

IDAHO ADMINISTRATIVE BULLETIN

November 1, 2017 - Vol. 17-11

Idaho Department of Administration
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C.L. "Butch" Otter, Governor
Robert L. Geddes, Director, Department of Administration
Dennis Stevenson, Administrative Rules Coordinator
Bradley Hunt, Administrative Rules Specialist
Jason Shaw, Regulatory Analyst and Publishing Specialist

IDAHO ADMINISTRATIVE BULLETIN

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PREFACE

The Idaho Administrative Bulletin is an electronic-only, online monthly publication of the Office of the Administrative Rules Coordinator, Department of Administration, that is published pursuant to Section 67-5203, Idaho Code. The Bulletin is a compilation of all official rulemaking notices, official rule text, executive orders of the Governor, and all legislative documents affecting rules that are statutorily required to be published in the Bulletin. It may also include other rules-related documents an agency may want to make public through the Bulletin.

State agencies are required to provide public notice of all rulemaking actions and must invite public input. This is done through negotiated rulemaking procedures or after proposed rulemaking has been initiated. The public receives notice that an agency has initiated proposed rulemaking procedures through the Idaho Administrative Bulletin and a legal notice (Public Notice of Intent) that publishes in authorized newspapers throughout the state. The legal notice provides reasonable opportunity for the public to participate when a proposed rule publishes in the Bulletin. Interested parties may submit written comments to the agency or request public hearings of the agency, if none have been scheduled. Such submissions or requests must be presented to the agency within the time and manner specified in the individual “Notice of Rulemaking - Proposed Rule” for each proposed rule that is published in the Bulletin.

Once the comment period closes, the agency considers fully all comments and information submitted regarding the proposed rule. Changes may be made to the proposed rule at this stage of the rulemaking, but changes must be based on comments received and must be a “logical outgrowth” of the proposed rule. The agency may now adopt and publish the pending rule. A pending rule is “pending” legislative review for final approval. The pending rule is the agency’s final version of the rulemaking that will be forwarded to the legislature for review and final approval. Comment periods and public hearings are not provided for when the agency adopts a temporary or pending rule.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is identified by the calendar year and issue number. For example, Bulletin **13-1** refers to the first Bulletin issued in calendar year **2013**; Bulletin **14-1** refers to the first Bulletin issued in calendar year **2014**. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. **13-1** refers to January 2013; Volume No. **13-2** refers to February 2013; and so forth. Example: The Bulletin published in January 2014 is cited as Volume **14-1**. The December 2015 Bulletin is cited as Volume **15-12**.

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

The **Idaho Administrative Code** is an electronic-only, online compilation of all final and enforceable administrative rules of the state of Idaho that are of full force and effect. Any temporary rule that is adopted by an agency and is of force and effect is codified into the Administrative Code upon becoming effective. All pending rules that have been approved by the legislature during the legislative session as final rules and any temporary rules that are extended supplement the Administrative Code. These rules are codified into the Administrative Code upon becoming effective. Because proposed and pending rules are not enforceable, they are published in the Administrative Bulletin only and cannot be codified into the Administrative Code until approved as final.

To determine if a particular rule remains in effect or whether any amendments have been made to the rule, refer to the **Cumulative Rulemaking Index**. Link to it on the Administrative Rules homepage at adminrules.idaho.gov.

THE DIFFERENT RULES PUBLISHED IN THE ADMINISTRATIVE BULLETIN

Idaho’s administrative rulemaking process, governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, comprises distinct rulemaking actions: negotiated, proposed, temporary, pending and final rulemaking. Not all rulemakings incorporate or require all of these actions. 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 must, when feasible, engage in negotiated rulemaking at the beginning of the process to facilitate consensus building. 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 rule.

1. NEGOTIATED RULEMAKING

Negotiated rulemaking is a process in which all interested persons and the agency seek consensus on the content of a rule through dialogue. Agencies are required to conduct negotiated rulemaking whenever it is feasible to do so. The agency files a “Notice of Intent to Promulgate - Negotiated Rulemaking” for publication in the Administrative Bulletin inviting interested persons to contact the agency if interested in discussing the agency’s intentions regarding the rule changes. This process is intended to result in the formulation of a proposed rule and the initiation of regular rulemaking procedures. One result, however, may also be that regular (proposed) rulemaking is not initiated and no further action is taken by the agency.

2. 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 Rulemaking - Proposed Rule” in the Bulletin. This notice must include very specific information regarding the rulemaking including all relevant state or federal statutory authority occasioning the rulemaking, a non-technical description of the changes being made, any associated costs, guidance on how to participate through submission of written comments and requests for public hearings, and the text of the proposed rule in legislative format.

3. 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 one or more of these criteria, and with the Governor’s approval, the agency may adopt and make a temporary rule effective prior to receiving legislative authorization and without allowing for any public input. The law allows an agency to make a temporary rule immediately effective upon adoption. A temporary rule expires at the conclusion of the next succeeding regular legislative session unless the rule is extended by concurrent resolution, is replaced by a final rule, or expires under its own terms.

4. 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 Rulemaking - Pending Rule.” This includes a statement giving the reasons for adopting the rule, a statement regarding when the rule becomes effective, a description of how it differs from the proposed rule, and identification of any fees being imposed or changed.

Agencies are required to republish the text of the pending 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.

5. FINAL RULEMAKING

A final rule is a rule that has been adopted by an agency under the regular rulemaking procedures and is of full force and effect.

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 schematic. 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 that are further subdivided into 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.

1. “**38.**” refers to the Idaho Department of Administration

“**05.**” refers to Title **05**, which is the Department of Administration’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. Each rulemaking that is filed with the Coordinator is assigned a “DOCKET NUMBER.” The docket number is a series of numbers separated by a hyphen “-”, (**38-0501-1401**). Rulemaking dockets are published sequentially by IDAPA number (the two-digit agency code) in the Bulletin. The following example is a breakdown of a typical rule docket number:

“DOCKET NO. 38-0501-1401”

“**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**).

“**1401**” denotes the year and sequential order of the docket being published; in this case the numbers refer to the first rulemaking action published in **calendar year 2014**. A subsequent rulemaking on this same rule chapter in calendar year 2014 would be designated as “**1402**”. The docket number in this scenario would be **38-0501-1402**.

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)

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2017

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
17-1	January 2017	*November 25, 2016	January 4, 2017	January 25, 2017
17-2	February 2017	January 6, 2017	February 1, 2017	February 22, 2017
17-3	March 2017	February 3, 2017	March 1, 2017	March 22, 2017
17-4	April 2017	March 3, 2017	April 5, 2017	April 26, 2017
17-5	May 2017	April 7, 2017	May 3, 2017	May 24, 2017
17-6	June 2017	May 5, 2017	June 7, 2017	June 28, 2017
17-7	July 2017	June 9, 2017	July 5, 2017	July 26, 2017
17-8	August 2017	July 7, 2017	August 2, 2017	August 23, 2017
17-9	September 2017	August 4, 2017	September 6, 2017	September 27, 2017
17-10	October 2017	**September 1, 2017	October 4, 2017	October 25, 2017
17-11	November 2017	October 6, 2017	November 1, 2017	November 22, 2017
17-12	December 2017	November 3, 2017	December 6, 2017	December 27, 2017

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2018

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
18-1	January 2018	*November 24, 2017	January 3, 2018	January 24, 2018
18-2	February 2018	January 5, 2018	February 7, 2018	February 28, 2018
18-3	March 2018	February 2, 2018	March 7, 2018	March 28, 2018
18-4	April 2018	March 2, 2018	April 4, 2018	April 25, 2018
18-5	May 2018	April 6, 2018	May 2, 2018	May 23, 2018
18-6	June 2018	May 4, 2018	June 6, 2018	June 27, 2018
18-7	July 2018	June 8, 2018	July 4, 2018	July 25, 2018
18-8	August 2018	July 6, 2018	August 1, 2018	August 22, 2018
18-9	September 2018	August 3, 2018	September 5, 2018	September 26, 2018
18-10	October 2018	**August 31, 2018	October 3, 2018	October 24, 2018
18-11	November 2018	October 5, 2018	November 7, 2018	November 28, 2018
18-12	December 2018	November 2, 2018	December 5, 2018	December 26, 2018

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

*****Last day to submit a proposed rule in order to have the rulemaking completed and submitted for review by legislature.***

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IDAPA 01 – BOARD OF ACCOUNTANCY

01.01.01 – IDAHO ACCOUNTANCY RULES

DOCKET NO. 01-0101-1701

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 54-204(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:

Amend Rule 004.02 to appropriately date the Statement on Standards for Continuous Professional Education (CPE) which are incorporated by reference. The year notated will be changed from 2012 to 2016.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, **Vol. 17-9, pages 16-17**.

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 Kent A. Absec, Executive Director, at (208) 334-2490.

DATED this 3rd Day of October, 2017.

Kent A. Absec
Executive Director
Idaho State Board of Accountancy
3101 W. Main Street, Suite 210
P.O. Box 83820
Boise, Idaho 83720-0002
Phone: (208) 334-2490
Fax: (208) 334-2615
E-mail: kent.absec@isba.idaho.gov

IDAPA 01 – BOARD OF ACCOUNTANCY

01.01.01 – IDAHO ACCOUNTANCY RULES

DOCKET NO. 01-0101-1702

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 54-204(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:

Amend Rule 020.02.b. and 020.03 to bring it in conformity with a recent statute change of Section 54-219(f), Idaho Code. The amended rule will clarify the fact the Board is now permitted to consider a licensee's conviction of or a guilty plea to any crime involving moral turpitude, an element of which is dishonesty or fraud even where the licensee or proposed licensee has obtained a withheld judgment or other order of decree of expungement. The amended rule also clarifies the factors of rehabilitation the Board may consider in evaluating a current licensee or candidate for licensure.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 18-19](#).

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 Kent A. Absec, Executive Director, at (208) 334-2490.

DATED this 3rd day of October, 2017.

Kent A. Absec
Executive Director
Idaho State Board of Accountancy
3101 W. Main Street, Suite 210
P.O. Box 83820
Boise, Idaho 83720-0002
Phone: (208) 334-2490
Fax: (208) 334-2615
E-mail: kent.absec@isba.idaho.gov

IDAPA 01 – BOARD OF ACCOUNTANCY

01.01.01 – IDAHO ACCOUNTANCY RULES

DOCKET NO. 01-0101-1703

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 54-204(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:

Amend Rule 506.01.b. to provide clarity to a licensee relating to information they will need on documentation to support credit hours they are reporting for their Continuous Professional Education (CPE). This amendment to the rule will also reflect the language and requirements within standards set by the National Association of State Boards (NASBA) and the American Institute of Certified Public Accountants (AICPA) used by most state boards in the regulation of CPE.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, **Vol. 17-9, pages 20-21**.

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 Kent A. Absec, Executive Director, at (208) 334-2490.

DATED this 3rd day of October, 2017.

Kent A. Absec
Executive Director
Idaho State Board of Accountancy
3101 W. Main Street, Suite 210
P.O. Box 83820
Boise, Idaho 83720-0002
Phone: (208) 334-2490
Fax: (208) 334-2615
E-mail: kent.absec@isba.idaho.gov

IDAPA 01 – BOARD OF ACCOUNTANCY

01.01.01 – IDAHO ACCOUNTANCY RULES

DOCKET NO. 01-0101-1704

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 54-204(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:

Amend Rule 602.01, Peer Review Program Participation, to bring it in conformity with a recent statute change of Section 54-206(3), Idaho Code, the definition of Attest. The amended rule will provide consistency between the Accountancy Act and Rules. The rule will now clearly define for a licensee which services are considered as peer reviewable and therefore require a firm who performs these services to participate in a peer review program.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 22-23](#).

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 Kent A. Absec, Executive Director, at (208) 334-2490.

DATED this 3rd day of October, 2017.

Kent A. Absec
Executive Director
Idaho State Board of Accountancy
3101 W. Main Street, Suite 210
P.O. Box 83820
Boise, Idaho 83720-0002
Phone: (208) 334-2490
Fax: (208) 334-2615
E-mail: kent.absec@isba.idaho.gov

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.01.01 – IDAHO RULES OF PRACTICE AND PROCEDURE OF
THE IDAHO DEPARTMENT OF AGRICULTURE
DOCKET NO. 02-0101-1701 (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 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 22-101(3), 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:

Repeal the entire chapter in preparation for adopting a new chapter to comply with Section 67-5206(5), Idaho Code.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 5, 2017 Idaho Administrative Bulletin, [Vol. 17-7, page 15](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule does not regulate an activity not already regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

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:

ISDA does not anticipate any fiscal impact as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter, Deputy Attorney General, (208) 332-8508.

DATED this 5th day of October, 2017.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
P.O. Box 790
Boise, ID 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.01.01 – RULES OF PROCEDURE
DOCKET NO. 02-0101-1702 (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 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 22-101(3), 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:

Adopt a new chapter of procedural rules to comply with Section 67-5206(5), Idaho Code.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 5, 2017 Idaho Administrative Bulletin, [Vol. 17-7, pages 16-18](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule does not regulate an activity not already regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

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:

ISDA does not anticipate any fiscal impact as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter, Deputy Attorney General, (208) 332-8508.

DATED this 5th day of October, 2017.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
P.O. Box 790
Boise, ID 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.02.14 – RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-1701

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 71-111, 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 update the incorporation by reference for automotive spark engine fuel, diesel fuel and biodiesel fuel blends. Copies of the specifications are on file with the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, Boise, ID 83712, or may be purchased from the American Society of Testing Materials (ASTM) at <http://www.astm.org>, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 5, 2017 Idaho Administrative Bulletin, **Vol. 17-7, pages 19**.

IDAHO CODE SECTION 22-101A STATEMENT: This rule does regulate an activity not regulated by the federal government, because the federal government does not regulate procedures for testing gasoline, diesel, and biodiesel fuels. The rule is, however consistent with standards by the American Society of Testing Materials.

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:

ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kevin Merritt, Section Manager at (208) 332-8690.

DATED this 5th day of October, 2017.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
P.O. Box 790
Boise, ID 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.02.14 – RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-1702

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 71-111, 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.

A trade association petitioned the agency to add definitions for Liquefied and Compressed Natural Gas, Diesel Gallon Equivalent (DGE), Gasoline Gallon Equivalent (GGE), and their metric equivalents. Add a provision allowing the GGE and DGE units as an acceptable method of sale for compressed and liquefied natural gas motor fuel.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 5, 2017 Idaho Administrative Bulletin, [Vol. 17-7, pages 20](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule does regulate an activity not regulated by the federal government, because the federal government does not regulate units of measurement for liquefied natural gas or compressed natural gas. The rule is, however consistent with national standards by the National Institute of Standards and Technology.

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:

ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kevin Merritt, Section Manager at (208) 332-8690.

DATED this 5th day of October, 2017.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
P.O. Box 790
Boise, ID 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.02.14 – RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-1703

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 71-111, 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 incorporate by reference the 2018 edition of the National Institute of Standards and Technology Handbook 44, specifications, tolerances, and other technical requirements for weighing and measuring devices. NIST documents are available online at <https://www.nist.gov/pml/weights-and-measures/publications>.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 5, 2017 Idaho Administrative Bulletin, [Vol. 17-7, pages 21-22](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule does regulate an activity not regulated by the federal government, because the federal government does not regulate specifications, tolerances and other technical requirements for weighing and measuring devices. The rule is, however consistent with national standards by the National Institute of Standards and Technology.

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:

ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kevin Merritt, Section Manager at (208) 332-8690.

DATED this 5th day of October, 2017.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
P.O. Box 790
Boise, ID 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.06.02 – RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

DOCKET NO. 02-0602-1701

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 25-2710, 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 incorporate by reference information and updates contained in the 2018 Official Publication of the Association of American Feed Control Officials (AAFCO) as they pertain to the methodology and practice of conducting regulatory commercial feed registration and label review.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol 17-9, pages 30-31](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule does regulate an activity not regulated by the federal government. The federal government does not regulate commercial feeds. The rule is, however, consistent with the national standards of the Association of American Feed Control Officials.

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:

ISDA does not anticipate any fiscal impact from the changes to be made to the Rule as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jared Stuart, Agriculture Section Manager at (208) 332-8620.

DATED this 5th day of October, 2017

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
P.O. Box 790
Boise, ID 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.06.12 – RULES PERTAINING TO THE IDAHO FERTILIZER LAW
DOCKET NO. 02-0612-1701
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 22-604, 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 incorporate by reference information and updates contained in the 2018 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory fertilizer registration and label review.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol 17-9, pages 32-33](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule does regulate an activity not regulated by the federal government. The federal government does not regulate commercial fertilizers. The rule is, however, consistent with the national standards of the Association of American Plant Food Control Officials.

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:

ISDA does not anticipate any fiscal impact from the changes to be made to the Rule as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jared Stuart, Agriculture Section Manager at (208) 332-8620.

DATED this 5th day of October, 2017

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
P.O. Box 790
Boise, ID 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.06.21 – RULES FOR VOLUNTARY PUBLIC SERVICES OF
THE IDAHO DEPARTMENT OF AGRICULTURE LABORATORIES
DOCKET NO. 02-0621-1701 (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 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 22-604, 22-2006, 22-2204, and 25-2710, 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.

Historically the Feed and Fertilizer (F&F) Laboratory's primary function (>90%) has been regulatory/enforcement testing. However, it occasionally accepts public service samples on a fee basis. Since January 2014, the lab had 28 customers totaling \$18,114.18 of business. Of that amount, 84% or \$15,223.35 came from two other State Agencies from Oregon and Michigan that use the ISDA F&F Lab because of its extremely low prices. The primary mission of the F&F Lab is to provide enforcement testing services in an accurate and timely manner. These public service samples, for the most part, do not even benefit Idaho residents and tie up valuable lab space and time. Therefore, the ISDA has halted voluntary service sample testing as of January 1st, 2017.

The ISDA is repealing the rule for voluntary public services.

There are no changes to the pending rule and it is being adopted as originally proposed. The original text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9 p.34](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule does not regulate an activity not already regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

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:

ISDA does not anticipate any fiscal impact as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dan Salmi at (208) 332-8526 or Daniel.salmi@isda.idaho.gov.

DATED this 5th day of October, 2017.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
P.O. Box 790
Boise, ID 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.06.41 – RULES PERTAINING TO THE IDAHO SOIL AND PLANT AMENDMENT ACT OF 2001

DOCKET NO. 02-0641-1701

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 22-2204, 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 incorporate by reference information and updates contained in the 2018 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory soil and plant amendment registration and label review.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol 17-9, pages 35-36](#)

IDAHO CODE SECTION 22-101A STATEMENT: This rule does regulate an activity not regulated by the federal government. The federal government does not regulate soil and plant amendments. The rule is, however, consistent with the national standards of the Association of American Plant Food Control Officials.

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:

ISDA does not anticipate any fiscal impact from the changes to be made to the Rule as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jared Stuart, Agriculture Section Manager at (208) 332-8620.

DATED this 5th day of October, 2017

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
P.O. Box 790
Boise, ID 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

IDAPA 02 – IDAHO SHEEP AND GOAT HEALTH BOARD

02.08.01 – SHEEP AND GOAT RULES OF THE IDAHO SHEEP AND GOAT HEALTH BOARD

DOCKET NO. 02-0801-1701

NOTICE OF RULEMAKING – PROPOSED RULE

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 25-128, 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 November 15, 2017.

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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule is to require that all intact rams entering the state of Idaho have a Brucella Ovis test. This protects the owners bringing them in so that they know they have a healthy ram and that it will not transmit Brucella Ovis to other rams. Rams entering for exhibition only or from a certified Brucella Ovis free flock will be exempt.

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 Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the August 2, 2017 Idaho Administrative Bulletin, [Vol. 17-8, pg 13](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The Code of Federal Regulations and the USDA Scrapie Flock Certification Program are federal regulations that help keep goats and sheep healthy. The Idaho Sheep and Goat Health Board supports these regulations and wishes for all Idaho sheep and goat owners to abide by all federal and state laws.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Brandy Kay, (208) 334-3115.

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 November 22, 2017.

DATED this 5th day of October, 2017.

Brandy Kay, Executive Secretary
Idaho Sheep and Goat Health Board
802 W. Bannock Street, Ste. 205
P.O. Box 2596, Boise, ID 83701
Phone: (208) 334-3115
Fax: (208) 336-9447
Brandy.Kay@ISDA.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0801-1701
(Only Those Sections With Amendments Are Shown.)

004. INCORPORATION BY REFERENCE.

Copies of the following documents may be obtained from the Idaho State Department of Agriculture Division of Animal Industries and the State Law Library. IDAPA 02.08.01 incorporates by reference: (3-20-04)

- 01.** The Code of Federal Regulations Title 9, Parts 54.1, 54.2, 54.8, 54.9, 54.10, 54.11, 54.20, 54.21, 54.22 and 79, January 1, ~~2002~~ 2015. (~~3-20-04~~)()
- 02.** The Voluntary Scrapie Flock Certification Program Standards, USDA, ~~July 1, 1999~~ June 2013. (~~3-20-04~~)()
- 03.** The Code of Federal Regulations, Title 9, Part 161, January 1, ~~2002~~ 2009. (~~3-20-04~~)()

(BREAK IN CONTINUITY OF SECTIONS)

100. SHEEP AND GOAT STATE ENTRANCE REQUIREMENTS.

01. Entrance Requirements. All breeding sheep and goat stock entering the state of Idaho except as provided in Sections 103, 105, and 107 of these rules shall be accompanied by a permit issued by the Board together with a certificate of veterinary inspection certifying that such sheep or goats are free from scrapie, scabies, foot rot, brucella or symptoms of any communicable disease and are not known to have been exposed to scrapie for at least seventy-two (72) months prior to the date of inspection, scabies for a period of at least six (6) months immediately prior to date of inspection and are not known to have been exposed to any communicable disease for at least thirty (30) days immediately prior to date of inspection. All breeding sheep and goats with the exception of low-risk commercial goats imported into the state of Idaho shall be individually identified with an official premises/flock identification number, or legible tattoo or other form of individual identification approved by the Board. The premises/flock identification number shall be listed on the certificate of veterinary inspection. The original or true copy of the permit and certificate of veterinary inspection required by this rule shall be attached to the waybill covering such shipments. No sheep shall be shipped, trailed, or in any manner moved into the state of Idaho for any purpose if they originate in a state or area where sheep scabies is known to exist until the Board has been notified by the APHIS that such state or area where sheep scabies is known to exist has been classified by the APHIS as a sheep scabies eradication area. (~~3-20-04~~)()

02. Brucella Ovis. Intact male sheep six (6) months of age or older shall test negative for Brucella Ovis within thirty (30) days prior to entry. Rams entering for exhibition only and returning to the state of origin are exempt from testing. Rams imported from a state certified Brucella ovis free flock are also exempt. ()

(BREAK IN CONTINUITY OF SECTIONS)

200. SCRAPIE PROGRAM STANDARDS, SCRAPIE FLOCK CERTIFICATION, SCRAPIE CONTROL AND ERADICATION.

The Board adopts the provisions of the Voluntary Scrapie Flock Certification Program Standards, which were effective ~~July 1, 1999~~ June 2013, and 9 CFR, Parts 54.1, 54.2, 54.8, 54.9, 54.10, 54.11, 54.20, 54.21, 54.22 and 79, January 1, ~~2002~~ 2015, as the minimum standards for the scrapie certification program in Idaho. (~~3-20-04~~)()

IDAPA 07 – DIVISION OF BUILDING SAFETY

07.01.06 – RULES GOVERNING THE USE OF NATIONAL ELECTRICAL CODE

DOCKET NO. 07-0106-1701

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 54-1001 and 54-1006, 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 to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 37 through 40](#).

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 Warren Wing at (208) 332-7147.

DATED this 4th day of October, 2017.

Ron Whitney, Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840

IDAPA 07 – DIVISION OF BUILDING SAFETY
07.02.04 – RULES GOVERNING PLUMBING SAFETY INSPECTIONS
DOCKET NO. 07-0204-1701
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 54-2601, 54-2605, 54-2606 and 54-2607, 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 to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 41 through 42](#).

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 Nielsen at (208) 332-7112.

DATED this 4th day of October, 2017.

Ron Whitney, Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840

IDAPA 07 – DIVISION OF BUILDING SAFETY
07.02.06 – RULES CONCERNING IDAHO STATE PLUMBING CODE
DOCKET NO. 07-0206-1701
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 54-2601, 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 to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 43 through 48](#).

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 Nielsen at (208) 332-7112.

DATED this 4th day of October, 2017.

Ron Whitney, Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840

IDAPA 07 – DIVISION OF BUILDING SAFETY
07.03.01 – RULES OF BUILDING SAFETY
DOCKET NO. 07-0301-1701
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 39-4107 and 39-4109, 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 to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 49 through 59](#).

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 Arlan Smith at (208) 332-7123.

DATED this 4th day of October, 2017.

Ron Whitney, Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840

IDAPA 07 – DIVISION OF BUILDING SAFETY

07.03.11 – RULES GOVERNING MANUFACTURED/MOBILE HOME INDUSTRY LICENSING

DOCKET NO. 07-0311-1701

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 44-2104, 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 to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 60 through 63](#).

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 Ron Whitney, Deputy Administrator, at (208) 332-7150.

DATED this 4th day of October, 2017.

Ron Whitney, Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840

IDAPA 07 – DIVISION OF BUILDING SAFETY

07.03.12 – RULES GOVERNING MANUFACTURED OR MOBILE HOME INSTALLATIONS

DOCKET NO. 07-0312-1701

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 44-2201 and 44-2104, 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 to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 64 through 65](#).

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 Ron Whitney, Deputy Administrator, at (208) 332-7150.

DATED this 4th day of October, 2017.

Ron Whitney, Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840

IDAPA 07 – DIVISION OF BUILDING SAFETY
07.04.01 – RULES GOVERNING SAFETY INSPECTIONS – GENERAL
DOCKET NO. 07-0401-1701
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 67-2601A, 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 to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 66 through 69](#).

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 Gary Barnes, Industrial Safety Program Manager, Division of Building Safety at (208) 332-8974.

DATED this 4th day of October, 2017.

Ron Whitney, Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840

IDAPA 07 – DIVISION OF BUILDING SAFETY

07.04.02 – SAFETY RULES FOR ELEVATORS, ESCALATORS, AND MOVING WALKS

DOCKET NO. 07-0402-1701

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 39-8605, 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 to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 70 through 71](#).

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 Gary Barnes at (208) 332-8974.

DATED this 4th day of October, 2017.

Ron Whitney, Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840

IDAPA 07 – DIVISION OF BUILDING SAFETY

07.07.01 – RULES GOVERNING INSTALLATION OF HEATING, VENTILATION, AND AIR CONDITIONING SYSTEMS, DIVISION OF BUILDING SAFETY

DOCKET NO. 07-0701-1701

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 54-5001 and 54-5005, 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 to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 72 through 74](#).

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 Nielsen at (208) 332-7112.

DATED this 4th day of October, 2017.

Ron Whitney, Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840

IDAPA 07 – DIVISION OF BUILDING SAFETY

07.07.01 – RULES GOVERNING INSTALLATION OF HEATING, VENTILATION, AND AIR CONDITIONING SYSTEMS, DIVISION OF BUILDING SAFETY

DOCKET NO. 07-0701-1702

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 54-5005 and 54-5021, 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 to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 75 through 76](#).

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 Nielsen at (208) 332-7112.

DATED this 4th day of October, 2017.

Ron Whitney, Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840

IDAPA 07 – DIVISION OF BUILDING SAFETY

07.09.01 – SAFETY AND HEALTH RULES FOR PLACES OF PUBLIC EMPLOYMENT

DOCKET NO. 07-0901-1701 (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 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 67-2601A, 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 to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, page 78](#).

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 Gary Barnes, Industrial Safety Program Manager, Division of Building Safety at (208) 332-8974.

DATED this 4th day of October, 2017.

Ron Whitney, Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840

IDAPA 07 – DIVISION OF BUILDING SAFETY
07.10.01 – RULES GOVERNING THE DAMAGE PREVENTION BOARD,
DIVISION OF BUILDING SAFETY

DOCKET NO. 07-1001-1701

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 55-2203, 55-2208 and 55-2211, 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 to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 79 through 84](#).

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 will be no fiscal impact to the state General Fund. It is expected that there will be a positive impact on the Damage Prevention Board dedicated fund as civil penalties are collected; however that may be offset by a negative impact to the Division as a result of the need to perform investigative activities in response to complaints received. Civil penalties will only adversely affect those stakeholders who do not comply with legal requirements. A positive and necessary economic result will be the reduction of underground facility damages throughout the State of Idaho, as well as reinforcement of public safety through the protection of life and property. The fiscal impact to the various stakeholders providing such assurance may be significant - up to hundreds of thousands of dollars spent in some cases on additional staffing and supporting resources to effectively reduce damage to underground facilities. Such expenses to facilities owners are expected to be offset by the reduction of actual damages when the damage prevention program begins to operate effectively.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ron Whitney, Deputy Administrator, at (208) 332-7150.

DATED this 4th day of October, 2017.

Ron Whitney, Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840

**IDAPA 10 – BOARD OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS**

10.01.01 – RULES OF PROCEDURE

DOCKET NO. 10-0101-1701

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 54-1208, 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 rule change clarifies the intent of the board. The amendments will add a new provision clarifying the Board's website is used for informational and legal purposes; correct grammar and code citations; and remove the Washington Accord from the list of unconditionally approved international engineering programs.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 2, 2017 Idaho Administrative Bulletin, [Vol. 17-8, page 22-29](#).

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 or the agency dedicated fund because the amendment displays the intent of the Board's website which is already developed and used for the purposes stated, and the corrected words and citations are housekeeping in nature. International applicants for professional engineering licensure may incur costs for and independent review of their education credential if the Board is unable to determine whether the engineering coursework meets the engineering education requirements stated in the existing rule.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Keith Simila at (208) 373-7210.

DATED this 11th day of September, 2017.

Keith Simila, P.E.
Executive Director
1510 Watertower Street
Meridian, Idaho 83642
Telephone: (208) 373-7210
Fax: (208) 373-7213
E-mail: keith.simila@ipels.idaho.gov

**IDAPA 10 – BOARD OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS**

10.01.04 – RULES OF CONTINUING PROFESSIONAL DEVELOPMENT

DOCKET NO. 10-0104-1701

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 54-1208, 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 rule change clarifies the intent of the board. The amendment repeals a section of the rule that exempts engineers and land surveyors residing in other countries from the requirements of completing continuing professional development. With the advent of online professional development offerings, this exemption is no longer needed.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 2, 2017 Idaho Administrative Bulletin, [Vol. 17-8, page 30-31](#).

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 or the agency dedicated fund because the amendment does not increase or decrease the workload of the agency. The rule change will require more effort for licensees residing in other countries to obtain the required continuing professional development offerings of 30 professional development hours every two years.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Keith Simila at (208) 373-7210.

DATED this 10th day of October, 2017.

Keith Simila, P.E.
Executive Director
1510 Watertower Street
Meridian, Idaho 83642
Telephone: (208) 373-7210
Fax: (208) 373-7213
E-mail: keith.simila@ipels.idaho.gov

**IDAPA 11 – IDAHO STATE POLICE
IDAHO BRAND BOARD**

11.02.01 – RULES OF THE IDAHO STATE BRAND BOARD

DOCKET NO. 11-0201-1701 (FEE RULE)

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 2, 2017.

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 25-1160, 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 November 15, 2017.

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 funds needed to perform the Board's regulatory functions and to meet the Governor's recommended budget for FY2018 are inadequate. The Brand Board adopted the temporary rule on October 2, 2017, increasing cattle and horse brand inspection fees to make up this shortfall. The increases move the Board fees closer to the cap set in Section 25-1160, Idaho Code. Additionally, informational sections are being added at the beginning of the rule as part of this rulemaking and example forms used for Board business are being removed from the rule. Forms used for conducting business with the Board are available at the Board office.

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 temporary rule is necessary to protect the public health, safety, and welfare; the fee increases will allow the Board to continue to provide the necessary quality regulatory services to the Idaho Livestock Industry. Without these fee increases the Board faces a budget shortfall for FY2018 and beyond, which will result in the Board's inability to provide its statutorily required services and perform its regulatory oversight duties.

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

As per the cap set in Section 25-1160, Idaho Code, our cattle inspection fees will increase from \$.94 to \$1.19. Pasture fee will increase from \$.47 to \$.60, our courtesy cattle brand inspection fee will increase from \$.94 to \$1.19.

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

This will not have a negative fiscal impact on the state general fund, as these are dedicated funds. An estimated \$462,000 will be generated by the Idaho livestock industry annually.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted however, informal meetings were held with stake holders to discuss the proposed changes.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Larry A. Hayhurst, State Brand Inspector, at (208) 884-7070.

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 November 22, 2017.

DATED this 2nd day of October, 2017.

Larry A. Hayhurst
Idaho State Brand Inspector
700 S. Stratford Drive.
Meridian, ID 83642
Phone: (208) 884-7070
Fax: (208) 884-7097

Idaho State Brand Board
P.O. Box 1177
Meridian, ID 83680

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF FEE DOCKET NO. 11-0201-1701
(Only Those Sections With Amendments Are Shown.)**

004. OFFICES, MAILING ADDRESS, ~~And~~ OFFICE HOURS, WEB ADDRESS, AND FORMS.

- 01. Office Hours.** Office hours are Monday through Friday, 8 a.m. to 5 p.m. (10-2-17)T
- 02. Mailing Address.** The mailing address of the Idaho State Brand Board is P.O. Box 1177, Meridian, Idaho 83680-1177. (10-2-17)T
- 03. Main Office and District Offices - Street Addresses and Phone Numbers.** (10-2-17)T
- a. Main Office.** 700 S. Stratford, Meridian, Idaho 83642. Phone Number - 208-884-7070. (10-2-17)T
- b. Lewiston Office.** 1118 F St, Lewiston, Idaho 83501. Phone Number - 208-799-5019. (10-2-17)T
- c. Caldwell Office.** 1900 E. Chicago, Caldwell, Idaho 83605. Phone Number - 208-459-4231. (10-2-17)T
- d. Twin Falls Office.** 630 Railroad Avenue, Twin Falls, Idaho 83301. Phone Number - 208-733-8270. (10-2-17)T
- e. Idaho Falls Office.** 701 Northgate Mile, Idaho Falls, Idaho 83401. Phone Number - 208-522-6676. (10-2-17)T
- 04. Internet Address.** <https://www.isp.idaho.gov/brands/index.html>. (10-2-17)T
- 05. Forms.** ~~Any or all~~ Forms used by the Idaho State Brand Board are available ~~for inspection~~ during office hours ~~at 700 S. Stratford, Meridian, Idaho 83642~~ at the main Board office and at the district offices. (3-30-01)(10-2-17)T

(BREAK IN CONTINUITY OF SECTIONS)

034. SCHEDULE OF FEES FOR THE IDAHO STATE BRAND BOARD.

01. Fees. Fees authorized by the State Brand Board and to be collected by the State Brand Inspector are as follows:

SCHEDULE OF FEES		
Recording of a Brand	\$50 initial recording fee plus a \$20 per year prorated staggered renewal fee every year thereafter	
Transfer of a recorded brand	\$50.00	
Renewal of a recorded brand (every five years)	\$100.00	
Duplicate brand registration certificate	\$1.50	
Ownership and transportation certificate	\$35.00	
Duplicate ownership and transportation certificate	\$5.00	
Annual inspection equine or bovine	\$5.00	
	CATTLE	HORSES
Brand inspection (per head)	\$.94 <u>1.19</u>	\$1.50
Idaho livestock to pasture (per head)	\$.47 <u>.60</u>	\$.75
Minimum auction fee (per day)	\$50.00	\$50.00
Minimum field brand inspection fee	\$10 <u>20.00</u>	\$10 <u>20.00</u>
Courtesy brand inspection	\$.94 <u>1.19</u>	\$1.50

Fees To Be Collected By The State Brand Inspector For Other State Agencies:	
Idaho Beef Council (per head)	\$1.50
Idaho Horse Board (per head)	\$3.00
Idaho Department of Agriculture:	
Animal health (per head)	\$.22
Predator control (per head)	\$.05

~~(3-27-13)~~(10-2-17)T

02. Due and Payable. Pursuant to Section 25-1160(5), Idaho Code, all brand inspection fees, and all other fees required to be collected by the Brand Inspector are due and payable at the time of inspection, except that livestock owners may make arrangements with a deputy brand inspector to pay for all accumulated brand inspection fees within each seven (7) day period. Failure to comply with this rule will cancel the previously approved schedule and shall make all fees immediately due and payable. Feedlots, currently approved by the Idaho Department of Agriculture, and slaughter plants are exempt from the minimum brand inspection fee. Other minimum brand inspection fees may be waived at the discretion of the State Brand Inspector or District Brand Supervisor. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

041. -- ~~049~~**50.** (RESERVED)

~~050. LOCATIONS OF THE OFFICES OF THE IDAHO STATE BRAND BOARD.~~

- ~~01. Main Office. 700 S. Stratford, Meridian, Idaho 83642. (3-30-01)~~
- ~~02. District Brand Offices. (7-1-93)~~
- ~~a. Lewiston, 2780 North & South Highway, Lewiston, Idaho 83501. (7-1-93)~~
- ~~b. Caldwell, 1900 E. Chicago, Caldwell, Idaho 83605. (3-30-01)~~
- ~~c. Twin Falls, 630 Railroad Avenue, Twin Falls, Idaho 83301. (7-1-93)~~
- ~~d. Idaho Falls, 701 Northgate Mile, Idaho Falls, Idaho 83401. (7-1-93)~~

IDAPA 11 – IDAHO STATE RACING COMMISSION

11.04.06 – RULES GOVERNING RACING OFFICIALS

DOCKET NO. 11-0406-1701

NOTICE OF RULEMAKING – PROPOSED RULE

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, Idaho Code 54-2506.

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 November 15th, 2017.

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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Currently, IDAPA 11.04.06 provides Racing Stewards with jurisdiction to resolve hearings for 30 days after our live race meet has concluded. However, in another Section 160 of the rule (IDAPA 11.04.11.160), horsemen are provided an opportunity to request a split blood test sample to be done at a lab of their choosing. This rule provides a time period for the requesting, shipping and receiving of that blood sample. Typically, this process takes much longer than 30 days to complete. If a horseman races near the end of the live season and has been found to have a drug violation, the Steward's jurisdiction could expire before that horseman has a chance to exercise his right to a split blood test sample.

When a Steward's jurisdiction expires before a hearing has been resolved, the Racing Commission must hire attorneys to bring the drug violation forward to the Racing Commissioners. The Racing Commission must also hire a Hearing Officer to decide the case, if it is appealed. These actions cause a significant delay to the hearing process.

Effectively, end-of-season horsemen could potentially experience a different enforcement process than other racing participants simply because rule writers in 2010 overlooked the timeframe for processing a split sample blood test. Purse monies could potentially take longer to distribute, and publishing of accurate win records could also potentially be significantly delayed.

This rule change extends the Steward's jurisdiction from 30 days to 90 days, to provide horsemen time to complete their split sample testing process, if needed.

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 Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rule change is simple in nature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ardie Noyes – Phone (208) 884-7080.

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 November 22nd, 2017.

DATED this 29th day of September, 2017.

Ardie Noyes
Business Operations Manager
Ph. (208)884-7080 / Fax: (208)884-7098

Idaho State Racing Commission
700 South Stratford Drive
Meridian, ID 83642

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 11-0406-1701
(Only Those Sections With Amendments Are Shown.)

051. STEWARDS GENERAL AUTHORITY.

The stewards for each race meet are responsible to the Racing Commission for the conduct of the race meet in accordance with the laws of Idaho and all Racing Commission rules. (3-29-10)

01. Jurisdiction. The Board of Stewards' jurisdiction in any matter commences thirty (30) days prior to the first day of a race meet and extends up to and including ~~thirty (30)~~ ninety (90) days following the conclusion of a race meet. However, the Racing Commission may, at its discretion, extend this time period if any matter is not resolved after the conclusion of ninety (90) days. ~~(3-29-10)~~ ()

02. Suspensions and Fines. The Stewards may suspend licenses for a period not to exceed one hundred eighty (180) days, or impose fines not to exceed twenty-five hundred dollars (\$2500) or they may impose both such fine and suspension. (3-29-10)

03. Reported. All such suspensions and fines must be reported to the Racing Commission. (3-29-10)

04. Stewards Enforce Rules. The stewards enforce all Racing Commission rules and the racing laws of the State of Idaho. (3-29-10)

05. Supervision of Officials and Others. The stewards' authority includes supervision of all racing officials, track management, licensed personnel, other persons responsible for the conduct of racing, and patrons, as necessary to insure compliance with any Racing Commission rules. (3-29-10)

06. Resolve Conflicts. The stewards have authority to resolve conflicts or disputes related to racing and to discipline violators in accordance with the provisions of any Racing Commission rules. (3-29-10)

07. Interpret Rules. The stewards have the authority to interpret the rules and to decide all questions of racing not specifically covered by the rules. (3-29-10)

08. Other. Matters not covered by Racing Commission rules must be determined by the Stewards in conformity with justice and in the best interest of racing. (3-29-10)

IDAPA 11 – IDAHO STATE POLICE – POST

11.11.01 – RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL

DOCKET NO. 11-1101-1701

NOTICE OF RULEMAKING – PROPOSED RULE

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 19-5107, 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 November 15, 2017.

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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

To align applicable IDAPA 11.11.01 rules to support House Bill 1083, which became effective July 1, 2017, mandating certification of Emergency Communications Officers by the Peace Officer's Standards and Training Council (POST). The rule, in its current form, fails to support the new statutory mandates governing Emergency Communications Officers (ECO) certification. Defines minimum age requirements at the time of application for applicants of POST certification for each respective discipline. Defines the forms of proof of military record documentation, adds language in reference to the POST Code of Ethics/Standards of Conduct. Adds disqualifier of active military service for requirement of reimbursement of Agreement to Serve requirement. Removes the POST Firearms Qualification Course from the Detention Officer certification exam requirement.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is simple in nature and representatives of the affected interests were involved in the drafting and approval of the rule.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Victor McCraw at (208) 884-7251.

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 November 22, 2017.

DATED this 17th day of October, 2017.

Victor McCraw
POST Division Administrator
Idaho Peace Officer Standards & Training
700 S. Stratford Drive
Meridian, ID 83642
Phone: (208) 884-7251
Fax (208) 884-7295

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 11-1101-1701
(Only Those Sections With Amendments Are Shown.)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 11.11.01, “Rules of the Idaho Peace Officer Standards and Training Council,” IDAPA 11, Title 11, Chapter 01. (3-15-02)

02. Scope. These rules constitute the minimum standards of training, education, employment, and certification ~~of peace officers, county detention officers, juvenile detention officers, juvenile probation officers, correction officers, and adult probation and parole officers in Idaho~~ for any discipline certified by the POST Council. (4-2-08)()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

01. Act. Title 19, Chapter 51, of the Idaho Code. (4-5-00)

02. Adult Probation and Parole Officer. Any employee of the Idaho Department of Correction who is responsible for the supervision of offenders on probation or parole. (3-30-07)

03. Agency. A law enforcement agency which is a part of or administered by the state or any political subdivision thereof and which is responsible for the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; a juvenile detention center; a juvenile probation department; the Idaho Department of Correction; a Public-Safety Answering Point (PSAP), as defined in IDAPA rule; or a private prison contractor of the State Board of Correction that is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the facility. (4-2-08)()

04. Agency Head. A chief of police of a city, sheriff of a county, or chief administrator of any law enforcement agency of the state of Idaho or any political subdivision thereof who is responsible for the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; the chief administrator of a juvenile detention center; the chief administrator of a juvenile probation department; the director of the Idaho Department of Correction; the chief administrator of a PSAP, as defined in IDAPA rule; or the chief administrator of a private prison contractor of the State Board of Correction that is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the facility. (4-2-08)()

05. Applicant. Any person applying to participate in a POST training program or applying for POST certification. (4-2-08)

06. Basic Adult Probation and Parole Academy. A basic course of instruction for Adult Probation and Parole Officers ~~as~~ recommended by the Correction Standards and Training Council and recognized and approved by POST Council. (4-2-08)()

07. Basic Correction Academy. A basic course of instruction for Correction Officers ~~as~~ recommended by the Correction Standards and Training Council and recognized and approved by POST Council. (4-2-08)()

08. Basic Detention Academy. A basic course of instruction for Detention Officers as recognized by POST Council. (4-2-08)

09. Basic Juvenile Corrections Academy. A basic course of instruction for Juvenile Corrections

Officers recommended by the Juvenile Training Council and recognized and approved by POST Council. ()

~~10.~~ **Basic Juvenile Detention Academy.** A basic course of instruction for Juvenile Detention Officers ~~as recommended by the Juvenile Training Council and~~ recognized and approved by POST Council. ~~(4-2-08)~~()

~~11.~~ **Basic Juvenile Probation Academy.** A basic course of instruction for Juvenile Probation Officers ~~as recommended by the Juvenile Training Council and~~ recognized and approved by POST Council. ~~(4-2-08)~~()

12. Basic Misdemeanor Probation Academy. A basic course of instruction for Misdemeanor Probation Officers recommended by the Misdemeanor Probation Training Council and recognized and approved by POST Council. ()

~~13.~~ **Basic Patrol Academy.** A basic course of instruction for Patrol Officers as recognized by POST Council. (4-2-08)

~~14.~~ **College Credit.** A unit of work towards a baccalaureate or vocational degree accepted by a college or university of higher education accredited by the Northwest Association of Schools and Colleges or other POST-accepted U.S. regional accrediting agency. (3-18-15)

~~15.~~ **Correction Officer.** Any employee of an Idaho Department of Correction facility or private prison contractor of the State Board of Correction who is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the correction facility. (3-30-07)

~~16.~~ **Correction Standards and Training Council.** An advisory group to the POST Council that is comprised of members from academia and law enforcement agencies. The purpose of the Correction Standards and Training Council is to advise POST Council in the planning, development, and operation of the Basic Correction Academy and the Basic Adult Probation and Parole Academy. (4-2-08)

~~17.~~ **Council.** The Idaho Peace Officer Standards and Training Council. (4-2-08)

~~18.~~ **County Detention Officer.** An employee in a county jail who is responsible for the safety, care, protection, and monitoring of county jail inmates. (4-5-00)

~~19.~~ **Crime of Deceit.** Any offense described in Section 18-1301 et seq., Idaho Code, (Bribery), Section 18-1401 et seq. (Burglary), Sections 18-1901 (Fictitious Stock Subscription), 18-1902 (Exhibition of False Papers to Public Officers), 18-1903 (Use of False Name in Prospectus), 18-1904 (Illegal Dividends and Reductions of Capital), 18-1905 (Falsification of Corporate Books), 18-1906 (Fraudulent Reports by Officers), 18-2202(1) (Computer Crime), 18-2302 (False Swearing as to Qualifications as Voter), 18-2304 (Procuring Illegal Votes), 18-2305 (Intimidation, Corruption and Frauds), 18-2306 (Illegal Voting or Interference with Election), 18-2307 (Attempting to Vote When Not Qualified or to Repeat Voting), 18-2309 (Officers Attempting to Change Result), 18-2310 (Forging or Counterfeiting Returns), 18-2311 (Adding to or Subtracting From Votes), 18-2316 (Tampering with Certificates of Nomination or Ballots), 18-2320 (Bribery of Electors), Section 18-2401 et seq. (Theft), Section 18-2601 et seq. (Falsifying Evidence -- Offering Forged or Fraudulent Documents in Evidence), Section 18-2701 et seq. (Bribery of Executive Officers), Sections 18-3105 (False Statement by Commission Merchant, Broker, Agent, Factor or Consignee to Principal or Consignor), 18-3106 (Drawing Check Without Funds -- Drawing Check With Insufficient Funds -- Prima Facie Evidence of Intent -- Standing of Person Having Acquired Rights -- Probation Conditions), 18-3123 (Forgery of a Financial Transaction Card), 18-3124 (Fraudulent Use of a Financial Transaction Card), 18-3125 (Criminal Possession of Financial Transaction Card and FTC Forgery Devices), 18-3125A (Unauthorized Factoring of Credit Card Sales Drafts), 18-3126 (Misappropriation of Personal Identifying Information), 18-3127 (Receiving or Possessing Fraudulently Obtained Goods or Services), 18-3201 (Officer Stealing, Mutilating or Falsifying Public Records), 18-3202 (Private Person Stealing, Mutilating or Falsifying Public Records), 18-3203 (Offering False or Forged Instrument for Record), 18-3204 (False Certificates or Other Instruments from Officers), 18-3206 (Mutilating Written Instruments), Section 18-3601 et seq. (Forgery), Sections 18-4616 (Defacing Marks on Logs or Lumber), 18-4617 (Stealing Rides on Trains), 18-4621 (Stealing Electric Current -- Tampering with Meters), 18-4622 (Stealing Electric Current -- Accessories Liable as Principals), 18-4624 (Taken or Converted Merchandise as Theft), 18-4626 (Willful Concealment of Goods, Wares or Merchandise -- Defense for Detention), 18-4630 (Illegal Use of Documents), 18-4701 (Alteration of Bills), 18-4702 (Alteration of Enrolled Copies), 18-4703 (Offering Bribes to

Legislators), 18-4704 (Legislators Receiving Bribes), Section 18-5401 et seq. (Perjury), Section 18-6501 et seq. (Robbery), Sections 18-8201 (Money Laundering and Illegal Investment -- Penalty -- Restitution), 41-293 (Insurance Fraud), 41-294 (Damage to or Destruction of Insured Property), 41-1306 (False Financial Statements), 49-228 (Receiving or Transferring Stolen Vehicles), 49-231 (Farm Implements -- Purchasing or Selling When Identifying Number Altered or Defaced a Felony), 49-232 (Fraudulent Removal or Alteration of Numbers Prohibited), 49-518 (Altering or Forging Certificate -- Stolen Cars -- Destroying or Altering Engine or Decal Number -- Use of Fictitious Name -- Fraud), or any attempt, conspiracy or solicitation to commit any of the foregoing offenses, or any racketeering offense under Section 18-7801 et seq., Idaho Code, in which any of the foregoing offenses constitutes at least one (1) of the predicate acts, or any other crime defined in the Idaho Code involving any form of theft or including fraudulent intent as an element, or an offense equivalent to any of the foregoing in any other jurisdiction. (4-2-08)

~~18~~**20. Direction.** Direction, at its broadest term, allows an employing agency to utilize a Level II reserve officer to work under the immediate presence and direction of a full-time peace officer of the same agency. This does not allow a Level II reserve officer to operate alone in his official capacity. He must be under direct observation and control of the agency's full-time peace officer. (3-25-16)

~~20~~**21. Emergency Communications Officer.** Any emergency call taker or dispatcher who is employed by a Public Safety Answering Point (PSAP) and whose responsibilities include receiving or dispatching 9-1-1 calls. ()

~~19~~**22. Field Training.** Training in which an individual receives formal instruction on the job for special and defined purposes. (7-1-93)

~~20~~**23. Full Time.** Employment of one hundred sixty (160) hours or more per month for ninety (90) consecutive calendar days. (4-2-08)

~~21~~**24. In-Service Training.** Training designed to refresh or add to an individual's capabilities to do the task to which they are or may be assigned. (7-1-93)

~~25~~**25. Juvenile Corrections Direct Care Staff.** Any full or part-time employee of the department whose primary job duties include providing for the safety, care, education, protection, or supervision of juveniles committed to the custody of the department. Job titles are defined in IDAPA 11.11.05, "Rules of the Idaho Peace Officer Standards and Training Council for Idaho Department of Juvenile Corrections Direct Care Staff," Subsection 010.06. ()

~~26~~**26. Juvenile Detention Center.** A juvenile detention facility that is part of or administered by the county or any political subdivision thereof and is responsible for the safety, care, protection, and monitoring of juvenile offenders. (4-2-08)

~~27~~**27. Juvenile Detention Officer.** Any employee of a juvenile detention center who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center. (4-2-08)

~~28~~**28. Juvenile Probation Officer.** Any employee of a juvenile probation department who is responsible for preparing social history reports to the court, making recommendations regarding conditions of probation, and the supervision of juvenile offenders' compliance with court orders. (4-2-08)

~~29~~**29. Juvenile Training Council.** An advisory group to the POST Council that is composed of the Director of the Department of Juvenile Corrections, a Magistrate, a county Juvenile Detention Director, a county Chief Probation Officer, a county Commissioner, a county Clerk, and a county Sheriff. The purpose of the Juvenile Training Council is to advise POST Council in the planning, development, and operation of the Juvenile Detention and Juvenile Probation Academies. (4-2-08)

~~30~~**30. Law Enforcement Profession.** As used in agreements authorized pursuant to Section 19-5112, Idaho Code, means an employee of a police or law enforcement agency that is a part of or administered by the state or any political subdivision thereof and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; an employee in

a county jail who is responsible for the safety, care, protection, and monitoring of county jail inmates; an employee of a juvenile detention center that is part of or administered by the county or any political subdivision thereof and who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center; an employee of a county juvenile probation department who is responsible for preparing social history reports to the court, making recommendations regarding conditions of probation, and the supervision of juvenile offenders' compliance with court orders; an employee of an Idaho Department of Correction facility or private prison contractor of the State Board of Correction who is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the correction facility; or an employee of the Idaho Department of Correction who is responsible for the supervision of offenders on probation or parole. (4-2-08)

~~27~~**31. Manual.** This book of Rules as adopted by the Idaho Peace Officer Standards and Training Council. (4-5-00)

~~32.~~ **Misdemeanor Probation Officer.** Any employee of a misdemeanor probation department who is responsible for preparing reports to the court, making recommendations regarding conditions of probation, and the supervision of misdemeanor offenders' compliance with court orders. ()

~~28~~**33. Part Time.** Employment of less than one hundred sixty (160) hours per month for ninety (90) consecutive calendar days. (4-2-08)

~~29~~**34. Part-Time Juvenile Detention Officer.** Any employee of a juvenile detention center that is part of or administered by the county or any political subdivision thereof and who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center, and does not meet the definition of "employee" as defined in Section 59-1302, Idaho Code. (4-2-08)

~~30~~**5. Peace Officer.** Any employee of a police or law enforcement agency which is a part of or administered by the state or any political subdivision thereof and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision. "Peace officer" also means an employee of a police or law enforcement agency of a federally recognized Indian tribe who has satisfactorily completed the peace officer standards and training academy and has been deputized by a sheriff of a county or a chief of police of a city of the state of Idaho. (4-5-00)

~~31~~**6. POST.** The Idaho Peace Officer Standards and Training Program. (7-1-93)

~~32~~**7. POST Basic Training Academy.** ~~The Basic Adult Probation and Parole Academy, the Basic Correction Academy, the Basic Detention Academy, the Basic Juvenile Detention Academy, the Basic Juvenile Probation Academy, or the Basic Patrol Academy~~ A POST-approved training program that meets the requirements for basic certification for any discipline certified by the POST Council. ~~(4-2-08)~~ ()

~~33~~**8. POST Certified Instructor.** Any person certified by the Idaho POST Council as being qualified to instruct or assess students in a course of instruction which meets POST standards for certification or training credit. (3-25-16)

~~34~~**9. Prosecutor.** A city prosecuting attorney, city assistant prosecuting attorney, county prosecuting attorney, county deputy prosecuting attorney, attorney general, deputy attorney general, United States attorney, or assistant United States attorney. (4-2-03)

~~40.~~ **Public Safety Answering Point (PSAP).** Any city, county, or state emergency call center that receives direct or transferred 9-1-1 calls for police, firefighting, and ambulance services. ()

~~35~~**41. Reserve Peace Officer.** An individual assigned by an agency to perform the duties of a peace officer on a part-time basis. All reserve officers must be under supervision as set forth in these rules unless they hold a current Part-Time Basic certificate. (3-25-16)

~~36~~**42. School.** Any school, college, university, academy, or local training program which offers law enforcement training and includes within its meaning the combination of course curriculum, instructors and facilities, or any training session as certified by POST. (7-1-93)

~~37~~**43.** **School Director or Coordinator.** An individual charged with the responsibility of conducting a training school under the provisions of the Act. (7-1-93)

~~38~~**44.** **Specification.** A description of a requirement supplementing a section of the Rules. (7-1-93)

~~39~~**45.** **Supervision.** Supervision allows the employing agency to utilize a Level I reserve officer to work by himself without the immediate presence or direction of a full-time peace officer, but acting under the overall on-duty supervision of an on-duty, full-time peace officer. This may allow a Level I reserve officer to work alone in his jurisdiction, without immediate oversight of an agency full-time peace officer, as long as there were another full-time peace officer of the agency working at the same time to provide supervision of the Level I reserve officer's activities. (3-29-12)

~~40~~**6.** **Temporary.** Employment of less than ninety (90) consecutive calendar days. (7-1-93)

~~41~~**7.** **Trainee.** An officer participating in any POST-approved training program. (3-15-02)

011. -- 029. (RESERVED)

030. GENERAL AND INCIDENTAL POWERS AND DUTIES.

Besides those enumerated previously (those in Title 19, Chapter 51, Idaho Code), the duties of the Council shall be to do and perform all other acts and things required by law or which may be necessary to the full discharge of the duties of said Council, and shall include, but not be limited to the following: (4-5-00)

01. Issue Certification. To issue certification to law enforcement and emergency communications officers when they meet the requirements as established by the POST Council. (~~4-2-08~~)()

02. Maintain Files. To maintain files on all certified officers, instructors, and schools; and furnish information from files upon request in accordance with the Idaho Public Records Law. (4-2-08)

03. Maintain Records. To receive and maintain as trustees for the state of Idaho in accordance with the Idaho State Police and POST retention schedules all physical properties and records which shall come into the possession of the Council by virtue of its existence. (4-2-08)

04. Establish Committees. To establish such committees, both permanent and temporary, as may be necessary to more fully carry out the administrative duties of the Council. (4-2-08)

05. Elect Vice-Chairman. Pursuant to Idaho Code, the Council shall elect a Vice-Chairman annually from among its membership. (4-2-08)

06. Adopt Rules. To adopt and amend rules and procedures consistent with law for the internal management of POST and the operation of a law enforcement and emergency communications training program. (~~4-2-08~~)()

07. Assist Departments. Upon request, to assist departments and directors of training in administration and training problems encountered in complying with the various aspects of the Act as well as the ultimate objective of the Act, i.e., raising the level of competence of law enforcement and emergency communications officers in Idaho. (~~4-2-08~~)()

08. Study Training Methods. To study law enforcement and emergency communications training methods to enable POST to provide current and updated training. (~~4-2-08~~)()

09. Consult and Cooperate with Agencies. To consult and cooperate with recognized law enforcement agencies or educational institutions concerned with law enforcement and emergency communications training. (~~4-2-08~~)()

10. Make Recommendations. To make recommendations concerning any matter within its

jurisdiction. (4-2-08)

11. Grant Additional Time to Complete POST Training and Certification. The Council, for good cause and in writing, may grant additional time to complete POST training and certification. Good cause may include, but is not limited to, sickness or physical disability of officer or immediate family member, cancellation of Basic Academy, natural disaster, or reapplication to the Academy after failing or being unable to complete a previous Basic Academy Session. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

041. THE RECORDS SYSTEM.

01. Training File. The Idaho Peace Officer Standards and Training Council will maintain a training file on all Idaho law enforcement and emergency communications officers. Officer certifications granted and POST-approved training schools attended by officers will be recorded in these files. (3-25-16)()

02. Notification of Employment/Termination. The agency head of any agency whose officers are required to attend a POST Basic Training Academy must notify the Council of all presently employed officers every January and July. The names of all officers hired after submission of the original list must be submitted to the Council within fifteen (15) days of employment. The termination of an officer's employment must also be relayed to the Council within fifteen (15) days of such action on an appropriate form designated by the Council. (3-25-16)

03. Training Record. A training record listing all POST-approved courses an officer has completed, the hours credit, and other pertinent data will be kept along with the officer's file. (3-25-16)

04. Instructors. Names of certified instructors will be maintained. (4-5-00)

05. Instructors and Schools. A list of approved instructors and schools will be maintained. (4-5-00)

042. PROCEDURE.

01. Application. Each individual officer may apply for certification when they have met the requirements. When they are certified by the Council, this is entered into their file. (*Refer to "Certification of Peace, Detention, Juvenile Detention, and Juvenile Probation Officers."*) (4-2-08)()

02. Roster. School coordinators will furnish to the Council a "Course Attendance Roster" on the appropriate form designated by the Council upon the completion of each certified training school. (Refer to "Required Documentation for School or Course Approval.") (3-25-16)

(BREAK IN CONTINUITY OF SECTIONS)

050. MINIMUM STANDARDS FOR EMPLOYMENT.

Every ~~peace, county detention, juvenile detention, misdemeanor probation, and juvenile probation officer and Idaho Department of Juvenile Corrections direct care staff~~ applicant requesting certification must meet the requirements in Sections 050 through 065. In situations where the POST Division Administrator has the authority to grant a waiver, but chooses not to, he must refer the application to the POST Council for consideration. (4-11-15)()

(BREAK IN CONTINUITY OF SECTIONS)

053. AGE.

The applicant shall be a minimum of twenty-one (21) years of age. Applicants for POST certification must meet the

following minimum age requirements at the time of application for each respective discipline: (4-7-11)()

- a. Patrol Officer applicants must be twenty-one (21) years of age. ()
- b. Detention Officer applicants must be twenty-one (21) years of age. ()
- c. Correction Officer applicants must be eighteen (18) years of age. ()
- d. Felony Probation and Parole Officer applicants must be twenty-one (21) years of age. ()
- e. Misdemeanor Probation Officer applicants must be twenty-one (21) years of age. ()
- f. Juvenile Detention Officer applicants must be twenty-one (21) years of age. ()
- g. Juvenile Probation Officer applicants must be twenty-one (21) years of age. ()
- h. Juvenile Corrections Direct Care Staff applicants must be twenty-one (21) years of age. ()
- i. Communications Officer applicants must be eighteen (18) years of age. ()

(BREAK IN CONTINUITY OF SECTIONS)

057. MILITARY RECORD.

01. Military Discharge. A “dismissal,” “bad conduct discharge” (BCD), “dishonorable discharge” (DD), or administrative discharge of other than honorable (OTH) from the military service shall disqualify the applicant. The administrative discharge of “general under honorable conditions” (GEN), a “general” discharge, or an “uncharacterized” discharge may be grounds for rejection. In the case of a “general under honorable conditions” or “uncharacterized” discharge, the applicant may be accepted upon approval of the POST Division Administrator. The Division Administrator shall have the discretion to refer the application to the POST Council. In the case of a “general” discharge, the POST Council shall review the application and determine whether the individual shall be certifiable ~~as a peace, detention, juvenile detention, juvenile probation, adult probation and parole, or adult misdemeanor probation officer or as a direct care staff member of the Idaho Department of Juvenile Corrections in the state of Idaho.~~ (4-7-11)()

02. Documentation. Proof of military record shall not have been mutilated, altered, or damaged; shall indicate character of service; and shall be in the form of a photocopy of the following: (4-7-11)

- a. DD-214 for any active military service, (4-7-11)
- b. NGB Form 22 for any National Guard service, and (4-7-11)
- c. ~~AF-216 for any Air Force service~~ Official Military Discharge Documentation. (4-7-11)()

(BREAK IN CONTINUITY OF SECTIONS)

059. BACKGROUND INVESTIGATION.

01. Requirements. (3-29-17)

a. The applicant must have undergone a comprehensive background investigation, the results of which attest to the fact that the person meets the minimum standards for employment, has not engaged in conduct or a pattern of conduct that would jeopardize public trust in the law enforcement or emergency communications

profession, and is of good moral character. Consideration will be given to any and all law violations, including traffic and fish and game infractions or convictions. (3-29-17)()

b. The appointing agency must collect and verify the necessary documents and compile and retain a comprehensive background investigation file establishing that the applicant meets all of the required minimum standards or provisions for employment as provided in Sections 050 through 065. (3-29-17)

02. Procedures. (3-15-02)

a. The applicant must complete and submit to the appointing law enforcement agency a comprehensive application and personal history statement prior to the start of the background investigation. The history statement must contain questions which aid in determining whether the applicant is eligible for certified status ~~as a peace, detention, juvenile detention, or juvenile probation officer~~. The background investigation must include information provided by personal references, schools, and the last three (3) previous employers, as well as law enforcement agency or PSAP records in jurisdictions where the applicant has lived or worked. This information must be recorded and retained by the appointing agency. (3-29-17)()

b. The appointing agency must conduct a personal interview with the applicant to ascertain personal attributes such as personal appearance, demeanor, attitudes that are relevant to the law enforcement mission, judgment, maturity, resourcefulness, and ability to communicate. Searching questions must be asked about: (3-29-17)

- i. Use of intoxicants, narcotics and drugs; (3-15-02)
- ii. Physical, mental, and emotional history; (3-15-02)
- iii. Family problems; (3-15-02)
- iv. Moral outlook and habits; and (3-15-02)
- v. Financial transactions. (3-15-02)

c. The appointing agency must have a thorough investigation into the character and reputation of the applicant conducted by an experienced investigator. The applicant's morality, integrity, reputation, honesty, dependability, qualifications, experience, associations, emotional stability, prejudice, and loyalty must be explored. (3-29-17)

d. All results of the background investigation must be considered confidential and processed accordingly. (3-29-17)

e. The results of the background investigation must be evaluated by the agency head and/or the appointing authority to determine whether the applicant is suitable prior to submission of the application to the POST Council for processing. (3-29-17)

f. The POST Council will perform a compliance review of the applicant, and may inspect the comprehensive background investigation file as it deems necessary to carry out the provisions of Section 19-5109(1)(g), Idaho Code, to certify peace officers as having completed all requirements established by the Council. (3-29-17)

g. In the case the compliance review of the applicant reveals that information submitted to the POST Council may be falsified, inaccurate, or incomplete, the POST Division Administrator must inspect the comprehensive background investigation file. The applicant may be accepted upon approval of the POST Division Administrator, and the Division Administrator will have the discretion to refer the application to the POST Council. However, in the case of evident falsification, or of unresolved inaccuracies or omissions, the POST Council must review the application and determine whether the applicant will be certifiable in the State of Idaho. (3-29-17)

060. PHYSICAL - MEDICAL.

01. Requirements. (7-1-93)

a. Agency Physical Readiness Test Assessment. To determine the applicant's physical capability, a physical readiness test assessment based upon the job requirements of the appointing agency must be administered by the appointing agency to each applicant. (3-18-15)()

b. Physical Capability Requirement. The applicant must be physically capable of passing all physically demanding tasks and tests while attending any Idaho POST Academy or any academy equivalent program approved by the POST Council. Any applicant who fails a required physical test while attending an Idaho POST Academy will be disenrolled from the academy and provided the option to attend a future academy session. (3-18-15)

(BREAK IN CONTINUITY OF SECTIONS)

064. CODE OF ETHICS/STANDARDS OF CONDUCT.

Each applicant shall attest that he has read, understands, and will abide by the POST Council's Code of Ethics as standards of professional conduct and that he has read and understands the conduct that may constitute cause for decertification as found in the POST Council's Code of Ethics and Subsections 091.03 and 091.04. (3-27-13)

01. Fundamental Duty. As a law enforcement or emergency communications officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all to liberty, equality and justice. (3-21-12)()

02. Personal and Official Life. I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or my agency. I will maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret, unless revelation is necessary in the performance of my duty. (3-21-12)

03. Appropriately Enforce the Law. I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and the relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities. (3-21-12)

04. Public Trust. I recognize the badge or position of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of law enforcement/public service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other law enforcement or emergency communications officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice. (3-21-12)()

05. Professional Performance. I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence. I will constantly strive to achieve these objectives and ideals, dedicating myself before God with sincere and unfaltering commitment to my chosen profession – law enforcement/public safety. (3-21-12)()

065. PROBATIONARY PERIOD.

01. Probation. Every officer appointed by an agency below the level of agency head shall satisfactorily complete a probationary period of not less than six (6) months. This requirement shall also apply to officers who transfer laterally into an agency. (3-15-02)

02. Supervisor/Mid-Manager. Every officer who is promoted or appointed to a supervisory, middle

management, or assistant agency head position shall satisfactorily complete a probationary period of not less than six (6) months in that position. (3-15-02)

03. Extended. No ~~peace, detention, juvenile detention, or juvenile probation~~ officer who lacks the training qualifications required by the Council for certification shall have his temporary or probationary employment extended beyond ~~one (1) year~~ the time specified in Title 19, Chapter 51, Idaho Code, by renewal of appointment or otherwise. (4-2-08)()

(BREAK IN CONTINUITY OF SECTIONS)

081. AGREEMENT TO SERVE.

01. Agreement. Pursuant to Section 19-5112, Idaho Code, any officer attending a POST-funded Basic Training Academy must execute an agreement promising to remain within the law enforcement profession, as defined in Subsection 010.26, in the state of Idaho for two (2) years following graduation from the POST Basic Training Academy. Violation of the terms of the agreement will give rise to a civil action which may be commenced by the council for and on behalf of the state of Idaho for restitution of any and all sums paid by the council plus costs and reasonable attorney's fees. (3-29-17)

02. Fulfillment of Agreement. The agreement will be considered fulfilled if the officer remains within the law enforcement profession, as defined in Subsection 010.26, in the state of Idaho as follows: (3-29-17)

a. The officer serves on a full-time basis for two (2) years following graduation from the POST Basic Training Academy; or (3-29-17)

b. The officer serves on a part-time basis and provides the Council with documentation substantiating service of 4,160 (four thousand one hundred sixty) hours following graduation from the POST Basic Training Academy. (3-29-17)

03. Disqualifications. (3-29-17)

a. An officer terminated by the appointing agency due to agency budget cutbacks or loss of funding for the position will not owe the Council the amount set forth in the agreement. The appointing agency must provide the Council with a letter stating the officer was terminated due to the agency's inability to fund the position. (3-29-17)

b. An officer forced to resign due to his own or an immediate family member's terminal illness or prolonged debilitating condition will not owe the Council the amount set forth in the agreement. The officer must provide the Council with documentation from the attending physician substantiating the medical condition. (3-29-17)

c. An officer was ordered into full-time active military service will not owe the Council the amount set forth in the agreement. The officer must provide the Council with documentation of official military order documents. ()

04. Pay Back Reimbursement. Any officer who graduates from the POST Basic Training Academy whose employment is terminated prior to their fulfillment of the agreement pursuant to Subsection 081.02 or does not qualify for disqualification pursuant to Subsection 081.03 must reimburse the Council for their training expenses. This includes, but is not limited to, any officer who resigns, does not pass his probationary period, resigns in lieu of termination, or is terminated for cause by the appointing agency. (3-29-17)

05. Proration. (3-29-17)

a. If the officer remains within the law enforcement profession, as defined in Subsection 010.26, in the state of Idaho on a full-time basis for less than twelve (12) complete months following graduation from the POST Basic Training Academy, he must reimburse the Council the full amount of money set forth in the agreement.

(3-29-17)

b. If the officer remains within the law enforcement profession, as defined in Subsection 010.26, in the state of Idaho on a full-time basis for a minimum of twelve (12) complete months following graduation from the POST Basic Training Academy but less than twenty-four (24) complete months the amount owed to the Council will be reduced proportionately for each complete month worked from the date of graduation to the date of termination.

(3-29-17)

c. If the officer remains within the law enforcement profession, as defined in Subsection 010.26, in the state of Idaho on a part-time basis, and provides the Council with documentation substantiating a minimum of 2,080 (two thousand eighty) hours service following graduation from the POST Basic Training Academy, but less than 4,160 (four thousand one hundred sixty) hours, the amount owed to the Council will be reduced proportionately for each one hundred seventy-three (173) hours worked from the date of graduation to the date of termination.

(3-29-17)

06. Multiple POST Basic Training Academies. An officer who graduates from more than one (1) POST Basic Training Academy must fulfill a two-year agreement for each academy attended.

(3-29-17)

(BREAK IN CONTINUITY OF SECTIONS)

090. CERTIFICATION OF ~~PEACE, DETENTION, JUVENILE DETENTION, AND JUVENILE PROBATION~~ OFFICERS.

091. INTRODUCTION.

01. Certificates and Awards. Certificates and awards may be presented by the Council for the purpose of recognizing or raising the level of competence of ~~law enforcement officers~~ and to foster cooperation among the Council, agencies, groups, organizations, jurisdictions, and individuals.

~~(3-20-97)~~()

02. Property. Certificates and awards remain the property of the Council and are only valid as long as the officer has not been decertified and ~~is appointed as an Idaho peace, county detention, juvenile detention, juvenile probation, correction, adult probation and parole, or misdemeanor probation officer, or an Idaho Department of Juvenile Corrections Direct Care Staff member~~ **the certifications have not expired, lapsed, or been suspended.**

~~(3-29-10)~~()

03. Decertification – Mandatory, Discretionary, Reporting, Eligibility. (3-27-13)

a. The Council shall decertify any officer who is convicted, as defined in Section 19-5109, Idaho Code, of any felony or offense which would be a felony if committed in this state. (3-27-13)

b. The Council may decertify any officer who is convicted, as defined in Section 19-5109, Idaho Code, of any misdemeanor; willfully or otherwise falsifies or omits any material information to obtain any certified status; or for any of the causes set forth in Subsection 091.04. (3-27-13)

c. Any officer charged with a felony or a misdemeanor shall notify his agency head within five (5) business days. (3-27-13)

d. The agency head of an officer charged with a felony or misdemeanor shall notify the POST Division Administrator within fourteen (14) days of learning of the charge. (3-27-13)

e. Any officer decertified by the Council shall not be eligible for POST certification of any kind for ten (10) years following the date of decertification. An agency head intending to hire an officer who has been decertified shall request a waiver from the POST Council. No decertified officer shall exercise any law enforcement **or emergency communications** authority until recertified by the POST Council. Any officer who is the subject of a POST decertification investigation shall not be eligible for POST certification of any kind while under investigation.

~~(3-27-13)~~()

04. POST Council's Code of Ethics, Additional Cause for Decertification. In addition to decertifying officers for violating the POST Council's Code of Ethics, the Council may also decertify any officer who engages in any of the following conduct which shall be considered a violation of the POST Council's Code of Ethics and standards of professional conduct: (3-27-13)

- a. Engages in criminal conduct whether charged or not. (3-27-13)
- b. Consumes alcoholic beverages on duty, except as necessary for the lawful performance of duties. (3-27-13)
- c. Illegal or unlawful harassment or intimidation of another. (3-27-13)
- d. Lying or falsifying official written or verbal communications. (3-27-13)
- e. Engages in inappropriate sexual conduct while on duty. (3-27-13)
- f. Engages in an inappropriate relationship, sexual or otherwise, with a person who the officer knows or should have known is a victim, witness, defendant, or informant in an ongoing investigation or adjudication. (3-27-13)
- g. Acts of corruption or bribery. (3-27-13)
- h. Unauthorized use or unlawful conversion of the property, equipment, or funds of his agency. (3-27-13)
- i. Intentional and unauthorized disclosure of confidential information or information that may compromise an official investigation. (3-27-13)
- j. Failure to report being charged with a felony or misdemeanor within five (5) business days. (3-27-13)
- k. Refusal to respond or failure to respond truthfully to questions asked in relation to an investigation or legal proceeding. (3-27-13)

(BREAK IN CONTINUITY OF SECTIONS)

096. LAPSE OF PEACE OFFICER CERTIFICATION.

The certification of any peace officer will be considered lapsed if the officer does not serve as a peace officer in Idaho for three (3) consecutive years. Provided, however, that an Idaho POST-certified peace officer who remains in an administrative, jail, emergency communications, or civil division duty assignment with a police or law enforcement agency that is a part of or administered by the state of Idaho or any political subdivision thereof or in a duty assignment as a tribal police officer with a federally recognized Indian tribe within Idaho and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision will retain their POST certification provided they satisfy the continuing training requirements of Sections 360 through 363 and work at least one hundred twenty (120) hours per year. The three-year period provided herein will be tolled during any time period that a peace officer is the subject of a POST decertification investigation and is no longer employed in law enforcement. ~~(3-25-16)~~()

01. Three to Five Years. A peace officer who has been out of full-time law enforcement status from three (3) to five (5) years and who wants to be recertified must meet the following POST requirements: (3-25-16)

- a. Submit a POST Certification Patrol Challenge Packet; (4-2-03)

- b.** Disclose information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof. (3-29-10)
 - c.** Attend an approved course of study in Idaho law and pass the POST Idaho law exam; (4-2-03)
 - d.** Pass the following tests administered by a POST Training Specialist: (4-2-03)

 - i.** The POST patrol certification examination approved by the Council, conducted in the manner set forth in Subsection 101.02.b.; (3-21-12)
 - ii.** The POST Firearms Qualification Course; and (3-25-16)
 - e.** Satisfy the probationary period requirement of Section 065. (4-2-08)
- 02. Over Five Years.** A peace officer who has been out of full-time law enforcement status for over five (5) years must attend the POST Basic Patrol Academy to be recertified. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of full-time law enforcement, the officer was engaged in an occupation requiring law enforcement training, skill, and experience. This evidence must be submitted with a POST Certification Patrol Challenge Packet. Upon receiving a waiver, the officer must meet the following POST requirements: (3-25-16)
- a.** Disclose information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof. (3-29-10)
 - b.** Attend an approved course of study in Idaho law and pass the POST Idaho law exam; (4-2-03)
 - c.** Attend and pass Idaho POST-certified courses in Emergency Vehicle Operation, Arrest Techniques, Handgun Retention, and Practical Problems; (4-2-03)
 - d.** Pass the following tests administered by a POST Training Specialist: (4-2-03)

 - i.** The POST patrol certification examination approved by the Council, conducted in the manner set forth in Subsection 101.02.b.; (3-21-12)
 - ii.** The POST Firearms Qualification Course; and (3-25-16)
 - e.** Satisfy the probationary period requirement of Section 065. (4-2-08)
- 03. Over Eight Years.** A peace officer who has been out of full-time law enforcement status for over eight (8) years must attend the POST Basic Patrol Academy to be recertified. No waiver of this requirement will be granted by the Council. (3-25-16)
- 04. Exception.** The provisions of Subsections 096.01 through 096.03 do not apply to officers holding a part-time basic certificate who satisfy the continuing training requirements of Sections 360 through 363 and work at least one hundred twenty (120) hours per year within the law enforcement profession. (3-25-16)

(BREAK IN CONTINUITY OF SECTIONS)

099. LAW ENFORCEMENT EXPERIENCE - PEACE OFFICER CERTIFICATION.

01. Law Enforcement Experience. Law enforcement experience, as used herein, means actual time served with a duly constituted law enforcement or PSAP agency as a peace officer, county detention officer, or emergency communications specialist officer. The acceptability of time served as a peace officer, county detention officer, or emergency communications specialist officer in a jurisdiction other than the state of Idaho, or in a jurisdiction which does not comply with the minimum standards for employment as set forth in Sections 050 through

065, shall be subject to the determination of the Council.

~~(3-29-12)~~()

02. Military Law Enforcement Service and Education. An applicant who has served in the military as a full-time military law enforcement officer may be awarded partial credit toward law enforcement experience and training. (3-29-12)

a. The applicant shall have served in the military as a full-time military law enforcement officer for the period of time he is requesting credit for. Regular guard duty does not qualify. (3-29-12)

b. Education shall be military law enforcement schools successfully completed. All certificates, course outlines, diplomas, DD-214's, and certificates of completion showing length of school shall accompany an appropriate application form designated by the Council. (3-29-12)

c. Credit shall be awarded as follows: (3-29-12)

i. One (1) year of accepted military law enforcement service shall equal three (3) months of law enforcement experience. (3-29-12)

ii. Eight (8) hours of accepted military law enforcement training shall equal four (4) hours of law enforcement training. (3-29-12)

d. No applicant shall be awarded more than two (2) years of law enforcement experience or more than one thousand (1,000) hours of law enforcement training. (3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

116. CAREER-LEVEL CERTIFICATION.

01. General Provisions. (4-2-03)

a. To be eligible for the award of a Supervisor, Master, or Management certificate, each applicant shall be a full-time peace officer, county detention officer, or emergency communications specialist officer appointed by a duly constituted Idaho law enforcement agency, PSAP, or a professional member of the POST Council staff. To be eligible for the award of an Executive certificate, each applicant shall be a full-time peace officer appointed by a duly constituted Idaho law enforcement agency, PSAP, or a professional member of the POST Council staff. ~~(4-2-03)~~()

b. All applications for award of the Supervisor, Master, Management, or Executive Certificates shall be completed by the applicant on the prescribed form "Application for Certification" as provided by the POST Council. (4-2-03)

c. The Application for Certification form shall be submitted by the applicant to his agency head who shall review it for accuracy prior to signing it and forwarding it to the Council. Certificates shall be issued to the agency head for award to the applicant. (4-2-03)

d. Each applicant for the Master and Supervisor certificates shall meet the minimum standards for employment and basic training as provided in Sections 050 through 065 and 070 through 076. Each applicant for the Management and Executive certificates shall meet the minimum standards for employment as provided in Sections 050 through 065. (4-2-08)

117. SUPERVISOR CERTIFICATE.

01. Requirements. For purposes herein, the term "first-line supervision position" means a position above the operational level which is occupied by an individual who holds the rank of sergeant or equivalent title and, in the upward chain of command, principally is responsible for the direct supervision of non-supervisory personnel of

an agency. A candidate for the Supervisor Certificate shall: (4-7-11)

- a. Possess the Intermediate or Advanced Certificate, Level II or III Detention Officer Certificate, or ~~Level II or III~~ Intermediate or Advanced Communications Specialist Certificate. (3-30-07)()
- b. Have satisfactorily completed one hundred (100) hours of POST-certified supervisory-level training, of which fifty (50) hours shall have been completed within three (3) years prior to submitting an application for the Supervisor Certificate. (4-7-11)
- c. Be presently appointed to a first-line supervision position with an Idaho law enforcement agency or PSAP, and shall have served satisfactorily in that position for a minimum of one (1) year prior to application. Proof of position responsibilities shall be submitted to the POST Council in the form of a job description or other documentation from the hiring authority. (4-7-11)()

118. MASTER CERTIFICATE.

01. Requirements. The Master Certificate is for individuals below the rank of sergeant or equivalent title, who have consciously decided to focus career efforts on line functions such as patrol, investigations, detention, or ~~dispatch~~ emergency communications. A candidate for the Master Certificate shall: (4-2-03)()

- a. Possess the Advanced Certificate, Level III Detention Officer Certificate, or ~~Level III~~ Advanced Communications ~~Specialist~~ Officer Certificate. (4-2-03)()
- b. Have satisfactorily completed one thousand five hundred (1,500) hours of POST-certified training. Academic college credits in law enforcement subjects may be converted to POST training hours at the rate of one (1) college credit equals twenty (20) POST training hours. (4-2-03)
- c. Have completed a minimum of fifteen (15) years of full-time law enforcement or emergency communications service in assignments which did not include full-time supervisory, management, or executive positions. (4-2-03)()

119. MANAGEMENT CERTIFICATE.

01. Requirements. For purposes herein, the term “middle-management position” means a position between a first-line supervision position and an executive position which is occupied by an individual who holds the rank of lieutenant or higher, or equivalent title and, in the upward chain of command, principally is responsible for the direct supervision of supervisory personnel of an agency and/or command duties. A candidate for the Management Certificate shall: (4-7-11)

- a. Possess peace officer certification, detention officer certification, or emergency communications specialist officer certification from Idaho; certification from another state that has minimum peace officer standards; or a certificate of completion from a city, county, state, or federal law enforcement academy. The academy attended shall meet or exceed that state's minimum training standards. (4-2-03)()
- b. Submits a POST Certification Patrol Challenge Packet to POST Council, which shall include copies of POST training records from other states to substantiate the officer’s training; and transcripts, certificates, diplomas, or other documents that substantiate the officer’s education and experience. Subsection 119.01.b. applies only to an officer who is uncertified in Idaho. (4-7-11)
- c. Attend an approved course of study in Idaho law and pass the POST Idaho law exam. Subsection 119.01.c. applies only to an officer who is uncertified in Idaho. (4-2-03)
- d. Have satisfactorily completed one hundred (100) hours of POST-certified management-level training, of which fifty (50) hours shall have been completed within three (3) years prior to submitting an application for the Management Certificate. (4-2-03)
- e. Be presently appointed to a middle-management, management, or executive position wherein the

predominance of responsibilities are administrative or managerial in nature, and shall have served satisfactorily in that position for a period of six (6) months. Proof of position responsibilities shall be submitted to the POST Council in the form of a job description or other documentation from the hiring authority. (4-2-03)

02. City Police Chiefs. City police chiefs or administrators within state agencies having law enforcement powers, who, because of the number of full-time peace officers they supervise, have duties which are primarily administrative may satisfy the certification requirement of Section 19-5109(2), Idaho Code, by obtaining this certificate. All other city police chiefs or state agency administrators having law enforcement powers may be awarded this certificate upon meeting the requirements, but shall also complete the requirements necessary to obtain a Basic Certificate. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

171. LAPSE OF DETENTION OFFICER CERTIFICATION.

The certification of any county detention officer will be considered lapsed if the officer does not serve as a county detention officer in Idaho for three (3) consecutive years. Provided, however, that an Idaho POST-certified county detention officer who remains in an administrative, patrol, emergency communications, or civil division duty assignment with a police or law enforcement agency that is a part of or administered by the state of Idaho or any political subdivision thereof and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision will retain their POST certification provided they satisfy the continuing training requirements of Sections 360 through 363 and work at least one hundred twenty (120) hours per year. The three-year period provided herein will be tolled during any time period that a county detention officer is the subject of a POST decertification investigation and is no longer employed in law enforcement. (3-25-16)()

01. Three to Five Years. A county detention officer who has been out of full-time law enforcement status from three (3) to five (5) years and who wants to be recertified must meet the following POST requirements: (3-25-16)

- a. Submit a POST Certification Detention Challenge Packet; (4-2-03)
- b. Disclose information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof. (3-29-10)
- c. Attend an approved course of study in Idaho detention legal issues and pass the POST Idaho detention legal issues exam; (4-2-03)
- d. Pass the following tests administered by a POST Training Specialist POST-approved proctor: (4-2-03)

~~i.~~ The POST detention certification examination approved by the Council, conducted in the manner set forth in Subsection 176.02.c.; and (4-2-08)()

~~ii.~~ The POST Firearms Qualification Course; and (3-25-16)

e. Satisfy the probationary period requirement of Section 065. (4-2-08)

02. Over Five Years. A county detention officer who has been out of full-time law enforcement status for over five (5) years must attend the POST Basic Detention Academy to be recertified. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of full-time law enforcement, the officer was engaged in an occupation requiring law enforcement training, skill, and experience. This evidence must be submitted with a POST Certification Detention Challenge Packet. Upon receiving a waiver, the officer must meet the following POST requirements: (3-25-16)

- a. Disclose information regarding any decertification investigation or proceeding or the substantial

equivalent from any other jurisdiction and the results thereof. (3-29-10)

b. Attend an approved course of study in Idaho detention legal issues and pass the POST Idaho detention legal issues exam; (4-2-03)

c. Attend and pass Idaho POST-certified courses in Arrest Techniques, Handgun Retention, and Practical Problems; (4-2-03)

d. Pass the following tests administered by a ~~POST Training Specialist~~ POST-approved proctor: (4-2-03)

~~i.~~ ~~The~~ POST detention certification examination approved by the Council, conducted in the manner set forth in Subsection 176.02.c.; and (4-2-08)()

~~ii.~~ ~~The POST Firearms Qualification Course; and~~ (3-25-16)

e. Satisfy the probationary period requirement of Section 065. (4-2-08)

03. Over Eight Years. A county detention officer who has been out of full-time law enforcement status for over eight (8) years must attend the POST Basic Detention Academy to be recertified. No waiver of this requirement will be granted by the Council. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

177. CHALLENGING THE BASIC DETENTION ACADEMY.

Any county detention officer presently appointed by a duly constituted Idaho law enforcement agency who, within the last five (5) years, has been employed and certified or commissioned by another state or the federal government as a detention officer or a student who has satisfactorily completed a Basic Detention Academy equivalent to the Idaho POST Basic Detention Academy within the last three (3) years may be eligible for certification in the state of Idaho without attending the Basic Detention Academy, provided the officer: (3-29-10)

01. Submission of Challenge Packet. Submits a POST Certification Detention Challenge Packet to POST Council, which must include copies of POST training records from other states to substantiate the officer's training; and transcripts, certificates, diplomas, or other documents that substantiate the officer's education and experience; (4-6-05)

02. Discloses Decertification Information. Discloses information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof. (3-29-10)

03. Detention Legal Issues Course Attendance. Attends an approved course of study in Idaho detention legal issues and passes the POST Idaho detention legal issues exam; (4-6-05)

04. Passes Required Tests. Passes the following tests administered by a ~~POST Training Specialist~~ POST-approved proctor: (4-2-03)

~~i.~~ ~~The~~ POST detention certification examination approved by the Council, conducted in the manner set forth in Subsection 176.02.c.; and (4-2-08)()

~~ii.~~ ~~The POST Firearms Qualification Course; and~~ (4-2-03)

05. Completes Probationary Period. Completes his probationary period as required by Subsection 176.01. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

196. **EMERGENCY COMMUNICATIONS ~~SPECIALIST OFFICER~~ CERTIFICATION.**

197. **GENERAL PROVISIONS.**

01. Certificates and Awards. Certificates and awards may be presented by the Council for the purpose of recognizing or raising the level of competence of ~~law enforcement~~ **emergency communications officers** and to foster cooperation among the Council, agencies, groups, organizations, jurisdictions, and individuals. **Emergency Communications ~~Specialist Officer~~ Certification is ~~not~~ statutorily mandated ~~for officers hired after July 1, 2012~~, but is voluntary ~~for officers hired prior to July 1, 2012~~.** (4-2-03)()

02. Purpose. **Basic, Intermediate, and Advanced Certificates are established for the purpose of fostering professionalism, education, and experience necessary to perform adequately the duties of an emergency communications officer.** ()

03. Property. Certificates and awards remain the property of the Council and are only valid as long as the **emergency** communications specialist is appointed as an Idaho communications ~~specialist officer~~ by a duly constituted Idaho law enforcement agency **or PSAP** and has not been decertified. (3-29-10)()

04. Eligibility. To be eligible for the award of a ~~Level I, Level II, Level III, or Advanced~~ **Basic** certificate, each applicant shall be a ~~full-time emergency~~ communications ~~specialist officer~~ appointed by a duly constituted Idaho law enforcement agency **or PSAP**. **To be eligible for the award of an Intermediate or Advanced certificate, each applicant shall be a full-time emergency communications officer appointed by a duly constituted Idaho law enforcement agency or PSAP.** (4-2-03)()

05. Applications. All applications for award of the ~~Level I, Level II, Level III, or Advanced~~ Certificates shall be completed by the applicant on the prescribed form "Application for Certification" as provided by the POST Council. (4-2-03)()

06. Submission. The Application for Certification form shall be submitted by the applicant to his agency head who shall review it for accuracy prior to signing it and forwarding it to the Council. Certificates shall be issued to the agency head for award to the applicant. (4-2-03)

07. Training. Training not listed on the applicant's Idaho POST training record shall be supported by copies of certificates, course outlines, or other verifying documents attached to the application. (4-2-03)

08. Minimum Standards. Each applicant shall meet the minimum standards for employment as provided in Sections 050, ~~051, 052, 054, 055, 056, 057, and 059~~ **through 065**. (3-29-12)()

198. **EMERGENCY COMMUNICATIONS ~~SPECIALIST OFFICER~~ EXPERIENCE.**

Emergency ~~communications~~ ~~specialist officer~~ experience, as used herein, means actual time served as a full-time **emergency** communications ~~specialist officer~~ with a duly constituted law enforcement **or PSAP** agency. **To be eligible for the award of a Basic certificate, each applicant shall be a emergency communications officer appointed by a duly constituted Idaho law enforcement agency or PSAP.** The acceptability of time served as an **emergency** communications ~~specialist officer~~ in a jurisdiction other than the state of Idaho, or in a jurisdiction which does not comply with the minimum standards for employment as set forth in Sections 050, ~~051, 052, 054, 055, 056, 057, and 059~~ **through 065**, shall be subject to the determination of the Council. (3-29-12)()

199. **EMERGENCY COMMUNICATIONS OFFICER CERTIFICATION.**

01. Decertification. **The council may decertify any emergency communications officer in the same manner as provided in Section 091 of these rules.** ()

02. Certification. ()

a. **Any full-time or part-time emergency communications officer employed on or after July 1, 2017 shall be certified by the Peace Officer Standards and Training Council within eighteen (18) months of their initial hire**

date as a full-time or part-time emergency communications officer. ()

b. Any full-time or part-time emergency communications officer employed between July 1, 2012 and July 1, 2017 shall be certified by the Peace Officer Standards and Training Council by January 1, 2019. ()

c. Any full-time or part-time emergency communications officer employed before July 1, 2012, although specifically excluded by law from meeting the requirements set by the Council, may be certified provided they meet the minimum requirements. ()

~~199~~**200. LEVEL I BASIC CERTIFICATE.**

01. Requirements. In addition to the requirements set forth in Section 197 of these rules, the requirements in Section ~~199~~ **200** are necessary for award of the Level I Basic certificate. (~~4-2-03~~)()

a. The applicant shall have satisfactorily completed a minimum of eighty (80) hours of POST certified communications related training, which shall include the ILETS Classification Level I certificate. Submits a POST Emergency Communication Officer Challenge Packet to POST Council, which shall include copies of training records, transcripts, certificates, diplomas, or other documents that substantiate the officer's training, education, and experience; (~~4-2-03~~)()

b. The applicant shall have at least one (1) year of communications specialist experience. Completes the POST-approved basic training; and (~~4-2-03~~)()

c. Passes the POST emergency communications officer certification examination approved by the POST Council, administered by a POST approved proctor. The applicant shall be allowed two (2) attempts to pass the examination with a minimum score of seventy-five percent (75%). If the applicant fails the certification exam on the first attempt, the second attempt must be made within six (6) months of the date of the first attempt. If an applicant fails both attempts or fails to retake the examination within six (6) months, he shall reapply and successfully complete the Idaho Public Safety Communications Commission recommended and POST-approved training prior to taking the certification examination again. ()

d. Satisfactorily completes a probationary period as set forth in Section 065 of these rules. ()

~~200~~**1. LEVEL II INTERMEDIATE CERTIFICATE.**

01. Requirements. In addition to the requirements set forth in Section 197 of these rules, the requirements in Section ~~200~~ **201** are necessary for award of the Level II Intermediate certificate. (~~4-2-03~~)()

a. The applicant shall be a full-time emergency communication officer. ()

~~a~~**b.** The applicant shall possess, or be eligible to possess, a Level I Basic certificate. (~~4-2-03~~)()

~~b~~**c.** The applicant shall have satisfactorily completed a minimum of one hundred twenty (120) hours of POST-certified training, which must include the POST-approved basic training. (~~4-2-03~~)()

~~c~~**d.** The applicant shall have at least ~~three (3)~~ ten (10) years of communications specialist experience. (~~4-2-03~~)()

~~201~~**2. LEVEL III ADVANCED CERTIFICATE.**

01. Requirements. In addition to the requirements set forth in Section 197 of these rules, the requirements in this section are necessary for award of the Level III Advanced certificate. (~~4-2-03~~)()

a. The applicant shall be a full-time emergency communication officer. ()

~~a~~**b.** The applicant shall possess, or be eligible to possess, a Level II Intermediate certificate. (~~4-2-03~~)()

~~bc.~~ The applicant shall have satisfactorily completed a minimum of ~~two~~ five hundred ~~(200)~~ (500) hours of POST-certified training, which must include POST-approved basic training. ~~(4-2-03)~~ ()

~~ed.~~ The applicant shall have at least ~~six (6)~~ ten (10) years of communications specialist experience. ~~(4-2-03)~~ ()

202. ~~ADVANCED CERTIFICATE.~~

~~01. **Requirements.** The Advanced Certificate is for individuals who have consciously decided to focus career efforts on public safety communications. A candidate for the Advanced Certificate shall:~~ ~~(3-29-12)~~

~~a. Possess the Level III Communications Specialist Certificate. (4-2-03)~~

~~b. Have satisfactorily completed five hundred (500) hours of POST-certified communications-related training. (4-2-03)~~

~~c. Have satisfactorily completed the POST Basic Dispatch Academy. (3-29-12)~~

~~d. Have a minimum of ten (10) years of communications specialist experience. (4-2-03)~~

~~02. **Exception.** An applicant who has a minimum of twenty (20) years of communications specialist experience but has not satisfactorily completed the POST Basic Dispatch Academy shall be eligible for the Advanced Certificate without attending the academy provided he meets all other requirements as set forth in Section 202 of these rules and can pass the final examination for the academy with a minimum score of seventy-five percent (75%). The applicant shall be allowed two (2) attempts to pass the examination. The attempts shall be no less than thirty (30) days apart and no more than six (6) months apart. If an applicant fails both attempts or fails to retake the examination within six (6) months, he shall successfully complete the POST Basic Dispatch Academy to be eligible for the Advanced Certificate. (3-29-12)~~

203. LAPSE OF EMERGENCY COMMUNICATIONS OFFICER CERTIFICATION.

The certification of any emergency communications officer will be considered lapsed if the officer does not serve as an emergency communications officer in Idaho for three (3) consecutive years. Provided, however, that an Idaho POST-certified emergency communications officer who remains in a patrol, administrative, jail, or civil division duty assignment with a police or law enforcement agency that is a part of or administered by the state of Idaho, or any political subdivision thereof, will retain their POST certification provided they satisfy the continuing training requirements of Sections 360 through 363 and work at least one hundred twenty (120) hours per year. The three-year (3) period provided herein will be tolled during any time period that an emergency communications officer is the subject of a POST decertification investigation and is no longer employed in law enforcement or with a primary or secondary PSAP. ()

01. **Three to Five Years.** An emergency communications officer who has been out of emergency communications from three (3) to five (5) years and who wants to be recertified must meet the following POST requirements: ()

a. **Submit a POST Challenge Packet;** ()

b. **Disclose information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof.** ()

c. **Pass the POST emergency communications officer certification examination approved by the Council, conducted in the manner set forth in Subsection 200.01.c., and administered by a POST-approved proctor.** ()

d. **Satisfy the probationary period requirement as set forth in Section 065 of these rules.** ()

02. **Over Five Years.** An emergency communications officer who has been out of emergency

communications for over five (5) years must complete the Idaho Public Safety Communications Commission's recommended and POST-approved training to be recertified. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of emergency communications, the officer was engaged in an occupation requiring emergency communications training, skill, and experience. This evidence must be submitted with a POST Challenge Packet. Upon receiving a waiver, the officer must meet the following POST requirements: ()

a. Disclose information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof. ()

b. Pass the POST emergency communications officer certification examination approved by the Council, conducted in the manner set forth in Subsection 200.01.c., and administered by a POST-approved proctor. ()

c. Satisfy the probationary period requirement as set forth in Section 065 of these rules. ()

03. Over Eight Years. An emergency communications officer who has been out of full-time emergency communications for over eight (8) years must complete the POST-approved training. No waiver of this requirement will be granted by the Council. ()

~~2034~~ -- 209. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

361. REQUIREMENTS.

01. Requirements to Retain Certification. To retain certification from and after January 1, 2004, every peace officer and county detention officer appointed by an agency must satisfactorily complete forty (40) hours of continuing training related to law enforcement every two (2) calendar years beginning January 1 following the date the officer was certified. The continuing training completed does not have to be POST-certified training. (4-6-05)()

02. Retaining Certification From and After July 1, 2017. To retain certification from and after July 1, 2017, every emergency communications officer appointed by a Public Safety Answering Point (PSAP) must satisfactorily complete forty (40) hours of continuing training related to public safety emergency communications every two (2) calendar years beginning January 1 following the date the emergency communications officer was certified. The continuing training completed does not have to be POST-certified training. ()

362. DOCUMENTATION.

01. Submission of Written Certification. In January of each year, the law enforcement agency head or Public Safety Answering Point (PSAP) agency head shall submit written certification to the Council of the number of hours of continuing training each officer within his agency has completed during the previous calendar year. (4-7-11)()

02. No Credit on POST Training Record. The Council shall accept written certification from the agency head as proof that an officer has satisfactorily completed the required forty (40) hours of continuing training every two (2) calendar years. However, no officer shall be awarded training hours on his POST training record for any training completed which has not been certified by the Council as set out in Sections 281 through 311 of these rules. (4-7-11)

03. Non-Compliance With Continuing Training Requirement. Any peace or county detention officer, or emergency communications officer out of compliance with the continuing training requirement shall be notified in writing, along with his agency head. After notice and an opportunity to be heard, if compliance is still not achieved, the Council may suspend the officer's certification, which shall be immediately restored as soon as

compliance is achieved.

~~(4-7-11)~~()

04. Exception for Active Duty Military Service. The two (2) calendar year continuing training period shall be tolled during a peace or county detention, or emergency communications officer's active duty military service, and shall recommence upon the officer's return to peace, ~~or~~ county detention, or emergency communications officer duties with his appointing agency. The appointing agency shall complete and submit to the Council a Notice of Separation/Change in Status form designated by the Council upon the officer's departure from and return to the agency.

~~(4-7-11)~~()

IDAPA 11 – IDAHO STATE POLICE – POST

11.11.05 – RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR IDAHO DEPARTMENT OF JUVENILE CORRECTIONS DIRECT CARE STAFF

DOCKET NO. 11-1105-1701

NOTICE OF RULEMAKING – PROPOSED RULE

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 19-5109(6), Section 20-504(3), Section 20-504(11), Section 20-531(4), 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 November 15, 2017.

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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Section 010: Adds two specific job titles to definition of Juvenile Corrections Direct Care Staff: Rehabilitation Technician Trainee and Safety and Security Supervisor

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is simple in nature and representatives of the affected interests were involved in the drafting and approval of the rule.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Victor McCraw at (208) 884-7251.

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 November 22, 2017.

DATED this 17th day of October, 2017.

Victor McCraw, POST Division Administrator
Idaho Peace Officer Standards & Training
700 S. Stratford Drive
Meridian, ID 83642
Phone: (208) 884-7251
Fax: (208) 884-7295

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 11-1105-1701
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

01. **Basic Juvenile Corrections Academy.** A basic course of instruction for direct care staff of the Idaho Department of Juvenile Corrections as recognized by POST Council. (5-8-09)

02. **Challenge Exam.** A test to determine an IDJC staff's competence for waiver of successful completion of the basic Juvenile Corrections Academy. (5-8-09)

03. **Council.** As used in this chapter, refers to the POST Council. (5-8-09)

04. **Department.** As used in this chapter, refers to the Idaho Department of Juvenile Corrections, IDJC. (5-8-09)

05. **Director.** As used in this chapter, refers to the Director of the Idaho Department of Juvenile Corrections. (5-8-09)

06. **Juvenile Corrections Direct Care Staff.** Any full or part-time employee of the department whose primary job duties include providing for the safety, care, education, protection, or supervision of juveniles committed to the custody of the department. *Current j* Job titles specifically included in this definition are, but are not limited to: (5-8-09) ()

a. **Rehabilitation Technician Trainee;** ()

~~*b.*~~ Rehabilitation Technician; (5-8-09)

~~*c.*~~ Rehabilitation Technician Supervisor; (5-8-09)

~~*d.*~~ Rehabilitation Specialist; (5-8-09)

~~*e.*~~ Rehabilitation Specialist Associate; (5-8-09)

~~*f.*~~ Instructor - DJC; (5-8-09)

~~*g.*~~ Instructor Specialist; (5-8-09)

~~*h.*~~ Instructor Assistant; *and* (5-8-09) ()

~~*i.*~~ Safety and Security Officer; *and* (5-8-09) ()

j. **Safety and Security Supervisor.** ()

07. **Juvenile Training Council.** An advisory group to the POST Council that is represented by the Director of the Department of Juvenile Corrections, a Magistrate, a county Juvenile Detention Director, a county Chief Probation Officer, a county Commissioner, a county Clerk, and a county Sheriff. (5-8-09)

08. **Mandatory Certification.** To issue a certificate to an IDJC direct care staff based upon successful completion of the mandatory training requirements established by POST Council. (5-8-09)

09. **Voluntary Certification.** To issue a certificate to an IDJC direct care staff based upon successful completion of the voluntary training requirements established by POST Council. (5-8-09)

IDAPA 13 – IDAHO FISH AND GAME COMMISSION

13.01.11 – RULES GOVERNING FISH

DOCKET NO. 13-0111-1703P

NOTICE OF PROCLAMATION

AUTHORITY: In compliance with Section 36-105(3), Idaho Code, notice is hereby given that this agency has adopted by proclamation the 2017 Coho Salmon Fishing Season, establishing seasons and limits for fishing in Idaho.

PUBLIC HEARING SCHEDULE: The next public hearing before the Fish and Game Commission will be:

**Thursday, November 16, 2017
Approximately 7:00 p.m. (MST)**

**Idaho Fish and Game Regional Office
324 S. 417 East, Suite 1
Jerome, ID 83338**

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed proclamation, contact James Stoll at (208) 334-3715.

Individuals with disabilities may request meeting accommodations by contacting the Director's office at the Idaho Department of Fish and Game directly at (208) 334-5159 or through the Idaho Relay Service at 1(800) 377-2529 (TDD).

IDAPA 13 – IDAHO FISH AND GAME COMMISSION

13.01.11 – RULES GOVERNING FISH

DOCKET NO. 13-0111-1704P

NOTICE OF PROCLAMATION

AUTHORITY: In compliance with Section 36-105(3), Idaho Code, notice is hereby given that this agency has adopted by proclamation the 2017 Steelhead Fishing Season, establishing the Fall season and limits for fishing in Idaho.

PUBLIC HEARING SCHEDULE: The next public hearing before the Fish and Game Commission will be:

**Thursday, November 16, 2017
Approximately 7:00 p.m. (MST)**

**Idaho Fish and Game Regional Office
324 S. 417 East, Suite 1
Jerome, ID 83338**

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed proclamation, contact James Stoll at (208) 334-3715.

Individuals with disabilities may request meeting accommodations by contacting the Director's office at the Idaho Department of Fish and Game directly at 208-334-5159 or through the Idaho Relay Service at 1(800) 377-2529 (TDD).

**IDAPA 15 – OFFICE OF THE GOVERNOR
IDAHO COMMISSION ON AGING**

15.01.03 – RULES GOVERNING THE OMBUDSMAN FOR THE ELDERLY PROGRAM

DOCKET NO. 15-0103-1701

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 67-5003(3), 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 to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 86 through 92](#).

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 Hart at (208) 577-2855.

DATED this 29th day of September, 2017.

Cathy Hart
State Ombudsman
Commission on Aging
341 W. Washington Street
Boise, ID 83702
Phone: (208) 577-2855
Fax: (208) 334-3033

**IDAPA 15 – OFFICE OF THE GOVERNOR
IDAHO COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED**

15.02.02 – VOCATIONAL REHABILITATION SERVICES

DOCKET NO. 15-0202-1701

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 67-5407(e) and 67-5408, 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 to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 93 through 99](#).

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 Mike Walsh at (208) 334-3220 ext. 110.

DATED this 29th day of September, 2017.

Mike Walsh
Rehabilitation Services Chief
Idaho Commission for the Blind and Visually Impaired
341 W. Washington Street
P. O. Box 83720
Boise, ID 83720-0012
Phone: (208) 334-3220 ext. 110
Fax: (208) 334-2963

**IDAPA 15 – OFFICE OF THE GOVERNOR
DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION**

**15.04.01 – RULES OF THE DIVISION OF HUMAN RESOURCES
AND IDAHO PERSONNEL COMMISSION**

DOCKET NO. 15-0401-1701

NOTICE OF RULEMAKING – PROPOSED RULE

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 67-5309, 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 November 15, 2017.

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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Deleting references to “provisional appointment,” which has not been used since 2004 and used only seven times from 1990 – 2004; deleting references to a specific company, Hay Management Consultants; deleting reference to coordination of recruitment with Director of Department of Labor as it is redundant and the applicant tracking system at Labor is being returned to the Division of Human Resources; and amending approval for closure of state offices or state facilities, or both, due to weather or other disruptions.

FEE SUMMARY: N/A

FISCAL IMPACT: There will be no fiscal impact, positive or negative, as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, page 100](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Shelli Boggie, DHR Consultant, (208) 854-3083.

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 November 22, 2017.

DATED this 28th day of September, 2017.

Susan E. Buxton, Administrator
304 North 8th Street
P.O. Box 83720
Boise, ID 83720-0066
Susan.Buxton@dhr.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 15-0401-1701
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS -- A THROUGH E.

Each of the terms defined in these rules have the meaning given herein unless a different meaning is clearly required by the context. Additional definitions are contained in Section 67-5302, Idaho Code. (7-1-87)

01. Administrative Leave. Temporary paid leave from a job assignment where pay and benefits remain intact. (3-20-14)

02. Administrator. The Administrator of the Division of Human Resources in the Office of the Governor or delegate for those responsibilities assigned by the administrator to a specific appointing authority. (5-8-09)

03. Agency Classification. A classification of positions unique to an agency. (5-8-09)

04. Allocation. The assignment of a classification to a pay grade in the compensation schedule. (3-16-04)

05. Appeal. Any written request for relief from dismissal, demotion, suspension, or other adverse action filed with the Commission by an employee, appointing authority, or applicant. The meaning of appeal includes application, petition, or protest. (3-16-04)

06. Appellant. An employee, appointing authority, or applicant filing an appeal or a petition for review with the Commission. (3-16-04)

07. Appointing Authority. The officer, board, commission, person or group of persons authorized by statute or lawfully delegated authority to hire, dismiss or otherwise significantly impact the employment status of individuals in any agency. (Ref. Section 67-5302(3), Idaho Code) (5-8-09)

08. Appointment, Limited. The appointment of a person to a classified position where the work is projected to be of limited duration, for which the person has qualified by examination. (3-16-04)

09. Appointment, Nonclassified. The appointment of a person to a position exempt from the application of these rules by the provisions of Section 67-5303, Idaho Code. (7-1-87)

10. Appointment, Permanent. The appointment of a person to a classified position who has been certified by the appointing authority to have successfully completed the required probationary period and whose employment is permanent, subject to removal or discipline only under the provisions of Title 67, Chapter 53, Idaho Code, and the rules of the Division of Human Resources and Idaho Personnel Commission. (3-16-04)

11. Appointment, Probationary. The appointment of a person to a classified position for which the person has qualified by examination but is serving a work trial period as a condition for certification to permanent appointment. (4-5-85)

12. Appointment, Project Exempt. The appointment of a person to a nonclassified position established under federal grants, which by law restricts employment eligibility to specific individuals or groups on the basis of non-merit selection requirements. (Ref. Section 67-5303(m), Idaho Code) (3-16-04)

~~**13. Appointment, Provisional.** The appointment of a person to a position in classified service for which the person has not qualified by examination pending the establishment of a register for the classification of such position. (3-16-04)~~

143. **Appointment, Seasonal.** An appointment to a regular position in classified service with intermittent work periods defined by a season (summer, fall winter, spring, holiday or harvest). (Ref. Section 67-5302(32), Idaho Code) (3-29-17)

154. **Appointment, Temporary.** The appointment of a person to a nonclassified position which is of a limited duration, and in which hours worked will not exceed one thousand three hundred eighty-five (1,385) hours during any twelve-month (12) period for any one (1) agency. Temporary appointments may occur for intermittent periods of time and include recurring assignments. (Ref Section 67-5302(33), Idaho Code) (5-8-09)

165. **Base Pay.** The rate paid for performing a job, excluding bonuses, shift differentials, overtime or other compensation premiums. (5-8-09)

176. **Certifiable Range.** An examination score and a rank on an eligibility register sufficiently high to be among the top twenty-five (25) available names, plus names of all individuals with scores identical to the twenty-fifth ranking eligible, for certification to fill a position in the classification for which the register was established. (4-7-11)

187. **Classified Service.** That body of positions in state agencies subject to Title 67, Chapter 53, Idaho Code, as defined therein and excludes temporary, project exempt, and nonclassified appointments. (5-8-09)

198. **Commission.** As utilized in these rules, refers to the Idaho Personnel Commission as established in Section 67-5307, Idaho Code. (5-8-09)

2019. **Compensation Plan.** The overall system of salary administration for classified service including Sections 67-5309B and 67-5309C, Idaho Code; the classification and compensation schedules, Division of Human Resources and Idaho Personnel Commission rules and policies, and agency policies governing employee pay. (5-8-09)

270. **Compensation Schedule.** The pay grades established by the Division of Human Resources and associated rates of pay. (Ref. Section 67-5309B, Idaho Code) (5-8-09)

221. **Consultant.** An independent contractor who provides professional or technical advice, counsel, or service. (Ref. Rule 050) (5-8-09)

232. **Disabled Veteran.** Those veterans separated under honorable conditions who: (3-20-14)

a. Have served on active duty in the armed forces and have a current service-connected disability rating of ten percent (10%) or more or are receiving compensation related to a service-connected disability including retirement benefits or pension from the military or the department of veterans affairs; or (3-20-14)

b. Are Purple Heart recipients. (Ref. Section 65-502(4), Idaho Code) (3-20-14)

243. **Dismissal.** The separation of an employee from classified service with cause assigned by the appointing authority pursuant to Rule 190. (5-8-09)

254. **Due Process.** As related to Idaho's Personnel System for permanent classified employees, the activities required to address an individual's constitutional right to notice and an opportunity to be heard. (Ref. Section 67-5315, Idaho Code) (3-16-04)

265. **Employment History.** The information available to the public without the employee's consent in accordance with Section 74-106, Idaho Code, for every agency for which a current or former public official works, including the official reasons for separation from employment but not including accrued leave balances or usage. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

040. NONCLASSIFIED EMPLOYEES SUBJECT TO CLASSIFIED SERVICE SUBSEQUENT TO APRIL 5, 1985.

The provisions of this rule shall apply to all employees exempt from classified service who, subsequent to April 5, 1985, become subject to the provisions of Chapter 53, Title 67, Idaho Code. (3-30-01)

01. Probationary Period. A nonclassified employee brought under classified service under Rule 040 must serve a probationary period appropriate for the classification assigned to the employee's position. Service uninterrupted by resignation, termination, or dismissal immediately prior to inclusion in classified service shall be considered as probationary service. (3-16-04)

02. Certification to Permanent Status. An employee who has completed a probationary period as required above and who is certified in writing by the appointing authority as serving satisfactorily shall be certified to permanent status without examination. (3-30-01)

03. Examination. An employee who has not completed a classified entrance probationary period as required ~~above~~ shall be required to meet the minimum qualifications by passing an examination for the classification assigned to the employee's position. ~~Prior to passing such examination, the employee's status shall be provisional. The employee will be hired from a hiring list and serve a period of entrance probation.~~ (3-16-04)()

04. Separation. An employee who is not certified by the appointing authority as serving satisfactorily shall be separated from state service no later than thirty (30) calendar days after inclusion in classified service. An employee who fails to pass the examination or had an opportunity to have such examination and not availed himself or herself thereof shall be separated no later than thirty (30) calendar days after the establishment of an adequate register of eligibles. (3-30-01)

05. Salary Protection. If the salary of an employee, brought under classified service under Rule 040, is greater than the highest rate of the pay grade of the classification to which assigned, the employee's salary shall be protected; to the maximum of their new paygrade. (3-16-04)

(BREAK IN CONTINUITY OF SECTIONS)

074. ASSIGNMENT OF HAY EVALUATION POINTS.

01. Assignment to Pay Grade. Pursuant to Sections 67-5309B and C, Idaho Code, the pay grade to which a classification is assigned shall be determined by the number of Hay evaluation points assigned to each classification. (3-16-04)

02. Guide Charts. The Hay evaluation points assigned to a classification shall be the composite numerical value of points factored from the Hay guide charts. (3-16-04)

03. Factoring Benchmarks. The established factoring benchmarks ~~correlated by Hay Management Consultants~~ shall be used in conjunction with the Hay Guide Charts to determine the number of points assigned to a classification. (3-16-04)()

04. Factoring Process. Hay evaluation points shall be assigned to a classification through the following methods, which may be used separately or in combination with the others: (3-16-04)

a. Factoring Session. The administrator shall determine the membership of a factoring committee and schedule a factoring session in which the appointing authority or designee may present both oral and written information concerning the classification to be factored. The factoring committee shall assign Hay evaluation points in accordance with Rule 074 and the administrator shall notify the appointing authority in writing of the decision of the factoring committee. The appointing authority may request an issue conference with the factoring committee and present their perspective on the assigned points. The factoring committee may affirm or modify the assigned points. The administrator will provide a letter to the appointing authority stating the outcome of the issue conference. (3-16-04)

~~**b.** *Hay Management Consultants.* After consultation with the appointing authority, the administrator may refer the classification to Hay Management Consultants for a factoring analysis. (3-16-04)~~

05. Approval. After consultation with the administrator of the Division of Financial Management for approval regarding potential fiscal impacts, the administrator of the Division of Human Resources shall have final approval of the Hay evaluation points assigned to each classification. These points are final unless appealed in accordance with Section 67-5316, Idaho Code. (3-16-04)

(BREAK IN CONTINUITY OF SECTIONS)

080. RECRUITMENT.

The administrator will cooperate with the appointing authority of each agency ~~and with the director of the Department of Labor~~ in the operation of a coordinated recruiting program. (5-8-09) ()

(BREAK IN CONTINUITY OF SECTIONS)

111. ADEQUATE REGISTERS.

A register with at least five (5) eligible candidates is adequate. If no register exists or if there are less than five (5) eligible candidates, appointing authorities may: (5-8-09)

01. Selection from Inadequate Register. Hire an eligible candidate listed on an inadequate register. (3-30-01)

~~**02. Provisional Appointment.** Make a provisional appointment pursuant to Rule 119.04. (5-8-09)~~

~~**03. Request Certification.** Request the administrator authorize certification from an eligibility register for a comparable classification. (3-16-04)~~

~~**04. Special Request.** Request specialized recruitment. (3-30-01)~~

(BREAK IN CONTINUITY OF SECTIONS)

119. APPOINTMENTS, REINSTATEMENTS, TRANSFERS, AND RESIGNATIONS.

01. Reemployment Preference Register. New appointments to a classification within an agency are not permissible if there is an agency reemployment preference register (Ref. Rule 101.01) for that classification with names of eligibles who are willing to accept employment. (5-8-09)

02. Probationary Period Required. All appointments to positions in the state classified service whenever adequate eligibility registers exist for the classification are probationary appointments except as otherwise provided in Rules 040 and 150. (5-8-09)

~~**03. Provisional Appointment.** (7-1-93)~~

~~**a.** A provisional appointment may be authorized in the absence of an adequate register. (Ref. Section 67-5309(k), Idaho Code) (5-8-09)~~

~~**b.** In nominating a person for provisional appointment, the appointing authority will transmit to the administrator an application for employment of the nominee. If the applicant meets the minimum qualifications established for the classification, the nominee may be provisionally appointed to fill an existing vacancy in a position~~

~~for no longer than thirty (30) calendar days after establishment of an adequate register. Successive provisional appointments of the same individual or successive provisional appointments to the same position will not be permitted unless specifically authorized by the administrator. (3-16-04)~~

~~e. Provisional incumbents will be given opportunity to take the examination for the classification of position. Any provisional employee who fails to pass such an examination within certifiable range or who has an opportunity to take such an examination and has not done so will be separated no later than thirty (30) calendar days after the establishment of an adequate register of eligibles. (3-16-04)~~

(BREAK IN CONTINUITY OF SECTIONS)

143. REDUCTION IN FORCE DETERMINATION AND NOTIFICATION.

01. Identification of Classifications. The appointing authority will identify the classification of positions to be reduced or eliminated. (5-8-09)

02. Calculation of Retention Points. Retention points will be calculated for all employees assigned to the classification of position including those serving in underfill positions. Retention points need not be calculated where layoff involves a single-incumbent class. (5-8-09)

03. Order of Reduction in Force. The order of reduction in force will be by type of appointment held by the employee in the affected classification as follows: first to be laid off are ~~provisional appointees, next~~ the entrance probationary appointees, and then the permanent appointees including those serving a voluntary probation. Employees will be placed on the layoff list beginning with the employee with the highest number of retention points. Employee layoffs will be made from the layoff list in inverse order. When two (2) or more employees have the same combined total of retention points, retention will be determined in the following sequence: (Ref. Rule 150.02.c.) ~~(5-8-09)~~ ()

a. The employee with the highest total retention points for the past thirty-six (36) months. (3-16-04)

b. Random selection. (4-5-85)

04. Notification to Affected Employees. Each employee affected will be notified in writing of layoff and the rationale for the decision at least fifteen (15) calendar days prior to the effective date. Notification will include a copy of the agency layoff procedure and a copy of the computation of retention points when required (Ref. Rule 143.02). (5-8-09)

05. Notification to Administrator. The appointing authority must give written notice of layoff to the administrator at least fifteen (15) calendar days prior to its effective date and must provide a list of persons affected by the layoff with their retention point calculations and must indicate which employees will be laid off. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

150. PROBATIONARY PERIODS.

01. Probationary Period Required. Except as provided in Rule 040, every appointment and promotion to a classified position is probationary, ~~or in the absence of adequate registers, provisional.~~ ~~(5-8-09)~~ ()

02. Types of Probationary Periods. The probationary period serves as a working test period to provide the agency an opportunity to evaluate a probationary employee's work performance and suitability for the position. There are three (3) types of probationary periods: (5-8-09)

a. Entrance probation is the probationary service required of an employee at the time of his original appointment or any subsequent appointment to state classified service excluding reinstatement and transfer, the duration of which is one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who must serve two thousand eighty (2,080) hours. (5-8-09)

b. Promotional probation is the probationary service required when an employee is promoted, the duration of which is one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who must serve two thousand eighty (2,080) hours. (5-8-09)

c. Voluntary probation is an agreement between employees and the appointing authority for interagency employment actions such as reinstatement, transfer, or voluntary demotion. A voluntary probation is not to be used for employment actions within the agency. The probationary period is negotiable but may not exceed one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who may serve up to two thousand eighty (2,080) hours. (5-8-09)

03. Extension of Probationary Period. Upon written request demonstrating good cause, the administrator may extend the probationary period of an employee for an additional specified period not to exceed one thousand forty (1,040) hours of credited state service. Extension must occur before an employee has worked one thousand forty (1,040) hours or two thousand eighty (2,080) hours for peace officers. (Ref. Section 67-5309(j), Idaho Code) (5-8-09)

04. Interruption of Probationary Period. The probationary period in any classification must be completed within a single agency uninterrupted by termination (Ref. Rule 152.02) or dismissal (Ref. Rule 190). An employee who separated during the probationary period must begin a new probationary period upon reappointment or promotion. (5-8-09)

05. Temporary Service Credit. At the request of the hiring agency, the administrator will allow temporary service time in a given classification to be used toward fulfilling the entrance probationary requirement in that classification as established in Section 67-5309(j), Idaho Code. The temporary duties must be substantially the same as the regular permanent appointment. (Ref. Section 67-5309(x), Idaho Code, and Rules 122 and 150.01) (3-29-12)

06. Acting Service Credit. At the request of the hiring agency, the administrator will allow acting appointment service time in a given classification to be used toward fulfilling the promotional probationary requirement in that classification as established in Section 67-5309(j), Idaho Code. The acting appointment duties must be substantially the same as the regular permanent appointment. (Ref. Section 67-5309(y), Idaho Code, and Rules 129 and 150.01) (3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

200. PROBLEM-SOLVING AND DUE PROCESS PROCEDURES.

01. Overview of Procedures. (3-30-01)

a. The due process procedure deals with the disciplinary matters set forth in Section 67-5315(2), Idaho Code, dismissals, suspensions without pay, and demotions, and with all involuntary transfers. The due process procedure generally requires the employee receive notice and an opportunity to respond before a disciplinary decision or involuntary transfer is made by the agency. Decisions regarding disciplinary dismissals, suspensions without pay, and demotions may be appealed in accordance with Rule 201. (5-8-09)

b. The problem-solving procedure deals with all matters not specifically reserved for the due process procedure. Problem solving decisions may not be appealed to the Commission except as authorized by Section 67-5316, Idaho Code. (5-8-09)

02. Establishment of Agency Problem-Solving and Due Process Procedures. Each participating

agency must maintain written employee problem-solving and due process procedures, which have been approved by the administrator for conformity to law and Rule 200. (5-8-09)

03. Eligibility and Time for Filing Under Problem-Solving Procedure. Any classified employee with permanent, *provisional* or entrance probationary status may file under the problem-solving procedure as defined by Section 67-5315(1), Idaho Code. An employee must file under the problem-solving procedure in writing not later than ten (10) working days after being notified or becoming aware of a nondisciplinary matter which may be handled through the problem-solving procedure; however, if the filing alleges an ongoing pattern of harassment or illegal discrimination, the agency is strongly encouraged to waive any time limits. The time limit for filing will be extended due to the employee's illness or other approved leave, up to ten (10) days after return to the job. The agency may accept a filing that is or appears to be filed late. Agency policies may provide for waiver of time elements or any intermediate step of the problem-solving procedure upon mutual agreement of the employee and appointing authority. (5-8-09) ()

04. Elements of the Problem-Solving Procedure. The procedure must contain a statement from the agency head encouraging employees to use the procedure for any nondisciplinary, job-related matters, and encouraging the employee, supervisors, and upper-level managers and administrators to resolve the matter at the lowest management level possible within the organization. The statement must also provide a means whereby agency representatives can obtain timely authority, if needed, to resolve the matter. The procedure must require the employee to make a reasonable attempt to discuss the issue with the immediate supervisor before filing. After a written filing is received, the procedure must provide for such additional levels of management within the employee's chain of command as are appropriate in the agency. The procedure must also provide for the use of an impartial mediator upon agreement by the employee and agency. Timelines must not exceed five (5) working days between each step unless both the employee and the agency agree, in writing, to a specific number of days to extend the timelines herein, not to exceed thirty (30) days between each step. The procedure must also inform the employee that he is entitled to be represented by a person of the employee's own choosing at each step of the procedure, except the initial informal discussion with the immediate supervisor. Two (2) or more employees may join in a single filing under the problem-solving procedure. Retaliation for filing under the problem-solving procedure, for participating as a witness, or representative is expressly prohibited. This procedure does not apply to unsatisfactory performance during entrance probation (Ref. Sections 67-5309(j), 67-5315(1)(4), Idaho Code, and Rule 152). (3-29-17)

05. Filings Alleging Sexual Harassment or Other Illegal Discrimination. Each agency's problem-solving procedure must provide an optional alternative procedure for an employee to file allegations of sexual harassment or discrimination based on race, color, sex, national origin, religion, age, or disability. The procedure must expressly prohibit sexual harassment and discrimination. Employees must be informed of their right to file complaints with the Idaho Human Rights Commission. The alternative procedure must designate a specific person or persons to receive and investigate such filings, and must require that the investigation and resolution of them be conducted with maximum regard for confidentiality. (5-8-09)

06. Elements of Due Process Procedure. An agency must provide notice and an opportunity to respond before making a decision to impose any disciplinary sanction or involuntary transfer, as set forth in Section 67-5315(2), Idaho Code. With respect to notice, an agency must provide notice of the contemplated action, the basis or reason for the contemplated action, and an explanation of the evidence supporting the contemplated action. The notice must be provided to the employee and administrator concurrently. With respect to the opportunity to respond, the employee must be given the opportunity to respond to the notice and present reasons why the contemplated action should not be taken. The opportunity to respond must not occur later than ten (10) working days after the employee has received notice, unless both the employee and agency agree otherwise in writing. After the employee has responded, or after the period to respond has expired or has been waived in writing by the employee, whichever occurs first, the appointing authority, or designee, must make and implement the agency's decision not later than ten (10) working days thereafter, excluding days the appointing authority, or designee, is out of the office, unless both the employee and agency agree otherwise in writing. The procedure must inform the employee of his right to be represented by a person of the employee's own choosing during the opportunity to respond. The procedure must also provide for the use of an impartial mediator upon agreement by the employee and agency. The procedure does not apply to unsatisfactory performance during entrance and promotional probation (Ref. Sections 67-5309(j), 67-5315(2), Idaho Code, and; Rules 150 through 153). The due process procedure is complete when the appointing authority, or designee, mails or delivers a decision to the affected employee. The decision must also be sent to the administrator concurrently. (5-8-09)

07. Notification. A copy of the approved problem-solving and due process procedures must be furnished and explained to each employee with permanent, *provisional* or entrance probationary status in the agency concerned. (5-8-09) ()

08. Assistance to Agencies. The administrator will assist agencies whenever requested in the development or revision of their agency problem-solving and due process procedures. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

250. SPECIAL LEAVES.

01. Leave of Absence Without Pay. (7-1-93)

a. Approval. In addition to workers' compensation, family medical leave, disability, or other statewide leave policies, the appointing authority may grant an employee leave without pay for a specified length of time when such leave would not have an adverse effect upon the agency. The request for leave must be in writing and must establish reasonable justification for approval. (5-8-09)

b. Reemployment. The appointing authority approving the leave of absence assumes full responsibility for returning the employee to the same position or to another position in a classification allocated to the same pay grade for which the employee meets minimum qualifications. (7-1-87)

c. Exhaustion of Accrued Leave. Unless prohibited by workers compensation, family medical leave, disability, or other statewide leave policies, the appointing authority has discretion on whether the employee is required to exhaust accrued vacation leave or compensatory time off for overtime before commencing leave without pay. (Ref. Rule 240) (3-29-17)

d. Resignation. If vacation leave and compensatory time off for overtime are not exhausted and the employee resigns from state service while on leave, he will be paid for such accruals in accordance with Sections 67-5334 and 67-5328, Idaho Code. (3-29-17)

02. Leave Defaults. When an employee does not have accrued sick leave to cover an entire absence the following leave types will be used to the extent necessary to avoid leave without pay: accrued compensatory time and vacation. If abuse of sick leave is suspected see Rule 240.07. (5-8-09)

03. Military Leave With Pay. Employees who are members of the National Guard or reservists in the armed forces of the United States engaged in military duty ordered or authorized under the provisions of law, are entitled each calendar year to one hundred twenty (120) hours of military leave of absence from their respective duties without loss of pay, credited state service or evaluation of performance. Such leave is separate from vacation, sick leave, holiday, or compensatory time off for overtime. (Ref. Section 46-216, Idaho Code). (5-8-09)

04. Military Leave Without Pay. An employee whose employment is reasonably expected to continue indefinitely, and who leaves his position either voluntarily or involuntarily in order to perform active military duty, has reemployment rights as defined in Rule 124.05. The employee will either be separated from state service or placed in "inactive" status, at the option of the appointing authority. (5-8-09)

05. Leave of Absence With Pay. A period of absence from duty with the approval of the appointing authority, or as required or allowed by law or these rules, during which time the employee is compensated. Leaves of absence with pay have no adverse effect on the status of the employee and include the following leaves: (5-8-09)

a. Vacation leave; (5-8-09)

b. Sick leave; (5-8-09)

- c. Special leave situations; (3-20-14)
- d. Compensatory time off for overtime worked; and (3-20-14)
- e. Administrative leave. (3-20-14)
- 06. Court and Jury Services and Problem-Solving and Due Process Leave. (7-1-98)**
- a. Connected with Official State Duty. When an employee is subpoenaed or required to appear as a witness in any judicial or administrative proceeding in any capacity connected with official state duty, he is not considered absent from duty. The employee is not entitled to receive compensation from the court. Expenses (mileage, lodging, meals, and miscellaneous expenses) incurred by the employee must be reimbursed by his respective agency in accordance with agency travel regulations. (5-8-09)
- b. Private Proceedings. When an employee is required to appear as a witness or a party in any proceeding not connected with official state duty, the employee must be permitted to attend. The employee may use accrued leave or leave without pay. (5-8-09)
- c. Jury Service. When an employee is summoned by proper judicial authority to serve on a jury, he will be granted a leave of absence with pay for the time which otherwise the employee would have worked. The employee is entitled to keep fees and mileage reimbursement paid by the court in addition to salary. Expenses in connection with this duty are not subject to reimbursement by the state. (5-8-09)
- d. Problem-solving and due process procedures. Any employee who has been requested to serve as a mediator as provided by an agency problem-solving or due process procedure or to appear as a witness or representative during such a proceeding will be granted leave with pay, without charge to vacation leave or compensatory time off for overtime, to perform those duties. (5-8-09)
- e. Notification. An employee summoned for court and jury service or requested to serve as a witness or representative must notify his supervisor as soon as possible to obtain authorization for leave of absence. (3-20-14)
- 07. Religious Leave.** Appointing authorities will make reasonable accommodations to an employee's need for leave for religious observances. Such leave is charged to the employee's accrued vacation leave or compensatory time off for overtime. (5-8-09)
- 08. Leave During Facility Closure or Inaccessibility. (7-1-93)**
- a. Authorization. When a state office/facility is closed or declared inaccessible by the Governor or Governor's designee because of severe weather, civil disturbances, loss of utilities or other disruptions, affected employees are authorized administrative leave to cover their scheduled hours of work during the closure or inaccessibility. If an employee was not scheduled to work on a day the Governor or Governor's designee declares a state office/facility closed or inaccessible in accordance with Rule 250.08.a. ~~(3-20-14)~~ ()
- ~~b. Early release. When the appointing authority or designated representative authorizes early release of employees, the resulting time off will be charged to administrative leave. (3-20-14)~~
- b. In the interest of employee safety, appointing authorities may approve employee early release, delayed start time, or absence from work due to weather or other emergency conditions. Those affected employees will use their appropriate accrued leave balances or leave without pay. Administrative leave will be granted to affected employees scheduled to work on a day the Governor or Governor's designee declares a state office/facility closed or inaccessible in accordance with Rule 250.08.a. ()
- 09. Red Cross Disaster Services Leave.** Employees who have been certified by the American Red Cross as disaster service volunteers will be granted up to one hundred twenty (120) hours of paid leave in any twelve (12) month period to participate in relief services pursuant to Section 67-5338, Idaho Code. (5-8-09)

10. Employee Assistance Program Leave. Employees may use sick leave or any paid or unpaid leave as approved to attend appointments through the Employee Assistance Program (EAP) during normal working hours. (3-29-17)

11. Bone Marrow and Organ Donor Leave With Pay. (5-8-09)

a. Approval. Upon request, a full-time employee will be granted five (5) work days' leave with pay to serve as a bone marrow donor or thirty (30) work days' leave with pay to serve as an organ donor. The employee must provide the appointing authority with written verification that the employee is the person serving as the donor. Paid leave, as provided in these rules, is limited to one-time bone marrow and one-time organ donor leave per employee. (Ref. Section 67-5343, Idaho Code) (5-8-09)

b. Use. An employee who is granted such leave of absence will receive compensation without interruption during the leave period. For purposes of determining credited state service, pay advancement, performance awards, or any benefit affected by a leave of absence, the service of the employee is considered uninterrupted by the paid leave of absence. (Ref. Section 67-5343, Idaho Code) (5-8-09)

251. ADMINISTRATIVE LEAVE.

a. Administrative leave may be granted by an appointing authority for employee investigations, and due process procedures; in accordance with Rule 190.02. ()

b. Administrative leave for closure or inaccessibility of a state office/facility due to severe weather, emergencies or incidents that could jeopardize agency operations, or the safety of others must be granted in accordance with Rule 250.08. ()

c. Administrative leave for *other* reasons other than those listed above must be approved in advance by the administrator. (3-20-14)()

IDAPA 17 – IDAHO INDUSTRIAL COMMISSION
17.02.04 – ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION
UNDER THE WORKERS' COMPENSATION LAW -- BENEFITS

DOCKET NO. 17-0204-1701

NOTICE OF RULEMAKING – PROPOSED RULE

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 Sections 72-508, 72-1103, and 72-1104, 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 November 15, 2017.

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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The change in rule eliminates situational eligibility for officers subsequent to July 1, 2015.

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 Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rule change is necessary to conform to statute.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nick Landry, Fiscal Manager, (208) 334-6042.

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 November 22, 2017.

DATED this 20th day of September, 2017.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
P.O. Box 83720
Boise, Idaho 83720-0041
Phone: (208) 334-6000
Fax: (208) 334-2321

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 17-0204-1701
(Only Those Sections With Amendments Are Shown.)

004. RULE GOVERNING APPLICATIONS FOR REIMBURSEMENT FROM THE PEACE OFFICER AND DETENTION OFFICER TEMPORARY DISABILITY FUND.

01. Eligibility. An employer who has paid the full base salary due to a peace officer or detention officer, as defined in Section 72-1103, Idaho Code, may apply for reimbursement from the Peace Officer and Detention Officer Temporary Disability Fund under the provisions of Section 72-1104, Idaho Code, for the amount of that salary not covered by the workers' compensation income benefit payments remitted to the employer during the time that such officer is: (5-8-09)

- a. Temporarily incapacitated and unable to perform employment duties; (5-8-09)
- b. Is otherwise eligible to receive workers' compensation benefits; and (5-8-09)
- c. Is one whose incapacitating injury was incurred in the performance of employment duties on or after July 1, 2008, either: (5-8-09)
 - i. When responding to an emergency; or (5-8-09)
 - ii. When in the pursuit of an actual or suspected violator of the law; or (4-4-13)
 - iii. The injury was caused by the actions of another person after July 1, 2012 *and before July 1, 2015.* (4-4-13) ()

02. Application. An employer eligible to seek reimbursement from the Peace Officer and Detention Officer Temporary Disability Fund shall make application on the form provided by the Commission for that purpose. Applications shall be sent to: Idaho Industrial Commission, ATTN: Peace Officer Fund, PO Box 83720, Boise, Idaho 83720-0041. (5-8-09)

03. Payments. Payments to employers requesting reimbursement from the Peace Officer and Detention Officer Temporary Disability Fund shall be made within thirty (30) days of receipt of an approved request for reimbursement, subject to the availability of money in that fund. (5-8-09)

04. Disputes. Disputes regarding eligibility for reimbursement from The Peace Officer and Detention Officer Temporary Disability Fund will be decided by the Commission upon written request by the employer. There is no appeal from the reimbursement dispute decisions of the Commission under this section. Disputes regarding eligibility of an injured peace officer or detention officer for workers' compensation benefits, including the continuation of salary benefit set out in Section 72-1104, Idaho Code, will be decided in accordance with the Commission's current rules and procedures governing disputes in all other workers' compensation claims. (5-8-09)

IDAPA 17 – IDAHO INDUSTRIAL COMMISSION

17.02.04 – ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION UNDER THE WORKERS' COMPENSATION LAW -- BENEFITS

DOCKET NO. 17-0204-1702

NOTICE OF RULEMAKING – PROPOSED RULE

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 Sections 72-508 and 72-428, 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 November 15, 2017.

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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule change adds language requiring notice to claimant when two or more impairment ratings for the same injury are given by different physicians and the ratings are not then averaged, claimant is to be advised of his right to challenge an employer's decision to pay benefits without averaging.

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 Section 67-5220(2), Idaho Code, a Notice of Intent to Promulgate – Negotiated Rulemaking was not published for this docket. However, as a result of negotiations for Docket Nos. 17-0208-1701, 17-0210-1701, and 17-0211-1701 conducted on June 20, 2017 and June 29, 2017, it was determined by the Industrial Commission that an additional rulemaking promulgated under this docket would be beneficial based on stakeholder input.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Patti Vaughn, Benefits Administration Manager, (208) 334-6063.

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 November 22, 2017.

DATED this 20th day of September, 2017.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
P.O. Box 83720
Boise, Idaho 83720-0041
Phone: (208) 334-6000
Fax: (208) 334-2321

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 17-0204-1702
(Only Those Sections With Amendments Are Shown.)

281. RULE GOVERNING ~~CONVERSION OF~~ IMPAIRMENT RATINGS ~~TO "WHOLE MAN"~~
~~STANDARD.~~

01. Converting Single Rating of Body Part to Whole Person Rating. In the event of a percentage rating followed by the practitioner's equating the same to the whole man by one or more steps (e.g., a percentage of the foot, which equals a percentage of the lower extremity, which equals a percentage of the whole man), the initial or basic percentage rating of the injured part (or in non-scheduled injury, percentage of a comparative scheduled injury) shall be converted to the exact percentage of the whole man in accordance with the Industrial Commission Schedule, Section 72-428, Idaho Code, with the base of five hundred (500) weeks for the whole man. Where a single rating is given, such shall be deemed the final rating and converted in the same manner. (1-2-75)

02. Averaging Multiple Ratings. Where more than one (1) evaluating physician has given such ratings, these shall be similarly converted to the statutory percentage of the whole man, and an average obtained for the applicable rating. (1-2-75)

03. Correcting Manifest Injustice. ~~In the event that the Commission deems a manifest injustice would result from the above ruling, it may at its discretion take steps necessary to correct such injustice.~~ When two or more impairment ratings for the same injury have been given by different physicians, payment to claimant of permanent disability based on permanent impairment may be based on the average of such ratings. If such ratings are not averaged, claimant shall be notified of such ratings and advised of his right to challenge employer's decision to pay without averaging. (1-2-75)()

IDAPA 17 – IDAHO INDUSTRIAL COMMISSION

17.02.07 – PROCEDURES TO OBTAIN COMPENSATION

DOCKET NO. 17-0207-1701

NOTICE OF RULEMAKING – PROPOSED RULE

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 Sections 72-508, 72-432, 72-448, 72-602, 72-701 and 72-806, 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 November 15, 2017.

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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The rule is necessary to extend the implementation date for EDI Claims Release 3.0 an additional four months, from July 1, 2017 to November 4, 2017, to allow trading partners the amount of time necessary for testing and development of their reporting systems to adapt to the new reporting requirements.

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 Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need for temporary rulemaking. The temporary rule under this same docket number published in the May 3, 2017 Idaho Administrative Bulletin, [Vol. 17-5, pages 71-73](#). It is necessary to extend the implementation date from July 1, 2017 to November 4, 2017, allowing affected companies additional time to adapt and test their operating systems to the new standard for reporting of worker's compensation claims data to the Industrial Commission under EDI Release 3.0.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Patti Vaughn, Benefits Administration Manager, (208) 334-6063.

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 November 22, 2017.

DATED this 20th day of September, 2017.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
P.O. Box 83720
Boise, Idaho 83720-0041
Phone: (208) 334-6000
Fax: (208) 334-2321

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 17-0207-1701
(Only Those Sections With Amendments Are Shown.)**

012. SUBMISSION OF FIRST REPORTS OF INJURY AND CLAIMS FOR COMPENSATION TO THE INDUSTRIAL COMMISSION.

01. Purpose. The Industrial Commission seeks to develop a form for reporting work-related injuries and occupational diseases that is compatible with emerging standards for electronic submission of data. This will allow for more timely entry of information into the database system from which statistical reports are generated by the Commission, reduce the paper that the Commission currently receives, and is expected to reduce the cost of reporting for insurance carriers, employers and the Commission. (3-25-16)

02. Procedure for Submitting Claims. (3-25-16)

a. FROI Reporting Prior to EDI Mandate. Prior to ~~July 1, 2017~~ November 4, 2017, all FROI information shall be submitted to the Commission on single-sided eight and one-half inch by eleven inch (8½" x 11") white paper in a format substantially similar to Form IA-1. Form IA-1 is available from the Benefits Bureau of the Industrial Commission or on the Commission's website at www.iic.idaho.gov. At the Commission's discretion, claims may be submitted electronically in accordance with EDI Release 1.0 standards and any additional requirements of the Commission. (~~3-25-16~~)()

b. FROI & SROI EDI Reporting. The Commission will require electronic submission of a First Report of Injury (FROI), effective ~~July 1, 2017~~ November 4, 2017, and a Supplemental or Subsequent Report of Injury (SROI), effective ~~July 1, 2017~~ November 4, 2017, in accordance with IAIABC EDI Release 3.0 and the Commission's EDI Guides and Tables, for insurance carriers, in-state Claims Administrators, and self-insured employers, as those entities are not otherwise exempted by these rules. (~~3-25-16~~)()

c. Trading Partner Agreements. Before commencing electronic reporting, self-insured employers and insurance carriers shall sign a Trading Partner Agreement with the Commission, which must be approved by the Commission prior to initial data submission. This agreement will provide the effective date to send and receive electronic reports, which may be earlier but not later than the date above in Paragraph 012.02.b., the acceptable data to be sent and received, the method of transmission to be used, and other pertinent elements. To ensure the accuracy of reported data, the Commission may make periodic audits of insurance carrier and self-insured employer files. In the event that a Trading Partner Agreement is entered into by a claims administrator, notice to the Trading Partner of a FROI shall be deemed to be notice to the underlying insurance carrier or self-insured employer. (3-25-16)

d. FROI. Each electronic First Report of Injury (FROI) must comply with the formatting requirements of the IAIABC EDI Claims Release 3.0 Implementation Guide and Idaho Industrial Commission Claims EDI Implementation Guide & Tables, and must contain the information identified as mandatory or mandatory conditional, as applicable. (3-25-16)

e. SROI. Each electronic Supplemental or Subsequent Report of Injury (SROI) must comply with the formatting requirements of the IAIABC EDI Claims Release 3.0 Implementation Guide and the Idaho Industrial Commission Claims EDI Implementation Guide & Tables, and must contain the information identified as mandatory or mandatory conditional, as applicable. (3-25-16)

f. Report Form and Content for Parties Exempt from EDI Requirements: (3-25-16)

i. Individual injured workers, injured workers' legal counsel, and employers that are not insured are not required to comply with IAIABC EDI requirements for filing of the FROI and SROI. SROIs filed on legacy claims will not be accepted via IAIABC EDI Release 3.0 standards. (3-25-16)

ii. Employers that are not insured, individual injured workers, and injured workers' legal counsel shall

submit all FROI to the Commission on single-sided eight and one-half inch by eleven inch (8½" X 11") white paper in a format substantially similar to Form 1A-1. Form 1A-1 is available from the Benefits Bureau of the Industrial Commission or on the Commission's website at www.iic.idaho.gov. (3-25-16)

iii. Employers that are not insured, individual injured workers, and injured workers' legal counsel, shall submit all SROI to the Commission on single-sided eight and one-half inch by eleven inch (8½" X 11") white paper in a format substantially similar to Form SROI-1. Form SROI-1 is available from the Benefits Bureau of the Industrial Commission or on the Commission's website at www.iic.idaho.gov. (3-25-16)

03. Retaining Claims Files. All insurance carriers and their claims administrators shall maintain their respective claim files in accordance with IDAPA 17.02.10, "Administrative Rules of the Industrial Commission Under the Workers' Compensation Law -- Security for Compensation -- Insurance Carriers," Section 051. IDAPA 17.02.11, "Administrative Rules of the Industrial Commission Under the Workers' Compensation Law -- Security for Compensation -- Self-Insured Employers," Section 051. Upon request of the Commission, insurance carriers, claims administrators, or employers shall provide to the Commission, in whole or in part according to the request, a copy of the claim file at no cost to the Commission. (3-25-16)

a. All insurance carriers, claims administrators, or employers shall retain complete copies of claims files for the life of the claim or a minimum of five (5) years from the date of closure, whichever is shorter. (3-25-16)

b. For time-loss claims, closure will be the date upon which the insurance carrier, claims administrator, or employer files the final summary of payments, either as an appropriate EDI transaction, or as a hardcopy document for legacy claims. The Commission recommends that an insurance carrier, claims administrator, or employer retain a closed claim file for a minimum of five (5) years. (3-25-16)

04. Filing Not an Admission. Filing a claim is not an admission of liability and is not conclusive evidence of any fact stated therein. If a claim is submitted electronically, no signatures are required. (7-1-97)

05. Filing Considered Authorization. Filing of a claim shall be considered an authorization for the release of medical records that are relevant to or bearing upon the particular injury or occupational disease for which the claimant is seeking compensation. (7-1-97)

06. Timely Response Requirement. When the Commission requests additional information in order to process the Claim, the claimant or employer shall provide the requested information promptly. The Commission request may be either in writing or telephonic. (7-1-97)

IDAPA 17 – IDAHO INDUSTRIAL COMMISSION

17.02.08 – MISCELLANEOUS PROVISIONS

DOCKET NO. 17-0208-1701

NOTICE OF RULEMAKING – PROPOSED RULE

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 Sections 72-508, and 72-806, 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 November 15, 2017.

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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Commission believes it important to clarify the regulations that define how benefits must be calculated and paid, and the time frame within which sureties must take certain actions. Without these changes, sureties may not know the Industrial Commission's expectations, and workers will not be protected against untimely payment.

This change would require that a worker receives notice of the acceptance, commencement, denial, reduction or cessation of medical or monetary compensation benefits to which the worker might presently or ultimately be entitled.

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 Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 7, 2017 Idaho Administrative Bulletin, [Vol. 17-6, pages 45-46](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Patti Vaughn, Benefits Administration Manager, (208) 334-6063.

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 November 22, 2017.

DATED this 20th day of September 2017.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
P.O. Box 83720
Boise, Idaho 83720-0041
Phone: (208) 334-6000
Fax: (208) 334-2321

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 17-0208-1701
(Only Those Sections With Amendments Are Shown.)

061. RULE GOVERNING NOTICE TO CLAIMANTS OF STATUS CHANGE PURSUANT TO SECTION 72-806, IDAHO CODE.

01. Notice of Change of Status. As required and defined by Idaho Code, Section 72-806, a worker shall receive written notice within fifteen (15) days of any change of status or condition, including, but not limited to, whenever there is an acceptance, commencement, denial, reduction, or cessation of medical or monetary compensation benefits to which the worker might presently or ultimately be entitled. Such notice is required when benefits are reduced to recoup any overpayment of benefits in accordance with the provisions of Section 72-316, Idaho Code. (4-7-11)()

02. By Whom Given. Any notice to a worker required by Idaho Code, Section 72-806 shall be given by: the surety if the employer has secured Workers' Compensation Insurance; or the employer if the employer is self-insured; or the employer if the employer carries no Workers' Compensation Insurance. (4-7-11)

03. Form of Notice. Any notice to a worker required by Idaho Code, Section 72-806 shall be mailed within ten (10) days by regular United States Mail to the last known address of the worker, as shown in the records of the party required to give notice as set forth above. The Notice shall be given in a format substantially similar to IC Form 8, available from the Commission and posted on the Commission's website at www.iic.idaho.gov. (4-11-15)

04. Medical Reports. As required by Idaho Code, Section 72-806, if the change is based on a medical report, the party giving notice shall attach a copy of the report to the notice. (4-7-11)

05. Copies of Notice. The party giving notice pursuant to Idaho Code, Section 72-806 shall send a copy of any such notice to the Industrial Commission, the employer, and the worker's attorney, if the worker is represented, at the same time notice is sent to the worker. The party giving notice may supply the copy to the Industrial Commission in accordance with the Commission's rule on electronic submission of documents. (3-25-16)

IDAPA 17 – IDAHO INDUSTRIAL COMMISSION

17.02.10 – ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION UNDER THE WORKERS' COMPENSATION LAW -- SECURITY FOR COMPENSATION -- INSURANCE CARRIERS

DOCKET NO. 17-0210-1701

NOTICE OF RULEMAKING – PROPOSED RULE

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 Sections 72-508, 72-408, and 72-806, 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 November 15, 2017.

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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Commission believes it important to clarify the regulations that define how benefits must be calculated and paid, and the time frame within which sureties must take certain actions. Without these changes, sureties may not know the Industrial Commission's expectations, and workers will not be protected against untimely payment.

This change would require sureties or third-party administrators to make an initial decision to accept or deny a claim for an injury or occupational disease within 30 days after the surety and/or third-party claims administrator receives knowledge of the same, in accordance with Section 72-806, Idaho Code; further, the change allows Temporary Partial Disability (TPD) payments to be calculated using the employee's pay period and establishes when TPD payments are due.

This language would 'mirror' the language in IDAPA 17.02.11 for Self-insureds.

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 Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 7, 2017 Idaho Administrative Bulletin, [Vol. 17-6, pages 48-49](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Patti Vaughn, Benefits Administration Manager, (208) 334-6063. 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 November 22, 2017.

DATED this 20th day of September 2017.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
P.O. Box 83720
Boise, Idaho 83720-0041
Phone: (208) 334-6000
Fax: (208) 334-2321

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 17-0210-1701
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

For the purposes of this chapter, the following definitions are applicable: (4-7-11)

01. Adjuster. An individual who adjusts workers' compensation claims. (3-25-16)

02. Claims Administrator. An organization, including insurers, third party administrators, independent adjusters, or self-insured employers, that services workers' compensation claims. (3-25-16)

03. Indemnity Benefits. All payments made to or on behalf of workers' compensation claimants, including temporary or permanent total or partial disability benefits, ~~permanent partial impairment benefits~~, death benefits paid to dependents, retraining benefits, and any other type of income benefits, but excluding medical and related benefits. (4-7-11)()

04. Indemnity Claim. Any claim made for the payment of indemnity benefits. (4-7-11)

(BREAK IN CONTINUITY OF SECTIONS)

051. REQUIREMENTS FOR MAINTAINING IDAHO WORKERS' COMPENSATION CLAIMS FILES.

All insurance carriers and licensed adjusters servicing Idaho workers' compensation claims shall comply with the following requirements: (4-7-11)

01. Idaho Office. (4-7-11)

a. All insurance carriers and licensed adjusters servicing Idaho workers' compensation claims shall maintain an office within the state of Idaho. The offices shall be staffed by adequate personnel to conduct business. (4-7-11)

b. The insurance carrier shall authorize and require a member of its in-state staff or a licensed, resident claims adjuster to service and make decisions regarding claims pursuant to Section 72-305, Idaho Code. Answering machines, answering services, or toll free numbers outside of the state will not suffice. That authority shall include, but is not limited to, the following responsibilities: (3-25-16)

i. Investigate and adjust all claims for compensation; (4-7-11)

ii. Pay all compensation benefits due; (4-7-11)

iii. Accept service of claims, applications for hearings, orders of the Commission, and all process which may be issued under the Workers' Compensation Law; (4-7-11)

iv. Enter into compensation agreements and lump sum settlements with Claimants; and (4-7-11)

v. Provide at the insurance carrier's expense necessary forms to any worker who wishes to file a claim under the Workers' Compensation Law. (4-7-11)

c. As staffing changes occur and, at least annually, the insurance carrier or licensed adjuster shall submit to the Industrial Commission Secretary the names of those authorized to make decisions regarding claims pursuant to Section 72-305, Idaho Code. Each authorized insurance carrier shall designate only one (1) claims

administrator for each policy of workers' compensation insurance. (3-25-16)

02. Claim Files. All Idaho workers' compensation claim files shall be maintained within the state of Idaho in either hard copy or immediately accessible electronic format. Claim files shall include, but are not limited to: (4-7-11)

a. First Report of Injury and Claim for Benefits; (4-7-11)

b. Copies of bills for medical care; (4-7-11)

c. Copy of lost-time computations, if applicable; (4-7-11)

d. Correspondence reflecting reasons for any delays in payments (i.e., awaiting medical reports, clarification, questionable items on bills, etc.), the resolution of such delays and acceptance or denial of compensability; (4-7-11)

e. Employer's Supplemental Report; and (4-7-11)

f. Medical reports. (4-7-11)

03. Correspondence. All original correspondence involving adjusting decisions regarding Idaho workers' compensation claims shall be authorized from and maintained at in-state offices. (3-25-16)

04. Date Stamp. Each of the documents listed in Subsections 051.02 and 051.03 shall be date-stamped with the name of the receiving office on the day received, and by each receiving agent or vendor acting on behalf of the claims office. (4-7-11)

05. Notice and Claim. All First Reports of Injury, Claims for Benefits, notices of occupational illnesses and fatalities shall be sent directly to the in-state adjuster or insurance carrier. The original copy of the First Report of Injury, Claim for Benefits and notices of occupational illness and fatality shall be sent directly to the Industrial Commission. (4-7-11)

06. Compensation. All compensation, as defined by Section 72-102, Idaho Code, must be issued from the in-state office. (4-7-11)

07. Checks and Drafts. Checks must be signed and issued within the state of Idaho; drafts are prohibited. (4-7-11)

a. The Commission may, upon receipt of a written Application for Waiver, grant a waiver from the provisions of Subsections 051.06 and 051.07 of this rule to permit an insurance carrier to sign and issue checks outside the state of Idaho. (4-7-11)

b. An Application for Waiver must be accompanied by an affidavit signed by an officer or principal of the insurance carrier attesting to the fact that the insurance carrier is prepared to comply with all statutes and rules pertaining to prompt payments of compensation. (4-7-11)

c. All waivers shall be effective from the date the Commission issues the order granting the waiver. A waiver shall remain in effect until revoked by the Industrial Commission. At least annually, staff of the Industrial Commission may review the performance of any insurance carrier for which a waiver under this rule has been granted to assure that the insurance carrier is complying with all statutes and rules pertaining to prompt payments of compensation. (4-7-11)

d. If at any time after the Commission has granted a waiver, the Commission receives information permitting the inference that the insurance carrier has failed to provide timely benefits to any claimant, the Commission may issue an order to show cause why the Commission should not revoke the waiver; and, after affording the insurance carrier an opportunity to be heard, may revoke the waiver and order the insurance carrier to comply with the requirements of Subsections 051.06 and 051.07 of this rule. (4-7-11)

08. Copies of Checks. Copies of checks and/or electronically reproducible copies of the information contained on the checks must be maintained in the in-state files for Industrial Commission audit purposes. A copy of the first income benefit check, showing signature and date, shall be sent to the Industrial Commission the same day of issuance. (3-25-16)

09. Prompt Claim Servicing. Prompt claim servicing includes, but is not limited to: (4-7-11)

a. Making an initial decision to accept or deny a claim for an injury or occupational disease within thirty (30) days after the claims administrator receives knowledge of the same. The worker shall be given notice of that initial decision in accordance with Section 72-806, Idaho Code. Nothing in this rule shall be construed as amending the requirement to start payment of income benefits no later than four (4) weeks or twenty-eight (28) days from the date of disability under the provisions of Section 72-402, Idaho Code. ()

#b. Payment of medical bills in accordance with the provisions of IDAPA 17.02.09, Medical Fees, Sections 031, 032, 033 and 034. (4-7-11)

#c. Payment of income benefits on a weekly basis, unless otherwise approved by the Commission. (4-7-11)

i. The first payment of income benefits under Section 72-408, Idaho Code, shall constitute application by the insurance carrier for a waiver to pay Temporary Total Disability (TTD) benefits on a bi-weekly basis, Temporary Partial Disability (TPD) benefits on other than a weekly basis, Permanent Partial Disability (PPD) benefits based on permanent impairment and Permanent Total Disability (PTD) benefits every twenty-eight (28) days, rather than on a weekly basis. ()

ii. Such waiver application shall be granted upon receipt and remain in effect unless revoked by the Industrial Commission in accordance with Subparagraph 051.09.c.iii., below. ()

iii. If at any time after a waiver has been granted pursuant to this section the Commission receives information permitting the inference that the insurance carrier has failed to service claims in accordance with Idaho law, or that such waiver has created an undue hardship on a claimant, the Commission may issue an order to show cause why the Commission should not revoke that waiver, and after affording the insurance carrier an opportunity to be heard, may revoke the waiver with respect to all or certain claimants and order the insurance carrier to comply with the requirements of Subsection 051.09.c. of this rule. ()

d. Payment of the first Permanent Partial Disability (PPD) benefit based on permanent impairment no later than fourteen (14) days after receipt of the medical report providing the impairment rating. The first payment shall include payment of benefits retroactive to the date of medical stability. ()

e. Temporary Partial Disability (TPD) payments shall be calculated using the employee's pay period, whether weekly, bi-weekly, or semi-monthly. For employees paid pursuant to any other schedule, TPD benefits shall be calculated semi-monthly. TPD payments owed for a particular pay period shall issue no later than seven (7) days following the date on which employee is ordinarily paid for that pay period. ()

10. Audits. The Industrial Commission will perform periodic audits to ensure compliance with the above requirements. (4-7-11)

11. Non-Compliance. Non-compliance with the above requirements may result in the revocation of the authority of an insurance carrier to write workers' compensation insurance in the state of Idaho, or such lesser sanctions as the Industrial Commission may impose. (4-7-11)

IDAPA 17 – IDAHO INDUSTRIAL COMMISSION

17.02.11 – ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION UNDER THE WORKERS' COMPENSATION LAW -- SECURITY FOR COMPENSATION -- SELF-INSURED EMPLOYERS

DOCKET NO. 17-0211-1701

NOTICE OF RULEMAKING – PROPOSED RULE

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 Sections 72-508, 72-408, and 72-806, 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 November 15, 2017.

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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Commission believes it important to clarify the regulations that define how benefits must be calculated and paid, and the time frame within which sureties must take certain actions. Without these changes, sureties may not know the Industrial Commission's expectations, and workers will not be protected against untimely payment.

This change would require self-insured employers or third-party administrators to make an initial decision to accept or deny a claim for an injury or occupational disease within 30 days after the self-insured employer and/or third-party claims administrator receives knowledge of the same, in accordance with Section 72-806, Idaho Code; further, the change allows Temporary Partial Disability (TPD) payments to be calculated using the employee's pay period and establishes when TPD payments are due.

This language would 'mirror' the language in IDAPA 17.02.10 for Insurance Carriers.

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 Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 7, 2017 Idaho Administrative Bulletin, [Vol. 17-6, pages 50-51](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Patti Vaughn, Benefits Administration Manager, (208) 334-6063. 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 November 22, 2017.

DATED this 20th day of September, 2017.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
P.O. Box 83720
Boise, Idaho 83720-0041
Phone: (208) 334-6000
Fax: (208) 334-2321

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 17-0211-1701
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

For the purposes of this chapter, the following definitions are applicable: (4-7-11)

01. Adjuster. An individual who adjusts workers' compensation claims. (3-25-16)

02. Claims Administrator. An organization, including insurers, third party administrators, independent adjusters, or self-insured employers, that services workers' compensation claims. (3-25-16)

03. Compensation. All benefits payable under the provisions of the Idaho Workers Compensation Law. (3-29-12)

04. Indemnity Benefits. All payments made to or on behalf of workers' compensation claimants, including temporary or permanent total or partial disability benefits, ~~permanent partial impairment benefits~~, death benefits paid to dependents, retraining benefits, and any other type of income benefits, but excluding medical and related benefits. (4-7-11)()

05. Indemnity Claim. Any claim made for the payment of indemnity benefits. (4-7-11)

06. Payroll. The gross amount paid by an employer for salaries, wages or commissions earned by its own direct employees, but not including any money paid to another entity or received from another entity for leased employees. (4-7-11)

(BREAK IN CONTINUITY OF SECTIONS)

051. REQUIREMENTS FOR MAINTAINING IDAHO WORKERS' COMPENSATION CLAIMS FILES.

All self-insured employers and licensed adjusters servicing Idaho workers' compensation claims shall comply with the following requirements: (4-7-11)

01. Idaho Office. All self-insured employers and licensed adjusters servicing Idaho workers' compensation claims shall maintain an office within the state of Idaho. The offices shall be staffed by adequate personnel to conduct business. The self-insured employer shall designate and require an Idaho licensed, resident adjuster to make decisions regarding claims pursuant to Section 72-305, Idaho Code. As staffing changes occur and, at least annually, the self-insured employer or licensed adjuster shall submit to the Industrial Commission Secretary the names of those authorized to make decisions regarding claims pursuant to Section 72-305, Idaho Code. Answering machines, answering services, or toll free numbers outside of the state will not suffice. (3-25-16)

02. Claim Files. All Idaho workers' compensation claim files shall be maintained within the state of Idaho in either hard copy or immediately accessible electronic format. Claim files shall include, but are not limited to: (4-7-11)

a. First Report of Injury and Claim for Benefits; (4-7-11)

b. Copies of bills for medical care; (4-7-11)

c. Copy of lost-time computations, if applicable; (4-7-11)

d. Correspondence reflecting reasons for any delays in payments (i.e., awaiting medical reports,

clarification, questionable items on bills, etc.), the resolution of such delays and acceptance or denial of compensability; (4-7-11)

- e. Employer's Supplemental Report; and (4-7-11)
- f. Medical reports. (4-7-11)

03. Correspondence. All original correspondence involving adjusting decisions regarding Idaho workers' compensation claims shall be authorized from and maintained at in-state offices. (3-25-16)

04. Date Stamp. Each of the documents listed in Subsections 051.02 and 051.03 shall be date-stamped with the name of the receiving office on the day received, and by each receiving agent or vendor acting on behalf of the self-insured employer. (4-7-11)

05. Notice and Claim. All First Reports of Injury, Claims for Benefits, notices of occupational illnesses and fatalities shall be sent directly to the in-state adjuster or self-insured employer. The original copy of the First Report of Injury, Claim for Benefits and notices of occupational illness and fatality shall be sent directly to the Industrial Commission. (4-7-11)

06. Compensation. All compensation, as defined by Section 72-102, Idaho Code, must be issued from the in-state office. (4-7-11)

07. Checks and Drafts. Checks must be signed and issued within the state of Idaho; drafts are prohibited. (4-7-11)

a. The Commission may, upon receipt of a written Application for Waiver, grant a waiver from the provisions of Subsections 051.06 and 051.07 of this rule to permit a self-insured employer to sign and issue checks outside the state of Idaho. (4-7-11)

b. An Application for Waiver must be accompanied by an affidavit signed by an officer or principal of the self-insured employer, attesting to the fact that the self-insured employer is prepared to comply with all statutes and rules pertaining to prompt payment of compensation. (4-7-11)

c. All waivers shall be effective from the date the Commission issues the order granting the waiver. A waiver shall remain in effect until revoked by the Industrial Commission. At least annually, staff of the Industrial Commission may review the performance of any self-insured employer for which a waiver under this rule has been granted to assure that the self-insured employer is complying with all statutes and rules pertaining to prompt payment of compensation. (4-7-11)

d. If at any time after the Commission has granted a waiver, the Commission receives information permitting the inference that the self-insured employer has failed to provide timely benefits to any claimant, the Commission may issue an order to show cause why the Commission should not revoke the waiver; and, after affording the self-insured employer an opportunity to be heard, may revoke the waiver and order the self-insured employer to comply with the requirements of Subsections 051.06 and 051.07 of this rule. (4-7-11)

08. Copies of Checks. Copies of checks and/or electronically reproducible copies of the information contained on the checks must be maintained in the in-state files for Industrial Commission audit purposes. A copy of the first income benefit check, showing signature and date, shall be sent to the Industrial Commission the same day of issuance. (3-25-16)

09. Prompt Claim Servicing. Prompt claim servicing includes, but is not limited to: (4-7-11)

a. Making an initial decision to accept or deny a claim for an injury or occupational disease within thirty (30) days of the date the claims administrator receives knowledge of the same. The worker shall be given notice of that initial decision in accordance with Section 72-806, Idaho Code. Nothing in this rule shall be construed as amending the requirement to start payment of income benefits no later than four (4) weeks or twenty-eight (28) days from the date of disability under the provisions of Section 72-402, Idaho Code. ()

b. Payment of medical bills in accordance with the provisions of IDAPA 17.02.09, Medical Fees, Sections 031, 032, 033, and 034. (4-7-11)

c. Payment of income benefits on a weekly basis, unless otherwise approved by the Commission. (4-7-11)

i. The first payment of income benefits under Section 72-408, Idaho Code, shall constitute application by the self-insured employer for a waiver to pay Temporary Total Disability (TTD) benefits on a bi-weekly basis, Temporary Partial Disability (TPD) benefits on other than a weekly basis, Permanent Partial Disability (PPD) benefits based on permanent impairment and Permanent Total Disability (PTD) benefits every twenty-eight (28) days, rather than on a weekly basis. ()

ii. Such waiver application shall be granted upon receipt and remain in effect unless revoked by the Industrial Commission in accordance with Subparagraph 051.09.c.iii., below. ()

iii. If at any time after a waiver has been granted pursuant to this section the Commission receives information permitting the inference that the self-insured employer has failed to service claims in accordance with Idaho law, or that such waiver has created an undue hardship on a claimant, the Commission may issue an order to show cause why the Commission should not revoke that waiver, and after affording the employer an opportunity to be heard, may revoke the waiver with respect to all or certain claimants and order the self-insured employer to comply with the requirements of Subsection 051.09.c. of this rule. ()

d. Payment of the first Permanent Partial Disability (PPD) benefit based on permanent impairment no later than fourteen (14) days after receipt of the medical report providing the impairment rating. The first payment shall include payment of benefits retroactive to the date of medical stability. ()

e. Temporary Partial Disability (TPD) payments shall be calculated using the employee's pay period, whether weekly, bi-weekly, or semi-monthly. For employees paid pursuant to any other schedule, TPD benefits shall be calculated semi-monthly. TPD payments owed for a particular pay period shall issue no later than seven (7) days following the date on which employee is ordinarily paid for that pay period. ()

10. Audits. The Industrial Commission will perform periodic audits to ensure compliance with the above requirements. (4-7-11)

11. Non-Compliance. Non-compliance with the above requirements may result in the revocation of the authority of a self-insured employer to self-insure its workers' compensation obligations in the state of Idaho, or such lesser sanctions as the Industrial Commission may impose. (4-7-11)

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.01.02 – INSURANCE POLICY TITLES

DOCKET NO. 18-0102-1701 (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 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 41-211, 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 existing rule consists of one sentence barring the approval of any life insurance policy bearing a name which is misleading or confusing. Such policies are already prohibited by Section 41-1813, Idaho Code. IDAPA 18.01.02 is not necessary as it does not add anything of value in understanding or effectuating section 41-1813, Idaho Code, or other provisions of Title 41, Idaho Code. This rulemaking repeals this rule.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017, Idaho Administrative Bulletin, [Vol. 17-9, page 204](#).

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 Wes Trexler at weston.trexler@doi.idaho.gov or (208) 334-4315.

DATED this 4th day of October, 2017.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83702-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.01.08 – FILING OF LIFE POLICY FORMS

DOCKET NO. 18-0108-1701 (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 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 41-211, 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 rule, which was originally adopted in 1962, calls for life policy forms to be submitted to the Department “in duplicate.” Policy forms have long been submitted electronically through the System for Electronic Rate and Form Filings (SERFF). IDAPA 18.01.08 is not necessary for the effectuation of Title 41, Idaho Code. Other provisions of this rule related to filing of rating formulas and specimens are also unnecessary because filings are made per Sections 41-1812 and 41-1813, Idaho Code and in light of substantive provisions in Title 41, Chapter 19, Idaho Code. This rulemaking repeals this rule.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017, Idaho Administrative Bulletin, [Vol. 17-9, page 205](#).

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 Wes Trexler at weston.trexler@doi.idaho.gov or (208) 334-4315.

DATED this 4th day of October, 2017.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83702-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.01.20 – CANCELLATION OF, OR REFUSAL TO RENEW AUTOMOBILE INSURANCE POLICIES

DOCKET NO. 18-0120-1701

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 41-211, 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 41-2502, Idaho Code, requires that insurers offer uninsured and underinsured auto coverage to Idaho consumers and also provides that a consumer can reject such coverage in writing when the policy is first purchased. Subsection (3) of this section also provides that the insurer provide a statement approved by the Director of the Department of Insurance explaining both types of coverage and the types of underinsured coverage that might be available in Idaho. The department fulfilled this directive initially by publishing the July 24, 2008, [Department of Insurance Bulletin 08-08](#). Recently there has been discussion about whether consumers are adequately protected under the status quo. In 2017, there were three bills (H0163, S1048, and S1078) that considered proposing amendments to Sections 41-2502 or 41-2503, Idaho Code (the latter section containing definitions). Legislators suggested that the Director meet with industry to consider alternatives that might better serve Idahoans. Pursuant to negotiated rulemaking, a public meeting was held and written comments were received.

Following additional comments received upon the proposed rule regarding when the revised form must be used, 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 6, 2017, Idaho Administrative Bulletin, [Vol. 17-9, pages 206-211](#).

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 Donovan at tom.donovan@doi.idaho.gov or (208) 334-4214.

DATED this 4th day of October, 2017.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83702-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

DOCKET NO. 18-0120-1701 - ADOPTION OF PENDING RULE

Substantive changes have been made to the pending rule.
Italicized red text that is double underscored is new text that has been added to the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin,
Volume 17-9, September 6, 2017, pages 206 through 211.

This rule has been adopted as a pending rule by the Agency and is now awaiting
review and final approval by the 2018 Idaho State Legislature.

**016. STANDARD STATEMENT REGARDING UNINSURED AND UNDERINSURED MOTORIST
COVERAGE.**

The form set forth below is the standard statement approved by the director of the department of insurance pursuant to Section 41-2502, Idaho Code, and carriers must begin using the new form *for all new policies and those existing policies where UM or UIM coverage is added or removed* no later than January 1, 2019. Carriers may make non-substantive changes to this form, for example, including inserting company letterhead, and carriers must file their standard statement forms with the director prior to use. This rule does not create new requirements for the types of UIM coverage carriers must offer beyond what existed as of the effective date of this rulemaking. ()

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.01.22 – SALE OF INSURANCE BY VENDING MACHINES

DOCKET NO. 18-0122-1701 (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 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 41-211, 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 dates back to 1979. It is not currently monitored by the DOI, no licenses currently exist, nor are any expected. The fee for vending machine licenses is not addressed or included in the Department's general fee rule, IDAPA 18.01.44. Internet options replace this mode of accessibility for the public, along with provisions on credit cards for limited travel insurance. Recent legislative change removes retail licensing requirements for travel insurance. IDAPA 18.01.22 is not necessary for effectuating Title 41, Idaho Code. This rulemaking repeals this rule.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017, Idaho Administrative Bulletin, [Vol. 17-9, page 212](#).

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 Donovan at tom.donovan@doi.idaho.gov or (208) 334-4214.

DATED this 4th day of October, 2017.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83702-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.01.25 – TITLE INSURANCE AND TITLE INSURANCE AGENTS AND ESCROW OFFICERS

DOCKET NO. 18-0125-1701

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 41-211, 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 seeks to make title insurance policy cancellation fees permissive rather than mandatory because there are various scenarios where it seems inappropriate to charge a cancellation fee, and title insurance agents would not charge cancellation fees but for the current rule.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017, Idaho Administrative Bulletin, [Vol. 17-9, pages 213-215](#).

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 Scanlon at jim.scanlon@doi.idaho.gov or (208) 334-4321.

DATED this 4th day of October, 2017.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83702-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.01.30 – INDIVIDUAL DISABILITY AND GROUP SUPPLEMENTAL DISABILITY INSURANCE MINIMUM STANDARDS RULE

DOCKET NO. 18-0130-1701

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 41-4207, 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:

Following negotiated rulemaking, this pending rule allows, but does not require, carriers to offer return of premium or cash value benefits to covered persons for specified disease, limited benefit policies, and accident only policies in addition to the other types of policies currently permitted.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017, Idaho Administrative Bulletin, [Vol. 17-9, pages 216-218](#).

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 Wes Trexler at weston.trexler@doi.idaho.gov or (208) 334-4315.

DATED this 4th day of October, 2017.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83702-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE
18.01.35 – GUIDELINES RESPECTING THE USE OF CLAIM FORMS
FOR DISABILITY INSURANCE CLAIMS

DOCKET NO. 18-0135-1701 (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 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 41-211, 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 requires insurers to furnish, to hospitals and certain other service providers, a six month supply of paper forms for the filing of claims. Since the rule was adopted in 1980, the vast majority of claims are submitted electronically, and it is no longer necessary for providers to have a six-month supply of paper forms on hand at all times. IDAPA 18.01.35 is not necessary for the effectuation of Title 41, Idaho Code as it reflects outmoded practices. This rulemaking repeals this rule.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017, Idaho Administrative Bulletin, [Vol. 17-9, page 219](#).

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 Wes Trexler at weston.trexler@doi.idaho.gov or (208) 334-4315.

DATED this 4th day of October, 2017.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83702-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.01.56 – REBATES AND ILLEGAL INDUCEMENTS TO OBTAINING TITLE INSURANCE BUSINESS RULES

DOCKET NO. 18-0156-1701

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 41-211, 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 seeks to revise the definition of “things of value” at Subsection 010.05 and revise provisions 4.1. and 9 of Exhibit 1, requiring cancellation fees because there are various scenarios where it seems inappropriate to charge a cancellation fee, and title insurance agents would not charge cancellation fees but for the rule.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017, Idaho Administrative Bulletin, [Vol. 17-9, pages 220-223](#).

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 Scanlon at jim.scanlon@doi.idaho.gov or (208) 334-4321.

DATED this 4th day of October, 2017.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83702-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.01.73 – RULE TO IMPLEMENT THE INDIVIDUAL HEALTH INSURANCE AVAILABILITY ACT PLAN DESIGN

DOCKET NO. 18-0173-1701 (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 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 41-5211, 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 current rule provides specifics for the plan design of five individual health plans to be offered through the Idaho Individual High Risk Reinsurance Pool (Pool), per Chapter 55, Title 41, Idaho Code. Revisions to Chapter 55, Title 41, Idaho Code, effective July 1, 2017, have eliminated the requirement and the need to design specific products for the Pool, which, going forward, will likely function as a reinsurance mechanism for individuals with certain health conditions enrolled in major medical individual health insurance plans available market-wide. IDAPA 18.01.73 is no longer necessary for the effectuation of Title 41, Idaho Code as Chapter 55, Title 41, Idaho Code no longer provides for individuals to be enrolled in unique high risk pool plans. The approximately 50 individuals grandfathered into these plans prior to the 2017 legislation will be renewed into these plans, if they desire, without modification to plan design. Therefore, rules for design of these plans are obsolete as no new such plans will be created. This rulemaking repeals this rule.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017, Idaho Administrative Bulletin, [Vol. 17-9, page 224](#).

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 Wes Trexler at weston.trexler@doi.idaho.gov or (208) 334-4315.

DATED this 4th day of October, 2017

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83702-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

IDAPA 19 – IDAHO STATE BOARD OF DENTISTRY
19.01.01 – RULES OF THE IDAHO STATE BOARD OF DENTISTRY
DOCKET NO. 19-0101-1701
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 54-912, 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 to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 225-231](#).

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 Susan Miller, Executive Director, at (208) 334-2369.

DATED this 10th day of October, 2017.

Susan Miller
Executive Director
Idaho Board of Dentistry
350 N. 9th St., Ste. M100
P. O. Box 83720
Boise, ID 83720-0021
Phone: (208) 334-2369
Fax: (208) 334-3247

IDAPA 19 – IDAHO STATE BOARD OF DENTISTRY
19.01.01 – RULES OF THE IDAHO STATE BOARD OF DENTISTRY
DOCKET NO. 19-0101-1702
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 54-912, 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 to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 232-237](#).

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 Susan Miller, Executive Director, at (208) 334-2369.

DATED this 10th day of October, 2017.

Susan Miller
Executive Director
Idaho Board of Dentistry
350 N. 9th St., Ste. M100
P. O. Box 83720
Boise, ID 83720-0021
Phone: (208) 334-2369
Fax: (208) 334-3247

IDAPA 19 – IDAHO STATE BOARD OF DENTISTRY
19.01.01 – RULES OF THE IDAHO STATE BOARD OF DENTISTRY
DOCKET NO. 19-0101-1703
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 54-912, 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 to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 238-241](#).

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 Susan Miller, Executive Director, at (208) 334-2369.

DATED this 10th day of October, 2017.

Susan Miller
Executive Director
Idaho Board of Dentistry
350 N. 9th St., Ste. M100
P. O. Box 83720
Boise, ID 83720-0021
Phone: (208) 334-2369
Fax: (208) 334-3247

IDAPA 23 – BOARD OF NURSING

23.01.01 – RULES OF THE IDAHO BOARD OF NURSING

DOCKET NO. 23-0101-1701

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 54-1404(13), 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 to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 243 through 250](#).

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 Evans, Executive Director, at (208) 577-2482 or at sandra.evans@ibn.idaho.gov.

DATED this 3rd day of October, 2017.

Sandra Evans, M.A.Ed., R.N., Executive Director
Board of Nursing
280 N. 8th St. (8th & Bannock), Ste. 210
P. O. Box 83720
Boise, ID 83720-0006
Phone: (208) 577-2482
Fax: (208) 334-3262
E-mail: sandra.evans@ibn.idaho.gov

IDAPA 35 – STATE TAX COMMISSION

35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-1704

NOTICE OF PUBLIC HEARING AND EXTENSION OF WRITTEN COMMENT PERIOD

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5222, Idaho Code, notice is hereby given that this agency has scheduled a public hearing and extended the period of public comment. The action is authorized pursuant to Sections 63-105A and 63-802, Idaho Code.

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

PUBLIC HEARING
Tuesday, November 7, 2017 – 9:00 a.m.

Idaho State Tax Commission
800 Park Blvd., Room 1CR5
Boise, ID 83712

Interested parties may also call in on a conference call by contacting Sherry Briscoe at (208) 334-7544 or sherry.briscoe@tax.idaho.gov to set it up.

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 summary of this action is found in the October 4, 2017 Idaho Administrative Bulletin, **Vol. 17-10, pages 478-491.**

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Alan Dornfest, (208) 334-7742, alan.dornfest@tax.idaho.gov.

SUBMISSION OF WRITTEN COMMENTS: The comment period for this rulemaking has been extended. Anyone may submit written comments regarding this rulemaking during this comment period or a written comment may be submitted at the public hearing in lieu of giving an oral presentation. Any written comments submitted at a public hearing carry the same weight as oral testimony and will be considered as such.

All written comments must be directed to the undersigned and must be delivered on or before November 7, 2017.

DATED this 12th day of October, 2017.

Alan Dornfest
Tax Policy Supervisor
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7742

IDAPA 50 – IDAHO COMMISSION OF PARDONS AND PAROLE

50.01.01 – RULES OF THE COMMISSION OF PARDONS AND PAROLE

DOCKET NO. 50-0101-1701

NOTICE OF RULEMAKING – PROPOSED RULE

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 20-223, 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 November 15, 2017.

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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed amendments include the following: increases the number of members making up the Commission; amends the Commission decision-making processes; updates alternative placement options for parole violators; provides for the review of firearm restoration applications in executive session; clarifies victim's services; updates definitions; addresses technological advancements for use in hearings; establishes the number of Commissioners required for parole proceedings and decisions; adds language to the Foreign National Treaty giving the Commission discretion to make recommendations to the Governor; implements statutory amendments from the 2017 session.

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:

There will be no fiscal impact resulting from this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the September 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, page 293](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mary Schoeler (208) 334-2520.

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 November 22, 2017.

DATED this 15th day of September.

Mary Schoeler, Paralegal
Commission of Pardons and Parole
3056 Elder Street
Boise, Idaho 83705
(208) 334-2520

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 50-0101-1701
(Only Those Sections With Amendments Are Shown.)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 50.01.01, “Rules of the Commission of Pardons and Parole.” (5-3-03)

02. Scope. The rules govern parole, pardons, firearm rights restoration, and commutations for the state of Idaho; and other matters within the authority of the Commission. (4-11-15)()

(BREAK IN CONTINUITY OF SECTIONS)

006. PUBLIC RECORDS ACT COMPLIANCE.

The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records subject to the disclosure provisions of Title 74, Chapter 1, Idaho Code. (5-3-03)()

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Absconder. An offender who has fled supervision, whose whereabouts are unknown, and for whom a warrant for a violation of supervision has been issued or requested. (4-11-15)()

02. Case Worker/Manager. For purposes of reference, the case worker/manager is an Idaho Department of Correction employee who is involved with assisting offenders/parolees regarding their problems, needs, and adjustments. Such case worker/manager may have the title of psycho-social rehabilitation specialist, counselor, social worker, psych-tech, or clinician. (4-11-15)

03. Commission. The Idaho Commission of Pardons and Parole. (4-11-15)

04. Commission Warrant. Warrant of arrest for alleged parole violation issued by the Executive Director or a Commissioner. This warrant is a non-bondable warrant. (3-23-98)

05. Commissioner. A member of the Commission who is appointed by the Governor to carry out decision-making functions regarding parole, parole revocations, pardons, commutations, remission of fines, and firearm rights restoration. ()

056. Commutation. Clemency powers granted to the Commission, or the Governor, or both, which allow for a sentence to be modified. (4-11-15)

067. Concurrent Sentence. Sentence served at the same time as another. (3-23-98)

078. Conditions of Parole. Conditions under which an offender is released to parole supervision. (4-11-15)

089. Confidential. Privileged from disclosure. (3-23-98)

0910. Consecutive Sentence. Sentence served upon completion of another sentence or before beginning another sentence. (3-23-98)

101. Decision. A determination arrived at after consideration, a conclusion. (3-23-98)

- ~~172.~~ **Detainer.** A document authorizing the detention of an offender in custody for a new felony crime or parole violation. Offender may be housed in a county jail or a correctional institution in state or out of state. (4-11-15)
- ~~123.~~ **Determinate Sentence.** Fixed portion of the sentence. During this time period an offender is not eligible for release on parole. (4-11-15)
- ~~134.~~ **DOR.** Disciplinary Offense Report. A report describing rule violations, behavioral issues, or both, committed by an offender while incarcerated. (4-11-15)
- ~~145.~~ **Early Parole Discharge.** Release from further custody of parole supervision prior to the maximum expiration date and after statutory minimum of one (1) year of their sentence has been completed. (4-11-15)
- ~~156.~~ **Escape.** Flight from confinement. (3-23-98)
- ~~167.~~ **Evidence Based Program.** A treatment program evaluated using an experimental methodological design, with outcomes reviewed by a variety of scientific professionals, and deemed effective in the delivery method and the desired participant population outcomes. (4-11-15)
- ~~178.~~ **Executive Session.** Any meeting or part of a meeting of the Commission that is closed to the public for deliberation on certain matters, as set forth in Section 20-213A, Idaho Code. (4-11-15)
- ~~189.~~ **Fixed Term.** Portion of sentence during which the convicted person is not eligible for parole. (3-23-98)
- ~~1920.~~ **Full Term Release Date.** The date an offender completes the term of sentence without good time credits. (4-11-15)
- ~~201.~~ **Good Time Release Date.** The date an offender completes the term of sentence, minus statutory good time credits when applicable. Good time credit applies to offenses committed prior to July 1, 1986, and for which an offender is confined to a correctional institution for a definite term other than life. (4-11-15)
- ~~212.~~ **Hearing.** The opportunity to be interviewed by the Commission, a Commissioner, or other designated Commission staff. (4-11-15)
- ~~223.~~ **Hearing Officer.** An impartial person employed by the Commission and selected by the Executive Director to conduct an interview and take testimony from an offender regarding offender's history, criminal record, social history, present condition of offender, and offense. (4-11-15)
- ~~234.~~ **Hearing Session.** A series of hearings conducted by the Commission. (3-23-98)
- ~~25.~~ **Inclusive Gender.** For all administrative rules in Idaho, the terms and references used in the masculine include the feminine and vice versa, as appropriate. ()
- ~~246.~~ **Indeterminate Sentence.** Portion of sentence following the determinate sentence, during which time an offender is eligible for release on parole. (4-11-15)
- ~~25.~~ **Institutional Parole.** Parole granted on one (1) or more consecutive sentences where the offender/parolee remains incarcerated on other consecutive sentences. If released to parole on the remaining consecutive sentences, the parole becomes regular parole. (4-11-15)
- ~~267.~~ **Jacket, File, or Case Review.** Review of central file, Commission file, and/or additional information submitted, without testimony or interview of offender or parolee. (4-11-15)
- ~~28.~~ **Member or Members.** A member of the Commission, Commissioner, or Commissioners. ()

- ~~279.~~ NCIC. National Crime Information Center. (3-23-98)
- ~~2830.~~ **Non Restricted Sentence.** Sentence not restricted by statute. (3-23-98)
- ~~2931.~~ **Non-Technical Violation.** Violation of parole by absconding or a new felony or misdemeanor conviction. (3-8-16)
- ~~302.~~ **Offender.** A person under the legal care, custody, supervision, or authority of the board ~~of~~ of correction, including a person within or without Idaho pursuant to agreement with another state or contractor. (4-11-15)()
- ~~313.~~ **On-Site Parole Violation Hearing.** Parole violation hearing to determine guilt or innocence ~~of the~~ alleged parole violator, which must be held reasonably near the site of the alleged violation(s). (4-11-15)()
- ~~324.~~ **Open Parole Date.** Tentative parole granted without setting an actual tentative release date and subject to release by Commission authorization; offender's parole eligibility date has passed when a tentative parole date is granted. A tentative parole date will become an open parole date if the tentative parole date passes without the offender being released to an acceptable plan on the specific date. (4-11-15)
- ~~335.~~ **Pardon.** Clemency powers granted to the Commission or the Governor that allows the applicant to be released from the consequences of conviction of a crime and restores ~~a persons'~~ the applicant's civil rights. (4-11-15)()
- ~~346.~~ **Parole.** Conditional release from a penal institution under a contractual agreement between the Commission of Pardons and Parole and offender. Parole is not a right, but is a matter of grace. (4-11-15)
- ~~357.~~ **Parole Eligibility Date.** The earliest date that an offender may be eligible for parole release, which coincides with the date that the indeterminate portion of the offender's sentence begins. In the event there are multiple sentences, the sentence having the latest indeterminate begin date will be used as the offender's parole eligibility date. (4-11-15)
- ~~368.~~ **Parole Hearing Interview.** An interview conducted by a hearing officer for the purpose of gathering information and testimony from the offender regarding the offender's history, criminal record, social history, present condition, instant offense, and other factors, when the offender is scheduled for a forthcoming parole consideration hearing. (4-11-15)
- ~~39.~~ **Parole Revocation Hearing.** A hearing held before the Commissioners to render a decision whether to reinstate, modify, or revoke parole. ()
- ~~3740.~~ **Parole Violation Hearing.** A fact-finding hearing conducted by a hearing officer to determine a ~~subject's~~ parolee's guilt or innocence of alleged violations of parole. The hearings are conducted for both technical and non-technical violations, and may be held on-site, or at a location as determined by the Executive Director or the hearing officer. (4-11-15)()
- ~~3841.~~ **Parolee.** Offender being supervised on parole. (4-11-15)
- ~~3942.~~ **Permanently Incapacitated.** As defined in Section 20-223, Idaho Code, permanently incapacitated means a person who, by reason of an existing physical condition that is not terminal, is permanently and irreversibly physically incapacitated. (4-11-15)
- ~~43.~~ **Preliminary Hearing.** A hearing conducted by an objective representative of the supervising authority or an individual appointed by the Executive Director to determine if there is probable cause to believe the alleged violations of the parole contract occurred. ()
- ~~404.~~ **Rescission.** Cancellation of a previous decision. (4-11-15)
- ~~415.~~ **Reprieve.** Temporary suspension of the execution of sentence; delay a punishment. (3-23-98)

426. **Restricted Sentence.** Sentence restricted by Idaho Statutes, by carrying a mandatory minimum to be served prior to parole eligibility. (4-11-15)

437. **Return of Service.** The document that establishes what legal documents were served on whom, by whom, and when. (4-11-15)

448. **Revocation/Violation File.** File containing the documents pertinent to a particular violation/revocation proceeding. (4-11-15)

459. **Risk Assessment.** Validated tool developed to determine risk of recidivating based on offender criminogenic needs. (4-11-15)

50. **Self-Initiated Parole Reconsideration (SIPR).** A process in which an offender may request reconsideration of the last hearing decision of the Commission. ()

4651. **Session.** See “Hearing Session.” (4-11-15)

52. **Special Meeting.** A hearing called by the Commission or the Executive Director outside of the regularly scheduled hearing session. The Commission will consider whether to reinstate, modify, or revoke parole when the parole violation decision is not unanimous between the two (2) Commissioners. ()

4753. **Statutory Release Date.** Maximum full-term expiration date, minus any good time credits accumulated during incarceration. The maximum full-term date may change upon forfeiture of time on parole due to a violation of that parole. (4-11-15)

4854. **Substantive Conditions of Parole.** Conditions of parole which relate to the rehabilitation of a parolee including, but not limited to, performance of community service, use of alcohol, use of a motor vehicle, limitations on financial matters, use of drugs, associations with other felons, employment requirements, residence requirements, traveling outside of their district, etc. (4-11-15)

55. **Supervising Authority.** The agency responsible for community supervision of parolees which is Idaho Department of Correction. ()

4956. **Technical Violation.** Violation of parole by not conforming to conditions of parole, but not to include absconding or a new criminal conviction. (3-8-16)

507. **Terminally Ill.** As defined by Section 20-223, Idaho Code, terminally ill shall mean a person who has an incurable condition caused by illness or disease and who is irreversibly terminally ill. (3-23-98)

548. **Victim.** As defined by Section 19-5306, Idaho Code, “Any individual who suffers direct or threatened physical, financial or emotional harm as the result of the Commission of a crime or juvenile offense.” Including as defined by Section 19-5304, Idaho Code, “will mean a person or entity, who suffers economic loss or injury as the result of the defendant’s criminal conduct and will also include the immediate family of a minor and the immediate family of the actual victim in homicide cases.” (3-8-16)

529. **Witness.** Anyone who observes a hearing, appears as attorney for the subject of a hearing, or others who provide written or verbal testimony. (3-23-98)

(BREAK IN CONTINUITY OF SECTIONS)

101. HEARINGS.

All hearings of the Commission shall be conducted in accordance with the open meeting law as provided in Chapter 23, Title 67 Idaho Code and as modified by Section 20-213A, Idaho Code. The Commission will conduct each hearing assigned and scheduled before them. Each Commissioner will have an opportunity to ask questions or

provide comments, or both. The Executive Director or Commission staff may provide information during the hearing or ask questions. (4-11-15)

01. Deliberations. ~~Deliberations~~ Receipt and exchange of information or opinion relating to a decision concerning the granting, revoking, reinstating, or ~~refusing denial~~ of paroles, or related decisions, to include commutations, ~~and~~ pardons, and restoration of firearm rights. ~~Deliberations~~ will be made in executive session. Votes of individual members will not be made public. A written record of the vote by each Commission member will be kept confidential and privileged from disclosure and, provided, for all lawful purposes as outlined by Section 20-213A, Idaho Code. ~~†~~The record will be made available upon request to: ()

a. The ~~g~~Governor or Governor's representative; ()

b. The most senior minority member of the of the House of Representatives Judiciary, Rules and Administration committee; ()

c. The chairman of the House of Representatives' Judiciary, Rules and Administration committee, and; ()

d. The chairman of the Senate Judiciary and Rules Committee and the most senior minority member of the Senate Judiciary and Rules Committee ~~for all lawful purposes as outlined by Section 20-213A.~~ (4-11-15) ()

#02. Distribution of Record. Distribution of the record by a Commissioner or an employee of the Commission to any person not specifically listed in this section will be a misdemeanor offense. Any person can obtain the results of any action taken by the Commission without reference to the manner in which any individual Commissioner voted, and such information will be public information. (4-11-15) ()

(BREAK IN CONTINUITY OF SECTIONS)

104. RECORD OF HEARINGS AND BUSINESS MEETINGS.

01. Minutes of Hearings and Case Reviews. ()

a. Summary minutes of individual hearings and case reviews will be maintained in the Commission office and will be approved and signed by the Executive Director, or a Commissioner, or designee of the Executive Director. (4-11-15)

b. Audio recordings of open hearings may be made and will be maintained by Commission office in digital format. The recordings will be subject to disclosure pursuant to the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. Executive sessions will not be recorded. ()

02. Minutes ~~Reviewed and Approved~~ of Business Meetings. Summary minutes of business meetings are reviewed by Commissioners who are present at the next ~~subsequent~~ business meeting. The summary minutes as approved by the Commissioners will be signed by the Executive Director or designee. Summary minutes of business meetings are maintained in the Commission office and published on the Commission's website when the summary minutes are approved. (4-11-15) ()

03. Official Record of Parole Hearing or Case Review. The official record of a parole hearing or case review will be the summary minutes, once signed, of that hearing or review. The official record will be maintained in the Commission office and subject to public disclosure pursuant to the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. ()

(BREAK IN CONTINUITY OF SECTIONS)

108. RIGHTS, POWERS, AND AUTHORITY OF THE COMMISSION.

01. Commutation, Pardon, Restoration of Firearms Rights, and Remission of Fines. The Commission succeeds to and has all rights, powers, and authority of the Board of Pardons as granted and provided by *the provision of the Article 4, Section 7 of the* Constitution of the state of Idaho *and Sections 18-310, 20-210A, and 20-240, Idaho Code*, in reference to commutation, pardon, restoration of firearms *rights*, and remission of fines. (3-8-16)()

02. Decision to Release to Parole. The Commission has the power to decide whether or not any offender eligible for parole may be released to parole. (4-11-15)

03. Advisory Commission to Board of Correction. The Commission may act as the advisory Commission to the board of correction. The Commission has any and all authority necessary to fulfill the duties and responsibilities and other duties imposed upon it by law under Section 20-201, Idaho Code and other applicable provisions of Idaho law. (4-11-15)

109. -- 149. (RESERVED)

150. COMMISSION AND STAFF.

01. Commission Members. (3-23-98)

a. The Commission is composed of *five (5) seven (7)* members appointed by the governor for three (3) year terms. Vacancies for unexpired terms will be for the remainder of the term and appointees may be reappointed. (4-11-15)()

i. No more than *three (3) four (4)* members will be from one (1) political party. (4-11-15)()

ii. Appointments are subject to the advice and consent of the senate. (3-23-98)

b. The Commissioners are compensated as provided by Sections 20-210, 59-509(I), and 67-2008, Idaho Code. (4-11-15)

02. Commission Staff. (3-23-98)

a. The Executive Director is the official representative for the Commission and is responsible for the managing and administration of Commission business and will have other duties and responsibilities as assigned by the governor. (4-11-15)

i. The Commission has delegated to the Executive Director the authority to approve recommended conditions of parole following the hearing process, issue Commission warrants, issue parole release documents, and all other official documents pertaining, but not limited to paroles, commutations, pardons, *restoration of firearms rights restoration*, and remissions of fines. (3-8-16)()

ii. The Executive Director shall assume all authority and duties as may be delegated by the Commission and the governor. (3-30-01)

b. The Commission, the Executive Director, and all staff will maintain professional integrity in all matters of Commission business. (3-23-98)

151. -- 199. (RESERVED)

200. HEARING PROCESS.

01. Information for Scheduled Commission Hearings. (3-30-01)

a. A schedule of Commission hearings will be prepared prior to a hearing session and may be updated as necessary at any time. The hearing schedule will be available five (5) business days prior to a hearing session. The hearing schedule may be revised due to offender movement between institutions or other circumstances and may not be published earlier. A person may obtain the offender's hearing date by contacting the Commission office. (4-11-15)

b. The hearing schedule will reflect the date, location and starting time of each hearing session and a list of offenders scheduled for hearings and will be published on the Commission website. (4-11-15)

02. Location of Hearings. ()

a. The Executive Director will determine the location of hearings, based upon available information when the schedule is set. Due to circumstances beyond the Commission's control, it may be necessary to change the location and date of a hearing or hearing session. (4-11-15)

#b. It may be necessary to continue a hearing to a later date to allow for the offender's personal appearance or for other unforeseen reasons. (4-11-15)

03. Interview Method. For parole hearings, commutation hearings, pardon hearings, remission of fines hearings, and restoration of firearms rights hearings, an interview may be conducted ~~by~~ face-to-face, by telephone, or by other electronic means. The interview may be conducted by a hearing officer or other designee of the Executive Director. If an interview is not required, the offender may simply appear before the Commission for a hearing. (3-8-16)()

#a. An in-depth investigational report explaining the offender's social history, criminal history, present condition, and offense will be prepared for the Commission. The in-depth investigational report is exempt from public disclosure pursuant to Section 20-223, Idaho Code. (3-8-16)

#b. The Commission will determine if ~~they~~ it will conduct another hearing or make a decision based upon the report. (3-30-01)()

04. Psychological Reports, Mental Health Evaluations, Sex Offender Risk Assessment (SORA), Substance Abuse Evaluation, or Other. (3-8-16)

a. A psychological report, or SORA, or both, will be prepared for the Commission for all offenders serving a commitment for a sex offense, or whose history and conduct indicate an offender may be a sexually dangerous person as described in Section 20-223, Idaho Code. (4-11-15)

b. The Commission, the Executive Director, or a hearing officer can order any psychological report, evaluation, or assessment for an offender serving a commitment for any crime. (4-11-15)

c. All psychological, SORA, substance abuse evaluations, and mental health reports will be maintained in a confidential manner. (3-8-16)

05. Interview/Hearing. The offender who is the subject of an interview/hearing may be required to be present at a scheduled interview/hearing. (4-11-15)

a. Parole Consideration Hearing. The offender who is the subject of a hearing may be required to be present at a scheduled hearing. If the offender declines to be present at a parole consideration hearing, the offender is required to complete and submit the "Inmate Refusal to Participate in Parole Interview/Hearing Process" form and state the reason for not participating to the Commission. A decision may be made by the Commission based upon available information. (3-8-16)

b. Parole Revocation/Violation. The parolee is required to be present at the revocation/violation hearing, with the exception of an absentia revocation hearing as explained in Subsection 400.06.h. (4-11-15)

c. Commutation. The offender is required to be present at the scheduled commutation hearing, unless the Commission determines otherwise. (4-11-15)

d. Pardon and Remission of Fine. The offender is encouraged to be present at the hearing; the Commission may make such appearance mandatory or may make a final decision based upon the information which is available. (3-8-16)

e. Medical Parole. The offender is encouraged to be present at the hearing; the Commission may make such an appearance mandatory or may make a final decision based on information available. (4-11-15)

f. Restoration of Firearms Rights. The offender is encouraged to be present at the hearing. The Commission may make such appearance mandatory or may make a final decision based upon the information that is available. ~~(3-8-16)~~()

06. Witnesses and Documents. The Commission allows for the participation of attorneys, families of the subject offender, parolee, victims, and others who have a direct relationship to the specific hearing or offender/parolee of the hearing. ~~(3-8-16)~~()

a. Persons who want to participate in a hearing must notify the Commission staff five (5) days in advance of the scheduled hearing. Children under the age of sixteen (16) will not be allowed to attend the hearings without prior approval of the Executive Director. (4-11-15)

b. All written documents and letters to be considered must be submitted seven (7) days in advance of the scheduled hearing to ensure they will be considered; other documents may be allowed by unanimous consent from the Commissioners present. (4-11-15)

c. An attorney or others as determined by the Executive Director or Commission may be seated with the offender/parolee at the hearing. (3-23-98)

d. Verbal testimony by witnesses, victims, and attorneys may be limited by the number of persons allowed to give testimony and by a certain time limit. The Commission will allow the attorney representing the offender/parolee a designated time frame to provide information to the Commission. Victims will be allowed to testify. Victim testimony is normally taken following comments of offender's attorney and family or friends of the offender/parolee. All persons who testify will direct their comments to the Commission. Persons will keep their comments to the relevance of parole. (4-11-15)

e. Contacts from the public to an individual Commissioner outside of the hearing process, are to be forwarded to the Executive Director in order that all Commissioners will receive the information. (3-23-98)

07. Conflict of Interest. A Commissioner who has personal knowledge of a case will make such knowledge available to the sitting Commissioners prior to the scheduled hearing, and the sitting members of the Commission will decide whether that Commissioner should be disqualified from participating in deliberation and voting. (4-11-15)

a. A Commissioner may remove themselves from the hearing. The Commissioner may step down from the panel and leave the room during the hearing and deliberations. (3-8-16)

08. Decisions. (3-23-98)

a. Any decision of the Commission requires a majority vote of three (3) or more Commissioners. (4-11-15)

i. Two (2) members of the Commission may meet to make decisions on the disposition of parole violations. Such decisions must be unanimous. In the event they are not unanimous, then the parole violation disposition decision will be made by a majority of the full Commission at the next quarterly meeting or a special meeting, pursuant to Section 20-210, Idaho Code. ()

ii. Three (3) members of the Commission may meet to make decisions to grant or deny parole. Such decisions must be unanimous. In the event they are not unanimous, then the decision to grant or deny parole will be

made by a majority of the full Commission at the next quarterly meeting, pursuant to Section 20-210, Idaho Code.

()

b. Decisions will be given orally following the hearing and deliberation of a case by the Commission. ~~Written notice of the decision may be submitted at a later date.~~ The decision may be sent to the offender in writing with specific information/conditions. (4-11-15)()

c. Following the decision being given orally, further testimony is allowed only at the discretion of the Commission, or the Executive Director, or hearing officer. (4-11-15)

d. In the case of a review ~~by the commission~~ without a Commission hearing, the decision will be published within a reasonable time on the Commission website. ~~Individual written decisions may not be submitted, but will be available on the commission's website in a published list of a session's action taken.~~ (4-11-15)()

e. Any decision made by the Commission may be reconsidered at any time. The Commission or Executive Director may bring forward any case determined to need reconsideration before the next hearing session as described in Section 105. (3-8-16)

09. Rules of Conduct at Hearings. (3-23-98)

a. All persons attending any hearing will conduct themselves in a manner that does not disrupt the proceedings or they may be removed from the hearing room and/or facility. (3-23-98)

b. All persons attending a hearing or hearing session, must abide by security policies of the department of correction, the facility where the hearing is being held, and pertinent statutes. ~~The~~ number of witnesses allowed in the hearing room will ~~be in line with life and safety codes~~ follow the security policies of the institution; and all persons may be screened through metal detectors or similar technology and will be subject to search. (4-11-15)()

c. Audio recording or video recording of any hearing or any hearing session may be allowed at the discretion of the Commission or the Executive Director; such recordings will proceed only at the direction of the Commission or the Executive Director as to the placement, manner and type of equipment. (4-11-15)

d. The media is invited to attend any open hearing ~~or session~~ of the Commission. (3-23-98)()

i. Interviews with offenders or witnesses will not be allowed during the hearing process and ~~neither~~ the Commission ~~and nor its~~ staff will ~~not~~ be responsible for arranging any such interviews. (4-11-15)()

ii. During the hearing process, interviews with victims are not allowed without the express consent of the victim. (3-23-98)

iii. Arrangements for interviewing the Commission or staff should be made in advance. (4-11-15)

~~10. Official Record of Hearing/Review. The official record of a hearing or case review will be the summary minutes of that hearing or review, once signed, and the original record will be maintained in the commission office.~~ (3-30-01)

201. -- 249. (RESERVED)

250. PAROLE.

01. Parole ~~Determination~~ Consideration. The Commission will use clear, evidence-based parole guidelines in making parole ~~determinations~~ decisions, while still maintaining discretion ~~of in~~ individual cases. (4-11-15)()

a. The Commission may release an offender to parole on or after the date of parole eligibility, or not at all. During a minimum term of confinement, an offender will not be eligible for parole, discharge, credit, or reduction

of sentence for good conduct, except for meritorious conduct reduction service, or as provided in Section 20-101D, Idaho Code. (4-11-15)

b. Parole consideration is determined by the individual merits of each case. (4-11-15)

c. The Commission uses evidence-based parole consideration factors, ~~that which~~ are embedded in the clear parole guidelines. These guidelines will include the use of a validated risk and needs assessment. The Commission still retains the discretion to ~~grant or~~ deny parole ~~of in~~ individual cases based on countervailing, discrete, individual case factors. Factors ~~to be~~ considered include, but are not limited to: (4-11-15)()

i. Seriousness ~~of~~ and ~~aggravation and/or mitigation~~ ~~aggravating factors involved in the crime.~~()

ii. ~~Mitigating factors~~ involved in the crime ~~or related to the offender's circumstances.~~ (3-23-98)()

iii. Prior criminal history of the offender. (4-11-15)

iiii. Failure or success of past probation and parole. (3-23-98)

v. Institutional history to include conformance to established rules, involvement in programs, ~~and~~ jobs, ~~and~~ custody level at time of the hearing, and overall behavior. (3-23-98)()

vi. Evidence of the development of a positive social attitude and the willingness to fulfill the obligations of a good citizen. (3-23-98)

vii. Information or reports regarding physical or psychological condition. (3-23-98)

viii. The strength and stability of the proposed parole plan, including adequate home placement and employment or maintenance and care. (3-23-98)

ix. Outcome of a validated risk and needs assessment. (4-11-15)

x. ~~Compliance with any order of restitution entered pursuant to Section 19-5304, Idaho Code.~~ ()

02. Primary Review. For ~~all~~ offenders eligible for parole, a review for the purpose of setting the initial parole hearing will be conducted ~~on all offenders. The commission is not responsible for the setting of a hearing until an official sentence calculation document has been received.~~ (3-8-16)()

a. The Executive Director or a designee will conduct the ~~primary~~ review following receipt of the sentence calculation from the Department of Correction's ~~central~~ records ~~office unit~~. The month and year of the initial parole hearing will be established based upon the sentence calculation. ~~The Commission is responsible for conducting the primary review to set the initial hearing once an official sentence calculation document has been received from the Department of Correction~~ (4-11-15)()

i. In cases ~~of where~~ an offender ~~is~~ serving ~~both~~ a court-ordered retained jurisdiction ~~period~~ and ~~have~~ a current sentence ~~of imprisonment~~, the primary review will not be ~~scheduled~~ ~~conducted~~ on ~~that~~ ~~the imprisonment~~ case until the court-retained jurisdiction ~~case~~ has been ~~adjudicated~~ ~~concluded~~. (3-8-16)()

ii. In cases where the offender has a death sentence, ~~or a life without parole sentence~~, a primary ~~hearing review~~ will not be ~~scheduled~~ ~~conducted~~. (3-8-16)()

iii. In cases ~~of with~~ specified ~~minimum~~ ~~fixed~~ terms, the initial hearing will be ~~set~~ ~~scheduled~~ approximately six (6) months prior to the offender's parole eligibility date based on the sentence calculation. ~~An initial hearing will not be scheduled until all fixed terms (consecutive and concurrent) the offender is currently serving are within six (6) months of completion.~~ (4-11-15)()

iv. ~~In cases of offenses committed on or after February 1, 1987, and a minimum fixed term has been specified, the initial hearing may be scheduled six (6) months prior to the parole eligibility date, during the month of~~

~~parole eligibility, or as noted in Subsection 250.02.b.vi. (4-11-15)~~

~~v. **Consecutive Sentences.** All fixed terms will be served before the indeterminate terms commence. (3-23-98)~~

~~vi. **Concurrent Sentences.** The initial hearing will not be scheduled until all fixed terms have been served. (4-11-15)~~

~~iv#.~~ If an offender escapes prior to the primary review or the initial hearing, the review or hearing will be conducted within a reasonable time of notification of the offender's return to custody, taking into consideration any additional commitments and the time to conduct an interview and report. (4-11-15)

~~viii.~~ If an offender is committed to the department of correction and such offender is eligible for parole immediately, or within the first six (6) months of their incarceration, the initial parole hearing will be scheduled within six (6) months from the month the Commission was notified of the commitment. (3-8-16)

~~ix. **The commission is not responsible for the accuracy of the sentence calculation as determined by the department of correction, records office.** (4-11-15)~~

~~vi. **Initial parole hearings will be scheduled based on the sentence calculation prepared by Idaho Department of Correction.** ()~~

03. General Conditions of Parole. The Commission establishes rules and conditions for every offender released to parole. Rules and conditions of parole will be provided in writing and acknowledged by the parolee. Parolee will sign the agreement indicating the parolee's understanding of the conditions of parole. Conditions of parole include: (3-8-16)

a. The parolee is required to enter into and comply with an agreement of supervision with the ~~board~~ **Idaho Department** of ~~e~~**C**orrection. The agreement of supervision shall include provisions setting forth potential sanctions for a violation of the conditions imposed and potential rewards for compliance with the conditions imposed, as such sanctions and rewards are set forth in rules of the Board. (3-8-16)()

b. ~~The P~~**parolee** will go directly to the destination approved by the Commission and, upon arrival, report as instructed to the parole officer or person whose name and address appear on the arrival notice; any deviation in travel plans will require prior permission from the Commission staff. (3-23-98)()

c. The parolee will: (4-11-15)

i. Work diligently in a lawful occupation or a program approved by the Commission or supervising officer and not change employment or designated program without written permission from the Commission or supervising officer. (3-23-98)

ii. Support dependents to the best of parolee's ability. (4-11-15)

iii. Live within lawful income without incurring unnecessary indebtedness. (3-23-98)

d. The parolee must submit a complete and truthful report to the assigned parole officer. (4-11-15)

e. If at any time it becomes necessary to communicate with the assigned parole officer or other official designee who is unavailable, communication will be directed to the district section supervisor. (4-11-15)

f. The parolee will: (3-23-98)

i. Obey all municipal, county, state, and federal laws. (3-23-98)

ii. ~~Not engage in C~~**conduct** ~~himself or herself in a manner~~ that is ~~not, nor or is~~ intended to be, harmful to himself ~~or herself~~ or others. (4-11-15)()

- ~~iii.~~ ~~Follow written or oral instructions of the parole officer or commission.~~ (3-23-98)
- ~~iv.~~ Not purchase, own, sell, or have in the parolee's control, to include storing in residence, vehicle, etc., any type of firearm for whatever purpose. (4-11-15)
- ~~v.~~ Not have in the parolee's control any dangerous weapons used, or intended to be used, for other than normal purposes, such as knives for household use. (3-23-98)()
- g.** The parolee will: (4-11-15)
- i. Abstain from use of alcoholic beverages. (3-8-16)
- ii. Abstain completely from the possession, procurement, use, or sale of narcotics or controlled substances, except as prescribed by a licensed medical practitioner. (3-23-98)
- iii. Freely cooperate and voluntarily submit to medical and chemical tests and examinations for the purpose of determining if parolee is using or under the influence of alcohol, narcotics, or other substances, which may be at the parolee's expense. (4-11-15)
- iv. Participate in treatment programs as specified by the Commission or ordered by the parole officer. (3-23-98)
- h.** ~~The~~ A parolee will submit to a search of person or property, or both, to include residence and vehicle, at any time and place by ~~any agent of field services~~ the supervisory authority or the Commission, and the parolee waives the constitutional right to be free from such searches. (4-11-15)()
- i.** The parolee is fully advised that written permission is required to:
- i. Willfully change employment; (3-23-98)
- ii. Willfully change residence; ~~and~~ or (3-23-98)()
- iii. Leave the assigned district. (3-23-98)
- j.** The parolee will ~~make himself~~ be available for supervision and will not actively avoid supervision. (3-23-98)()
- 04. Special Conditions of Parole.** (3-23-98)
- a.** In addition to general conditions of parole, the Commission may add special conditions appropriate to the individual case. (3-23-98)
- b.** The Commission delegates the authority to the Executive Director to add additional special conditions, before an offender has been released to parole or while on parole, after the offender has signed a statement acknowledging the special conditions. The Commission will establish the special conditions of parole using the offender's most current risk and needs assessment to guide the imposition of necessary conditions. (3-8-16)
- ~~05. Institutional Parole.~~ (3-23-98)
- ~~a.~~ ~~An offender committed to the department of correction, who has a consecutive sentence and one (1) or more commitments do not have a fixed minimum term to serve prior to parole eligibility, may be considered for institutional parole while remaining incarcerated.~~ (4-11-15)
- ~~b.~~ ~~Institutional parole may be considered at the discretion of the commission.~~ (3-23-98)
- ~~c.~~ ~~While serving institutional parole, the parolee/offender is subject to all the rules of the housing~~

~~facility and conditions ordered by the commission, to include, but not be limited to, submitting monthly reports as directed.~~ (4-11-15)

~~d. If rules of the institution or orders of the commission are violated, the executive director or a commissioner will determine when a report of conduct/violation should be submitted. In the case of a report of violation, established rules of the violation/revocation process will apply.~~ (4-11-15)

~~e. Conversion. Upon release from custody on any subsequent parole or upon completion of the consecutive sentence, and if any time remains on the institutional parole sentence, there will be an automatic conversion from institutional parole to regular parole, subject to all regular and special conditions of parole.~~ (4-11-15)

065. Medical Parole. The Commission may parole an offender for medical reasons ~~during the determinate portion of a sentence~~ pursuant to Section 20-223(8), Idaho Code. (4-11-15)()

a. Consideration will occur when the offender is permanently incapacitated or terminally ill and when the Commission reasonably believes the offender no longer poses a threat to the safety of society. (4-11-15)

b. An offender or designated department of correction personnel may petition the Commission to consider medical parole. (4-11-15)

c. The Commission may conduct an actual hearing or review of the case, or may designate Commission staff to provide additional information, and which will require specific medical information in reference to the offender's condition, as well as a the treatment or care plan if released, and any other information deemed necessary. (4-11-15)()

d. An annual report will be submitted to the house and senate judiciary committees of the legislature and will contain aggregate health information and the names, medical condition, current status, and crime of all persons granted medical parole, as required by Section 20-223(9), Idaho Code. (4-11-15)()

076. Discharge from Parole. (3-23-98)

a. When the maximum sentence has expired, a final discharge will be issued by the Commission, unless a Commission warrant was issued before the full term release date. (4-11-15)

b. The Commission may issue a final order of discharge prior to completion of the maximum sentence when the Commission believes such a discharge is compatible with the parolee's welfare and that of society, and subject to the following requirements. When notification of a discharge is received, the victims will be notified of the request and allowed to respond. The Commission may, without a hearing, consider the request. (4-11-15)

i. The Commission will not consider an early discharge from parole in any case until the parolee has served at least one (1) year on parole as outlined in Section 20-233, Idaho Code. (4-11-15)

ii. The Commission will not consider an early discharge for a parolee who has a sex crime or violent crime until one-third (1/3) of the remaining time from the parole release date to the maximum expiration date has been served on parole; or until five (5) years have been served on parole on a life sentence for any crime. (3-23-98)

iii. A parole officer ~~or other designated agent,~~ parole officer designee, or parole officer supervisor can petition the Commission to consider an early discharge upon reaching the timelines established in Subsection 250.07.b.i. (4-11-15)()

iv. Any decision by the Commission to grant an early discharge will not be effective until the official discharge document has been signed by the Executive Director or a Commissioner. (3-23-98)

c. If a decision has been made by the Commission to grant an early discharge, and adverse information is received that was not previously available, the document will not be signed and the discharge will not be effective. The Executive Director may issue a Commission warrant based upon the new information and the

discharge grant will automatically be voided without further action by the Commission. Such adverse information will be submitted to the Commission at the next available hearing session for reconsideration. If the Executive Director does not issue a warrant, the information will be referred to the Commission for reconsideration. (4-11-15)

d. If the parolee is permanently incapacitated or terminally ill, the Commission may consider ~~or~~ and grant ~~or both~~ an early discharge after one (1) year for any crime. (4-11-15)()

087. Detainers. (3-23-98)

a. The Commission may grant a parole to any county, state, or federal detainer that has been lodged against an offender. (4-11-15)

i. While in the custody of the detaining jurisdiction, the parolee is serving parole and is subject to all rules of the housing facility and may be required to submit monthly reports to Commission staff or the supervising authority. (4-11-15)

ii. If the parolee is released from custody by the detaining jurisdiction, the parolee must contact the Commission office immediately and must report to the nearest probation and parole office within five (5) days of release or as otherwise instructed by the Commission staff. The parolee must abide by all regular rules of parole and any special conditions ordered by the Commission. (4-11-15)

b. The Commission may grant a parole to a federal immigration detainer in order that the offender may be deported to the country of citizenship. (4-11-15)

i. If the parolee is granted a release on bond or is allowed to remain in the United States, the parolee must contact the Commission office immediately and must contact the nearest probation and parole office within five (5) days of release or as otherwise instructed by the Commission staff. (4-11-15)

ii. If the parolee is deported from the United States to the country of citizenship, the parolee is not to return to the United States and doing so is considered a violation of the parole contract. (4-11-15)

iii. The Commission considers this type of parole grant an unsupervised parole, but the parolee is not obligated to submit monthly reports nor maintain contact with the Commission as long as he remains outside of the United States. (4-11-15)

098. Special Progress Reports. A special progress report may be submitted by the supervising authority to request modification of a special condition of parole or advise the Commission of problems that have developed. (4-11-15)()

409. Interstate Compact. The Commission may grant parole and transfer supervision of an offender to another state under the Interstate Compact for Adult Offender Supervision outlined in Section 20-301, Idaho Code. (4-11-15)

a. An offender must be eligible for transfer of supervision to another state under the Interstate Compact and the receiving state must accept the transfer before the offender is released on parole. (4-11-15)

i. Any person under state parole who applies for a transfer of supervision to another state shall be required to post an application fee pursuant to Section 20-225A, Idaho Code, payable to Idaho Department of Correction, in addition to the Commission's bond. (4-11-15)

b. Any offender granted parole under the Interstate Compact may be required to post a bond prior to release or prior to such acceptance under the Interstate Compact. The amount of the bond set by the Commission is five hundred dollars (\$500). (4-11-15)

i. A bond may be posted by the offender, the offender's family, or other interested party. The bond must be posted at the Commission office. A cashier check or money order shall be the only acceptable means of posting bond. (4-11-15)

- ii. Failure to successfully complete parole may be grounds for forfeiture of the bond. (4-11-15)
- iii. Upon successful completion of parole, the amount of the bond may be returned to payee less an amount for administrative costs as determined by the Commission rule. (4-11-15)
- iv. A request must be made for return of the bond within one (1) year of discharge of the offense for which the offender was serving parole. (4-11-15)

251. -- 299. (RESERVED)

300. VICTIMS.

01. Process for Victims. The Commission has established a process for victims of criminal offenses for which an offender is currently incarcerated and is not serving a retained jurisdiction. Victims of non-adjudicated cases may be given courtesy ~~treatment~~ notification. This includes victims who may not be in the instant offense and those removed from the instant offense as a result of the plea bargain process. The victims may be located in the hearing officer report or from another victim coordinator or the prosecutor. The Victim Coordinator will verify the victims with the prosecutor when not included with the instant offense. (3-8-16)()

a. The Commission will establish a record for victims of offenders who may be considered for parole, early discharge, ~~or~~ commutation, restoration of firearm rights, or pardon. To establish a victim record, the Commission must receive official written notice from the clerk of the sentencing court or the county prosecutor's office; ~~the commission will use all tools at its disposal and will exercise all due diligence to notify victims of their rights if this official notice has not been received.~~ If the Commission has not received official notice of the victim, the Commission or staff may be advised of the victim's identity directly by the victim, victim's family or other individual. Commission staff will verify the name or names of the victim(s) with the county prosecutor and a record will be established. (3-8-16)()

b. The Commission will notify advise the victims of their constitutional and statutory rights to be notified of Parole Commission proceedings; ~~early discharge, and commutation hearings and the decision. Notification will inform victims of right to submit written statements or information and their right to provide testimony~~ The Commission will use all tools at its disposal and will exercise all due diligence to notify victims of their rights if this official notice has not been received. (3-8-16)()

c. ~~Notice of rights, hearings schedules and Commission decisions, early discharges, and parole releases will be sent to the victim of record to the last known address, and it is the responsibility of the victim to provide any change of address~~ will be made available on the Commission website. (4-11-15)()

d. ~~A victim may request not be notified or contacted~~ Hearing notifications can be discontinued at the victims' request. (4-11-15)()

e. Victims will ~~receive notices of~~ be notified when an offender has been released ~~to parole and offenders who have or has absconded from supervision. The commission is not responsible to advise of any other releases such as offender transfers to other facilities, release by completion of the sentence, or escapes from custody as these are not under the authority of the commission.~~ (3-8-16)()

02. Confidentiality of Victim's Address and Written Testimony. The victim's record maintained by the Commission will include contact information and written testimony or information, which will be maintained in a confidential manner. The Commission may only release ~~to the Idaho Department of Corrections~~ the victim's contact information to the Department of Correction. (3-8-16)()

03. Testimony of Victim. (3-23-98)

a. The victim is invited to attend any and all hearings, except executive sessions, pertinent to the case and to provide testimony. (4-11-15)

b. The Executive Director and the Commission may ~~consent to~~ allow for the victim's testimony away from the actual hearing process. Testimony may be given to the Executive Director or Commissioner(s) at the Commission office or other locations, or the victim may ~~be allowed to~~ testify before the Commission during a hearing session, but at a time separate from the actual hearing with the offender. ~~Such testimony will be made a part of the record in a hearing is not subject to disclosure.~~ (4-11-15)()

c. If the Commission was not officially notified of the victim and does become aware of the victim's desire to be heard following a hearing, any scheduled release to parole may be held in abeyance until a decision is made by the Commission. (3-23-98)

i. The Commission may review any written testimony by the victim and may elect to take no further action, or may schedule another hearing, or may void the release date and reconsider the parole grant. (4-11-15)

ii. The Executive Director may schedule a hearing without the vote of the Commission to allow for the victim's testimony. (3-23-98)

301. -- 349. (RESERVED)

350. PAROLE PLAN AND RELEASE PROCEDURES.

01. Parole Plan. ~~A # IDOC~~ parole plan approved ~~parole plan by Department of Correction probation and parole staff~~ should provide a positive re-entry into the community for the offender. (3-8-16)()

a. The proposed parole plan should be available at the parole hearing interview and parole consideration hearing and should include a stable residence, employment, ~~or a~~ maintenance and care plan, ~~and as well as~~ treatment for alcohol or drug problems, mental health problems, sex offender treatment, after care treatment, or any other treatment deemed necessary. This plan will be formulated using the validated risk and needs assessment ~~that is used~~ prepared by the Department of Correction. The plan will be developed to manage and mitigate offender risk and will address the offender's needs. (3-8-16)()

b. Educational programs may be considered, but the offender must demonstrate how normal living, treatment, and transportation expenses, etc., will be paid for. (4-11-15)

c. All parole plans will be investigated by the supervising authority in the area in which the prospective parolee plans to reside, and necessary information will be submitted along with the investigation request. An Idaho plan can take a minimum of six (6) weeks and an out of state plan up to three (3) months to submit, investigate, and plan for release. (4-11-15)

~~**02. Interstate Compact Parole Plan.** The commission may grant parole and transfer supervision of an offender to another state under the Interstate Compact for Adult Offender Supervision Act, as outlined in Subsection 250.10.~~ (4-11-15)

032. Tentative Parole Dates. All parole release dates granted by the Commission are tentative. (3-23-98)

a. The parole plan must be approved and received at the Commission office before the actual release date can be set to allow time for processing the release. (4-11-15)

b. ~~If the~~ Should the offender should have disciplinary problems following the parole hearing, or the Commission receives information that was not available at the time of the hearing, the Commission may reconsider the decision, and the tentative parole date may be voided or changed. (4-11-15)()

043. Contract. Prior to any release to parole, the offender must sign a contract with the Commission and must acknowledge all general and special conditions of parole. (3-8-16)

a. The parolee will be issued reporting instructions that will include the address and the telephone number of the supervising office. (3-8-16)

351. -- 399. (RESERVED)

400. PAROLE REVOCATION PROCESS.

01. **Initiated.** The parole revocation process is initiated by a written or verbal report describing the conditions of parole that are alleged to have been violated. The parolee is required to be present at the violation or revocation hearing, unless waived by the offender, with the exception of an absentia revocation hearing as explained in Subsection 400.06.h. (4-11-15)

02. **Warrants.** A warrant may be issued for the offender's arrest. (3-23-98)

a. A supervising agency authority may issue an investigative warrant referred to as an agent's warrant. The agent's warrant authorizes local law enforcement to transport the parolee to the appropriate jurisdiction to be housed pending an appearance before the Commission, pursuant to Section 20-227, Idaho Code. ~~(4-11-15)~~()

b. A Commission warrant may be signed by the Executive Director or by a member or members of the Commission. Issuance of this warrant suspends the offender's parole until a determination has been made on the merits of the case. (4-11-15)

i. If the location of the offender is unknown, the warrant will be entered into NCIC, ~~IHOT~~, or other law enforcement database and will designate from which states the Commission will extradite the offender from once arrested. At any time the Executive Director or designee may change the area of extradition. ~~(4-11-15)~~()

ii. If an offender is being held in custody on new charges in a state ~~other than~~ outside of Idaho, the warrant may be placed as a detainer only, and written notice of this action will be submitted to the holding facility. If the detainer is officially served on the offender without notice of this action to the Commission, the Commission will not be held responsible for the time limits prescribed by law for service of ~~charges~~ the factual allegations of the violation of the conditions of parole. ~~(3-8-16)~~()

iii. If the offender is arrested in a state other than Idaho and refuses extradition to Idaho, it may be necessary to request a governor's warrant. During the time period in which the subject refuses to waive extradition, time incarcerated will not be credited toward the sentence. (3-23-98)

c. Parolees who have allegedly absconded from supervision are considered to be a Fugitive from Justice, starting from the day a Fugitive Warrant is issued by the Commission and ending upon the day of arrest on that warrant. Per Idaho Code Section 20-228, upon issuance of a Fugitive Warrant, parole is suspended, and that The time that a parolee is considered to be a Fugitive from Justice will not be counted towards the time on parole or as part of the sentence. ~~(3-8-16)~~()

03. **Due-Process Notice of Hearing Rights.** Every parolee arrested on a Commission warrant for alleged violation(s) of parole is entitled to ~~pertinent due process including notice of the date, time and location of any and all hearings involved in the revocation process, the right to appear at a hearing and address the allegations, and to confront and cross-examine person(s) who have given adverse information on which the charges have been based~~ a fair and impartial hearing of the factual allegations of violation of the conditions of parole. ~~(4-11-15)~~()

a. The parolee shall be provided written, pertinent due process including notice of the date, time and location of any and all hearings involved in the revocation process. ()

b. The parolee shall have the right to appear at a hearing and personally address the allegations of violation of the conditions of parole at said hearing. ()

c. The parolee may confront and cross-examine adverse witnesses who have given information on which the charges have been based. ()

04. **Intermediate Sanctions on Alternative Options for Parole Violations and Absconding.** ~~If the violation does not result from a conviction of a new felony or violent misdemeanor, then the parolee will be afforded~~

~~the opportunity to serve an intermediate sanction rather than proceeding through the formal parole violation process. The Commission will consider alternative options on a case by case basis.~~ (3-8-16)()

~~a. For a first parole violation other than absconding, the commission or hearing officer will cause the parolee to be confined for a period of up to ninety (90) days effective immediately upon either: When the member or members or hearing officer, having heard the matter conclude that the allegations of violation of the conditions of parole are not sufficient cause for the revocation of parole, the parolee will be reinstated on parole on the same or modified conditions of parole.~~ (3-8-16)()

~~i. The date of waiver document, which indicates the parolee's acknowledgment of guilt and acceptance of sanctions in lieu of a violation hearing; or~~ (3-8-16)

~~ii. Notice of the hearing officer's decision in event the parolee did not waive the hearing.~~ (3-8-16)

~~b. For a second parole violation other than absconding, the commission or hearing officer will cause the parolee to be confined for a period of up to one hundred eighty (180) days effective immediately upon either:~~ (3-8-16)

~~i. The date of waiver document, which indicates the parolee's acknowledgment of guilt and acceptance of sanctions in lieu of a violation hearing or entering the decision; or~~ (3-8-16)

~~ii. Notice of the hearing officer's decision in event the parolee did not waive the hearing.~~ (3-8-16)

~~c. For a third or subsequent parole violation other than by absconding, a dispositional hearing will be convened during a regular session of the commission to execute an order of parole revocation and determine the period of time the parole violator will be returned to state custody.~~ (3-8-16)

~~d. For a first violation by absconding, the commission or hearing officer will cause the parolee to be confined for a period of up to one hundred eighty (180) days effective immediately upon either:~~ (3-8-16)

~~i. The date of waiver document, which indicates the parolee's acknowledgment of guilt and acceptance of sanctions in lieu of a violation hearing or entering the decision; or~~ (3-8-16)

~~ii. Notice of the hearing officer's decision in event the parolee did not waive the hearing.~~ (3-8-16)

~~e. For a second or subsequent parole violation by absconding, a dispositional hearing during a regular session of the commission will be convened to execute an order of parole revocation and determine the period of time the parole violator will be returned to state custody.~~ (3-8-16)

~~f. During any period of confinement on an intermediate sanction, the commission or hearing officer may reduce the period of confinement by up to thirty (30) days if the commission or hearing officer finds that there has been no instance of misconduct during the period of time the parolee is confined.~~ (3-8-16)

~~g. Upon successful completion of a term of intermediate sanctioning under this section, the parolee will be released to parole supervision unless prior to completing the sanction, the parolee is convicted of a violent misdemeanor or felony crime. If convicted of a violent misdemeanor or felony crime, the parolee will proceed through the formal violation process.~~ (3-8-16)

~~h. The commission or hearing officer will use the intermediate sanctions pursuant to Section 20-229B, Idaho Code, to determine length of confinement. The criteria may include the parolee's supervision history; stability in the community; severity and type of violation(s); risk and needs assessment score, and the violations report by the parole officer.~~ (3-8-16)

~~i. When the member or members or hearing officer, having heard the matter, conclude that the allegations of violation of the conditions of parole have not been proven by a preponderance of evidence, or those that have been proven by a preponderance of the evidence and are not sufficient cause for the revocation of parole, then the alleged parolee violator will may be reinstated on parole on the same or modified conditions of parole~~

considered for alternative options to revocation.

~~(3-8-16)~~()

i. Any decision made by the Commission may be reconsidered at any time. The Commission or Executive Director may bring forward any case determined to need reconsideration before the next hearing session as described in Section 105.

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ii. The Commission may review the parole violator's status while serving alternative options. In the case of non-compliance with the alternative options, the Commission may review the parole violator's status which may result in additional alternative options or revocation.

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c. When the member or members or hearing officer, having heard the matter conclude that the allegations of violation of the conditions of parole have been proven by a preponderance of the evidence and constitute sufficient cause for the revocation of parole, then a dispositional hearing shall be convened during the regular session of the Commission for consideration of revocation of parole.

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05. Witnesses. The ~~alleged parole violator or the~~ accusing parole officer or alleged parole violator may present witnesses in support of the claims ~~sed of the~~ allegations of parole violation or in defense of the charges.

~~(3-23-98)~~()

a. The Commission has no subpoena power to compel any witness to attend a hearing. The alleged parole violator may make a timely written request to the Commission office for certain adverse witnesses to be available for cross-examination, and such request must include the name, address, telephone number, and relationship to the case; the hearing officer will make reasonable efforts to request their participation.

(4-11-15)

b. If it is determined by the hearing officer or the Executive Director that the identification of an informant or the personal appearance of a witness would subject such person to potential risk or harm, confrontation or cross-examination will not be allowed, and the record will reflect such determination.

~~(3-23-98)~~()

c. It is the alleged parole violator's responsibility and the accusing parole officer's responsibility to notify their witnesses of the date, time, and location of any and all hearings or change of hearings.

(4-11-15)

06. Attorney. The alleged parole violator may utilize the services of an attorney at any hearing conducted during the revocation process.

(3-23-98)

a. An attorney will be paid at the alleged parole violator's expense ~~unless it is determined by a hearing officer for the commission, the executive director, or the commission that there is a colorable claim that the alleged violation(s) did not occur, that the alleged parole violator does not understand the proceedings, or is otherwise incapable of representing himself.~~

~~(3-23-98)~~()

b. It is the alleged parole violator's responsibility to notify his attorney of the date, time, and location of any and all hearings or change of hearings. The alleged parole violator's attorney may make a request of the Commission office of any hearings and if requested in writing, the Commission office will provide the attorney with copies of reports or documents that are public records subject to disclosure according to the public records act.

~~(3-8-16)~~()

c. Commission Provided Attorney. Prior to a hearing, the alleged parole violator may request legal representation be provided by the Commission. The Executive Director or Deputy Director will determine if the facts presented by the alleged parole violation or the circumstances of the alleged parole violator demonstrate that alleged parole violator has presented a colorable claim that the alleged violation(s) did not occur or that the alleged parole violator does not understand the proceedings or is otherwise incapable of representing himself.

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i. If a hearing officer, after meeting with the alleged parole violator, believes that the individual is not able to fully understand the hearing proceedings or is otherwise incapable of representing himself, the hearing officer shall notify the Executive Director. Upon receipt of such notification, the Executive Director or the Commission will make an attorney available to assist the alleged parole violator at the Commission's expense if the facts presented demonstrate that the alleged parole violator meets the criteria for Commission-provided attorney. In reaching this decision, the Executive Director or Commission shall:

()

(1) Review the case file and documents regarding the alleged parole violator's personal history, including his physical and mental health status. ()

(2) Consider the alleged parole violator's ability and capacity to understand the proceedings. ()

(3) Order a current or competency assessment if such would be helpful in making a decision regarding the request for counsel. ()

ii. Specific time limits provided for in these rules may be waived at the discretion of the Executive Director when an attorney is requested or provided, or both, at Commission expense. ()

07. Violations and Revocation Hearings. The alleged parole violator will be advised notified of any and all hearing dates and locations within a reasonabley in advance of the hearing-time frame. The hearing officer or Executive Director will determine the location of all hearings. (4-11-15)()

a. The subject alleged parole violator may request a continuance of, or waiver of any hearing, which is subject to the final determination of the hearing officer, Executive Director, or the Commission. (3-23-98)()

b. The type of charges addressed violations raised in the allegations will determine the kinds type of hearings available to the alleged parole violator. (3-23-98)()

i. Non-technical violations. If the alleged parole violator is convicted of a misdemeanor, or charged or convicted of a new felony, or is charged with absconding, the subject is not entitled to a preliminary or on-site hearing, but is entitled to a hearing to determine guilt or innocence of the alleged parole violation within a reasonable time following service of a copy of the charges factual basis of the allegations. (3-8-16)()

ii. Technical violations. If the alleged parole violator is charged with a technical violation of the conditions of parole other than a misdemeanor, or new felony criminal conviction, or absconding, the subject alleged parole violator is entitled to a preliminary hearing by the supervising authority within a reasonable amount of time. An on-site hearing will be conducted by a Commission hearing officer to determine guilt or innocence within thirty (30) days from the date the accused was served with the charges notice of the violation allegations. (3-8-16)()

c. Preliminary hearing. A technical parole violator is entitled to a preliminary hearing to establish whether or not there is probable cause to believe the violations may have occurred, and such hearing will be conducted by staff of the supervising authority or as otherwise directed by the Executive Director. The alleged parole violator is entitled to a verbal or written decision within a reasonable time following the preliminary hearing. (4-11-15)

d. On-Site Violation Hearing. A technical parole violator is entitled to an on-site fact-finding hearing conducted by a hearing officer. The on-site hearing is conducted reasonably near the site of the alleged parole violation(s). The Executive Director or hearing officer will determine where the hearing will be conducted. In situations where the violation(s) occurred outside the state of Idaho, the Executive Director or hearing officer will determine the location of the hearing. Based on Interstate Compact rules, an on-site hearing may not be possible if charged and arrested in a state other than Idaho. (4-11-15)()

e. Violation Hearing. In most cases, a hearing officer will conduct a fact-finding or violation hearing and will make a finding on each allegation as to the guilt or innocence of the alleged parole violator and may dismiss some or all allegations. If a hearing officer is unavailable, the Executive Director will appoint someone to conduct the hearing. The offender alleged parole violator is entitled to a verbal or written decision. When a verbal decision is rendered, such finding will be noted in the report submitted to the Commission for the revocation hearing. When a written decision is rendered, such decision will issue within twenty (20) days of the violation hearing. (4-11-15)()

f. Revocation. Pursuant to a violation hearing or waiver of such hearing and a finding of guilt was made on one (1) or more of the violations, the Commission will consider whether or not parole will be revoked. (5-3-03)

- i. ~~The revocation hearing will include personal attendance of the alleged parole violator.~~ ()
- ii. The Commission has full discretion ~~in granting to~~ ~~reinstatement~~ ~~the offender on to~~ parole, ~~impose alternative options to or~~ ~~revocation, including sanctions, of or revoke~~ parole. ~~A hearing with the offender may be conducted or the decision may be made along with deliberation on an Absentia Parole Revocation. (see Subsections 400.07.g.i. and 400.07.g.ii.) Unless the offender has waived his right to be present and the Commission accepts such waiver as set forth in Subsection 400.07.g. of these rules, the alleged parole violator will appear before the Commission at the revocation hearing.~~ The Commission will consider ~~whether the parole will be reinstated or revoked~~ ~~all options available,~~ and will state ~~the its~~ reasoning if parole is revoked. (3-8-16)()
- g. Absentia Hearing. The Commission can ~~revoke parole without the subject's~~ ~~hold a revocation hearing without the alleged parole violator's~~ appearance if the ~~subject~~ ~~alleged parole violator~~ has signed the proper ~~commission form document~~ waiving the right to appear before the Commission, ~~and the Commission accepts such a waiver.~~ The Commission will determine if parole will be considered once the revocation decision has been made. (3-23-98)()
- i. If new criminal charges result in a new commitment and incarceration, the ~~subject~~ ~~alleged parole violator~~ can admit guilt and waive an appearance at a violation or revocation hearing. (3-23-98)()
- ii. If the ~~subject~~ ~~alleged parole violator~~ has absconded supervision, and is re-incarcerated in another state without a new conviction, the ~~subject~~ ~~alleged parole violator~~ can admit guilt and waive an appearance at a violation or revocation hearing. (3-23-98)()
- 08. Miscellaneous Revocation Information.** (3-23-98)
- ~~a. The executive director will determine who will conduct all hearings involved in the revocation process.~~ (3-23-98)
- ~~ba.~~ The Commission, through the Executive Director, shall designate the county, state, or other facility where the alleged parole violator shall be held. The Commission's order shall be sufficient authority by law to direct any county sheriff or the Board of Correction to hold an alleged parole violator in custody until such time as the Commission directs his removal or transfer. (3-23-98)
- ~~eb.~~ The alleged parole violator can request a continuance of any hearing. The hearing officer, Executive Director, or the Commission will determine if the continuance will be granted. If the alleged parole violator requests a continuance of any hearing, said request will constitute a waiver of any and all time limits involved. (4-11-15)
- 09. ~~Inability to Assist in Defense~~ Competency to Assist in Defense.** (3-23-98)()
- a. Specific time limits pertinent to the case may be ~~waived~~ ~~stayed~~. (3-23-98)()
- ~~b. At the hearing officer or executive director's discretion, an attorney may be appointed for the offender at commission expense.~~ (4-11-15)
- ~~eb.~~ A ~~psychological~~ ~~competency~~ evaluation may be requested by the Commission and mental health treatment may be deemed appropriate. (4-11-15)()
- ~~dc.~~ A status update of the case will be made at regular intervals, and the Executive Director will determine how the case will proceed. (3-23-98)
- 10. Findings/Decisions.** (3-23-98)
- a. At any time following arrest on a Commission warrant, ~~the Executive Director or~~ the Commission will decide if the parolee will be released to continue parole ~~or be considered for alternative options to revocation.~~ (5-3-03)()

b. If it is determined at the preliminary hearing that there is no probable cause to support the charges, the parolee will be released to continue parole. (3-23-98)

c. After a violation hearing, the hearing officer will prepare a report of findings summarizing the violation hearing, to include testimony, and will make specific findings for each allegation. (4-11-15)

i. ~~If the hearing officer may~~ makes a finding of guilt, ~~the hearing officer but~~ may recommend to the Executive Director ~~that the offender be reinstated on parole or the Commission immediate reinstatement or reinstatement upon successful completion of an alternative option to revocation~~ without further proceedings. (3-23-98)()

ii. ~~Two (2) members of the Commission may meet to make decisions on the disposition of parole violations. Such decisions must be unanimous, and in the event they are not unanimous, then the parole violation disposition decision will be made by a majority of the full Commission at the next quarterly meeting or a special meeting pursuant to Section 20-210, Idaho Code.~~ ()

iii. The ~~offender alleged parole violator~~ is entitled to receive a copy of all reports of findings of hearings. (3-23-98)()

11. Forfeiture of Time on Parole. If parole is revoked, the time during which the offender was on parole from the parole release date to the arrest date on an agent's warrant or Commission, or both, warrant may be forfeited, in whole or in part, and may not be deemed a part of the sentence for which the offender was committed. (4-11-15)

a. ~~The Any~~ time the offender is incarcerated on an agent's warrant and a Commission warrant will be credited toward the sentence, ~~including discretionary jail time.~~ (4-11-15)()

~~b. If the offender was incarcerated at any time during the parole period and such incarceration was on an agent's warrant and/or commission warrant, this time will be credited toward the sentence; this includes a reinstatement case.~~ (3-23-98)

~~eb.~~ The offender will not receive credit for incarceration time if the incarceration was for a new crime and the Commission and parole officer did not initiate violation proceedings. (3-23-98)

~~ec.~~ The offender must provide the hearing officer or the Executive Director with dates of incarceration and the location of the incarceration. (3-23-98)

401. -- 449. (RESERVED)

450. COMMUTATION PURSUANT TO SECTION 20-240, IDAHO CODE.

Commutation is a process whereby clemency may be considered and granted to modify a sentence imposed by the sentencing jurisdiction. (3-30-01)()

01. Petition. A petition must be submitted to initiate the process. (3-30-01)

a. The only acceptable form is the one provided by the Commission, and it must be signed by the petitioner ~~and the case manager.~~ (3-23-98)()

b. The petition must be ~~typed and~~ completed correctly, per ~~the~~ instructions on the form, or it ~~may will~~ ~~not~~ be ~~returned~~ ~~considered.~~ (3-23-98)()

c. The petition must contain the reason a modification of sentence is requested and the precise modification which is requested, such as the following. (3-23-98)

i. Change a consecutive sentence to concurrent. (3-23-98)

- ii. Reduce the maximum length of sentence. (3-23-98)
 - iii. Reduce the minimum fixed term of a sentence. (3-30-01)
 - iv. Change a fixed sentence to indeterminate. (3-23-98)
 - v. Change a sentence in any other manner not described. (3-23-98)
 - d. The Commission may consider but one (1) application from any one (1) person in any twelve (12) month period. (3-23-98)
 - e. Petitions may be considered at any time by the Commission, but are usually scheduled for consideration ~~for~~ in the quarterly sessions ~~of~~ in January, April, July, and October. ~~(3-23-98)~~()
 - f. Petitions must be received no later than the first day of the month prior to the next designated quarterly hearing session for which the offender is applying. ~~(4-11-15)~~()
 - g. Review or deliberation on the petition by the Commission will be conducted in executive session. (3-23-98)
 - h. Any petition may be continued for additional information or for further consideration. (3-23-98)
 - i. The petitioner will be sent written notice of the decision. (3-23-98)
 - j. The petition is limited to no more than ~~four (4)~~ six (6) pages; the petition ~~may be returned before submission to the commission if the~~ will not be considered if the document exceeds this number. ~~(3-23-98)~~()
 - ~~k. The petition must be readable or it may be returned. (5-3-03)~~
 - ~~k. A parole violator is not eligible to file a petition until the violation has been heard and a decision made by the violation hearing officer adjudicated. (4-11-15)~~()
- 02. Commutation Hearing.** The scheduling of a hearing is at the complete discretion of the Commission; if a commutation hearing is scheduled, the Commission will determine the date of the hearing. ~~(3-23-98)~~()
- a. Notice of a commutation hearing will be published in a newspaper of general circulation at Boise, Idaho, at least once a week for four (4) consecutive weeks immediately prior to the hearing. (3-23-98)
 - b. A copy of the notice of publication will be mailed to the prosecuting attorney of the county from which the petitioner was committed. (3-23-98)
 - c. All rules of procedure governing hearings will apply to a commutation hearing. (3-23-98)
 - d. The decision and supporting documents regarding a commutation will be filed with the ~~S~~Secretary of ~~S~~State. ~~(3-30-01)~~()
 - fi. The fact and number of ~~D~~dissenting votes of the Commission~~ers voting~~ will be a matter of public record. The dissenting votes of any Commissioner voting shall be separately reduced to writing with the reason for said dissent and signed by the dissenting Commissioner. The written dissent shall be submitted to the Office of the Secretary of State. Disclosure of the dissenting vote(s) and reason(s) shall be maintained and disclosed in accordance with the Idaho Public Records Act, Section 74-101, Idaho Code, et seq. ~~(3-23-98)~~()
 - ii. All written material considered in the decision process of a commutation will be a matter of public record with the exception of the pre-sentence investigation report, victim information, mental health records, criminal history information, medical records, or other documents determined by the Executive Director or Commissioners or designee as confidential, will be submitted to the Office of the Secretary of State and will be a matter of public record.

(4-11-15)()

03. Approving and Granting. Only rarely will circumstances be extraordinary enough to approve a petition for a commutation hearing or to grant a commutation. (3-23-98)

a. The granting of a commutation hearing shall not be interpreted as intent to commute a sentence. (3-23-98)

b. Habilitative progress alone will not be regarded as sufficient to grant a commutation hearing or to commute a sentence. (3-23-98)

04. Authority to Grant. The Commission has full and final authority to grant commutations except with respect to sentences for murder, voluntary manslaughter, rape, kidnapping, lewd and lascivious conduct with a minor child, and manufacture or delivery of a controlled substance pursuant to Section 20-240, Idaho Code. (3-23-98)()

a. In the cases of offenses listed in this section, the Commission's decision on the commutation application shall only constitute a recommendation only to the Governor. (3-23-98)()

b. Following such the hearing, the Commission will provide all information that was considered and a copy of the summary minutes to the governor. (3-23-98)()

c. No commutation for the offenses listed in this section will be effective until presented to, and approved by the governor, and any commutation recommendations not so approved within thirty (30) days of the Commission's recommendation shall be deemed denied. (4-11-15)

05. Death Sentence. (3-23-98)

a. An individual file of each offender under sentence of death may be maintained in the Commission office. (4-11-15)

b. At any time, the Commission may review a file, information, or interview an offender without activating the commutation process. (4-11-15)

c. Commutation consideration must be initiated by the petitioner or his legal counsel. (3-30-01)

i. The petition must contain the signature of the petitioner, unless the petitioner is unable to sign the petition. In this such a case, the Executive Director will determine if it is the desire of the person to submit a petition. (4-11-15)()

ii. Legal counsel must provide verification that he has been retained by the petitioner or his family to prepare and submit the petition. (3-30-01)

d. The Commission may elect to receive and consider a petition for a death penalty modification at any time. (3-23-98)

451. -- 499. (RESERVED)

500. SELF-INITIATED ~~PROGRESS REPORT~~ PAROLE RECONSIDERATION. An offender may appeal the last parole hearing decision of the Commission. (4-11-15)()

01. Petition. An offender making a request for reconsideration of parole denial must initiate the process by submitting an application. (4-11-15)

a. The only acceptable form is the one provided by the Commission, and it must be signed by the petitioner and case manager. (3-23-98)()

- ~~i. The petition must be the original petition. (4-11-15)~~
- ~~ii. The Case Manager is to include with the petition, once signed by the offender and the Case Manger, the disciplinary history, classes history, and the assessments. (4-11-15)~~
- b. The petition must be **typed and** completed correctly, per **the** instructions on the form, or it **may will** **not** be **returned** **considered**. (3-23-98)()
- c. The petition must state the reason reconsideration is requested and the circumstances that have changed since the last hearing. (3-23-98)
- d. A petition may be filed by any offender who is currently incarcerated. (4-11-15)
- e. Following the initial submission, the Commission may consider but one (1) application from any one (1) person in any twelve-month (12) period. (4-11-15)
- i. A petition may be submitted six (6) months after a qualified hearing. A qualified hearing includes: (4-11-15)
- (a) Regular parole hearings; (4-11-15)
- (b) Parole revocation hearings; (4-11-15)
- (c) Hearing officer reviews; and (4-11-15)
- (d) SIPR hearings. (4-11-15)
- ii. A petition may be submitted once every twelve (12) months if a hearing is not granted. (4-11-15)
- f. Petitions may be considered at any time by the Commission. (3-30-01)
- g. Petitions must be received no later than the first day of the month prior to the next month's hearing session. (3-8-16)
- h. Review or deliberation on the petition by the Commission will be conducted in executive session. (3-23-98)
- i. Any petition may be continued for additional information or for further consideration. (3-23-98)
- j. The petitioner will be sent written notice of the decision. (3-23-98)
- k. The petition is limited to ~~no more than~~ four (4) pages; the petition ~~may be returned before submission to the commission~~ **will not be considered** if the ~~document~~ **petition** exceeds this number. (3-23-98)()
- ~~l. The petition must be readable or it may be returned. (5-3-03)~~
- 02. Hearing.** The scheduling of a hearing is at the complete discretion of the Commission. (3-23-98)
- a. If a hearing is scheduled, the Commission will determine the date of the hearing. (3-8-16)
- b. If a hearing is scheduled, the previous decision of the Commission is considered null and void. (3-8-16)
- 03. Amended Decision.** The Commission may elect to amend any decision without conducting another hearing. (3-23-98)
- 501. -- 549. (RESERVED)**

550. PARDON PURSUANT TO SECTION 20-240, IDAHO CODE.

A pardon may be considered for a person having been convicted of any misdemeanor or felony crime. A pardon does not expunge or remove the crime from the applicant's criminal history. (3-23-98)()

01. General. An application for a pardon may not be considered until a period of time has elapsed since the applicant's discharge from custody as defined below. (3-23-98)

a. Applications for pardon for non-violent and non-sex crimes may be submitted for consideration no sooner than three (3) years after ~~completion of the sentence~~ discharge from supervision or incarceration. (3-23-98)()

b. Applications for pardon for violent or sex crimes or other crimes against a person may be submitted for consideration no sooner than five (5) years after ~~completion of the sentence~~ discharge from supervision or incarceration. (3-23-98)()

c. A pardon application will not be considered while an offender is incarcerated. ()

d. The Commission will determine whether a hearing will be granted and the applicant will be advised notified of the decision in writing. ()

02. Application. A pardon application can be obtained from the Commission office or on the Commission website. (4-11-15)

a. The application must be completed and returned to the Commission office. (3-23-98)

i. The completed application must include the reasons why the pardon is requested. (3-23-98)

ii. The applicant may attach letters of recommendation or other documents to support the request. (3-23-98)

iii. The applicant must include copies of all court judgments and conviction documents, as well as police reports for each crime for which a pardon is requested. ~~for.~~ (4-11-15)()

iv. A pardon may be requested only once during a twelve-month (12) period unless otherwise stated by the Commission. (4-11-15)

v. An application may not be considered if there is significant law enforcement contact since sentence or discharge. ()

b. ~~Following Upon receipt of the completed application, a request for an investigation will be made of correctional field personnel or hearing officer in the area in which the applicant resides, and the report shall include, but shall not be limited to~~ and required documentation, eligible applications will be reviewed by the Commission. The Commission may request an investigation of the applicant by Commission staff. The report will contain the following: (3-8-16)()

i. A ~~criminal~~ records check ~~of the applicant~~ will be conducted to include any law enforcement contact since the release from supervision or incarceration. (3-23-98)()

ii. The applicant's employment history since ~~completion of sentence~~ discharge from supervision or incarceration. (3-23-98)()

iii. The applicant's ~~status as a good citizen~~ willingness to fulfill the obligations of a law abiding citizen, including family information, community involvement, volunteer service, hobbies, and related interests. (3-23-98)()

iv. The applicant's employment and education status, including any professional or vocational

achievements, training, and any additional information as deemed necessary or appropriate. ()

iv. Confirmation that all restitution and fines as ordered by the sentencing court are paid. ()

iv. An interview with the applicant *should* may be conducted and a summary of the interview provided. Said interview may be conducted in person or by electronic means. (3-23-98)()

~~v. Evidence of all restitution and fines as ordered by the sentencing court are paid. (3-8-16)~~

~~vi. Any additional information as deemed necessary or appropriate. (3-23-98)~~

~~e. If the applicant is residing in a jurisdiction which refuses to conduct an investigation of the case, the applicant may be required to come to Idaho for an interview with a parole officer or hearing officer, or the interview may be conducted by electronic means. A normal investigation will then be completed. (4-11-15)~~

~~**03. Report.** Pursuant to the receipt of the completed report, a review may be conducted at the next scheduled hearing session of the commission. Once the report is received, staff may determine if additional information is needed. (4-11-15)~~

~~a. The commission will conduct such review in executive session. (3-23-98)~~

~~b. The commission will determine whether a hearing will be granted and the applicant will be advised of the decision. (3-23-98)~~

~~e. Any application may be continued for further consideration or additional information. (3-23-98)~~

043. Hearing. The scheduling of a hearing is at the complete discretion of the Commission. If a pardon hearing is scheduled, the Commission will determine the date of the hearing. (4-11-15)

a. Notice of a pardon hearing shall be published in a newspaper of general circulation at least once a week for four (4) consecutive weeks immediately prior to the hearing. (3-23-98)

b. A copy of the publication will be mailed to the prosecuting attorney of the county from which the petitioner was sentenced. (3-23-98)

c. Written notice of the hearing date, time, and location will be sent to the applicant at the address given on the application or as otherwise requested. (3-23-98)

i. The applicant's appearance at the hearing is not mandatory but is encouraged. If appearance is not possible or the applicant decides not to attend the hearing, the applicant must notify the Commission in writing. (3-23-98)()

ii. Upon request, ~~the~~ Commission may continue the hearing to a later date in order for the applicant to attend; make a personal appearance and such continuance will not require additional publication of the hearing. (3-23-98)()

d. All rules of procedure governing hearings will apply at a pardon hearing. (3-23-98)

e. The decision and supporting documents regarding the decision to grant or deny a pardon will be filed with the secretary of state. (3-23-98)

i. ~~Dissenting votes of the commissioners voting are submitted to the office of the secretary of state and become a matter of public record~~ The fact and number of dissenting votes of the Commissioners voting will be a matter of public record. The dissenting votes of any Commissioner voting shall be separately reduced to writing with the reason for said dissent and signed by the dissenting Commissioner. The written record of the vote by each voting Commission dissent shall be submitted to the Office of the Secretary of State. Disclosure of the dissenting vote(s) and reason(s) shall be maintained and disclosed in accordance with the Idaho Public Records Act, Section 74-101, Idaho

Code, et seq.

~~(3-23-98)~~()

ii. All written material considered in the decision process, with the exception of the pre-sentence investigation report, victim information, mental health records, criminal history information, and medical records, or other documents determined by the Executive Director or Commissioners or designee as confidential, will be submitted to the office of the ~~s~~Secretary of ~~s~~State and will be a matter of public record. ~~(3-8-16)~~()

f. The applicant will be given written notice of the decision and such notice will be sent to the last known address. (3-23-98)

05. Authority to Grant. The Commission has full and final authority to grant pardons, except with respect to sentences for murder, voluntary manslaughter, rape, kidnapping, lewd and lascivious conduct with a minor child, and manufacture or delivery of controlled substances pursuant to Section 20-240, Idaho Code. ~~(3-23-98)~~()

a. In the cases listed in this section, the Commission's decision to grant a pardon shall only constitute a recommendation ~~only~~ to the governor. ~~(3-23-98)~~()

b. Following such hearing, the Commission will provide all information that was considered and a copy of the summary minutes to the governor. (3-23-98)

c. No pardon for the offenses listed in this section will be effective until presented to and approved by the governor, and any pardon recommendations not so approved within thirty (30) days of the pardon hearing shall be deemed denied. (3-23-98)

d. The granting of a pardon does not expunge the crime from the Idaho applicant's criminal history. ~~(3-8-16)~~()

551. RESTORATION OF FIREARMS RIGHTS UNDER PURSUANT TO SECTION 18-310, IDAHO CODE.

01. General. An application for restoration of the civil right to ship, transport, possess, or receive a firearm may be considered upon final discharge under Section 18-310(3), Idaho Code. This is not a pardon for the conviction of a crime, nor is the Idaho applicant's criminal record expunged. ~~(3-8-16)~~()

02. Application. An application may not be made until five (5) years after the date of final discharge from supervision or incarceration. ~~(4-11-15)~~()

a. An application may be obtained from the Commission office or on the Commission website. (4-11-15)

b. The application must be the original and returned to the Commission office. (4-11-15)

i. The application must request the restoration of the right to ship, transport, possess, or receive a firearm under Section 18-310, Idaho Code. (4-11-15)

ii. The application must be in writing and legible. (4-11-15)

iii. All court convictions, judgment orders, including any and dismissal documents, as well as police reports related to said convictions must accompany the application. ~~(4-11-15)~~()

iv. An application may be submitted once every twelve (12) months, or at the Commission's discretion. (4-11-15)

v. The petition must state the reason for the request. (4-11-15)

vi. Review or deliberation on the petition will be conducted in executive session. (4-11-15)

v. The Commission will determine whether a hearing will be granted and the applicant will be advised of the decision. ()

vi. An incarcerated offender is not eligible to apply for the restoration of gun rights until completion of sentence or supervision after 5 years have elapsed. ()

c. ~~Following Upon receipt of the completed application, a request for an investigation will be made of correctional field personnel or hearing officer in the area where the applicant resides and required documentation.~~ eligible applications will be reviewed by the Commission. The Commission may request and investigation of the applicant by Commission staff. The report shall include, but shall not be limited to, the following: (3-8-16)()

i. A ~~criminal records~~ check ~~of the applicant~~ will be conducted to include any law enforcement contact since release from supervision or incarceration. (3-8-16)()

ii. The applicant's employment history since ~~completion of sentence~~ discharge from supervision or incarceration. (3-8-16)()

~~iii. The applicant's status as a good citizen.~~ (3-8-16)

~~iii. The applicant's willingness to fulfill the obligations of a law abiding citizen, including family information, community involvement, volunteer service, hobbies, and related interests.~~ ()

~~iv. The applicant's employment and education status, including any professional or vocational achievements, training and any additional information as deemed necessary or appropriate.~~ ()

v. ~~Evidence of Confirmation that~~ all restitution and fines ~~as~~ ordered by the sentencing court have been paid. (3-8-16)()

~~vi.~~ An interview with the applicant ~~should~~ may be conducted and a summary of the interview provided. The interview may be conducted in person or by electronic means. (3-8-16)()

~~03. Report. Pursuant to the receipt of the completed report, a review may be conducted at the next scheduled hearing session of the commission. Once the report is received, staff may determine if additional information is needed.~~ (3-8-16)

~~a. The commission will conduct such review in executive session.~~ (3-8-16)

~~b. The commission will determine whether a hearing will be granted and the applicant will be advised of the decision.~~ (3-8-16)

~~c. Any application may be continued for further consideration or additional information.~~ (3-8-16)

~~043. Hearing.~~ The scheduling of a hearing is at the complete discretion of the Commission or the Executive Director. (4-11-15)

a. If a hearing is scheduled, the Commission will determine the date of the hearing. (4-11-15)

b. Any ~~petition~~ hearing may be continued for additional information. (4-11-15)()

~~c. Notice of a restoration of firearm rights hearing shall be published in a newspaper of general circulation at least once a week for four (4) consecutive weeks immediately prior to the hearing.~~ ()

~~d. A copy of the publication will be mailed to the prosecuting attorney of the county from which the petitioner was sentenced.~~ ()

~~e. Written notice of the hearing date, time, and location will be sent to the applicant at the address~~

given on the application or as otherwise requested. ()

i. The applicant's appearance at the hearing is not mandatory but is encouraged. If the applicant decides not to attend the hearing, the applicant must notify the Commission in writing. ()

f. The decision and supporting documents regarding the decision to grant or deny an application to restore firearms rights will be filed with the Secretary of State. ()

i. The fact and number of dissenting votes of the Commissioners voting will be a matter of public record. The dissenting votes of any Commissioner voting shall be separately reduced to writing with the reason for said dissent and signed by the dissenting Commissioner. The written record of the vote by each voting Commission dissent shall be submitted to the office of the Secretary of State. Disclosure of the dissenting vote(s) and reason(s) shall be maintained and disclosed in accordance with the Idaho Public Records Act, Idaho Code Section 74-101 et seq. ()

ii. All written material considered in the decision process, with the exception of the pre-sentence investigation report, victim information, mental health records, criminal history information, medical records, or other documents determined by the Executive Director or Commissioners or designee as confidential, will be submitted to the Office of the Secretary of State and will be a matter of public. ()

g. The applicant will be given written notice of the decision and such notice will be sent to the last known address. ()

054. Authority to Grant. The Commission has the full and final authority and discretion to grant restoration of civil rights to ship, transport, possess, or receive a firearm under Section 18-310, Idaho Code. (4-11-15)()

065. Exceptions. See the exceptions listed in Section 18-310, Idaho Code. (4-11-15)

552. -- 599. (RESERVED)

600. REMISSION OF FINE OR PENALTY PURSUANT TO SECTION 20-210A, IDAHO CODE.

01. Request. An application for remission of fine or penalty must be made to the Commission. (3-23-98)

a. The application must be in writing. (3-23-98)

b. The application must outline the reasons action is requested to remit such fine or penalty. (3-23-98)

c. The applicant must submit a certified copy of the judgment or order assessing said fine or penalty from the jurisdiction that assessed such penalty. (4-11-15)()

02. Review. The Commission will review the request to remit a fine or penalty. (3-23-98)

a. The Commission will usually review such application on a month designated as a quarterly session, but may make such review during any session. The review will be conducted by the full Commission. (4-11-15)

b. The Commission will conduct such review in executive session. (3-23-98)

c. Any application may be continued for further consideration or additional information. (3-23-98)

d. The Commission will determine whether a hearing will be granted and the applicant will be advised notified of the decision in writing. (3-23-98)()

03. Hearing. The scheduling of a hearing is at the complete discretion of the Commission. (3-23-98)

- a. If a hearing is scheduled, the Commission will determine the date of the hearing. (3-23-98)
- b. If a hearing is scheduled, notice of the hearing will be published in a newspaper of general circulation at Boise, Idaho, at least once a week for four (4) consecutive weeks immediately prior to the hearing. (3-23-98)
- c. A copy of the notice of publication will be mailed to the prosecuting attorney of the county from which the petitioner was sentenced. (3-23-98)
- d. All rules of procedure governing hearings will apply to such scheduled hearing. (3-23-98)
- e. The decision and supporting documents regarding the remission will be filed with the clerk of the court where said fine or penalty or forfeiture was assessed. ~~This will constitute a satisfaction of the judgment.~~ (4-11-15)()

i. The fact and number of dissenting votes of the Commission will be a matter of public record. The written record of the vote by each voting Commission member shall be kept confidential and privileged from disclosure, provided the record shall be made available, upon request, to the Governor or chairman of the Senate Judiciary and Rules Committee and the chairman of the House of Representatives Judiciary, Rules and Administration Committee, pursuant to Section 20-213A(2), Idaho Code. ()

ii. All written material considered in the decision process, with the exception of the pre-sentence investigation report, victim information, mental health records, criminal history information, medical records or other documents determined by the Executive Director or Commissioners or designee as confidential, will be submitted to the Office of the Secretary of State and will be a matter of public record. (3-23-98)()

~~ii. Dissenting votes of the commissioners voting will be a matter of public record.~~ (3-23-98)

f. Written notice of the hearing date, time, and location will be sent to the applicant at the last known address. (3-23-98)

i. The applicant's appearance at the hearing is not mandatory; however, appearance may be required and the applicant will be notified. (3-23-98)

ii. The Commission may continue the hearing to a later date for any reason and such continuance will not require notice to be published again. (3-23-98)

04. Satisfaction of Judgment. If the Commission determines that such fine or penalty is to be remitted, an official document of such action will be submitted to the clerk of the court where said fine or penalty was assessed, and this will constitute a satisfaction of the judgment. (3-23-98)

601. -- 799. (RESERVED)

800. FOREIGN NATIONAL TREATY TRANSFER PURSUANT TO SECTION 20-104, IDAHO CODE. Under Section 20-104, Idaho Code, an offender may be transferred, upon request, to his country of citizenship if a treaty exists between his country and the United States. The Commission's decision is only a recommendation to the Governor as the Governor will have final approval of the transfer. (3-8-16)

01. Request for Transfer. An offender may request a transfer to his country of citizenship. The Commission will receive the application and relevant documents from the Department of Correction. The Commission may request additional information from the applicant, the victim, the Department, or any other source the Commission deems appropriate. (3-8-16)()

a. The offender makes an application and a release request to the Idaho Department of Correction's central records. The release shall provide consent to the release of medical, psychological, programming, educational records, and other such information as relevant. The Attorney General will request the PSI. The offender must be a citizen of the country to which he is requesting a transfer. (3-8-16)()

~~b.~~ The United States and the foreign country must be parties to a treaty that provides for the transfer or exchange of convicted offenders. ()

~~c.~~ The offender must not be serving a life sentence. ()

~~d.~~ The offender cannot be less than two (2) years from his parole eligibility date. ()

~~e.~~ The offender must meet the Department of Justice's guidelines for international transfer applications as follows: ()

~~i.~~ The offender must not have a death sentence. ()

~~ii.~~ The offender must be serving determinate sentence. ()

~~iii.~~ The offender must not be serving a sentence for an immigration offense. ()

~~b.~~ Upon gathering the documentation, central records will forward the application and packet to the commission. (3-8-16)

~~#02.~~ Schedule for Review of Application. The Commission will ~~set the matter for consideration~~ schedule the application for review during a scheduled hearing session at a time and place of its choosing. (3-8-16)()

~~(1)a.~~ The Commission has complete discretion and authority to make a recommendation to the Governor. (3-8-16)

~~(2)~~ The commission may request additional information from the parties, the offender making the application, the offender's victim, or any other source the commission deems appropriate. (3-8-16)

~~(3)b.~~ The offender is not entitled to be personally present, to have counsel, to present witnesses or evidence, to have any particular evidence considered or to designate the location or time. (3-8-16)()

~~#03.~~ Issuance of Written Recommendation. Following the Commission's consideration, a non-binding written recommendation will be issued to the Governor for his consideration. A copy of the recommendation will be sent to the Department's central records. (3-8-16)()

~~(1)a.~~ The offender is not entitled to appeal the Commission's recommendation or the Governor's decision. (3-8-16)()

~~(2)b.~~ The offender may reapply two (2) years from the date of denial by either the Governor or the Commission. (3-8-16)

~~##04.~~ Approval of Transfer Request. If the Governor approves the transfer request, and the receiving state country accepts the offender for transfer, the request packet is sent to the Department of Justice for consideration and approval. Once the Department of Justice approves the transfer, the offender is under the jurisdiction of the Department of Justice. (3-8-16)()

~~02-~~ Eligibility Requirements for Transfer. (3-8-16)

~~a.~~ The offender must be a citizen of the country to which he is requesting a transfer. (3-8-16)

~~b.~~ The offender must not have a life sentence. (3-8-16)

~~c.~~ The offender cannot be less than two (2) years from his parole eligibility date. (3-8-16)

IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION

61.01.08 – RULES GOVERNING THE ADMINISTRATION OF IDAHO'S INDIGENT DEFENSE DELIVERY SYSTEMS – RULE DEFINITIONS

DOCKET NO. 61-0108-1701 (NEW CHAPTER)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking action is authorized pursuant to Sections 19-850(1) and 19-862A, 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 November 15, 2017.

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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule chapter will serve as a single location to incorporate documents and define terms used in all rules promulgated by the PDC. Documents and terms defined will be used in rules and standards that help improve the provision of indigent defense services in Idaho.

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 Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the Sept. 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, page 333](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The incorporated documents are the primary reference for defending attorneys and other stakeholders regarding the standards for defending attorneys established by the PDC based upon nationally recognized guidelines. A separate document is necessary for ease of reference, analysis and accessibility. Further, this document will be amended to include additional standards as created and established, increasing the length substantially. The republication of the text would be unduly cumbersome and expensive.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kimberly Simmons at (208) 332-1735.

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 November 22, 2017.

DATED this 6th day of October, 2017.

Kimberly Simmons, Executive Director
State Public Defense Commission
816 W. Bannock Street, Suite 201
Boise, ID 83702
(208) 332-1735

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 61-0108-1701
(Only Those Sections With Amendments Are Shown.)

IDAPA 61
TITLE 01
CHAPTER 08

61.01.07 - RULES GOVERNING THE ADMINISTRATION OF IDAHO'S INDIGENT DEFENSE
DELIVERY SYSTEMS – RULE DEFINITIONS

000. LEGAL AUTHORITY.

Sections 19-849 through 19-866, Idaho Code, give the State Public Defense Commission (PDC) authority to adopt rules and standards to improve the delivery of trial-level indigent defense services in Idaho. The PDC is authorized under Sections 19-850(1) and 19-862A, Idaho Code, to supervise and administer the indigent defense delivery system. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 61, Title 01, Chapter 08, “Rules Governing the Administration of Idaho’s Indigent Defense Delivery Systems – Rule Definitions.” ()

02. Scope. These rules contain the definitions used throughout the Indigent Defense Delivery System chapters of rules adopted by the PDC. Those chapters include: ()

a. IDAPA 61.01.01, “Rules Governing Training Requirements for Defending Attorneys and the Administration of Training Funds”; ()

b. IDAPA 61.01.04, “Rules Governing Procedures and Forms for the Application and Disbursement of Indigent Defense Grants”; ()

c. IDAPA 61.01.06, “Rules Governing Procedures for the Oversight, Implementation, Enforcement, and Modification of Indigent Defense Standards”; ()

d. IDAPA 61.01.07, “Rules Governing the Standards for Defending Attorneys that Utilize Idaho’s Principles of an Indigent Defense Delivery System.” ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretation of the rules of this chapter, or to compliance with the rules of this chapter. Any such documents are available for public inspection and copying at the PDC’s office. ()

003. ADMINISTRATIVE APPEALS.

The PDC’s determination to promulgate rules is an exercise of its duty to responsibly and prudently implement a system to improve the delivery of trial-level indigent defense services. Nevertheless, unless otherwise stated, determinations made by the PDC are subject to administrative appeal under IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” ()

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into these rules: ()

01. Idaho's Principles of an Indigent Defense Delivery System. "Idaho's Principles of an Indigent Defense Delivery System, edition 2016," revised as of January 25, 2017, is herein incorporated by reference and is available from the PDC's office and on the PDC website: <https://pdc.idaho.gov/wp-content/uploads/sites/11/2017/01/Idahos-Principles-of-PD-System.pdf>. ()

02. Standards for Defending Attorneys. "Standards for Defending Attorneys, edition 2017," revised as of November 22, 2017, is herein incorporated by reference and is available from the PDC's office and on the PDC website: <https://pdc.idaho.gov/rules>. ()

03. Application for Capital Defense Roster. "Application for Capital Defense Roster, edition 2017," revised as of November 22, 2017, is herein incorporated by reference and is available from the PDC's office and on the PDC website: <https://pdc.idaho.gov/rules>. ()

005. OFFICE—OFFICE HOURS—MAILING AND STREET ADDRESS—TELEPHONE—INTERNET WEBSITE.

The location and mailing address of the PDC is 816 West Bannock Street, Suite 201, Boise, Idaho 83702. The offices are open daily from 9 a.m. to 5 p.m., except Saturday, Sunday, legal holidays, and when closed because staffing levels do not permit. The PDC's telephone number is (208) 332-1735 and the facsimile number is (208) 364-6147. The PDC's official website is: <https://pdc.idaho.gov>. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

This agency operates pursuant to the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. ()

007 – 009. (RESERVED)

010. DEFINITIONS.

For the purposes of the Indigent Defense Delivery System chapters of rules, the following definitions apply: ()

01. Annual Report. A report submitted to the appropriate Board of County Commissioners, Administrative District Judge and the PDC by a defending attorney pursuant to Section 19-864, Idaho Code, on an annual reporting form created by the PDC. The annual reporting form is available on the PDC website: <https://pdc.idaho.gov/forms/>. ()

02. Applicant – Indigent Defense Grant. A County that identifies a need for an Indigent Defense Grant by submission of a compliance proposal, and applies for a grant through the PDC. ()

03. Approval – IDG Application. An IDG application shall be approved if the applicant meets the requirements for eligibility. An approval does not guarantee the amount or disbursement of an IDG award. The PDC retains the ability to determine the amount of an IDG award based upon the components listed in IDAPA 61.01.04. Disbursement of funds is subject to availability as appropriated by the State Legislature each year. ()

04. Capital Counsel Roster. A roster of defending attorneys who may be appointed to represent an indigent defendant in a case in which the death penalty may be imposed. Defending attorneys not on this roster may not represent indigent defendants in such cases. ()

05. Case. ()

a. A case consists of all related charges from a single incident, transaction or occurrence filed within a single case number, handled by one defending attorney. A probation violation or motion for contempt is counted as a separate case. ()

b. A felony case is counted as follows: ()

i. A case filed as a felony is counted as one felony, whether it is dismissed, remanded, pled, or tried to completion. ()

ii. A case filed as a felony that is remanded to magistrate court is counted once as a felony assuming

vertical representation occurs. ()

iii. A case filed as a misdemeanor that is subsequently amended to a felony is counted once as a felony, assuming vertical representation occurs. ()

c. Post-judgment motions, such as those requesting early termination of probation or a reduction in sentence pursuant to Idaho Criminal Rule 35, are not counted as a case. ()

d. If two or more cases are consolidated prior to significant representation being undertaken on each individual case, then the consolidated case is counted as one case. If significant representation has occurred prior to consolidation, the cases in which such representation has occurred shall be counted as separate cases. ()

06. Caseload. The number of cases, as defined in this chapter, assigned to a defending attorney in a fiscal year. ()

07. Compliance Checklist. A document provided by the PDC each grant cycle to assist an Applicant determine eligibility for an IDG. The checklist will be updated each year and is required as a part of an IDG application. ()

08. Compliance Period. The compliance period runs from May 1 through March 31. Indigent defense standards that are in place by May 1 of a given year must be complied with by March 31 of the following year. ()

09. Compliance Proposal. A plan that specifically addresses how indigent defense standards shall be met and how any deficiencies previously identified by the PDC will be cured in the upcoming county fiscal year. The plan shall include a cost analysis that specifically identifies the amount of funding in excess of the applicable local share necessary to allow the county to successfully execute the compliance proposal. If the county can execute its plan without exhausting the entirety of the grant for which it may be eligible, the plan may include a request for funding for other improvements to its delivery of indigent defense services, pursuant to Section 19-862A(2), Idaho Code. ()

10. Compliance Verification. A form that must be completed and submitted to the PDC by a county that chooses not to file an Indigent Defense Grant Application. This verification requires the county to describe how IDG funds have been used in the prior year (if applicable) and an explanation as to how the county will fund their indigent defense delivery system in compliance with established standards. ()

11. Corrective Action Plan. A plan developed by a county or defending attorney with the assistance of PDC staff that addresses any PDC designated deficiencies and how those deficiencies will be corrected. ()

12. Defending Attorney. Defined in Section 19-851, Idaho Code, as any attorney employed by an indigent defense provider or otherwise assigned to represent adults or juveniles at public expense in state courts. ()

13. Eligible Applicant – Indigent Defense Grant. To be considered for an award of an IDG, an applicant must meet the requirements of IDAPA 61.01.04, Section 024, “Award Eligibility Requirements.” ()

14. Established Standards. The “Standards For Defending Attorneys” as referenced in Section 004 of this chapter and established pursuant to Section 19-850(1)(a), Idaho Code. ()

15. Finding of Compliance with Recommendation. A finding of compliance with recommendation refers to a condition whereby a county or defending attorney may be in compliance with Indigent Defense Standards; however, the provision of indigent defense services could be improved to ensure constitutionally-sound representation or achieve compliance with indigent defense standards yet to be promulgated. This finding is not a PDC determination of deficiency or non-compliance. ()

16. Finding of Non-Compliance. A finding of non-compliance refers to an instance where a county or defending attorney is not in compliance with applicable Indigent Defense Standards and may be related to a

deficiency in the provision of indigent defense services. This finding is not necessarily a PDC determination of a deficiency and still requires a finding of material and willful non-compliance before the take-over provisions of Section 19-862A, Idaho Code, are invoked. ()

17. Fiscal Year. As referred to in this chapter, fiscal year refers to a county fiscal year beginning on October 1 and ending on September 30 of the following calendar year. ()

18. Formal Status Meeting. A meeting between PDC staff and a county or defending attorney conducted in accordance with IDAPA 61.01.06, section 023.02. ()

19. Indigent Defense Budget. The funds appropriated each fiscal year by the board of county commissioners that is used to provide representation under the Idaho Public Defense Act, Sections 19-848 through 19-866, Idaho Code, that includes the expenses of investigation, other preparation and trial, but does not include amounts received from the Capital Crimes Defense Fund or the Public Defense Commission. The appropriated funds shall not be less than a county's local share for that fiscal year. ()

20. Indigent Defense Contract. A written contract between the board of county commissioners and a defending attorney or existing office of public defender that provides representation of indigent persons and other individuals who are entitled to be represented by an attorney at county expense. Such contracts may not include a pricing structure that charges or pays a single fixed fee for the services and expenses of the attorney. ()

21. Indigent Defense Delivery System. The system created by the board of county commissioners that is used to provide representation under the Idaho Public Defense Act, Sections 19-848 through 19-866, Idaho Code. The system includes the county, indigent defense provider, defending attorneys, and any other county staff necessary for the administration of indigent defense services. ()

22. Indigent Defense Expenditures. Any monies expended for indigent defense services within a county that do not include amounts received from the public defense commission or amounts expended for capital cases by those counties participating in the capital crimes defense program in excess of premiums and deductibles required by guidelines approved by the Idaho capital crimes defense fund board of directors. ()

23. Indigent Defense Grant. Pursuant to Section 19-862A, Idaho Code, any sum of money awarded by the PDC to a county to support compliance with Indigent Defense Standards or for other improvements to its delivery of indigent defense services if compliance can be achieved with county monies. ()

24. Indigent Defense Grant Application. An application created by the PDC each year requesting information related to the provision of indigent defense services in an Applicant's county. This application will be updated each year and be provided by February 28, initiating the grant cycle. Counties are required to use this application when requesting an IDG award. ()

25. Indigent Defense Provider. Any agency, entity, organization or person selected by a board of county commissioners in accordance with Section 19-859, Idaho Code, or designee of the commission if the commission's actions to remedy specific deficiencies pursuant to Section 19-862A(11)(b), Idaho Code, involve the direct provision of indigent defense services, as a means to provide for the representation of indigent persons and other individuals who are entitled to be represented by an attorney at public expense. ()

26. Indigent Defense Services. County services provided to indigent persons and other individuals who are entitled to be represented by an attorney at public expense pursuant to Section 19-859, Idaho Code. ()

27. Indigent Defense Stakeholders ("Stakeholders"). A person, agency, entity or other organization with an interest or concern in the delivery of indigent defense in Idaho. ()

28. Indigent Defense Standard. Defined in Section 19-851, Idaho Code, as any rule promulgated by the commission pursuant to Section 19-850(1)(a), Idaho Code, that was in place by May 1 of the prior year. ()

29. Joint Incentive Indigent Defense Grant. Pursuant to Section 19-862A, Idaho Code, a sum of money awarded by the PDC to counties who join together to establish and maintain a joint office of public defender

pursuant to Section 19-859(2), Idaho Code. ()

30. Local Share. Defined in Section 19-851, Idaho Code, as the benchmark figure calculated by the commission to determine the minimum amount of funding that shall be maintained by a county and to determine the award amount of state indigent defense grants for which a county may be eligible pursuant to Section 19-862A, Idaho Code. For any given county fiscal year, a county's local share shall be the median of the annual amount in county funds expended by that county for indigent defense during each of the first three (3) of the preceding five (5) county fiscal years, as certified by the county clerk. ()

31. Oversight Review. An annual or periodic review of a county or defending attorney, completed by PDC staff, that considers whether indigent defense standards are being met and if deficiencies are being identified and cured in a timely fashion. ()

32. Public Defense Roster. A roster of defending attorneys who may be appointed to represent indigent defendants or other persons entitled to be represented by an attorney at public expense. ()

33. Scholarship. Any amount of training funds granted by the PDC to be used toward the costs of attending a training program. ()

34. Staff. Any individual employed by the PDC. ()

35. Submission Date. The date upon which one mails or digitally submits a document, form or application to the PDC. ()

36. Training Program. Any program, class, conference, seminar, or educational opportunity whose purpose includes the training of persons servicing indigent clients as designated by law, statute, court rule, or appointment. ()

37. Training Funds. An amount designated in the annual budget of the PDC designated for the benefit of defending attorneys and those under their employ or supervision. These funds are dedicated to provide training and education for persons servicing indigent clients as designated by law, statute, court rule, or appointment. ()

38. Workload. The term workload recognizes that a caseload generally consists of a mix of case types that each require differing amounts of time and resources. ()

011. ABBREVIATIONS.

01. MCLE. Mandatory Continuing Legal Education credit as determined by the Idaho State Bar. ()

02. PDC. The State Public Defense Commission. ()

03. IPIDDS. Idaho's Principles of an Indigent Defense Delivery System. ()

04. IDG. Indigent Defense Grant. ()

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IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION

*61.01.08 – Rules Governing the Administration of
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LEGAL NOTICE

Summary of Proposed Rulemakings

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 latest publication of the state Administrative Bulletin.

*The proposed rule public hearing request deadline is November 15, 2017, unless otherwise posted.
The proposed rule written comment submission deadline is November 22, 2017, unless otherwise posted.
(Temp & Prop) indicates the rulemaking is both Temporary and Proposed.
(*PH) indicates that a public hearing has been scheduled.*

IDAPA 02 – IDAHO SHEEP AND GOAT HEALTH BOARD PO Box 2596, Boise, ID 83701

02-0801-1701, Sheep and Goat Rules of the Idaho Sheep and Goat Health Board. Requires a *Brucella Ovis* test for all rams entering Idaho with certain exceptions.

IDAPA 11 – IDAHO STATE POLICE 700 S. Stratford Dive, Meridian, ID 83642

IDAHO STATE BRAND BOARD

11-0201-1701, Rules of the Idaho State Brand Board. (Temp & Prop) Increases brand inspection, courtesy brand inspection, and pasture fees; adds required informational sections; removes example forms from the rule.

IDAHO STATE RACING COMMISSION

11-0406-1701, Rules Governing Racing Officials. Provides that horsemen can request that a split blood test sample be sent to labs of their choosing and establishes a 30-day period for requesting, shipping and receiving these blood samples; extends the Steward's jurisdiction from 30 to 90 days.

IDAHO PEACE OFFICER STANDARD AND TRAINING COUNCIL

11-1101-1701, Rules of the Idaho Peace Officer Standard and Training Council. Establishes requirements for certification and training as an emergency communication officer by POST; amends and adds definitions; clarifies and updates terminology.

11-1105-1701, Rules of the Idaho Peace Officer Standards and Training Council for Idaho Department of Juvenile Corrections Direct Care Staff. Adds two specific job titles to definition of Juvenile Corrections Direct Care Staff: Rehabilitation Technician Trainee and Safety and Security Supervisor.

IDAPA 15 – OFFICE OF THE GOVERNOR DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION PO Box 83720, Boise, ID 83720-0066

15-0401-1701, Rules of the Division of Human Resources and Personnel Commission. Deletes definition and all references to "provisional appointment"; removes references to Hay Management Consultants; removes redundant language regarding coordination of recruitment with Dept of Labor; amends approval for closure of state offices and facilities due to weather or other disruptions.

IDAPA 17 – IDAHO INDUSTRIAL COMMISSION PO Box 83720, Boise, ID 83720-0041

17.02.04 - Administrative Rules of the Industrial Commission Under the Workers' Compensation Law – Benefits.
17-0204-1701, Eliminates situational eligibility for officers subsequent to July 1, 2015.
17-0204-1702, Requires notice to claimant when two or more impairment ratings for the same injury are given by

different physicians and the ratings are not then averaged, claimant is to be advised of his right to challenge an employer's decision to pay benefits without averaging.

17-0207-1701, Procedures to Obtain Compensation. Extends the implementation date for EDI Claims Release 3.0 an additional four months to allow trading partners the necessary time to adapt their reporting systems to the new reporting requirements.

17-0208-1701, Miscellaneous Provisions. Requires that a worker receive notice of the acceptance, commencement, denial, reduction or cessation of medical or monetary compensation benefits to which the worker might presently or ultimately be entitled.

17-0210-1701, Administrative Rules of the Industrial Commission Under the Workers' Compensation Law -- Security for Compensation -- Insurance Carriers. Requires sureties or third-party administrators to make an initial decision to accept or deny a claim for an injury or occupational disease within 30 days after the surety and/or third-party claims administrator receives knowledge of the same; allows Temporary Partial Disability (TPD) payments to be calculated using the employee's pay period and establishes when TPD payments are due.

17-0211-1701, Administrative Rules of the Industrial Commission Under the Workers' Compensation Law -- Security for Compensation -- Self-Insured Employers. Requires self-insured employers or third-party administrators to make an initial decision to accept or deny a claim for an injury or occupational disease within 30 days after the surety and/or third-party claims administrator receives knowledge of the same; allows Temporary Partial Disability (TPD) payments to be calculated using the employee's pay period and establishes when TPD payments are due.

IDAPA 50 – IDAHO COMMISSION OF PARDONS AND PAROLE
3056 Elder St., Boise, ID 83705

50-0101-1701, Rules of the Commission of Pardons and Parole. Updates alternative placement options for parole violators; provides for review of firearm restoration applications in executive session; clarifies victim's services; updates definitions; addresses technological advancements for use in hearings; establishes number of commissioners required for parole proceedings and decisions; adds language to the Foreign National Treaty giving the commission discretion to make recommendations to the Governor, and implements statutory amendments from the 2016-2017 session.

IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION
816 West Bannock St., Suite 201, Boise, ID 83702

61-0108-1701, Rules Governing Procedures the Administration of Idaho's Indigent Defense Delivery Systems – Rule Definitions. This rule chapter will serve as a single location to incorporate documents by reference and define terms used in all rules promulgated by the PDC; documents and terms defined will be used in rules and standards that help improve the provision of indigent defense services in Idaho.

NOTICE OF PROCLAMATION

IDAPA 13 – IDAHO FISH AND GAME COMMISSION

13-0111-1703P, Rules Governing Fish

13-0111-1704P, Rules Governing Fish

NOTICE OF PUBLIC HEARING

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Issues of the Idaho Administrative Bulletin can be viewed at www.adminrules.idaho.gov.

Office of the Administrative Rules Coordinator, Dept. of Administration, PO Box 83720, Boise, ID 83720-0306
Phone: 208-332-1820; Fax: 332-1896; Email: rulescoordinator@adm.idaho.gov

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

*Office of the Administrative Rules Coordinator
Idaho Department of Administration*

July 1, 1993 — Present

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

This online index provides a history of all agency rulemakings beginning with the first Administrative Bulletin in July 1993 to the most recent Bulletin publication. It tracks all rulemaking activities on each chapter of rules by the rulemaking docket numbers and includes negotiated, temporary, proposed, pending and final rules, public hearing notices, vacated rulemaking notices, notice of legislative actions taken on rules, and executive orders of the Governor.

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(Index of Current and Active Rulemakings)

*Office of the Administrative Rules Coordinator
Idaho Department of Administration*

March 29, 2017 — November 1, 2017

(eff. PLR) - Final Effective Date Is Pending Legislative Review

(eff. date)L - Denotes Adoption by Legislative Action

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