to accept or reject mental health services offered by the Department, unless imposed by law or court order. (1-1-08)T

**03. Reapplication for Mental Health Services.** If the Department determines that an applicant is not eligible for mental health services through the Department, the applicant may reapply after six (6) months or at any time upon a showing of a substantial material change in circumstances. (1-1-08)T

**106. -- 199. (RESERVED).**

**200. INDIVIDUALIZED TREATMENT PLAN AND SELECTION OF SERVICE PROVIDERS.**

The Department will prepare an individualized treatment plan for every client that addresses the mental health effects on the major life areas and is based on an assessment of the client's mental health needs. (1-1-08)T

**01. Individualized Treatment Plan.** Overall responsibility for development and implementation of the plan will be assigned to a qualified professional staff member. A detailed individualized treatment plan will be developed within thirty (30) days following the Department's determination that an applicant is eligible for mental health services through the Department. The individualized treatment plan will include the following: (1-1-08)T

- a. The services clinically necessary to meet the client's mental health needs; (1-1-08)T
- b. Referrals for needed services not provided under these rules; (1-1-08)T
- c. Goals that the client is to achieve; (1-1-08)T
- d. Specific objectives that relate to the goals, written in measurable terms, with expected achievement dates; (1-1-08)T
- e. Frequency of services; (1-1-08)T
- f. Specific criteria to be met for discharge from treatment; and (1-1-08)T
- g. A specific plan for including the family or significant others. (1-1-08)T

**02. Selection of Providers.** Within five (5) days of completing the individualized treatment plan, the clinical team will identify and select service providers most appropriate to meet the client's mental health needs. The case manager will promptly contact the identified providers to determine their ability to serve the client. (1-1-08)T

**201. -- 299. (RESERVED).**

**300. CHARGES FOR MENTAL HEALTH SERVICES.**

Individuals receiving adult mental health services through the Department are responsible for paying for the services provided. Individuals must complete a "Fee Determination Form" prior to the delivery of adult mental health services. The amount charged for each service will be in accordance with the individual's ability to pay as determined under Sections 300 and 400 of IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules." (1-1-08)T

**301. -- 399. (RESERVED).**

**400. WAIVERS.**

**01. Waiver of Certain Eligibility Criteria.** Subject to funding, availability of adult mental health services or adult mental health providers, and the number of clients receiving adult mental health services through the Department, the Department may consider waiving, in its sole discretion, the eligibility requirement that applicants have a primary diagnosis of SPMI. (1-1-08)T

**02. A Waiver Decision Does Not Establish a Precedent.** The Department's decision to grant a waiver, or not, to an applicant neither establishes a precedent nor is it applicable to any other applicant for a waiver. (1-1-08)T

**03. Waiver Decisions Are Not Subject to Review or Appeal.** The Department's actions and decisions pertaining to waivers are not subject to review or appeal, administratively or otherwise, in accordance with *Maresch v. State*, 132 Idaho 221, 970 P.2d 14 (Idaho 1999). Waivers are not admissible in administrative hearings or proceedings under IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (1-1-08)T

**401. -- 999. (RESERVED).**

# IDAPA 17 - INDUSTRIAL COMMISSION

## 17.02.08 - MISCELLANEOUS PROVISIONS

### DOCKET NO. 17-0208-0702

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-508, 72-720, 72-721, 72-722, 72-723, and 72-803, Idaho Code. The pending rule implements the requirements mandated by Section 72-803, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

As a result of input received from public hearings, written comments, and research, the Commission increased the number of service categories and code ranges, added descriptions of the code ranges, adjusted some of the conversion factors, and changed the first adjustment date from FY 2010 to FY2009.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 17 through 20.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Mindy Montgomery, Director, 208-334-6000.

DATED this 14th day of November, 2007.

Mindy Montgomery, Director  
Industrial Commission  
317 Main Street

P.O. Box 83720, Boise, ID 83720-0041  
Phone: 208-334-6000 Fax: 208-334-2321

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#### DOCKET NO. 17-0208-0702 - ADOPTION OF PENDING RULE

**Substantive changes have been made to the pending rule.**

**Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.**

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 17 through 20.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 17-0208-0702

***Subsection 031.02.b. through 031.02.e.***

**031. ACCEPTABLE CHARGES FOR MEDICAL SERVICES UNDER THE IDAHO WORKERS' COMPENSATION LAW.**

Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Industrial Commission (hereinafter "the Commission") hereby adopts the following rule for determining acceptable charges for medical services provided under the Idaho Workers' Compensation Law: (3-12-07)

**02. Acceptable Charge.** Payors shall pay providers the acceptable charge for medical services. (3-12-07)

**b.** Conversion Factors. The following conversion factors shall be applied to the fully-implemented facility or non-facility Relative Value Unit (RVU) as determined by place of service found in the latest RBRVS, as amended, that was published before December 31 of the previous calendar year for a medical service identified by a code assigned to that service in the latest edition of the Physicians' Current Procedural Terminology (CPT), published by the American Medical Association, as amended:

<b>MEDICAL FEE SCHEDULE</b>			
<b><u>SERVICE CATEGORY</u></b>	<b><u>CODE RANGE(S)</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>CONVERSION FACTOR</u></b>
Anesthesia	00000 - 09999	Anesthesia	\$58.19
Surgery - Group One	22000 - 22999 23000 - 24999 25000 - 27299 27300 - 27999 29800 - 29999 61000 - 61999 62000 - 62259 63000 - 63999	Spine Shoulder, Upper Arm, & Elbow Forearm, Wrist, Hand, Pelvis & Hip Leg, Knee, & Ankle Endoscopy & Arthroscopy Skull, Meninges & Brain Repair, Neuroendoscopy & Shunts Spine & Spinal Cord	\$140
Surgery - Group Two	28000 - 28999 64550 - 64999	Foot & Toes Nerves & Nervous System	\$125
Surgery - Group Three	13000 - 19999 20650 - 21999	Integumentary System Musculoskeletal System	\$110
Surgery - Group Four	20000 - 20615 30000 - 39999 40000 - 49999 50000 - 59999 60000 - 60999 62260 - 62999 64000 - 64549 65000 - 69999	Musculoskeletal System Respiratory & Cardiovascular Digestive System Urinary System Endocrine System Spine & Spinal Cord Nerves & Nervous System Eye & Ear	\$85



<b>MEDICAL FEE SCHEDULE</b>			
<b>SERVICE CATEGORY</b>	<b>CODE RANGE(S)</b>	<b>DESCRIPTION</b>	<b>CONVERSION FACTOR</b>
<u>Surgery - Group Five</u>	<u>10000 - 12999</u> <u>29000 - 29799</u>	<u>Integumentary System</u> <u>Casts &amp; Strapping</u>	<u>\$67</u>
<u>Radiology</u>	<u>70000 - 79999</u>	<u>Radiology</u>	<u>\$85</u>
<u>Pathology &amp; Laboratory</u>	<u>80000 - 89999</u>	<u>Pathology &amp; Laboratory</u>	<u>To Be Determined</u>
<u>Medicine - Group One</u>	<u>90000 - 90799</u> <u>94000 - 94999</u> <u>97000 - 97799</u> <u>97800 - 98999</u>	<u>Immunization, Injections, &amp; Infusions</u> <u>Pulmonary / Pulse Oximetry</u> <u>Physical Medicine &amp; Rehabilitation</u> <u>Acupuncture, Osteopathy, &amp; Chiropractic</u>	<u>\$45</u>
<u>Medicine - Group Two</u>	<u>90800 - 92999</u> <u>96040 - 96999</u> <u>99000 - 99607</u>	<u>Psychiatry &amp; Medicine</u> <u>Assessments &amp; Special Procedures</u> <u>E / M &amp; Miscellaneous Services</u>	<u>\$64.50</u>
<u>Medicine - Group Three</u>	<u>93000 - 93999</u> <u>95000 - 96020</u>	<u>Cardiography, Catheterization, &amp; Vascular Studies</u> <u>Allergy / Neuromuscular Procedures</u>	<u>\$70</u>

**bc.** The Conversion Factor for the Anesthesiology CPT Codes shall be multiplied by the Anesthesia Base Units assigned to that CPT Code by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services as of December 31 of the previous calendar year, plus the allowable time units reported for the procedure. Time units are computed by dividing reported time by fifteen (15) minutes. Time units will not be used for CPT Codes ~~01995 and~~ 01996. (3-12-07)(\_\_\_\_)

**ed.** Adjustment of Conversion Factors. The conversion factors set out in this rule shall be adjusted *prior to the beginning of each state fiscal year (FY), starting with FY ~~2008~~ 2009, as determined by the director of the Department of Health and Welfare using the methodology set forth in section 56-136, Idaho Code, pursuant to Section 72-803, Idaho Code. ~~The Commission shall determine the adjustment, which shall equal the percent change in the all item consumer price index for the west urban area, as published by the U.S. Department of Labor, for the twelve month (12) month period ending with December of the prior year.~~* (3-12-07)(\_\_\_\_)

**de.** Services Without CPT Code, RVU or Conversion Factor. The acceptable charge for medical services that do not have a *current* CPT code, a currently assigned RVU, or a conversion factor will be the reasonable charge for that service, based upon the usual and customary charge and other relevant ~~factors~~ *evidence*, as determined by the Commission. Where a service with a CPT Code, RVU, and conversion factor is, nonetheless, claimed to be exceptional or unusual, the Commission may, notwithstanding the conversion factor for that service set out in Subsection 031.02.b., determine the *reasonable acceptable* charge for that service, based on all relevant ~~factors~~ *evidence* in accordance with the procedures set out in Subsection 032.1#0. (3-12-07)(\_\_\_\_)

## **IDAPA 18 - DEPARTMENT OF INSURANCE**

### **18.01.50 - ADOPTION OF THE 2003 INTERNATIONAL FIRE CODE**

**DOCKET NO. 18-0150-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and 41-253, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 23 through 26.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Mark A. Larson, Idaho State Fire Marshal, at 208-334-4370.

DATED this 23rd day of November, 2007.

Mark A. Larson, State Fire Marshal  
Idaho Department of Insurance  
700 W. State Street - 3rd Floor  
Boise ID 83720  
P.O. Box 83720  
Boise ID 83720  
Phone: (208)334-4370  
Fax: (208) 334-4375

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#### **DOCKET NO. 18-0150-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 23 through 26.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## **IDAPA 18 - DEPARTMENT OF INSURANCE**

### **18.01.53 - CONTINUING EDUCATION**

**DOCKET NO. 18-0153-0701**

#### **NOTICE OF RULEMAKING - VACATION OF PROPOSED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the proposed rulemaking previously initiated under this docket. The action is authorized pursuant to Section 41-211, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a summary of the reasons for vacating the proposed rulemaking:

The agency has determined that additional time is needed to consider electronic filing procedures for producer continuing education providers before making electronic filing mandatory.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this vacation of proposed rulemaking, contact Jim Genetti at 208-334-4340.

DATED this 16th day of November, 2007.

William W. Deal, Director  
Idaho Department of Insurance  
700 West State Street, 3rd Floor  
Boise, Idaho 83720-0043  
Phone: (208) 334-4250  
Fax: (208) 334-4398

## **IDAPA 20 - DEPARTMENT OF LANDS**

### **20.02.06 - ADMINISTRATION OF IDAHO'S REFORESTATION LAW**

#### **DOCKET NO. 20-0206-0701 (CHAPTER REPEAL)**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section §§ 58-104(6) and 58-105, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

During the 1995 legislative session, the Legislature enacted Senate Bill 1088, repealing Chapter 2, Title 38, Idaho Code, the "Reforestation Law".

The purpose of this rulemaking is to repeal the Idaho Department of Lands' (IDL) IDAPA 20.02.06 "Administration of Idaho's Reforestation Law", the regulatory framework for the Reforestation Law that was repealed during the 1995 legislative session. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, page 37. No public comments were received during the public comment period which ended October 24, 2007.

**FISCAL IMPACT:** There will be no financial impact due to the repeal of this Rule.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Ronald A. Litz, Assistant Director, Forestry & Fire, Telephone number 208-334-0200.

DATED this 15th day of November, 2007.

Ronald A. Litz  
Division Administrator, Forestry & Fire  
954 W Jefferson, Boise, Idaho 83720-0050  
(208)334-0200/ Fax No. (208)334-3698  
rlitz@idl.idaho.gov

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#### **DOCKET NO. 20-0206-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, page 37.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## **IDAPA 20 - DEPARTMENT OF LANDS**

### **20.02.12 - RULES OF THE COMMUNITY AND URBAN FORESTRY TRUST ACCOUNT**

#### **DOCKET NO. 20-0212-0701 (CHAPTER REPEAL)**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section §§ 58-104(6) and 58-105, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The purpose of this rulemaking is to repeal the Idaho Department of Lands (IDL) IDAPA 20.02.12 "Rules of the Community and Urban Forestry Trust Account" because the statutory authority provides the necessary direction to manage this account.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, page 38. No public comments were received during the public comment period which ended October 24, 2007.

**FISCAL IMPACT:** There will be no financial impact due to the repeal of this Rule.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Ronald A. Litz, Assistant Director, Forestry & Fire, Telephone number 208-334-0200.

DATED this 15th day of November, 2007.

Ronald A. Litz  
Division Administrator, Forestry & Fire  
954 W Jefferson, Boise, Idaho 83720-0050  
(208)334-0200/ Fax No. (208)334-3698  
rlitz@idl.idaho.gov

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#### **DOCKET NO. 20-0212-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, page 38.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## IDAPA 20 - DEPARTMENT OF LANDS

### 20.03.04 - RULES GOVERNING THE REGULATION OF BEDS, WATERS, AND AIRSPACE OVER NAVIGABLE LAKES IN THE STATE OF IDAHO

DOCKET NO. 20-0304-0701

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Idaho Code Section 67-5224 and IDAPA 20.01.01, Rules of Practice and Procedure Before the State Board of Land Commissioners ("Board"), Sections 830 through 835, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 58-104(6), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The new rules are intended to implement changes in Section 58-1307, Idaho Code that increased application fees. The increase in fees is intended to cover the department's program costs. The rules also eliminate conflicts with Idaho Code Sections 58-1301, et seq. and the rules are reorganized to make them more understandable. These changes will also reduce the amount of time and money the department spends on the program. Encroachment standards are centralized in the new rules and expanded to address the issues that are currently facing the department. These issues include floathome sanitation, demolition, and allowing some amount of private moorage at commercial marinas. These rules are being promulgated in conjunction with changes to IDAPA 20.03.17, Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands.

Some changes were made to the pending rules after the close of comments on October 24, 2007. These changes are largely in response to comments received from the public. The definition of "commercial navigational encroachment" was modified to make it more general. A new definition of "commercial marina" was added. The term "commercial navigational encroachment" was then placed in the standards for encroachment lengths and in the application section. The standards for community docks and commercial marinas were modified and reorganized to clarify the distinctions between public and private moorage and remove some potential conflicts between paragraphs. Locked gates will be allowed on public moorage to address security concerns. Commercial marinas that convert to community docks must meet all the community dock standards. Parking requirements were modified to apply to all moorage at commercial marinas. Pursuant to Section 67-5228, Idaho Code, typographical, transcriptional, and/or clerical corrections have also been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in Book 2 of the October 3rd, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 39 through 60.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. The fee or charge is being imposed pursuant to Section 58-1307, Idaho Code:

Encroachment application fees for: single and two-family docks within the line of navigability will be increased to \$250; shoreline protection will be increased to \$250; single and two-family docks outside the line of navigability will be increased to \$1,000; community docks and commercial navigational encroachments will be increased to \$2,000; nonnavigational encroachments will be increased to \$1,000. For commercial navigational encroachments, if the actual cost of processing the permit exceeds \$2,000, then the department may charge an additional amount subject to Section 58-1307, Idaho Code. These fee amounts will also be the maximum fees for temporary permits. Assignment fees are set at \$150.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Eric Wilson, (208) 334-0261 or ewilson@idl.idaho.gov. More information is also at <http://www.idl.idaho.gov/adminrule/rulemaking.html>.

DATED this 15th day of November, 2007.

Eric Wilson  
Navigable Waters/Minerals Program Manager  
Idaho Department of Lands  
300 N. 6th Street, Suite 103, Boise, Idaho 83702  
Phone (208) 334-0261/ Fax (208) 334-3698  
ewilson@idl.idaho.gov

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**DOCKET NO. 20-0304-0701 - ADOPTION OF PENDING FEE RULE**

**Substantive changes have been made to the pending rule.**

**Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.**

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3 - Book 2, 2007, pages 39 through 60.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2008 Idaho State Legislature as a final rule.**

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**THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 20-0304-0701**

***Section 010 (entire section)***

**010. DEFINITIONS.**

**01. Adjacent.** Contiguous or touching, and with regard to land or land ownership having a common boundary. (7-1-98)

**02. Aids to Navigation.** Buoys, warning lights, and other encroachments in aid of navigation intended to improve waterways for navigation. ( )

**023. Artificial High Water Mark.** The high water elevation above the natural or ordinary high water mark resulting from construction of man-made dams or control works and impressing a new and higher vegetation

line. (9-13-90)( )

~~034.~~ **Beds of Navigable Lakes.** The lands lying under or below the “natural or ordinary high water mark” of a navigable lake and, for purposes of these rules only, the lands lying between the natural or ordinary high water mark and the artificial high water mark, if there be one. (9-13-90)

~~045.~~ **Board.** The Idaho State Board of Land Commissioners ~~of the State of Idaho~~ or its authorized representative designee. (9-13-90)( )

~~06.~~ **Boat Garage.** A structure with one (1) or more slips that is completely enclosed with walls, roof, and doors, but no temporary or permanent residential area. ( )

~~07.~~ **Boat Lift.** A mechanism for mooring boats partially or entirely out of the water. ( )

~~08.~~ **Boat Ramp.** A structure or improved surface extending below the ordinary or artificial high water mark whereby watercraft or equipment are launched from land-based vehicles or trailers. ( )

~~059.~~ ~~Commercial Navigational Encroachment~~ **Commercial Marina.** A commercial navigational encroachment ~~for the use of which patrons pay a fee~~ whose primary purpose is to provide moorage for rental or for free to the general public. (9-13-90)( )

~~10.~~ **Commercial Navigational Encroachment.** A navigational encroachment used for commercial purposes. ( )

~~0611.~~ **Community Docks.** A ~~S~~structures that provides private moorage facilities for more than two (2) adjacent riparian littoral owners, or ~~for a homeowners’ association that is a riparian~~ other littoral owners ~~owning~~ possessing a riparian littoral common area ~~including riparian~~ with littoral rights including, but not limited to homeowner’s associations. ~~A community dock shall not have less than fifty (50) feet combined shoreline frontage. A community dock shall be considered a commercial navigational aid for purposes of processing the application. No public access is required for a community dock.~~ (3-19-99)( )

~~07-~~ **Contested Case Hearing.** ~~A formal hearing conducted pursuant to these rules, Idaho Code, Title 67, Chapter 52, and IDAPA 20.01.01, “Rules of Practice and Procedure Before the State Board of Land Commissioners.” This type of hearing requires the formal designation of parties as set forth in the Board’s Rules of Practice and Procedure, IDAPA 20.01.01, and is conducted like a trial. Members of the public not wishing to formally intervene in contested case hearings as a party may nevertheless participate in such hearings as public witnesses pursuant to IDAPA 20.01.01.~~ (7-1-98)

~~12.~~ **Covered Slip.** A slip, or group of slips, with a tubular frame, fabric canopy, and no eaves. ( )

~~0813.~~ **Department.** The Idaho Department of Lands or its designee. (9-13-90)( )

~~0914.~~ **Director.** The director head of the Idaho Department of Lands or his designee. (9-13-90)( )

~~105.~~ **Encroachments in Aid of Navigation.** Includes docks, piers, ~~floats,~~ jet ski and boat lifts, buoys, pilings, breakwaters, boat ramps, channels or basins, and other ~~such aids to navigability~~ facilities used to support water craft and moorage on, in, or above the beds or waters of a navigable lake. The term “encroachments in aid of navigation” may be used interchangeably herein with the term “navigational encroachments.” (3-19-99)( )

~~146.~~ **Encroachments Not in Aid of Navigation.** Includes all other encroachments on, in, or above the beds or waters of a navigable lake, including landfills, bridges, utility and power lines, or other structures not constructed primarily for use in aid of navigation. It shall also include float homes ~~moored permanently or in any one (1) place for a substantial period of time and used as either a permanent or temporary place of abode or residence~~ and floating toys. The term “encroachments not in aid of navigation” may be used interchangeably herein with the term “nonnavigational encroachments.” (9-13-90)( )

~~17.~~ **Floating Home or Float Home.** A structure that is designed and built to be used, or is modified to



be used, as a stationary waterborne residential dwelling and is not self-propelled. These structures are usually dependent for utilities upon a continuous utility linkage to a source originating on shore, and must have either a permanent continuous connection to a sewage system on shore, or an alternative method of sewage disposal that does not violate local, state, or federal water quality and sanitation regulations. ( )

**18. Floating Toys.** Non-navigational encroachments including, but not limited to, trampolines, inflatable structures, water ski courses, and other recreational equipment not moored to a dock. ( )

**19. Jet Ski Ramp, Port, or Lift.** A mechanism for mooring jet skis or other personal watercraft similar to a boat lift. The lifts may be free standing or attached to a dock or pier. ( )

**20. Line of Navigability.** ~~The dock line established by existing docks or if no dock line exists then such distance below the low water mark as will afford sufficient draft for water craft customarily in use on that particular body of water.~~ A line located at such distance waterward of the low water mark established by the length of existing legally permitted encroachments, water depths waterward of the low water mark, and by other relevant criteria determined by the board when a line has not already been established for the body of water in question. (7-1-98)( )

**21. Low Water Mark.** That line or elevation on the bed of a lake marked or located by the average low water elevations over a period of years, and marks the point to which the riparian rights of adjoining landowners extend as a matter of right, in aid of their right to use the waters of the lake for purposes of navigation. (7-1-98)( )

**22. Moorage.** A place to secure float homes and watercraft including, but not limited to, boats, personal watercraft, jet skis, etc. ( )

**23. Natural or Ordinary High Water Mark.** The high water elevation in a lake over a period of years, uninfluenced by man made dams or works, at which elevation the water impresses a line on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes. (9-13-90)

**24. Navigable Lake.** Any permanent body of relatively still or slack water, including man-made reservoirs, not privately owned and not a mere marsh or stream eddy, and capable of accommodating boats or canoes, and includes ~~This definition does not include~~ man-made reservoirs ~~except~~ where the jurisdiction thereof is asserted and exclusively assumed by a federal agency. (9-13-90)( )

**25. Party.** Each person or agency named or admitted as a party, or property seeking and entitled as of right to be admitted as a party to a hearing on an application for an encroachment. (9-13-90)

**26. Person.** ~~Any individual,~~ partnership, association, ~~company,~~ corporation, ~~municipality,~~ county, state or federal agency, natural person, or ~~other~~ entity qualified to do business in the state of Idaho and any federal, state, tribal, or municipal unit of government. (9-13-90)( )

**27. Piling.** A metal, concrete, plastic, or wood post that is placed into the lakebed and used to secure floating docks and other structures. ( )

**28. Plans.** Maps, sketches, engineering drawings, aerial and other photographs, word descriptions, and specifications sufficient to describe the extent, nature and approximate location of the proposed encroachment and the proposed method of accomplishing the same. (9-13-90)

**29. Public Meeting Hearing.** The type of hearing where members of the public are allowed to comment, in written or oral form, on the record at a public meeting held at a set time and place and presided over by a designated representative of the Department who shall act as the hearing coordinator. This type of hearing is an informal opportunity for public comment and does not involve the presentation of witnesses, cross examination, oaths, or the rules of evidence. A record of any oral presentations at such hearings will be taken by the Department by tape recorder. The hearing coordinator shall exercise such control at hearings as necessary to maintain order, decorum and common courtesy among the participants. (7-1-98)( )

~~230.~~ **Public Trust Doctrine.** The duty of the State to its people to ensure that the use of public trust resources is consistent with identified public trust values. This common law doctrine has been interpreted by decisions of the Idaho Appellate Courts and is codified at Title 58, Chapter 12, Idaho Code. (3-19-99)

~~31.~~ **Pylon.** A metal, concrete, or wood post that is placed into the lakebed and used to support fixed piers. ( )

~~2432.~~ **Riparian or Littoral Rights.** ~~Only the~~ rights of owners or lessees of land adjacent to navigable lakes and waters of the lake to maintain their adjacency to the lake and to make use of their rights as riparian or littoral owners or lessees in building or using aids to navigation but does not include any right to make any consumptive use of the waters ~~or to remove bed materials from state-owned lakebeds~~ of the lake. (3-19-99)( )

~~2233.~~ **Riparian or Littoral Owner.** The fee owner of land immediately adjacent to a navigable lake, or his lessee, or the owner of riparian or littoral rights that have been segregated from the fee specifically by deed or grant. (7-1-98)( )

~~34.~~ **Riparian or Littoral Right Lines.** Lines that extend waterward of the intersection between the artificial or ordinary high water mark and an upland ownership boundary to the line of navigation. Riparian or littoral right lines will generally be at right angles to the shoreline. ( )

~~35.~~ **Side Tie.** Moorage for watercraft where the dock or pier is on only one (1) side of the watercraft. ( )

~~236.~~ **Single-Family Dock.** A structure providing noncommercial moorage facilities that serves one (1) waterfront lot having frontage of owner whose waterfront footage is no less than twenty-five (25) feet. (7-1-98)( )

~~37.~~ **Slip.** Moorage for boats with pier or dock structures on at least two (2) sides of the moorage. ( )

~~2438.~~ **Submerged Lands.** The state-owned beds of navigable lakes, rivers and streams below the natural or ordinary high water marks. (9-13-90)

~~2539.~~ **Two-Family Dock.** A structure providing noncommercial moorage facilities that serves two (2) adjacent waterfront lots owners having a combined frontage waterfront footage of no less than fifty (50) feet. Usually the structure is located on the common riparian littoral property line. (7-1-98)( )

~~2640.~~ **Uplands.** The land bordering on navigable lakes, rivers, and streams. (9-13-90)( )

**Subsection 015.02.e. through subsection 015.03.j. and subsection 015.13.d.**

**015. DOCK ENCROACHMENT STANDARDS AND FLOAT HOME REQUIREMENTS.**

~~032.~~ **Community Docks.** (7-1-98)

**e.** A person with an existing community dock that desires to change the facility to a commercial marina must submit the following information to the department: ( )

**i.** A new application for an encroachment permit. ( )

**ii.** Text and drawings that describe which moorage will be public and which moorage will be private. ( )

~~03.~~ **Commercial Marina.** ( )

a. Commercial marinas must have moorage available for use by the general public. Such use may range from providing day moorage on a first come, first served basis for free or rent to renting or leasing moorage for a period of time up to one (1) year. Moorage contracts may be renewed annually, but the renewal term may not exceed one (1) year. Moorage for use by the general public may not include conditions that result in a transfer of ownership of moorage or real property, or require membership in a club or organization. ( )

b. Commercial marinas that change to a community dock use must conform to all the community dock standards, including square footage restrictions. This change of use must be approved by the department through a new encroachment permit prior to implementing the change. ( )

c. Commercial marinas shall provide a minimum of upland vehicle parking equivalent to one (1) parking space per two (2) watercraft moorages that are available for use by the general public, and one (1) parking space per two (2) float home moorages. Local city or county ordinances governing parking requirements for marinas will apply if such have been enacted. ( )

d. If a commercial marina can be accessed from a road, marina customers must be allowed access via that road. ( )

e. Commercial marinas must have a minimum of fifty percent (50%) of their boat moorage available for use by the general public. ( )

f. Moorage that is not available for public use is private moorage. Private moorage is created when one (1) of the following occurs: ( )

i. Moorage is rented or leased for longer than one (1) year without requiring a renewal. ( )

ii. Moorage is acquired with a purchase as described in Paragraph 015.03.a. of these rules. ( )

g. When calculating the moorage percentage, the amount of public moorage shall be compared to the amount of private moorage. Commercial marinas with private float home moorage shall be required to provide either non-private float home moorage or two (2) public use boat moorages for every private float home moorage in addition to any other required public use boat moorages. ( )

h. When private moorage is permitted, the public moorage must be of similar size and quality as private moorage, except for float home moorage as provided in Paragraph 015.03.g. of these rules. ( )

i. Commercial marinas with private moorage must form a condominium association, co-op, or other entity that owns and manages the marina, littoral rights, upland property sufficient to maintain and operate a marina, and private submerged land, if present. This entity is responsible for obtaining and maintaining an encroachment permit under these rules and a submerged lands lease under IDAPA 20.03.17, "Rules Governing Leases on State-Owned Submerged lands and Formerly Submerged Lands." ( )

j. Existing commercial marinas that desire to change their operations and convert some of their moorage to private use must keep at least fifty percent (50%) of their moorage available for use by the general public. This change in operations must be approved by the department through a new encroachment permit prior to implementation of the change. The permit application shall describe, in text and in drawings, which moorage will be public and which moorage will be private. ( )

**13. General Encroachment Standards.** ( )

d. Length of Community Docks and Commercial Navigational Encroachments. Docks, piers, or other works may extend to a length that will provide access to a water depth that will afford sufficient draft for water craft customarily in use on the particular body of water, except that no structure may extend beyond the normal accepted line of navigability established through use unless additional length is authorized by permit or order of the director. If a normally accepted line of navigability has not been established through use, the director may from time to time as

he deems necessary, designate a line of navigability for the purpose of effective administration of these rules. ( )

***Subsection 020.05.b.***

**020. APPLICATIONS.**

**05. Dock Reconfiguration.** ( )

**b.** Rearrangement of community docks and commercial navigational encroachments may not require a new application for an encroachment permit if the changes are only internal. The department shall be consulted prior to modifications being made, and shall use the following criteria to help determine if a new permit must be submitted. ( )

***Subsection 065.04.b.***

**065. ASSIGNMENTS.**

**04. Assignment With New Permit.** Encroachments not in compliance with the approved permit may be assigned only if: ( )

**b.** The assignee submits written consent to bring the encroachment permit into compliance. ( )

## IDAPA 20 - DEPARTMENT OF LANDS

### 20.03.17 - RULES GOVERNING LEASES ON STATE-OWNED SUBMERGED LANDS AND FORMERLY SUBMERGED LANDS

DOCKET NO. 20-0317-0701

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Idaho Code Section 67-5224 and IDAPA 20.01.01, Rules of Practice and Procedure Before the State Board of Land Commissioners ("Board"), Sections 830 through 835, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 58-104(6), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The new rules were developed in conjunction with changes to IDAPA 20.03.04, Rules Governing the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho and will ensure continuity between the two sets of rules. Definitions were changed and expanded. The methods for determining rental rates were clarified. Yearly reporting requirements are added to assist the department's administration of the program and ability to keep rental rates current. Enforcement remedies are expanded to provide alternatives to lease cancellation. The rules also allow some amount of private moorage at commercial marinas.

Some changes were made to the pending rules after the close of comments on October 24, 2007. These changes are largely in response to comments received from the public. The definition of "commercial navigational encroachment" was modified to make it more general. A new definition of "commercial marina" was added. A definition of "two-family dock" was added for clarity. The lease term was modified in response to concerns that the wrong reference was used. References to public moorage, private moorage, and float homes were modified to clarify the meaning. Pursuant to Section 67-5228, Idaho Code, typographical, transcriptional, and/or clerical corrections have also been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in Book 2 of the October 3rd, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 61 through 69.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

The fee or charge is being imposed pursuant to Sections 58-304 through 58-312, Idaho Code. Lease application and renewal fees will be increased to \$150. Lease assignment fees will be increased to \$150. Lease application and assignment fees will be required in addition to similar fees collected under IDAPA 20.03.04, Rules Governing the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho. Rental rates will be set by the Board. Lease violations may be remedied with payment of a civil penalty to be collected as additional rent.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Eric Wilson, (208) 334-0261 or [ewilson@idl.idaho.gov](mailto:ewilson@idl.idaho.gov). More information is also at <http://www.idl.idaho.gov/adminrule/rulemaking.html>.

DATED this 15th day of November, 2007.

Eric Wilson  
Navigable Waters/Minerals Program Manager  
Idaho Department of Lands  
300 N. 6th Street, Suite 103  
Boise, Idaho 83702  
Phone (208) 334-0261/ Fax (208) 334-3698  
ewilson@idl.idaho.gov

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**DOCKET NO. 20-0317-0701 - ADOPTION OF PENDING FEE RULE**

**Substantive changes have been made to the pending rule.**

**Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.**

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3 - Book 2, 2007, pages 61 through 69.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

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**THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 20-0317-0701**

***Section 000 (Entire Section)***

**000. LEGAL AUTHORITY.**

*These rules are promulgated pursuant to, and shall be construed in a manner consistent with, the duties and responsibilities of the Idaho State Board of Land Commissioners as set forth in Idaho Code, Chapters 1, 3, and 6, Title 58, and the Public Trust Doctrine. This Chapter is adopted under the legal authorities of Title 58, Chapter 1, Idaho Code, Sections 58-104(6), 58-104(9), and 58-105; Title 58, Chapter 3, Idaho Code, Sections 58-304 through 58-312; Title 58, Chapter 6, Idaho Code; Title 58, Chapter 12; and Title 67, Chapter 52, Idaho Code. (7-1-97)(\_\_\_\_)*

***Section 010 (Entire Section)***

**010. DEFINITIONS.**

**01. Artificial High Water Mark.** The high water elevation above the natural or ordinary high water mark resulting from construction of man-made dams or control works and impressing a new and higher vegetation line. *(Section 58-1302(d), Idaho Code).* (7-1-97)(\_\_\_\_)

**02. Board.** The Idaho State Board of Land Commissioners or *such representative as may be designated by the Board* its designee. (7-1-97)(\_\_\_\_)

**03.** ~~Commercial Navigational Encroachment~~ **Commercial Marina.** A commercial navigational encroachment ~~for the use of which patrons pay a fee~~ whose primary purpose is to provide moorage for rental or for free to the general public. (7-1-97)( )

**04.** **Commercial Navigational Encroachment.** A navigational encroachment used for commercial purposes. ( )

**045.** ~~Community Dock or Multiple Family Dock.~~ SA structures that provides private moorage facilities for more than two (2) adjacent ~~riparian~~ littoral property owners, or other littoral owners possessing a littoral common area with littoral rights including, but not limited to, homeowners' associations. ~~A community dock shall be considered a commercial navigational aid.~~ No public access is required for a community dock. (7-1-97)( )

**056.** **Department.** The Idaho Department of Lands or its designee. (7-1-97)( )

**067.** **Director.** The director head of the Idaho Department of Lands or ~~such representative as may be designated by the director~~ his designee. (7-1-97)( )

**078.** **Dock Surface Area.** Includes docks, slips, piers, and ramps and is calculated in square feet. Dock surface area does not include ~~piles~~ pilings, submerged anchors, or undecked breakwaters. (7-1-97)( )

**082.** **Encroachments in Aid of Navigation.** Includes docks, piers, ~~floats~~ jet ski and boat lifts, buoys, pilings, breakwaters, boat ramps, channels or basins, ~~log storage, public boardwalks~~ and other ~~such aids to navigability~~ facilities used to support water craft and moorage on, in, or above the beds or waters of a navigable lake, river or stream. The term "encroachment(s) in aid of navigation" may be used interchangeably herein with the term "navigational encroachment(s)." (7-1-97)( )

**109.** **Encroachments Not in Aid of Navigation.** Includes all other encroachments on, in, or above the beds or waters of a navigable lake, river or stream, ~~such as fills into waterways~~ including landfills, bridges, ~~floating restaurants, bars, stores~~ utility and power lines, or other structures not constructed primarily for use in aid of navigation. It shall also include float homes ~~moored permanently or in any one place for a substantial period of time and used as either a permanent or temporary place of abode or residence~~ and floating toys. The term "encroachments not in aid of navigation" may be used interchangeably herein with the term "non-navigational encroachment(s)." (7-1-97)( )

**101.** **Formerly Submerged Lands.** The beds of navigable lakes, rivers, and streams that have either been filled or subsequently became uplands because of human activities including construction of dikes, berms, and seawalls. Also included are islands that have been created on submerged lands through natural processes or human activities since statehood, July 3, 1890. (7-1-97)

**142.** **Market Value.** ~~For purposes of these rules only, the per acre market value of the state owned submerged lands shall be the same as the per acre value of the adjacent uplands for which the submerged or formerly submerged land shall serve as a substitute. The per acre value of the adjacent upland may be the county assessed value or may be appraised, as determined by the Director. The most probable price at a specified date, in cash, or on terms reasonably equivalent to cash, for which the property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus.~~ (7-1-97)( )

**123.** **Natural or Ordinary High Water Mark.** The line that the water impresses upon the soil by covering it for a sufficient period of time to deprive the soil of its vegetation and destroy its value for agricultural purposes ~~(Section 58-104 and 58-1302(e), Idaho Code).~~ If, however, the soil, configuration of the surface, or vegetation has been altered by man's activity, the ordinary high water mark shall be located where it would have been if the alteration had not occurred. (7-1-97)( )

**134.** **Person.** ~~An individual,~~ partnership, association, ~~or~~ corporation, natural person, or entity qualified to do business in the state of Idaho; and any federal, state, ~~county~~ tribal, or ~~local~~ municipal unit of government. (7-1-97)( )

~~145.~~ **Riparian or Littoral Rights.** ~~Only~~ The rights of owners or lessees of land adjacent to navigable lakes, rivers or streams to maintain their adjacency to the lake, river, or stream and to make use of their rights as riparian or littoral owners or lessees in building or using aids to navigation but does not include any right to make any consumptive use of the waters ~~or to remove state-owned bed materials.~~ (Section 58-1302(f), Idaho Code). (7-1-97)( )

~~156.~~ **Single-Family Dock.** A structure ~~that provides~~ providing noncommercial moorage facilities to that serves one (1) ~~riparian/littoral~~ waterfront owner whose waterfront footage is no less than twenty-five (25) feet. (7-1-97)( )

~~167.~~ **Submerged Lands.** The state-owned beds of navigable lakes, rivers, and streams ~~lying~~ below the natural or ordinary high water marks. (7-1-97)( )

~~18.~~ **Two-Family Dock.** A structure providing noncommercial moorage that serves two (2) adjacent waterfront owners having a combined waterfront footage of no less than fifty (50) feet. Usually the structure is located on the common littoral property line. ( )

~~179.~~ **Uplands.** The land bordering on navigable lakes, rivers, and streams. (7-1-97)( )

### Subsections 025.07, 025.10, and 025.12

#### 025. POLICY.

~~07.~~ **Term of Lease, Renewal of Lease.** Leases shall be issued for a term ~~not to exceed~~ of ten (10) years ~~or as determined by the board, and shall~~ Leases may be renewed for additional ~~ten (10) year~~ periods to be determined by the department based upon satisfactory performance during the present term. Renewals shall be processed with a minimum of procedural requirements and shall not be denied except in the most unusual circumstances or noncompliance with the terms and conditions of the previous lease. Lease renewals shall be initiated by the ~~director~~ department. (7-1-97)( )

~~10.~~ **Rules Applicable to All Existing and Proposed Uses and Encroachments.** These rules shall apply to all existing and proposed uses and encroachments, whether or not authorized by permit under the Lake Protection Act, Title 58, Chapter 13, Idaho Code, or the Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code. These rules provide that a lease may be required in addition to existing permits. See ~~Subsection 020.01 through 020.05~~ of these rules for information about exceptions to lease requirements. (7-1-97)( )

~~12.~~ **Private Moorage at Commercial Marinas.** ( )

### Subsection 035.01

#### 035. RENTAL.

~~01.~~ **Rental Rates Determined by the Board.** The rental rates policy for submerged land leases shall be set by the Board. This policy is available on the Internet at [www.idl.idaho.gov](http://www.idl.idaho.gov). (7-1-97)( )

~~01.~~ **Standardized Rental Rates.** The board shall set standard submerged land lease rental rates for common uses such as commercial marinas, community docks, floathomes, restaurants, and retail stores. These rates may use a percentage of market value or gross receipts as well as other methods determined appropriate by the board. ( )



*Subsections 036.01.b. and 036.01.c.*

**036. YEARLY REPORTING.**

**01.** Annual Report. Lessees shall provide an annual report to the department which shall include: ( )

**b.** The number and size of all public boat and float home moorages. ( )

**c.** The number and size of all private boat and float home moorages. ( )

## **IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**

### **24.24.01 - RULES OF THE BOARD OF NATUROPATHIC MEDICAL EXAMINERS**

#### **DOCKET NO. 24-2401-0701 (NEW CHAPTER, FEE RULE)**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, rejected, amended or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-5109, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The agency has adopted the pending rule in order to implement the statutory directives for licensure of naturopaths in the state of Idaho. Pursuant to Section 67-5227, Idaho Code, and in response to public testimony and written comments received, the agency has amended several sections with content different from that originally proposed.

Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 3, 2007 Idaho Administrative Bulletin, Vol. 7-10, Book 2, pages 174 through 183.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-5111, Idaho Code:

The rule will establish fees for application, original license, and renewal of license.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dr. Laurence Hicks at (208) 733-4444.

DATED this 14th day of November, 2007.

Dr. Laurence Hicks, Chairman  
153 Blue Lakes Blvd. North  
Twin Falls, ID 83301  
(208) 733-4444  
(208) 733-4456 fax

**DOCKET NO. 24-2401-0701 - ADOPTION OF PENDING FEE RULE**

**Substantive changes have been made to the pending rule.**

**Only those sections and subsections that have changed from the original proposed text are printed in this Bulletin following this notice.**

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 174 through 183.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

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**THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 24-2401-0701**

***Section 000 (Entire Section)***

**000. LEGAL AUTHORITY (RULE 0).**

Pursuant to Sections 54-5103, 54-5104, 54-5105, and 54-5109, Idaho Code, the Idaho Board of Naturopathic Medical Examiners (IBNME) is authorized to promulgate rules to govern the practice of Naturopathic Medicine in Idaho.

( )

***Section 004 (Entire Section)***

**004. INCORPORATION BY REFERENCE (RULE 4).**

**01. Incorporated Documents.** IDAPA 24.24.01 adopts and incorporates by reference the following documents:

( )

**a.** *The United States Pharmacopeia-National Formulary, ISBN-13: 9789997013743, publication date May 2007.*

( )

**b.** *Homeopathic Pharmacopeia of the United States. This document has been in continuous publication since 1897 and a subscription can be obtained from the Revision Service.*

( )

**c.** *Drug Facts & Comparisons 2008, ISBN-13: 9781574392722, publication date October 2007.*

( )

**d.** *PDR for Herbal Medicines, ISBN-13: 9781563636783, publication date September 2007.*

( )

**02. Availability of Referenced Documents.** Copies of the documents listed in Section IDAPA 004.01 of these rules are available at the Board office.

( )

***Section 005 (Entire Section)***

**005. ADDRESS OF IDAHO BOARD OF NATUROPATHIC MEDICAL EXAMINERS (RULE 5).**

The central office of the Idaho Board of Naturopathic Medical Examiners *is* located within the Bureau of Occupational Licenses. The Board's mailing address *is* Idaho Board of Naturopathic Medical Examiners, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702-5642. The telephone number of the Board is (208)334-3233. The Board's facsimile (FAX) number is (208)334-3945. The Board's web site is at [www.ibol.idaho.gov/nat.htm](http://www.ibol.idaho.gov/nat.htm). The Board's office *is open from* 8 a.m. to 5 p.m. *Mountain time, except Saturday, Sunday, and legal holidays.* ( )

***Section 007 (Entire Section)***

**007. FILING OF DOCUMENTS (RULE 7).**

Originals of all documents must be filed with the Board. ( )

***Section 010 (Entire Section)***

**010. DEFINITIONS (RULE 10).**

- 01. Act or NPLA.** The Naturopathic Physicians Licensing Act. Title 54, Chapter 51, Idaho Code. ( )
- 02. Applicant.** Any person seeking a license to practice naturopathic medicine from the Board. ( )
- 03. Board.** The Idaho Board of Naturopathic Medical Examiners as prescribed in Section 54-5108, Idaho Code. ( )
- 04. Bureau.** The Bureau of Occupational Licenses as prescribed in Section 67-2602, Idaho Code. ( )
- 05. Environmental Medicine.** Environmental Medicine explores the role of dietary and environmental allergens in health and illness. Environmental medicine addresses the elimination of toxic substances in the body, the body's ability to process new environmental insults, and lifestyle changes to avoid future problems. ( )
- 06. Former Patient.** A former patient includes a patient for whom the physician has not provided medical services or prescriptions within the last eighteen (18) months. ( )
- 07. License to Practice Naturopathic Medicine.** A license issued by the Board to practice naturopathic medicine in Idaho. ( )
- 08. Mechanotherapy.** The treatment of disease by manual, physical, electrical, or mechanical means. Mechanotherapy excludes chiropractic adjustment as defined in Section 54-704, Idaho Code, or physical therapy as defined in Section 54-2203, Idaho Code. ( )
- 09. Meridian Therapy.** Meridian therapy is the treatment of the body's energy pathways by manual, electrical, physical, or mechanical means. Meridian therapy does not involve insertion of acupuncture needles. ( )
- 10. Naturopathic Medical Formulary Council.** That council created and consisting of naturopathic physicians, pharmacists, and medical physicians pursuant to Section 54-5110, Idaho Code. The council, once appointed and formed, must specifically include in the naturopathic medical formulary those prescription drugs and/or medical devices that a naturopathic physician will be allowed to dispense, administer, adjust or prescribe. ( )
- 11. Naturopathic Medicine.** Naturopathic medicine allows naturopathic physicians to provide all natural health care services as defined in Section 54-5102(8), Idaho Code. ( )
- 12. Original Certificate or Document.** Shall mean either the original document itself or a certified copy thereof issued by the agency or institution and mailed or delivered directly from the source to the Board or a

Board approved credential verification service. ( )

**13. Rules.** The Rules of the Board of Naturopathic Medical Examiners, IDAPA 24.24.01, as amended from time to time. ( )

***Section 100 (Entire Section)***

**100. SCOPE OF PRACTICE (RULE 100).**

**01. Scope of the Naturopathic Physician.** A naturopathic physician is authorized to provide only services and treatments for which that licensee has been appropriately trained and prepared by Board approved education, continuing education, and practical experience. Information contained within the application together with supporting documentation submitted by the licensee shall be prima facie evidence of the licensee's education and experience. It is the responsibility of the individual licensee to submit adequate documentation of education and experience appropriate to the services and treatments being provided to the public. Naturopathic medicine allows naturopathic physicians to provide all natural health care services as defined in Section 54-5102(8), Idaho Code. A naturopathic physician is authorized to examine, diagnose, treat, mitigate, and prevent all mental and physical illnesses, infirmities, injuries, ailments, diseases, and conditions or make appropriate referral. ( )

**02. Treatments.** The scope of practice as defined in Section 54-5104, Idaho Code, and includes dispensing, administering, ordering, prescribing, or performing the following: ( )

**a.** Oral food, extracts of food, nutraceuticals, phytonutrients, vitamins, amino acids, minerals, enzymes, botanicals, and their extracts, homeopathic medicines, herbal medicines, Ayurvedic medicines, all dietary supplements and non prescription drugs as defined by or recognized in the United States Pharmacopoeia-National Formulary (USP-NF), the Homeopathic Pharmacopoeia of the United States (HPUS), Facts & Comparisons, and the PDR (Physicians Desk Reference) for Herbal Medicines or any supplement to these documents. ( )

**b.** Prescription medications and devices as determined by the naturopathic medical formulary council and approved by the Board. ( )

**c.** Naturopathic physical medicine and modalities consistent with naturopathic medical training and education including, but not limited to, hydrotherapy, colon hydrotherapy, meridian therapy, electro-stimulation, sensitivity elimination therapy, micro-systems diagnosis and therapy, mechanotherapy, therapeutic touch, contact reflex analysis, environmental medicine, light therapy, color therapy, energy therapy, gem therapy, sound therapy, air therapy, heat therapy, bio-feedback, and therapeutic exercise. Devices including, but not limited to, therapeutic devices, barrier contraception, and durable medical equipment. ( )

**d.** Health promoting education and counseling. ( )

**e.** Repair and care incidental to superficial lacerations and abrasions, removal of foreign bodies located in the superficial tissues, as defined in Section 54-5102(3), Idaho Code. ( )

***Subsections 125.04.b., 125.05.a., and 125.06***

**125. QUALIFICATIONS FOR LICENSURE (RULE 125).**

**04. Application - Form and Deadline.** ( )

**b.** No application shall be accepted or considered by the Board until it is complete and has been received by the Bureau at least thirty (30) days prior to the next scheduled Board meeting and all required fees have been paid. ( )

**05. Official Transcripts.** ( )

**a.** All applicants shall arrange for official transcripts of all *education* credit earned to be transmitted *directly to the Board* by the registrars of the educational institutions. ( )

**06. Personal Interview.** Each applicant may be personally interviewed by the Board or a designated committee of the Board. The interview shall include a review of the applicant's qualifications and professional credentials. ( )

**Section 130, Subsections 130.01, 130.01.a., and 130.03**

**130. APPROVED PROGRAMS OF NATUROPATHIC MEDICINE (RULE 130).**

All applicants shall have attended an "Approved Naturopathic Medical Program" as that phrase is defined in Section 54-5102(1), Idaho Code, to mean a doctoral level program of supervised resident study in naturopathic medicine approved by the Board. ( )

**01. Naturopathic Medical Program.** Programs will meet the following minimum naturopathic medicine educational standards: ( )

**a.** The *entity offering the naturopathic medical program* is or was *operating* under the laws of the state of its residence. Foreign country naturopathic medical programs must possess equivalent qualifications to those required of U.S. naturopathic medical programs. Approved schools of Naturopathic Medicine will be duly registered with the appropriate agency under their State Department or Board of Education in the state in which they exist and regulated by the rules of that Department or Board of Education in that state. Any individual or school entity offering an approved program of study in Naturopathic Medicine and operating in the state of Idaho must comply with provisions of Title 33, Chapter 24, Idaho Code, and register with the Idaho State Board of Education unless specifically exempt from the registration requirements of IDAPA 08.01.11.400.03.d., "Registration of Post-Secondary Educational Institutions and Proprietary Schools." ( )

**03. Registration Requirements.** All approved programs must also meet the registration requirements of their relevant jurisdiction. ( )

**Section 135 (Entire Section)**

**135. APPROVED NATUROPATHIC EXAMINATION (RULE 135).**

All applicants must pass a Board-approved examination. ( )

**01. Section 54-5109(9), Idaho Code.** The Board shall have the authority to provide a uniform, independently proctored and psychometrically valid examination for use in licensing naturopathic physicians which will adequately test the applicant's knowledge of naturopathic medicine including the basic medical sciences and the diagnostic and therapeutic skill of license applicants. ( )

**02. Approved Examinations.** The Board will provide or approve an independently proctored examination which will test the diagnostic and clinical competency of all applicants. All applicants, previously licensed or not, must have passed an approved competency examination. ( )

**03. Board Evaluation of Examinations.** The Board retains its authority to evaluate any examination entity for approval that meets the statute examination requirements as defined in Sections 54-5109(9) and 54-5112(2), Idaho Code, including competency based and is psychometrically valid and reliable. ( )

**04. Minimum Passing Score.** The minimum passing score for each section of any examination approved by the Board shall be that passing score determined by the examination entity. ( )

***Subsection 150.03***

**150. LICENSES (RULE 150).**

**03. Reinstatement.** In accordance with Section 67-2614, Idaho Code, licenses canceled for nonpayment of renewal fees may be reinstated by filing a reinstatement application on forms prescribed by the Board and upon payment of a reinstatement fee. The applicant shall submit proof of having satisfied the required CE credits for the twelve (12)-month period preceding the reinstatement date. ( )

***Subsections 250.03, 250.04, and 250.07***

**250. CONTINUING NATUROPATHIC EDUCATION (CNE) REQUIRED (RULE 250).**

**03. Continuing Education.** Once an approved formulary, as determined by the naturopathic medical formulary council, has been adopted by rule, all licensed naturopathic physicians must take a Board-approved course reviewing any addition to the formulary. ( )

**04. Approved Programs.** All education offered by regionally accredited institutions or organizations, or sponsored by a federally accredited naturopathic medical program, or as approved by the Board. ( )

**07. Penalties for Noncompliance.** The Board may condition, limit, suspend, or refuse to renew the license of any person whom the Board determines has failed to comply with the continuing education requirements of these rules. ( )

***Subsection 300.03***

**300. FEES (RULE 300).**

**03. Reinstatement License Fee.** Reinstatement License Fee -- one hundred dollars (\$100) plus total of renewal fees not paid by applicant. ( )

***Subsection 350.03.b. through 350.03.d., Subsections 350.04, 350.04.c.ii., 350.05, and 350.06***

**350. ADDITIONAL GROUNDS FOR SUSPENSION, REVOCATION OR DISCIPLINARY ACTIONS AND SANCTIONS. (RULE 350).**

In addition to the statutory grounds for naturopathic medical discipline set forth in Section 54-5115, Idaho Code, every person licensed to practice naturopathic medicine is subject to discipline by the Board upon any of the following grounds: ( )

**03. Failure to Meet Standard of Care.** The providing of health care which fails to meet the standard of health care provided by other qualified naturopathic physicians in the same community or similar communities, includes, but is not limited to: ( )

**b.** Engaging in practice or behavior that demonstrates or manifests an incapacity or incompetence to

practice naturopathic medicine. ( )

c. Allowing another person or organization to use the licensee's license to practice *naturopathic* medicine. ( )

d. Prescribing, selling, administering, distributing, or giving to himself, herself, to a spouse, child, or stepchild any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug. ( )

**04. Conduct.** Engaging in any conduct that constitutes an abuse or exploitation of a patient arising out of the trust and confidence placed in the physician by the patient, including, but not limited to: ( )

c. Commission of any act of sexual contact, misconduct, exploitation, or intercourse with a patient or former patient where such act arises out of the licensee's practice of naturopathic medicine. ( )

ii. Subsection 350.05 of this rule does not apply to sexual contact between a naturopathic medical care provider and the provider's spouse or a person in a domestic relationship *with the provider* who is also a patient. ( )

**05. Civil Fine.** The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed naturopathic physician for each violation of Section 54-5115, Idaho Code. ( )

**06. Costs and Fees.** The Board may order a licensed naturopathic physician to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee if found in violation of Section 54-5115, Idaho Code. ( )



**IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION**

**26.01.20 - RULES GOVERNING THE ADMINISTRATION OF PARK  
AND RECREATION AREAS AND FACILITIES**

**DOCKET NO. 26-0120-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-4249, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 184 and 185.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dean Sangrey, 208-514-2260, dsangrey@idpr.idaho.gov.

DATED this 26th day of November, 2007.

Dean Sangrey  
Division Administrator, Operations  
Idaho Department of Parks and Recreation  
5657 Warm Springs Ave., Boise, ID 83716  
PO Box 83720, Boise, ID 83720-0065  
Phone: 208-334-4199 / FAX 208-334-3741

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**DOCKET NO. 26-0120-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 184 and 185.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

**IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION**

**26.01.30 - IDAHO SAFE BOATING RULES**

**DOCKET NO. 26-0130-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-4249, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

As a result of testimony received during public hearings conducted relative to this pending rule, Idaho Safe Boating Rule 525.04 has been changed to reflect these recommendations.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 186 and 187.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Dean Sangrey, 208-514-2260, dsangrey@idpr.idaho.gov.

DATED this 26th day of November, 2007.

Dean Sangrey  
Division Administrator, Operations  
Idaho Department of Parks and Recreation  
5657 Warm Springs Ave.  
Boise, ID 83716  
PO Box 83720  
Boise, ID 83720-0065  
Phone: 208-334-4199  
FAX 208-334-3741

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**DOCKET NO. 26-0130-0701 - ADOPTION OF PENDING RULE**

**Substantive changes have been made to the pending rule.**

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 186 and 187.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.

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THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 26-0130-0701

***Subsection 525.04***

**525. NEGLIGENT OPERATION.**

Negligent operation, as used in Section 67-7017, Idaho Code, shall include, but not be limited to, the following:

(1-1-94)

**04. Unsafe Seating While Underway.** Operating a motorboat while a person sits, stands, or kneels on the bow deck, gunwales, transom, or any other areas not designed by the manufacturer for passengers, while the vessel is underway at a speed greater than no wake or five (5) miles per hour, except when immediately necessary for safe and reasonable navigation or operation or for the purpose of engaging in or assisting persons being towed in an otherwise lawful manner; or ( )

## IDAPA 28 - IDAHO DEPARTMENT OF COMMERCE

### 28.02.03 - RULES OF THE IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM

DOCKET NO. 28-0203-0701

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 67-4715, 67-4717 and 67-4718, Idaho Code

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 203 through 208.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Cathy Bourner, 208 334-2470.

DATED this 13th day of November, 2007.

Cathy Bourner  
Grant Analyst  
Idaho Department of Commerce  
Division of Tourism Development  
700 W State St, Boise, ID  
PO Box 83720, Boise, ID 83720-0093  
208 334-2470  
Fax 208 334-2631

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#### DOCKET NO. 28-0203-0701 - ADOPTION OF PENDING RULE

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 203 through 208.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## **IDAPA 33 - REAL ESTATE COMMISSION**

### **33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION**

**DOCKET NO. 33-0101-0703**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2007 and 54-2013, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 242 and 243.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact on the state general fund, since all licensing fee revenues are credited to the Special Real Estate Account.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jeanne Jackson-Heim, (208) 334-3285 ext 118, or Kimberly Coster, (208) 334-3285 ext 115.

Dated this 13th day of November, 2007.

Jeanne Jackson-Heim  
Executive Director  
Idaho Real Estate Commission  
633 N. Fourth St., Boise, ID 83702  
PO Box 83720, Boise, ID 83720  
(208) 334-3285; (208) 334-2050 (fax)

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#### **DOCKET NO. 33-0101-0703 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 242 and 243.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

**IDAPA 35 - IDAHO STATE TAX COMMISSION**

**35.01.01 - INCOME TAX ADMINISTRATIVE RULES**

**DOCKET NO. 35-0101-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 63-105, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Section 286 Idaho Code reference was published as Sections 63-3027 and 63-3030(4), Idaho Code, and should have been Sections 63-3027 and 63-3030(a)(4), Idaho Code.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rule was published in Book 2 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 244 through 274.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Janice Boyd at (208) 334-7530.

DATED this 1st day of November, 2007.

Janice Boyd  
Tax Policy Specialist  
Idaho State Tax Commission  
800 Park Bl., Plaza IV  
P.O. Box 36, Boise, ID 83722-0410

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**DOCKET NO. 35-0101-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 244 through 274.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

**IDAPA 35 - IDAHO STATE TAX COMMISSION**  
**35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES**  
**DOCKET NO. 35-0102-0603**  
**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105, 63-3624, 63-3635 and 63-3039 Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 275 through 277.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jim Husted (208) 334-7530.

DATED this 1st day of November, 2007.

Jim Husted  
Tax Policy Specialist  
State Tax Commission  
P.O. Box 36  
Boise, ID 83722-0410  
(208) 334-7530

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**DOCKET NO. 35-0102-0603 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 275 through 277.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## IDAPA 35 - STATE TAX COMMISSION

### 35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-0701

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105, 63-3624, 63-3635 and 63-3039 Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 278 through 299.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jim Husted (208) 334-7530.

DATED this 1st day of November, 2007.

Jim Husted  
Tax Policy Specialist  
State Tax Commission  
P.O. Box 36  
Boise, ID 83722-0410  
(208) 334-7530

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#### DOCKET NO. 35-0102-0701 - ADOPTION OF PENDING RULE

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 278 through 299.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**



## **IDAPA 35 - STATE TAX COMMISSION**

### **35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES**

**DOCKET NO. 35-0103-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-105A, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 300 through 307.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Alan Dornfest (208) 334-7530.

DATED this 1st day of November, 2007.

Alan Dornfest  
Tax Policy Specialist  
State Tax Commission  
P.O. Box 36  
Boise, ID 83722-0410  
(208) 334-7530

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#### **DOCKET NO. 35-0103-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 300 through 307.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## **IDAPA 35 - STATE TAX COMMISSION**

### **35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES**

**DOCKET NO. 35-0103-0702**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-105A, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rule was published in Book 2 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 308 through 350.

Rule 205 and Rule 210 were both amended in the proposed rule. The Commission determined that Rules 205 and 210 were unnecessary and premature. As a result, Rules 205 and 210 are not being amended and will remain as currently codified. The codified text is not being reprinted with this notice.

Rule 217 was also amended in the proposed rule. Based on public comment, the Commission determined that the amendments made to Rule 217 were insufficient. Therefore, Rule 217 is not being amended and will remain as currently codified. The codified text is not being reprinted with this notice.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning these pending rules, contact Alan Dornfest (208) 334-7530.

DATED this 1st day of November, 2007.

Alan Dornfest, Tax Policy Specialist  
State Tax Commission  
P.O. Box 36, Boise, ID 83722-0410  
(208) 334-7530

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#### **DOCKET NO. 35-0103-0702 - ADOPTION OF PENDING RULE**

**Substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 308 through 350.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## **IDAPA 35 - STATE TAX COMMISSION**

### **35.01.05 - MOTOR FUELS TAX ADMINISTRATIVE RULES**

**DOCKET NO. 35-0105-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 63-105, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 351 through 364.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Randy Nilson at (208) 334-7530.

DATED this 1st day of November, 2007.

Randy Nilson  
Tax Policy Specialist  
Idaho State Tax Commission  
800 Park Bl., Plaza IV  
P.O. Box 36, Boise, ID 83722-0410

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#### **DOCKET NO. 35-0105-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 351 through 364.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## **IDAPA 35 - STATE TAX COMMISSION**

### **35.01.05 - MOTOR FUELS TAX ADMINISTRATIVE RULES**

**DOCKET NO. 35-0105-0702**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 63-105, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 365 through 367.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Randy Nilson at (208) 334-7530.

DATED this 1st day of November, 2007.

Randy Nilson  
Tax Policy Specialist  
Idaho State Tax Commission  
800 Park Bl., Plaza IV  
P.O. Box 36, Boise, ID 83722-0410

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#### **DOCKET NO. 35-0105-0702 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 365 through 367.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## IDAPA 35 - STATE TAX COMMISSION

### 35.01.09 - IDAHO COUNTY OPTION KITCHEN AND TABLE WINE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0109-0701

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 23-1323 Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 368 and 369.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jim Husted (208) 334-7530.

DATED this 1st day of November, 2007.

Jim Husted  
Tax Policy Specialist  
State Tax Commission  
P.O. Box 36  
Boise, ID 83722-0410  
(208) 334-7530

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#### DOCKET NO. 35-0109-0701 - ADOPTION OF PENDING RULE

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 368 and 369.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## IDAPA 35 - STATE TAX COMMISSION

### 35.01.10 - IDAHO CIGARETTE AND TOBACCO PRODUCTS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0110-0701

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105, 63-2501, and 63-2553, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 372 through 374.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jim Husted (208) 334-7530.

DATED this 1st day of October, 2007.

Jim Husted  
Tax Policy Supervisor  
State Tax Commission  
P.O. Box 36  
Boise, ID 83722-0410  
(208) 334-7530

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#### DOCKET NO. 35-0110-0701 - ADOPTION OF PENDING RULE

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 372 through 374.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## **IDAPA 35 - STATE TAX COMMISSION**

### **35.01.11 - IDAHO UNCLAIMED PROPERTY ADMINISTRATIVE RULES**

**DOCKET NO. 35-0111-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 23-1323 Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 370 and 371.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jim Husted (208) 334-7530.

DATED this 1st day of November, 2007.

Jim Husted  
Tax Policy Specialist  
State Tax Commission  
P.O. Box 36  
Boise, ID 83722-0410  
(208) 334-7530

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#### **DOCKET NO. 35-0111-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 370 and 371.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## **IDAPA 35 - STATE TAX COMMISSION**

### **35.02.01 - TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES**

**DOCKET NO. 35-0201-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 63-105, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 375 and 376.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Janice Boyd at (208) 334-7530.

DATED this November 1, 2007.

Janice Boyd  
Tax Policy Specialist  
Idaho State Tax Commission  
800 Park Bl., Plaza IV  
P.O. Box 36, Boise, ID 83722-0410  
(208) 334-7530

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#### **DOCKET NO. 35-0201-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 375 and 376.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**



## **IDAPA 37 - DEPARTMENT OF WATER RESOURCES**

### **37.03.01 - ADJUDICATION RULES**

#### **DOCKET NO. 37-0301-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 42-1805(8), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change: Rule change is necessary to make rules consistent with 2006 and 2007 legislative amendments to Chapter 14, Title 42, Idaho Code, update outdated citations to Idaho Code, and reduce number of claim forms from two to one.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 377 through 392.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: The rule itself does not impose or increase a fee or charge. The 2006 legislative amendments to Section 42-1414, Idaho Code, revised the fee structure for filing a notice of claim to a water right with IDWR. The proposed rule change makes the fee structure cited in the adjudication rules conform to the new fee structure in Section 42-1414, Idaho Code.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no anticipated fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Don Shaff, Adjudication Bureau Chief, at (208) 287-4800.

DATED this 21st day of November, 2007.

Donald V. Shaff, Adjudication Bureau Chief  
Idaho Department of Water Resources  
322 E. Front St, Boise, ID  
PO Box 83720, Boise, Idaho 83720-0098  
Ph: (208) 287-4800 / Fax: (208) 287-6700

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#### **DOCKET NO. 37-0301-0701 - ADOPTION OF PENDING FEE RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 377 through 392.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**

**39.02.60 - RULES GOVERNING LICENSE PLATE PROVISIONS**

**DOCKET NO. 39-0260-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 49-201, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

With the implementation of the digital license plate program, this provides for the increase in character capacity from 5 to 6 for specialty plates; provides for the extension of a temporary registration to 45 days to allow for the manufacture and delivery of the new plate; and allows licensed vehicle dealers to use loaner plates on vehicles in their inventory while they are on loan for civic or charitable events for up to 30 days.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in Book 2 of the October 3, 2007 Idaho Administrative Bulletin, Volume 07-10, pages 406 through 415.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Amy Smith, Vehicle Services Manager, 334-8660.

DATED this 14th day of November, 2007.

Linda L. Emry, Management Assistant  
Office of Budget, Policy, Intergovernmental Relations  
Idaho Transportation Department  
P. O. Box 7129, Boise ID 83707-1129  
Phone: 208-334-8810 / FAX: 208-334-8195

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**DOCKET NO. 39-0260-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 406 through 415.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.02.75 - RULES GOVERNING NAMES ON DRIVERS' LICENSES AND IDENTIFICATION CARDS

DOCKET NO. 39-0275-0701

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 49-201, 49-306, 49-314, 49-315, 49-318, 49-319, 49-336, and 49-2443, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This rulemaking will provide more flexibility in naming standards on driver's licenses and identification cards, by allowing apostrophes in names and allowing a married couple to use the same hyphenated last name.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in Book 2 of the October 3, 2007 Idaho Administrative Bulletin, Volume 07-10, pages 416 through 419.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Ed Pemble, Driver Services Manager, 332-7830.

DATED this 14th day of November, 2007.

Linda L. Emry, Management Assistant  
Office of Budget, Policy, Intergovernmental Relations  
Idaho Transportation Department  
P. O. Box 7129, Boise ID 83707-1129  
Phone: 208-334-8810 / FAX: 208-334-8195

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#### DOCKET NO. 39-0275-0701 - ADOPTION OF PENDING RULE

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 416 through 419.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**

**39.03.08 - RULES GOVERNING PREQUALIFICATION OF VARIABLE LOAD  
SUSPENSION AXLES AND OTHER AUXILIARY AXLES**

**DOCKET NO. 39-0308-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 49-1001, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The rulemaking repeals IDAPA 39.03.08, "Rules Governing Prequalification of Variable Load Suspension Axles and Other Auxiliary Axles," in compliance with Section 49-1001, Idaho Code, as amended by Senate Bill 1049, 2007, effective July 1, 2007, which has deleted provisions for pre-qualification of variable load suspension axles.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in Book 2 of the October 3, 2007 Idaho Administrative Bulletin, Volume 07-10, page 420.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

DATED this 14th day of November, 2007.

Linda L. Emry, Management Assistant  
Office of Budget, Policy, Intergovernmental Relations  
Idaho Transportation Department  
P. O. Box 7129, Boise ID 83707-1129  
Phone: 208-334-8810 / FAX: 208-334-8195

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**DOCKET NO. 39-0308-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, page 420.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.03.10 - RULES GOVERNING WHEN AN OVERLEGAL PERMIT IS REQUIRED

DOCKET NO. 39-0310-0701

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 49-312 and 49-1001, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This rulemaking will combine the permitting of emergency moves and secondary moves for wreckers removing disable vehicles and establishes a safer and more reasonable method of setting allowable weight limits on permitted vehicles by using the Department's Route Capacity Map, subject to posted weight restrictions.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in Book 2 of the October 3, 2007 Idaho Administrative Bulletin, Volume 07-10, pages 421 through 424.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

DATED this 14th day of November, 2007.

Linda L. Emry, Management Assistant  
Office of Budget, Policy, Intergovernmental Relations  
Idaho Transportation Department  
P. O. Box 7129, Boise ID 83707-1129  
Phone: 208-334-8810 / FAX: 208-334-8195

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#### DOCKET NO. 39-0310-0701 - ADOPTION OF PENDING RULE

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 421 through 424.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**

**39.03.12 - RULES GOVERNING SAFETY REQUIREMENTS OF OVERLEGAL PERMITS**

**DOCKET NO. 39-0312-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 49-312 and 49-1004, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This rulemaking clarifies where the "oversize load" signs should be placed on towing vehicles and pilot/escort vehicles for maximum visibility by other travelers.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in Book 2 of the October 3, 2007 Idaho Administrative Bulletin, Volume 07-10, pages 425 through 427.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

DATED this 14th day of November, 2007.

Linda L. Emry, Management Assistant  
Office of Budget, Policy, Intergovernmental Relations  
Idaho Transportation Department  
P. O. Box 7129, Boise ID 83707-1129  
Phone: 208-334-8810 / FAX: 208-334-8195

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**DOCKET NO. 39-0312-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 425 through 427.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**  
**39.03.16 - RULES GOVERNING OVERSIZE PERMITS FOR NON-REDUCIBLE**  
**VEHICLES AND/OR LOADS**

**DOCKET NO. 39-0316-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 49-312 and 49-1004, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This rulemaking clarifies that "combinations" hauling overwidth loads are double trailer combinations within the specified legal length limit.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in Book 2 of the October 3, 2007 Idaho Administrative Bulletin, Volume 07-10, pages 428 and 429.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

DATED this 14th day of November, 2007.

Linda L. Emry, Management Assistant  
Office of Budget, Policy, Intergovernmental Relations  
Idaho Transportation Department  
P. O. Box 7129, Boise ID 83707-1129  
Phone: 208-334-8810 / FAX: 208-334-8195

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**DOCKET NO. 39-0316-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 428 and 429.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**  
**39.03.17 - RULES GOVERNING PERMITS FOR MANUFACTURED HOMES,**  
**MODULAR BUILDINGS, AND OFFICE TRAILERS**

**DOCKET NO. 39-0317-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 49-312 and 49-1004, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This rulemaking provides for less restrictive options for connection devices between a manufactured home and the towing vehicle, in compliance with 49 CFR, Part 393, Subpart F, Coupling Devices and Towing Methods.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in Book 2 of the October 3, 2007 Idaho Administrative Bulletin, Volume 07-10, pages 430 through 432.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

DATED this 14th day of November, 2007.

Linda L. Emry, Management Assistant  
Office of Budget, Policy, Intergovernmental Relations  
Idaho Transportation Department  
P. O. Box 7129, Boise ID 83707-1129  
Phone: 208-334-8810 / FAX: 208-334-8195

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**DOCKET NO. 39-0317-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 430 through 432.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**



**IDAPA 54 - OFFICE OF THE STATE TREASURER**

**54.02.01 - RULES GOVERNING THE COLLEGE SAVINGS PROGRAM**

**DOCKET NO. 54-0201-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-5402(1), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 434 through 438.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Liza Carberry, Investment Manager, at (208) 332-2997.

DATED this 6th day of November, 2007.

Liza Carberry  
Investment Manager  
College Savings Program  
Office of the State Treasurer  
304 N. 8th St., Rm. 208  
P. O. Box 83720, Boise, Idaho 83720-0091  
(208) 332-2997 phone / (208) 332-2961 fax

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**DOCKET NO. 54-0201-0701 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-10, October 3, 2007 - Book 2, pages 434 through 438.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0000-0801

### NOTICE OF FINAL DECISION ON THE BRUSH CREEK TEMPERATURE TMDLS (HUC 17040207)

**AUTHORITY:** In compliance with Section 39-3611, Idaho Code, notice is hereby given that this agency has issued a final decision on the Brush Creek Temperature Total Maximum Daily Load (TMDL).

**DESCRIPTIVE SUMMARY:** The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Brush Creek Temperature TMDL Addendum to the Blackfoot River Subbasin Assessment and TMDL. The final decision may be appealed to the Board of Environmental Quality by initiating a contested case in accordance with Sections 39-107(5), 67-5240 et seq., Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." The petition initiating a contested case must be filed with the undersigned hearing coordinator within thirty-five (35) days of the publication date of this notice in the Idaho Administrative Bulletin.

The area covered by the Brush Creek Temperature TMDL (Hydrologic Unit Code 17040207) addresses two (2) assessment units (AUs) on Idaho's 2002 § 303(d) list in the Blackfoot River Basin. DEQ completed TMDLs for two (2) AUs deemed water quality impaired. DEQ has submitted this Temperature TMDL Addendum to the U.S. Environmental Protection Agency for approval under the Clean Water Act.

**AVAILABILITY OF THE TMDL:** Electronic copy of the TMDL can be obtained at [http://www.deq.idaho.gov/water/data\\_reports/surface\\_water/tmdls/blackfoot\\_river/blackfoot\\_river.cfm](http://www.deq.idaho.gov/water/data_reports/surface_water/tmdls/blackfoot_river/blackfoot_river.cfm) or by contacting Ms. Marti Bridges, TMDL Program Manager, 208-373-0382, [marti.bridges@deq.idaho.gov](mailto:marti.bridges@deq.idaho.gov).

Dated this 9th day of November, 2007.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton  
Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
[paula.wilson@deq.idaho.gov](mailto:paula.wilson@deq.idaho.gov)

## **IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**

**DOCKET NO. 58-0000-0802**

### **NOTICE OF FINAL DECISION ON THE MIDDLE FORK PAYETTE RIVER SUBBASIN TEMPERATURE TMDLS (HUC 17050121)**

**AUTHORITY:** In compliance with Section 39-3611, Idaho Code, notice is hereby given that this agency has issued a final decision on the Middle Fork Payette River Temperature Total Maximum Daily Load (TMDL) Addendum.

**DESCRIPTIVE SUMMARY:** The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Middle Fork Payette River Temperature TMDLs. The final decision may be appealed to the Board of Environmental Quality by initiating a contested case in accordance with Sections 39-107(5), 67-5240 et seq., Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." The petition initiating a contested case must be filed with the undersigned hearing coordinator within thirty-five (35) days of the publication date of this notice in the Idaho Administrative Bulletin.

The area covered by the Middle Fork Payette River Temperature TMDLs (Hydrologic Unit Code 17050121) addresses four (4) assessment units (AUs) on Idaho's 2002 § 303(d) list. DEQ completed Temperature TMDLs for all AU/pollutant combinations deemed water quality impaired. DEQ has submitted this Temperature TMDL Addendum to the U.S. Environmental Protection Agency for approval under the Clean Water Act.

**AVAILABILITY OF THE TMDL:** Electronic copy of the TMDL can be obtained at [http://www.deq.idaho.gov/water/data\\_reports/surface\\_water/tmdls/payette\\_river\\_middle/payette\\_river\\_middle.cfm](http://www.deq.idaho.gov/water/data_reports/surface_water/tmdls/payette_river_middle/payette_river_middle.cfm) or by contacting Ms. Marti Bridges, TMDL Program Manager, 208-373-0382, [marti.bridges@deq.idaho.gov](mailto:marti.bridges@deq.idaho.gov).

Dated this 13th day of November, 2007.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton  
Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
[paula.wilson@deq.idaho.gov](mailto:paula.wilson@deq.idaho.gov)

**IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**

**58.01.02 - SURFACE WATER QUALITY RULE**

**DOCKET NO. 58-0102-0601**

**NOTICE OF RULEMAKING - VACATION OF PROPOSED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Department of Environmental Quality (DEQ) has vacated the rulemaking previously initiated under this docket number. This action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a summary of the reasons for vacating the proposed rulemaking:

The proposed rule was published in the Idaho Administrative Bulletin on September 6, 2006. During the public comment period and in a subsequent public meeting, many concerns were raised regarding the relationship of the rulemaking and the Supreme Court ruling in the Rapanos and Carabell litigation. DEQ decided to wait for federal guidance on determining Clean Water Act jurisdiction and to conduct further reviews of existing literature and analyses of existing data before revising the application of Idaho water quality standards to streams based on their flow permanence. DEQ intends to conduct additional studies on low flow water bodies and to possibly enter into negotiated rulemaking in 2008.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this vacation of rulemaking, contact Don Essig at [don.essig@deq.idaho.gov](mailto:don.essig@deq.idaho.gov) or (208)373-0119.

Dated this 30th day of November, 2007.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton  
Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
[paula.wilson@deq.idaho.gov](mailto:paula.wilson@deq.idaho.gov)

## **IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**

### **58.01.07 - RULES REGULATING UNDERGROUND STORAGE TANK SYSTEMS**

**DOCKET NO. 58-0107-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-ninth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Chapters 1 and 88, Title 39, Idaho Code.

**DESCRIPTIVE SUMMARY:** A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 5, 2007, Vol. 07-9, pages 310 through 321. After consideration of public comments, the rule has been revised at Sections 001, 004, 010, 100, 300, 400, 500, and 600. The remainder of the rule has adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at [http://www.deq.idaho.gov/rules/ust/58\\_0107\\_0701\\_pending.cfm](http://www.deq.idaho.gov/rules/ust/58_0107_0701_pending.cfm) or by contacting the undersigned.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**IDAHO CODE 39-107D STATEMENT:** This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this rulemaking, contact Orville Green at [orville.green@deq.idaho.gov](mailto:orville.green@deq.idaho.gov), (208)373-0278 or Rick Jarvis at [rick.jarvis@deq.idaho.gov](mailto:rick.jarvis@deq.idaho.gov), (208)373-0247.

Dated this 15th day of November, 2007.

Paula J. Wilson, Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton, Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
[paula.wilson@deq.idaho.gov](mailto:paula.wilson@deq.idaho.gov)

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#### **DOCKET NO. 58-0107-0701 - ADOPTION OF PENDING RULE**

**Substantive changes have been made to the pending rule.**

**Only those sections or subsections that have changed from the original proposed text are printed in this Bulletin following this notice.**

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-9, September 5, 2007, pages 310 through 321.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2008 Idaho State Legislature for final adoption.**

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 58-0107-0701

**Section 001 (Entire Section)**

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited as IDAPA 58.01.07, “Rules Regulating Underground Storage Tank Systems.” ( )

**02. Scope.** These rules establish standards and procedures necessary for the regulation of underground storage tank systems. Compliance with these rules shall not relieve persons from the obligation to comply with other applicable state or federal laws. ( )

**Section 004 (Entire Section)**

**004. INCORPORATION BY REFERENCE.**

Any reference to any document identified in Subsection 004.01 shall constitute the full adoption by reference into IDAPA 58.01.07. ( )

**01. Documents Incorporated by Reference.** Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks, 40 CFR Part 280, revised as of July 1, 2007. ( )

**02. Hazardous Substance Underground Storage Tank Systems.** ( )

**a.** The following items *only apply to hazardous substance underground storage tank systems and do not apply to petroleum underground storage tank systems*: ( )

i. The definition of “Hazardous substance UST system” in 40 CFR 280.12 and use of this term or regulations regarding hazardous substance in 40 CFR Part 280; and ( )

ii. 40 CFR 280.42 and any reference to 40 CFR 280.42 in 40 CFR Part 280. ( )

**b.** *All other provisions of 40 CFR Part 280 and all provisions of IDAPA 58.01.07 shall apply to hazardous substance underground storage tank systems.* ( )

**03. Consistency.** In the event of conflict or inconsistency between the language in IDAPA 58.01.07 and that found in 40 CFR Part 280, IDAPA 58.01.07 shall prevail. ( )

**04. Stringency.** IDAPA 58.01.07 shall be no more stringent than federal law or regulations governing underground storage tank systems. ( )

**05. Availability of Referenced Material.** The federal regulations adopted by reference can be obtained at the following locations: ( )

**a.** U.S. Government Printing Office, <http://www.gpoaccess.gov/index.html>; and ( )

**b.** Department of Environmental Quality, Hearing Coordinator, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502. ( )

**Subsections 010.05, 010.18, and Subsection 010.21 through 010.21.d.**

**010. DEFINITIONS.**

For the purpose of the rules contained in IDAPA 58.01.07, "Rules Regulating Underground Storage Tank Systems," the following definitions apply: ( )

**05. Existing.** *Solely for purposes of determining when secondary containment is required, existing is when a petroleum underground storage tank, piping, motor fuel dispensing system, facility, public water system or potable drinking water well is in place when a new installation or replacement of a tank, piping, or motor fuel dispensing system begins.* ( )

**18. Repair.** *Solely for purposes of determining when secondary containment is required, as it applies to petroleum underground storage tanks, piping, and motor fuel dispensers systems, repair means any activity that does not meet the definition of replace.* ( )

**21. Under-Dispenser Spill Containment.** Containment underneath a dispenser that will prevent leaks from the dispenser from reaching soil or ground water. Such containment must: ( )

- a. At installation or modification, be liquid-tight on its sides, bottom, and at any penetrations; *and* ( )
- b. Be compatible with the substance conveyed by the piping; *and either* ( )
- c. Allow for visual inspection and access to the components in the containment system; or ( )
- d. Be monitored for releases *using a release detection method* that meets the requirements of 40 CFR 280.43(g). ( )

**Subsections 100.03 through 100.03.a.iv. (deleting Subsections 100.03.a.v. and 100.03.a.vi.), 100.04, and 100.05**

**100. ADDITIONAL MEASURES TO PROTECT GROUND WATER FROM CONTAMINATION.**

**03. Requirements for Petroleum UST Systems.** Owners, operators, and installers of a new or replacement petroleum underground storage tank or piping system shall comply with the following requirements. ( )

**a.** Each new petroleum underground storage tank, or piping connected to any such new tank, installed after February 23, 2007, or any existing petroleum underground storage tank, or existing piping connected to such existing tank, that is replaced after February 23, 2007, shall have secondary containment and be monitored for leaks if the new or replaced petroleum underground storage tank or piping is within one thousand (1,000) feet of any existing public water system or any existing potable drinking water well. *At a minimum, secondary containment systems must be designed, constructed, and installed to contain regulated substances released from the tank system until they are detected and removed, prevent the release of regulated substances to the environment at any time during the operational life of the petroleum underground storage tank system, and be checked for evidence of a release at least every thirty (30) days.* The following conditions are excluded: ( )

- i. Suction piping that meets the requirements of 40 CFR 280.41(b)(2)(i) *through (v)*; ( )
- ii. Piping that manifolds two (2) or more petroleum underground storage tanks together; ( )

- iii. Existing piping to which new piping is connected to install a dispenser; *and* ( )
- iv. Tanks identified in 40 CFR 280.10(b). ( )

**04. Requirements for Hazardous Substance UST Systems.** Owners, operators, and installers of a new or replacement hazardous substance underground storage tank or piping system shall have secondary containment as required in 40 CFR 280.42. ( )

**05. Certification.** Owners and operators shall also comply with the certification requirements of 40 CFR 280.22(f) as incorporated by reference into these rules. ( )

***Section 300, subsection 300.01, and subsection 300.02.b.***

**300. TRAINING REQUIREMENTS.**

**01. Requirements.** The Department shall *adopt* a training program to help owners and operators comply with the requirements of these rules. The training program requirements shall: ( )

**02. Operator Designation.** For each petroleum underground storage tank system regulated under these rules, the owner or operator shall: ( )

**b.** Maintain a record at the facility where the petroleum underground storage tank is located listing each person designated in Subsections 300.02.a.i., 300.02.a.ii., and 300.02.a.iii. ( )

***Subsections 400.02.a.v. and 400.02.c.***

**400. INSPECTIONS.**

**02. Third-Party Inspections.** ( )

**a.** Third-party inspectors must be certified, licensed, or registered by an approved state program to perform on-site inspections. At a minimum, third-party inspectors must meet the requirements listed in Subsections 400.02.a.i. through 400.02.a.v.: ( )

**v.** Complete and submit the inspection report to the Department in the manner and time frame established by the Department. *All third-party inspection reports must be submitted electronically to the Department for review and for the Department to make a compliance determination for each site. If requested by the Department, third-party inspectors shall provide all supporting documentation for its inspection reports.* ( )

**c.** If a third-party inspector fails to demonstrate to the approved state program adequate competence and proficiency to perform petroleum underground storage tank inspections, or the approved state program otherwise determines it is not appropriate for the third-party inspector to conduct on-site inspections as part of a third-party inspection program, the approved state program *must* take appropriate action against the third-party inspector as provided by law. ( )

***Subsections 500.03.b. and 500.03.c. (deleting subsections 500.03.d. and 100.03.e.), subsections 500.04.a. and 500.04.b., 400.06.c. through 400.08, and 400.12***



**500. DELIVERY PROHIBITION.**

**03. Warning of Violations.** The Department may classify a petroleum underground storage tank as ineligible for delivery, deposit, or acceptance of a regulated petroleum substance if the owner or operator of the tank has been issued a written warning for any of the following violations, and the owner or operator fails to initiate corrective action within thirty (30) days of the issuance of the written warning, unless the deadline is extended by the Department: ( )

**b.** Failure to properly operate or maintain spill, overfill, or corrosion protection equipment; *or* ( )

**c.** Failure to maintain financial responsibility. ( )

**04. Service of Notice.** If the Department classifies a petroleum underground storage tank as ineligible for delivery, deposit, or acceptance of a regulated petroleum substance pursuant to Subsections 500.02 or 500.03, the Department shall provide a written notice of the determination to the owner or operator prior to prohibiting the delivery, deposit, or acceptance of a regulated petroleum substance. Notice is considered properly served by the Department in any of the following ways: ( )

**a.** The notice is personally delivered to the owner or operator; *or* ( )

**b.** The notice is clearly posted at a public entrance to the facility where the petroleum underground storage tank is located and a copy of the notice is also sent by *certified* mail to the last known address of the owner or operator. ( )

**06. Written Notice.** The written notice required by Subsection 500.04 must include: ( )

**c.** *The effective date the petroleum underground storage tank is deemed ineligible for delivery;* ( )

**d.** The name and address of the department representative to whom a written request for re-inspection can be made, if a re-inspection is necessary; ( )

**e.** A statement regarding the right to appeal the Department's action regarding ineligible classification pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality"; and ( )

**f.** The option to request a compliance conference pursuant to Subsection 500.07. ( )

**07. Compliance Conference.** The owner or operator may request a compliance conference with the Department within fifteen (15) days of receipt of the notice. A compliance conference shall be scheduled within twenty (20) days and conducted in an informal manner by the Department. At the compliance conference, the owner or operator may explain why he believes the petroleum underground storage tank should not be classified as ineligible. *During the compliance conference, the owner or operator and the Department will identify and establish appropriate acts and a time schedule for compliance as necessary.* ( )

**08. Duration of Ineligible Classification.** The classification of a petroleum underground storage tank as ineligible shall remain in effect until the conditions cited in the notice no longer exist. If the Department determines that an ineligible storage tank has returned to compliance and is now eligible for delivery, deposit, or acceptance of a regulated petroleum substance, the Department or an authorized designee shall, as soon as practicable, remove the red tag from the petroleum underground storage tank and also remove the petroleum underground storage tank from the ineligible list posted on its website. *The Department will also send a written notice to the owner and operator that an ineligible storage tank has returned to compliance and is now eligible for delivery, deposit, or acceptance of a regulated petroleum substance.* ( )

**12. Unlawful to Tamper with Red Tag.** It shall be unlawful for any person to tamper with and/or remove the red tag without the Department's approval. ( )

***Subsections 600.01 and 600.03***

**600. PETROLEUM UNDERGROUND STORAGE TANK DATABASE.**

**01. Maintenance.** The Department shall maintain a database which provides details on the status of all petroleum underground storage tanks in the state of Idaho which are subject to regulation. The database shall be updated no less than *the end of each calendar quarter*. ( )

**03. Petition.** Petroleum underground storage tank owners or operators may petition the Department to correct any inaccurate information for their tanks and the Department shall correct any such inaccurate information *within thirty (30) days after verification*. ( )

## **IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO**

### **59.01.03 - CONTRIBUTION RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)**

**DOCKET NO. 59-0103-0701**

#### **NOTICE OF RULEMAKING - RESCISSION OF TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of this rescission is February 1, 2008.

**AUTHORITY:** In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule previously adopted under this docket. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for rescinding the temporary rule:

Section 59-1322(1), Idaho Code, requires the Retirement Board (Board) to establish contribution rates to adequately fund the retirement system, subject to certain requirements. In 2003, the Board adopted proposed rules that provided for a series of three annual contribution rate increases beginning July 1, 2004, through July 1, 2006. The first of those increases went into effect, but favorable market conditions significantly improved the funding status of the plan and in 2005 the board postponed the two subsequent increases for one year, until July 1, 2006, and July 1, 2007, respectively. In 2006 the Board again postponed the increases until July 1, 2007, and July 1, 2008, respectively. In 2007 the Board postponed the increases a third time until July 1, 2008, and July 1, 2009, respectively. Due to favorable market conditions and based on actuarial data, the Board has now determined that the two additional increases scheduled for July 1, 2008 and July 1, 2009, are no longer needed to adequately fund the plan. The Board will continue to monitor funding and market conditions and will take addition action if appropriate. The current contribution rates will continue as reflected in a new temporary and proposed rule in docket number 59-0103-0801, effective February 1, 2008.

This temporary rule is rescinded the same day, effective February 1, 2008.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the rescission of this temporary rule, contact Alan H. Winkle, Executive Director of PERSI, 334-3365.

DATED this 13th day of November, 2007.

Alan H. Winkle  
Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8<sup>th</sup>, Boise, ID 83702  
P.O. Box 83720, Boise, ID 83720-0078  
Phone: 208-334-3365  
FAX: 208-334-3804

# **IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO**

## **59.01.03 - CONTRIBUTION RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)**

**DOCKET NO. 59-0103-0801**

### **NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is February 1, 2008.

**AUTHORITY:** In compliance with Sections 67-5222(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 16, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodations must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Section 59-1322(1), Idaho Code, requires the Retirement Board to establish contribution rates within certain constraints. The Board has reviewed and determined, based on actuarial valuation of reserves and liabilities, the contributions necessary to fund the level of benefits authorized by the plan. In 2003, the Board adopted proposed rules that provided for a series of three annual contribution rate increases beginning July 1, 2004, through July 1, 2006. The first of those increases went into effect, but favorable market conditions significantly improved the funding status of the plan and in 2005 the board postponed, through temporary rules, the two subsequent increases for one year, until July 1, 2006, and July 1 2007, respectively. In 2006 the Board again postponed the increases, through temporary rules, until July 1, 2007, and July 1, 2008, respectively. In 2007 the Board postponed the increases a third time through temporary rules until July 1, 2008, and July 1, 2009, respectively. Due to continued favorable market conditions and based on actuarial data, the Board has now determined that the two additional increases scheduled for July 1, 2008 and July 1, 2009, are no longer needed to adequately fund the plan. The Board will continue to monitor funding and market conditions and will take subsequent action regarding contribution rates if appropriate. The current contribution rates will continue as reflected in these rules, effective February 1, 2008. Temporary rules published in docket number 59-0103-0701 are being rescinded effective February 1, 2008, by a separate notice in this volume of the Idaho Administrative Bulletin. These rules continue the current rates until further modified by the board.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This rule change will confer a benefit on PERSI employees and employers.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no negative fiscal impact.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Retirement Board has exclusive fiduciary responsibility for plan operations.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Alan H. Winkle, Executive Director of PERSI, 334-3365.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be

directed to the undersigned and must be delivered on or before January 23, 2008.

DATED this 13th day of November, 2007.

Alan H. Winkle  
Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8th, Boise, ID 83702  
P.O. Box 83720, Boise, ID 83720-0078  
Phone: 208-334-3365  
FAX: 208-334-3804

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**THE FOLLOWING IS TEXT OF DOCKET NO. 59-0103-0801**

**026. PERSI EMPLOYER GENERAL MEMBER CONTRIBUTION RATE (RULE 26).**

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, shall be nine point seventy-seven percent (9.77%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point thirty-nine percent (10.39%) of payroll ~~through June 30, 2005. Beginning July 1, 2005, the rate shall be eleven percent (11.00%) of payroll through June 30, 2006. Beginning July 1, 2006, the rate shall be eleven point sixty one percent (11.61%) of payroll~~ until next determined by the Board.

Statutory Reference: Sections 59-1302(16), 59-1391, 59-1394, and 59-1397, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) ~~(3-20-04)~~(2-1-08)I

**027. FIREFIGHTER RETIREMENT FUND EMPLOYER RATE (RULE 27).**

The Firefighter Retirement Fund employer rate shall be: (10-1-94)

**01. Option I And II Firefighters.** For option I and II firefighters hired before October 1, 1980, as follows:

Option I And II Firefighters	
PERSI Employer Contribution Rate:	Ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll <del>through June 30, 2005. Beginning July 1, 2005, the rate shall be eleven point thirty-four percent (11.34%) of payroll through June 30, 2006. Beginning July 1, 2006, the rate shall be eleven point ninety-five percent (11.95%) of payroll</del> until next determined by the Board.
Additional Employer Rate:	One percent (1.00%)
Social Security Rate:	Seven point sixty-five percent (7.65%)
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) until next determined by the Board.

<b>Option I And II Firefighters</b>	
TOTAL Contribution:	Thirty-six percent (36%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be thirty-six point sixty-two percent (36.62%) of payroll <del>through June 30, 2005. Beginning July 1, 2005, the rate shall be thirty seven point twenty-three percent (37.23%) of payroll through June 30, 2006. Beginning July 1, 2006, the rate shall be thirty seven point eighty-four percent (37.84%) of payroll</del> until next determined by the Board.

~~(3-20-04)(2-1-08)T~~

**02. Class D Firefighters.** For class D firefighters (firefighters employed on or after October 1, 1980, by a city or fire district that employs paid firefighters who are participating in the Firefighters' Retirement Fund), as follows:

<b>Class D Firefighters</b>	
PERSI Employer Contribution Rate:	Ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll <del>through June 30, 2005. Beginning July 1, 2005, the rate shall be eleven point thirty-four percent (11.34%) of payroll through June 30, 2006. Beginning July 1, 2006, the rate shall be eleven point ninety-five percent (11.95%) of payroll</del> until next determined by the Board.
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) until next determined by the Board.
TOTAL Contribution:	Twenty-seven point thirty-five percent (27.35%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be twenty-seven point ninety-seven percent (27.97%) of payroll <del>through June 30, 2005. Beginning July 1, 2005, the rate shall be twenty eight point fifty eight percent (28.58%) of payroll through June 30, 2006. Beginning July 1, 2006, the rate shall be twenty nine point nineteen percent (29.19%) of payroll</del> until next determined by the Board.

Statutory References: Sections 59-1302(16), 59-1391, 59-1394, 59-1397, 72-1403, and 72-1434, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 7-1-03) (Amended 3-20-04) ~~(3-20-04)(2-1-08)T~~

**03. Class E Members.** For class E members (general members who meet the definition of paid firefighter under Section 59-1391(f), Idaho Code, but are not firefighters as defined in Section 59-1302(16), Idaho Code) the employer general member contribution rate as provided in Rule 26, plus the excess merger costs specified in Subsection 027.01. (3-20-04)

**028. PERSI EMPLOYER CLASS II CONTRIBUTION RATE (RULE 28).**

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, for an employee classified as a police officer member excluding those listed in Rule 29 of this chapter when applicable, and firefighters excluding those listed in Rule 27 of this chapter, shall be ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll ~~through June 30, 2005. Beginning July 1, 2005, the rate shall be eleven point thirty-four percent (11.34%) of payroll through June 30, 2006. Beginning July 1, 2006, the rate shall be eleven point ninety-five percent (11.95%) of payroll~~ until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 7-1-03) (Amended 3-20-04) ~~(3-20-04)(2-1-08)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. PERSI EMPLOYEE GENERAL MEMBER CONTRIBUTION RATE (RULE 100).**

The PERSI employee contribution rate as provided in Section 59-1333, Idaho Code, for all members not classified as police members or firefighters, shall be five point eighty-six percent (5.86%) of salary through June 30, 2004. Beginning July 1, 2004, the rate shall be six point twenty-three percent (6.23%) of salary ~~through June 30, 2005. Beginning July 1, 2005, the rate shall be six point sixty percent (6.60%) of salary through June 30, 2006. Beginning July 1, 2006, the rate shall be six point ninety seven percent (6.97%) of salary~~ until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) ~~(3-20-04)~~(2-1-08)T

**101. PERSI EMPLOYEE CLASS II CONTRIBUTION RATE (RULE 101).**

The employee contribution rate as provided in Section 59-1334, Idaho Code, for an employee classified as a police officer member is seven point twenty-one percent (7.21%) of salary through June 30, 2004. Beginning July 1, 2004, the rate shall be seven point sixty-five percent (7.65%) of salary ~~through June 30, 2005. Beginning July 1, 2005, the rate shall be eight point zero nine percent (8.09%) of salary through June 30, 2006. Beginning July 1, 2006, the rate shall be eight point fifty three percent (8.53%) of salary~~ until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) ~~(3-20-04)~~(2-1-08)T

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**IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO**

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# LEGAL NOTICE

## Summary of Proposed Rulemakings

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### PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

**The written comment deadline is January 23, 2008, unless otherwise listed.  
(Temp & Prop) indicates the rule is both temporary and proposed.  
\*\* Indicates that a public hearing has been scheduled.**

#### **IDAPA 08 - BOARD OF EDUCATION PO Box 83720, Boise, ID 83720-0037**

**08-0202-0801, Rules Governing Uniformity. (Temp & Prop)** Changes endorsement degree title from Education Media Generalist to Library Media Specialist; clarifies the original intent of the Gifted and Talented endorsement; changes "Reading" to "Literacy" to better reflect requirements for this endorsement; and clarifies the requirement of a professional RN license instead of "nursing certificate."

#### **IDAPA 11 - IDAHO STATE POLICE STATE RACING COMMISSION PO Box 700, Meridian, ID 83680-0700**

**\*\*11-0403-0801, Rules Governing Licensing and Fees. (Temp & Prop)** New chapter promulgates required licensing fees into rule per Idaho Code.

#### **IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE PO Box 83720, Boise, ID 83720-0036**

**16-0314-0801, Rules and Minimum Standards for Hospitals in Idaho. (Temp & Prop)** Establishes minimum design and construction requirements, standards of care, and services for free standing emergency departments.

**16-0403-0801, Rules Governing Fees for Community Mental Health Services. (Temp & Prop)** Chapter repeal.

**16-0701-0801, Behavioral Health Sliding Fee Schedules. (Temp & Prop)** New chapter updates the sliding fee schedules for adult mental health, children's mental health, and alcohol and substance use disorders programs to the federal poverty guidelines and implements a fee schedule for convicted felons or persons serving probation or parole.

**16-0710-0801, Behavioral Health Development Grants. (Temp & Prop)** New chapter provides the framework for grant application requirements, criteria, and distribution of grants.

**16-0717-0801, Alcohol and Substance Use Disorders Services. (Temp & Prop)** New chapter defines the scope of voluntary alcohol and substance use disorders services and establishes eligibility criteria, application requirements, individualized treatment plan, and selection of providers under these rules; and provides for an appeals process.

**16-0733-0801, Adult Mental Health Services. (Temp & Prop)** New chapter defines the scope of voluntary adult mental health services and establishes eligibility criteria, application requirements, individualized treatment plan, and selection of providers under these rules; and provides for an appeals process.

**IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO**

**PO Box 83720, Boise, ID 83720-0078**

**59-0103-0801, Contribution Rules for PERSI. (Temp & Prop)** Continues current contribution rates previously established by temporary rule until rate increase is needed.

**THE FOLLOWING TEMPORARY RULE HAS BEEN ADOPTED:**

**IDAPA 02 - DEPARTMENT OF AGRICULTURE**

**02-0421-0801, Rules Governing the Importation of Animals.**

Please refer to the Idaho Administrative Bulletin, **January 2, 2008, Volume 08-1** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact information.

**Issues of the Idaho Administrative Bulletin can be viewed at the county law libraries or online.**

To view the Bulletin or Code or for information on purchasing the Bulletin and other rules publications, visit our website at [adm.idaho.gov/adminrules/](http://adm.idaho.gov/adminrules/) or call (208) 332-1820 or write the Dept. of Administration, Office of Administrative Rules, 650 W. State St., Room 100, Boise, ID 83720-0306.



CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

**FOR THE ABOVE LINK TO WORK YOU HAVE  
TO BE CONNECTED TO THE INTERNET**

**This index tracks the history of all agency rulemakings from 1993 to the present.  
It includes all rulemaking activities on each chapter of rules  
and includes negotiated, temporary, proposed, pending  
and final rules, public hearing notices  
and vacated rulemaking notices.**

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