

# IDAHO ADMINISTRATIVE BULLETIN

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November 1, 1995

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**IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE**  
**02.06.33 - IDAHO DEPARTMENT OF AGRICULTURE RULES CONCERNING**  
**THE LATE BLIGHT OF POTATO, SOLANUM TUBEROSUM L., UNDER**  
**THE DIVISION OF PLANT INDUSTRIES,**  
**BUREAU OF FEEDS AND PLANT SERVICES**

**DOCKET NO. 02-0633-9502**

**NOTICE OF VACATION OF RULES**

**EFFECTIVE DATE:** The vacation of these temporary and proposed rules is effective September 15, 1995.

**AUTHORITY:** In compliance with Title 67, Chapter 52, Idaho Code, notice is hereby given that this agency has vacated temporary and regular rule-making.

**DESCRIPTIVE SUMMARY:** The temporary and proposed rules published in the October 4, 1995, issue of the Idaho Administrative Bulletin are hereby vacated. The vacated rules will be replaced by an updated version of IDAPA 02.06.33 which will be effective September 15, 1995, and will be published in the November 1, 1995, Idaho Administrative Bulletin.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this proposed rule, contact Dr. Roger Vega or Mr. Michael E. Cooper at (208) 334-2986.

DATED this 15th day of September, 1995.

John L. Hatch, Director  
Idaho Department of Agriculture  
P.O. Box 790  
Boise, ID 83701-0790  
(208) 334-3240/FAX (208) 334-2170

**IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE**  
**02.06.33 - IDAHO DEPARTMENT OF AGRICULTURE RULES CONCERNING**  
**THE LATE BLIGHT OF POTATO, SOLANUM TUBEROSUM L., UNDER**  
**THE DIVISION OF PLANT INDUSTRIES,**  
**BUREAU OF FEEDS AND PLANT SERVICES**

**DOCKET NO. 02-0633-9503**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These temporary rules are effective September 15, 1995.

**AUTHORITY:** In compliance with Section(s) 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has proposed temporary and regular rule-making. The action is authorized pursuant to Sections 22-1905 and 22-1915, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be held as follows: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 15, 1995. 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 statement in nontechnical language of the substance of the proposed rule: The rules prevent the spread of late blight of potato in the state of Idaho by limiting the importation of certain regulated products. Only seed potatoes with zero tolerance for late blight based on field and shipping point inspections and winter tests, with a shipping point certificate issued by the seed certification agency of the state or foreign country of origin will be allowed into the state of Idaho. The rules require any person receiving potatoes from late blight infested areas to notify the Idaho Department of Agriculture in writing and to submit a written cull disposal plan to the Department. Additionally, the rules specify the dates for rendering cull piles non-viable, and provide for an exemption and for the disposition of violations.

The following is the required finding and a concise statement of the supporting reasons for temporary rule-making: The adoption of IDAPA 02.06.33 will confer benefits to the Idaho potato industry by preventing the spread of late blight of potato in the state of Idaho. Late blight of potato is known to exist in the Treasure Valley and Magic Valley of Idaho. Further spread of this disease in Idaho will drastically and adversely affect potato production. Additionally, the occurrence of this disease in Idaho in the future could affect the marketing of Idaho potatoes.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this proposed rule, contact Dr. Roger R. Vega or Mr. Michael E. Cooper at (208) 334-2986.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before November 22, 1995.

DATED this 15th day of September, 1995.

John L. Hatch, Director  
Idaho Department of Agriculture  
P.O. Box 790  
Boise, ID 83701-0790  
(208) 334-3240/FAX (208) 334-2170

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**TEXT OF DOCKET 02-0633-9503**

**IDAPA 02**  
**TITLE 06**  
**CHAPTER 33**

**IDAHO DEPARTMENT OF AGRICULTURE RULES CONCERNING THE  
LATE BLIGHT OF POTATO, SOLANUM TUBEROSUM L.,  
UNDER THE DIVISION OF PLANT INDUSTRIES,  
BUREAU OF FEEDS AND PLANT SERVICES**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Sections 22-1905 and 22-1915, Idaho Code. (9-15-95)T

**001. TITLE AND SCOPE.**

The title of this chapter is Idaho Rules Concerning the Late Blight of Potato Solanum Tuberosum L., under the Division of Plant Industries, Bureau of Feeds and Plant Services. This chapter has the following scope: The rules prevent the spread of late blight of potato in the state of Idaho by limiting the importation of certain regulated products. Only seed potatoes with zero tolerance for late blight based on field and shipping point inspections and winter tests, with a shipping point certificate issued by the seed certification agency of the state or foreign country of origin will be allowed into the state of Idaho. The rules require any person receiving potatoes from late blight infested areas to notify the Idaho Department of Agriculture in writing and to submit a written cull disposal plan to the Department. Additionally, the rules specify the dates for rendering cull piles non-viable, and provide for an exemption and for the disposition of violations. (9-15-95)T

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. (9-15-95)T

**003. ADMINISTRATIVE APPEAL.**

There is no provision for administrative appeal before the Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho

Code. (9-15-95)T

**004. DEFINITIONS.**

The Idaho Department of Agriculture adopts the definitions set forth in Section 22-1904, Idaho Code. (9-15-95)T

**005. FINDINGS.**

The adoption of IDAPA 02.06.33 will confer benefits to the potato industry. The late blight of potato is known to exist in the Treasure Valley and Magic Valley of Idaho. The further spread of this disease in Idaho will drastically and adversely affect potato production. Additionally, the occurrence of this disease in Idaho in the future could affect the marketing of Idaho potatoes. (9-15-95)T

**006. -- 049. (RESERVED)**

**050. REGULATED DISEASE.**

The late blight of potato, caused by the fungus identified as *Phytophthora infestans* (Mont.) de Bary. (9-15-95)T

**051. -- 099. (RESERVED).**

**100. REGULATED PRODUCTS.**

Potatoes for propagation, plants of the family Solanaceae, any other plant, plant part, article, potato cull piles, or other host plants when it is determined by the Director or his duly authorized agent to present a hazard of introducing the late blight of potato into the state of Idaho. (9-15-95)T

**101. -- 149. (RESERVED).**

**150. RESTRICTIONS.**

01. Notification of Director. Any person in a late blight free area in Idaho receiving potatoes from a late blight infested area shall notify the Director in writing and submit to the Director a written cull pile disposal plan on a form prescribed by the Director. (9-15-95)T

02. Zero Tolerance. Only seed potato lots with zero tolerance for late blight based on field and shipping point inspections and winter tests shall be shipped to or planted in Idaho. (9-15-95)T

03. Certification Requirement. Each shipment of a seed potato lot from a late blight infested area shall be accompanied by a certificate issued by the seed certification agency of the state or foreign country of origin. (9-15-95)T

04. Non-Certified Potatoes. Non-certified potatoes produced in Idaho to be planted in Idaho shall have been produced in a late blight free area and from certified seed stock. The grower shall notify the Director in writing when non-certified potatoes are used for planting. (9-15-95)T

05. **Eliminators.** Eliminators may be used as seed potatoes provided they are: (9-15-95)T



- a. Planted by the grower who produced them; and (9-15-95)T
- b. Produced from certified parent seed stock; and (9-15-95)T
- c. Eliminated at the original grower's storage shed. (9-15-95)T

O6. Cull Piles. All cull piles generated from potatoes produced in late blight infested areas and shipped to a late blight free area in Idaho shall be rendered non-viable daily until September 20, 1995. (9-15-95)T

O7. September 20, 1995. After September 20, 1995, all cull piles west of the Raft River shall be rendered non-viable by April 15, 1996, and those cull piles east of the Raft River shall be rendered non-viable by May 15, 1996. (9-15-95)T

O8. April 5, 1996. After April 15, 1996, all cull piles west of the Raft River shall be rendered non-viable daily, and those cull piles east of the Raft River shall be rendered non-viable daily after May 15, 1996. (9-15-95)T

**151. -- 199. (RESERVED)**

**200. DISPOSITION OF VIOLATIONS.**

Any or all shipment of lots of regulated products listed in Section 100. above, arriving in Idaho or any or all fields planted with regulated products or potato cull piles in violation of these rules or found to be infected with the regulated disease listed in Section 050. above, shall immediately be sent out of the state, destroyed, or treated by a method and in manner as directed by the Director or his duly authorized agent. Treatment shall be performed at the expense of the owner, or owners, or their duly authorized agent. (9-15-95)T

**201. -- 249. (RESERVED)**

**250. EXEMPTIONS.**

Upon receipt of a written application for an exemption from any portion of these rules, the Director may grant an exemption subject to any conditions the Director may deem necessary. The written application for an exemption shall include the reason for the request and evidence demonstrating that an exemption can be granted without posing a threat to the potato industry. (9-15-95)T

**251. -- 299. (RESERVED)**

**300. PENALTY.**

Any person violating the provisions of these rules may be subject to the penalty provisions of Title 22, Chapter 19, Idaho Code. (9-15-95)T

**301. -- 999. (RESERVED)**

**IDAPA 08 - IDAHO STATE BOARD OF EDUCATION  
STATE DEPARTMENT OF EDUCATION**

**08.01.10 - IDAHO COLLEGE WORK STUDY**

**DOCKET NO. 08-0110-9501**

**NOTICE OF PROPOSED RULES**

**ACTION:** This action concerns the proposed amendment of IDAPA 08, Title 01, Chapter 10, Rules of the State Board of Education regarding the Idaho College Work Study Program.

**AUTHORITY:** In compliance with Section 33-105(3), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Section 33-105, Idaho Code.

**PUBLIC HEARING SCHEDULE:** The State Board of Education intends to take final action on the proposed rule on November 16, 1995. This will be a microwave accessible Board meeting through the facilities of Idaho Public Television. Individuals wishing to make oral comment on the proposed rule may do so in person on November 16, 1995 at 8:30 a.m., mountain standard time, at any of the following locations: (1) at the facilities of Idaho Public Television at 1455 North Orchard, Boise, Idaho; (2) at the facilities of KISU TV, Education Building, Idaho State University campus, Pocatello, Idaho; or (3) at the facilities of KUID TV, Radio-TV Center, University of Idaho campus, Moscow, Idaho. To make arrangements to present oral comments to the Board at its regularly scheduled November 16, 1995, Board meeting, contact the undersigned at (208) 334-2270.

The Board's meeting site and the microwave facilities of Idaho Public Television, KISU, and KUID will be accessible to the physically disabled. Interpreters for persons with hearing impairments and brailled or taped information for persons with visual impairments can be provided upon five (5) days notice. For arrangements, contact the undersigned at (208) 334-2270.

**DESCRIPTIVE SUMMARY:** The following is a statement in nontechnical language of the substance of the proposed rule:

The proposed rulemaking is a proposal to repeal IDAPA 08.01.10.103. This particular provision of the Board's Work Study Rules was originally adopted to prevent institutions from using new Idaho College Work Study funds to replace existing programs rather than expanding work study opportunities for students. The rule is no longer needed since institutions appear to be committed to the work study concept. Repeal of this provision will eliminate burdensome reporting and a funding requirement that restricts institutional flexibility in distributing financial aid funds in the Idaho Work Study Program.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this proposed rule, contact Bill Hargrove at the office of the State Board of Education at (208) 334-2270.

Written comments may be filed with Bill Hargrove at the address indicated below at any time before November 22, 1995.

Dated this 29th day of September, 1995.

Bill Hargrove, Public Affairs Officer  
Office of the State Board of Education  
P.O. Box 83720  
Boise, Idaho 83720-0037  
(208) 334-2270 (telephone)  
(208) 334-2632 (fax)

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

**08.02.01 - RULES GOVERNING SCHOOL  
ORGANIZATION AND ADMINISTRATION**

**DOCKET NO. 08-0201-9501**

**NOTICE OF PROPOSED RULES**

**ACTION:** The proposed action, under Docket No. 08-0201-9501, concerns the proposed amendment of rules governing the Instructional Programs and Textbooks, IDAPA 08, Title 02, Chapter 01, Rules Governing School Organization and Administration, specifically Pupil Accounting and Required Instructional Time.

**AUTHORITY:** In compliance with Section 33-105, Idaho Code, notice is hereby given that this agency has proposed rule-making.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this rule-making will be held via microwave transmission on Thursday, November 16, 1995, during the regular meeting of the State Board of Education that begins at 8:35 a.m. (MST). The hearing sites will be the Idaho Public Television stations in Moscow, Pocatello, and Boise. Interested persons may call (208) 334-3300 to obtain the addresses of the hearing sites. Copies of the proposed rule text will be available at the hearing or may be obtained by contacting Dr. Darrell Loosle at the number listed below.

The hearing sites will be accessible to the physically disabled. Interpreters for persons with hearing impairments and brailled or taped information for persons with visual impairments can be provided upon five days notice. For arrangements contact the undersigned at (208) 334-3300.

**BRIEF DESCRIPTION OF INTENDED ACTION:** The following is a statement in nontechnical language of the substance of the proposed rule.

The proposed rule meets the intent of Section 33-203, Idaho Code, DUAL ENROLLMENT, and establishes the method of calculating average daily attendance for dually-enrolled, non-public school students for state funding purposes.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OR WRITTEN COMMENTS:** For assistance on technical questions concerning this rule, contact Dr. Darrell Loosle at (208) 334-3300.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before November 22, 1995.

DATED this 29th day of September, 1995.

Dr. Darrell K. Loosle  
Chief Deputy State Superintendent  
Idaho Department of Education  
P.O. Box 83720  
Boise, Idaho 83720-0027  
(208) 334-3300  
FAX (208) 334-2228

**IDAPA 08 - BOARD OF EDUCATION  
STATE DEPARTMENT OF EDUCATION  
08.02.05 - RULES GOVERNING INSTRUCTIONAL  
PROGRAMS & TEXTBOOKS**

**DOCKET NO. 08-0205-9501**

**NOTICE OF PROPOSED RULES**

**ACTION:** The proposed action, under Docket No. 08-0205-9501 concerns the proposed amendment of rules governing the Instructional Programs and Textbooks, IDAPA 08, Title 02, Chapter 05, Rules Governing Instructional Programs and Textbooks, specifically Testing in Public Schools.

**AUTHORITY:** In compliance with Section 33-105, Idaho Code, notice is hereby given that this agency has proposed rule-making.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this rule-making will be held by way of microwave transmission on Thursday, November 16, 1995, during the regular meeting of the State Board of Education that begins at 8:35 a.m. (MST). The hearing sites will be the Idaho Public Television stations in Moscow, Pocatello, and Boise. Interested persons may call (208) 334-3300 to obtain the addresses of the hearing sites. Copies of the proposed rule text will be available at the hearing or may be obtained by contacting Dr. Darrell Loosle at the number listed below.

The hearing sites will be accessible to the physically disabled. Interpreters for persons with hearing impairments and brailled or taped information for persons with visual impairments can be provided upon five days notice. For arrangements contact the undersigned at (208) 334-3300.

**BRIEF DESCRIPTION OF INTENDED ACTION:** The following is a statement in nontechnical language of the substance of the proposed rule.

The proposed amendment to IDAPA 08.02.05.220, Testing in the Public Schools, requires all Idaho public school students, grades K-12, to participate in the state funded standardized testing program. Testing will be required only in the grades for which state funding supports the test. Idaho public school students in grades 4, 8, and 11 are required to participate in the State funded Direct Writing Assessment. Idaho public school students in grades 4 and 8 are required to participate in the Direct Mathematics Assessment. The amendment also identifies the test as the Iowa Test of Basic Skills and the Test of Achievement and Proficiency.

The state legislature has appropriated \$500,000 for FY 96 to be used to expand the state testing program. The remaining costs are part of the S.D.E. ongoing testing budget. Fiscal impact to local districts, none.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this rule, contact Dr. Darrell Loosle at (208) 334-3300.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before November 22, 1995.

DATED this 29th day of September, 1995.

Dr. Darrell K. Loosle  
Chief Deputy State Superintendent  
Idaho Department of Education  
P.O. Box 83720  
Boise, Idaho 83720-0027  
(208) 334-3300  
FAX (208) 334-2228

**IDAPA 08 - STATE BOARD OF EDUCATION  
STATE DEPARTMENT OF EDUCATION  
08.02.05 - RULES GOVERNING INSTRUCTIONAL  
PROGRAMS & TEXTBOOKS**

**DOCKET NO. 08-0205-9502**

**NOTICE OF PROPOSED RULES**

**ACTION:** The proposed action, under Docket No. 08-0205-9502, concerns the proposed amendment of rules governing the Instructional Programs and Textbooks, IDAPA 08, Title 02, Chapter 05, Rules Governing Instructional Programs and Textbooks, specifically Testing in Public Schools.

**AUTHORITY:** In compliance with Section 33-105, Idaho Code, notice is hereby given that this agency has proposed rule-making.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this rule-making will be held via microwave transmission on Thursday, November 16, 1995, during the regular meeting of the State Board of Education that begins at 8:35 a.m. (MST). The hearing sites will be the Idaho Public Television stations in Moscow, Pocatello, and Boise. Interested persons may call (208) 334-3300 to obtain the addresses of the hearing sites. Copies of the proposed rule text will be available at the hearing or may be obtained by contacting Dr. Darrell Loosle at the number listed below.

The hearing sites will be accessible to the physically disabled. Interpreters for persons with hearing impairments and brailled or taped information for persons with visual impairments can be provided upon five days notice. For arrangements contact the undersigned at (208) 334-3300.

**BRIEF DESCRIPTION OF INTENDED ACTION:** The following is a statement in nontechnical language of the substance of the proposed rule.

The 1995 Idaho Legislature passed H.B. 171aaH "Dual Enrollment" which requires a non-public school student to earn an average score on the achievement test required annually by the State Board of Education (33-203 Section 4), in order to participate in non-academic activities. Currently the State Board does not require testing in all grades.

The proposed rule establishes a specific test which is consistent with the test currently used and recommended in the proposed rule change for the expanded public school testing program.

Furthermore, the proposed rule would include grades K-12 in order to cover participation by a non-public school student in any grade. This rule would clarify the testing for participation purposes in H.B. 171aaH, Idaho Code 33-203.

No fiscal impact for State nor required fiscal impact on local school district.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OR WRITTEN COMMENTS:** For assistance on technical questions concerning this rule, contact Dr. Darrell Loosle at (208) 334-3300.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or

delivered on or before November 22, 1995.

DATED this 29th day of September, 1995.

Dr. Darrell K. Loosle  
Chief Deputy State Superintendent  
Idaho Department of Education  
P.O. Box 83720 Boise, Idaho 83720-0027  
(208) 334-3300 / FAX (208) 334-2228



**IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT**

**11.11.01 - RULES OF THE IDAHO PEACE OFFICER  
STANDARDS AND TRAINING COUNCIL**

**DOCKET NO. 11-1101-9502**

**NOTICE OF FINAL RULE**

**EFFECTIVE DATE:**The final rule will be effective upon adoption of the concurrent resolution or such other date specified in the concurrent resolution, or upon the conclusion of the 1996 legislative session, whichever is sooner.

**AUTHORITY:**In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a final rule. The action is authorized pursuant to Title 19, Chapter 51, Idaho Code.

**DESCRIPTIVE SUMMARY:**IDAPA 11.11.01.091: The rule permits officers who have remained in full time active law enforcement outside the state, and who complete Law Week, to petition the Executive Director for recertification. The rule also provides the Executive Director with the discretion to grant or deny the petition or refer it to the council.

IDAPA 11.11.01.107: The rule clarifies an ambiguity in the rule by making it clear that officers out of full time law enforcement for more than three years must fulfill all of the requirements for certification as a reserve officer. No changes were made to the text of either rule.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this proposed rule, contact Mike Becar, at (208) 884-7250.

DATED this 24th day of September, 1995.

W. Corey Cartwright  
Deputy Attorney General  
Department of Law Enforcement  
P.O. Box 700  
Meridian, ID 83680-0700  
(208) 884-7050 (208) 884-7090 (fax)

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**There are no substantive changes from the proposed text.**

**The original text was published in the Idaho Administrative Bulletin,  
Volume 95-7 July 5, 1995, pages 18 through 19.**

**This Rule has been adopted by the agency and is now pending  
review by the 1996 Idaho State Legislature for Final Adoption**

**IDAPA 15 - IDAHO COMMISSION ON AGING**  
**15.01.03. - RULES GOVERNING CARE COORDINATION FOR THE ELDERLY**  
**DOCKET NO. 15-0103-9401**  
**NOTICE OF FINAL RULE**

**EFFECTIVE DATE:** These rules have been adopted as final by the agency and are awaiting review by the 1996 Idaho State Legislature for final adoption.

**ACTION:** The action, under Docket No. 15-0103-9401, concerns the final adoption of rules governing Care Coordination for the Elderly, IDAPA 15, Title 01, Chapter 03.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a final rule. The action is authorized pursuant to Title 50, Chapter 67, Idaho Code.

**DESCRIPTIVE SUMMARY:** Final rules for Care Coordination are being adopted to bring statewide uniformity to the service and program. Extensive changes have been made to the proposed rule as a result of comments received.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this final rule, contact Pat Davidson, at (208) 334-2257.

DATED this 24th day of July, 1995.

Pat Davidson  
Rm. 108, Statehouse, PO Box 83720  
Boise, Idaho 83720  
(208) 334-2257  
(208) 334-3033 (FAX)

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**TEXT OF DOCKET 15-0103-9401**

**IDAPA 15**  
**TITLE 01**  
**CHAPTER 03**

**RULES GOVERNING CARE COORDINATION FOR THE ELDERLY**  
**IDAHO COMMISSION ON AGING**

**000. AUTHORITY.**

The Idaho Senior Services Act, Chapter 50, Title 67, Idaho Code, provides for "in-home services, designed to permit older people to remain independent and be able to avoid institutionalization and that these services be provided in a coordinated manner and be readily available when needed and accessible to all older people"; and authorizes the Idaho Commission on Aging (IOOA) to promulgate rules under the Act. ( )

**001. TITLE AND SCOPE.**

These rules governing the operation of Care Coordination Services are promulgated by the Idaho Commission on Aging pursuant to Chapter 52, Title 67, Idaho Code. ( )

**002. -- 009. (RESERVED).**

**010. DEFINITIONS.**

For the purposes of these rules: ( )

01. AAA. Area Agency on Aging. ( )
02. Active Cases. Those cases that require in-home services within the quarter following the Eligibility Evaluation. ( )
03. Activities of Daily Living (ADLS). Eating, dressing, bathing, toileting and transferring. ( )
04. Care Coordination (CC). A program designed to locate, mobilize, and coordinate a variety of in-home care and other services required by individuals at high risk of placement in a long-term care facility. ( )
05. Care Coordinators. Client advocates, service brokers, and managers of service units. It is not the function of the Care Coordinator to provide "hands on" care, be a companion to, or directly supervise services provided the client. ( )
06. Client. The recipient and or legal representative, as defined below. ( )
07. Diminished Capacity. The inability of an individual to accomplish daily activities without personal assistance, standby assistance, supervision, or cues. ( )
08. Fiscal Effectiveness. A financial record of the cost of all formal services provided to insure maintenance of the individual in their home is more cost effective than placement in long term care. ( )
09. Formal Supports. Those supports and services which are paid for by public funds. ( )
10. ICOA. Idaho Commission on Aging. ( )
11. Informal Supports. Those supports and services provided by friends, volunteers, relatives, and others, for which there is no fee. ( )

12. Instrumental Activities of Daily Living (IADLS). Preparing meals, shopping for personal items, managing money, using the telephone (accessing emergency services), and housework. ( )

13. Legal Representative. A term that includes appropriate Power of Attorney, Conservator, Legal Guardian, or other court appointed entity who has the legal authority to speak for the client. ( )

14. Program Director. An employee of the AAA who meets the Staff Qualifications stated in Subsection 051.01.a. and is responsible for the actions, training, and accomplishments of the Care Coordinators and the administration and reporting requirements of the CC program. Program Directors may also expect to function as Care Coordinators. ( )

**011. POLICY.**

CC is a part of a continuum of community-based care designed to provide assistance needed to compensate for individual functional limitations. CC is one method employed by the AAA to comply with the Older Americans Act mandate for coordination of community based services. The CC program is a service provided by the AAA for those services funded by Older Americans Act and State Senior Services Act Funds. Through research, development, and coordination of services, the AAAs will assist individuals to live independently in a home environment. ( )

**012. ELIGIBILITY.**

Eligibility is based on the individual's ability to perform activities of daily living (ADLS) and instrumental activities of daily living (IADLS). Client must be at least sixty (60) years of age and a resident of Idaho. ( )

**013. PURPOSE OF SERVICE.**

CC activities enhance client autonomy, consider client preferences, and promote efficient use of available resources. CC is an outcome based program. The end result will be more efficient use of available services and personnel and improved reporting procedures that will confirm AAA services are provided to those most in need and at highest risk of nursing home placement. CC is a short-term administrative service employed to initiate and coordinate in-home care. Once services have been put in place only minimal contact with the client is required. Follow-up by telephone will meet most needs with the exception of reevaluations or a marked change in client status. ( )

01. Single Point of Entry. To establish a centralized "single point of entry" for AAA services and referrals to other required community based services. ( )

02. Avoid Institutionalization. To avoid costly, premature, or inappropriate institutionalization of Idaho's senior citizens. ( )

03. In-home Services. To determine appropriate use, avoid duplication, ensure cost containment and fiscal effectiveness of in-home services required by seniors in maintaining their independence, family units, dignity, productivity, and respect utilizing formal and informal supports and AAA services. ( )

**014. PAYMENT FOR SERVICES.**

Care Coordination services may be provided at the request of an individual or their legal representative even though the individual does not meet eligibility requirements. In those cases a fee for services will be imposed based on actual cost of services. Funds realized from payment for services must be reinvested in the Care Coordination Program. ( )

**015. -- 025. (RESERVED).**

**026. PRIORITIES RELATED TO CARE COORDINATION.**

Recipients of Care Coordination must display a diminished capacity to accomplish ADLS and/or IADLS and will be assigned a Priority Grade as a result of the Eligibility Evaluation. Services will be provided based on the Priority Grade assigned. When two or more individuals are assigned the same Priority Grade it is the responsibility of the CC Program Director to determine and document "client most in need." ( )

**027. SERVICE FUNCTIONS.**

Care Coordination provides responsible utilization of available informal (unpaid) resources before arranging for formal (paid) services. The Care Coordinator and client will work together in determining the frequency, duration, and need of in home services. Services will be arranged subsequent to approval by the client or legal representative. Services provided will be recorded and monitored to insure fiscal effectiveness and compliance with the Care Plan. ( )

01. Eligibility Evaluation. An evaluation of individual's capabilities and financial status, as well as the informal and formal supports (both potential and in place). The Eligibility Evaluation, reevaluation, and referrals will be accomplished using forms provided by the ICOA. ( )

02. Care Plan. A written plan of care that specifies client needs, goals and how they might best be met, client share of cost (if appropriate), and service hours authorized. The Care Plan must be presented to and approved by the individual prior to implementation of services. Other funding sources may require approval of the Care Plan by the attending physician. ( )

03. Service Arrangement. In-home services must be arranged and authorized by the Care Coordinator according to the Care Plan, as agreed to by the client. Care Coordinators are agents of the client and the AAA in negotiating, arranging, and monitoring services and for insuring the financial feasibility of the Care Plan. ( )

04. Follow-up. The frequency of on-going contact with the client is maintained and justified in the Care Plan. The Care Coordinator and service provider will maintain communications to insure: ( )

- a. Duplication of services is avoided; ( )
- b. Clients are notified of discontinuance or suspension of services; ( )
- c. Clients are notified of modification of the Care Plan. ( )

05. Reevaluation. A standardized reevaluation of the client's status and

need will be conducted as established in the Care Plan, or a minimum of once a year, or when significant changes occur in the client status. The client and legal representative, if appropriate, must be present during the reevaluation. ( )

**028. OTHER SUPPORTIVE SERVICES.**

01. Necessary Services. Care Coordinators may assist the client in obtaining benefits, services, medically related devices, assistive technology, necessary home modifications, or other services required to fulfill unmet needs. ( )

02. Social-Emotional Support. The Care Coordinator links the clients and their families with supports available to facilitate life adjustments and bolster informal supports. ( )

03. Unmet Needs. Care Coordinators identify and document unmet client needs to assist the AAA in future planning. ( )

04. Other Informal Resources. In all cases, available informal resources must be explored prior to the utilization of formal resources. This includes third party reimbursement, public funds, and other available formal and informal community programs. ( )

05. Care Coordination Responsibilities. CC is responsible for linking clients to services required to maintain clients in their homes. Once services and referrals have been established, follow-up is not necessary unless the client requests assistance with additional problems; a service provider, legal representative, or other, indicates there is a change in circumstances; or additional problems are identified. ( )

**029. TARGET POPULATION.**

The target population includes, but is not limited to the following: ( )

01. Clients with Physician's Written Order. The client with a physician's written order authorizing twenty-four (24) hour care placement, providing the Care Plan is approved in writing by the physician. ( )

02. ADL or IADL Clients. Those clients unable to accomplish one (1) or more ADL or IADL's without personal assistance, standby assistance, supervision, or cues. ( )

03. Special Needs Clients. The presence of multiple, complex, and diverse service needs. ( )

04. Currently Institutionalized Clients. The currently institutionalized client who, with physician approved supportive services and Care Plan, will be able to maintain their independence in their own home. ( )

**030. STRUCTURE AND ROLES.**

CC is the centralized evaluator and arranger of services and provides those activities outlined previously under Service Functions. AAAs will be the provider for CC services. The AAA is responsible for the implementation of these rules. ( )

**031. -- 050. (RESERVED).**

**051. STANDARDS OF PERFORMANCE.**

01. AAAs Must Assure CC Meets the Requirements for Service Neutrality. An agency providing CC cannot be a direct provider of other in-home services without proper written justification and approval of the Director ICOA. ( )

02. Implementation of Care Plan. Care Coordinators will work with service providers toward implementation of the Care Plan, and to avoid duplication of evaluations, assessments, and services when possible. ( )

03. Eligibility Evaluations. Eligibility Evaluations provide information necessary to determine eligibility for any AAA services. The client's written permission must be obtained prior to sharing information obtained with any other agency or the initiation of any services not provided by the AAA. ( )

**052. STAFF QUALIFICATIONS.**

CC staff will meet the following standards: ( )

01. Qualified Staff. Care Coordinators are paraprofessionals who have a high school diploma or GED and a minimum of five years working directly with aged and or disabled populations in a provider or service capacity, or an individual with a Degree and two years experience working with disabled and or aged population. Program Directors are required to meet the minimum qualifications outlined above and have a minimum of two years supervisory experience. ( )

02. Minimum Qualifications. CC staff must receive a minimum of ten (10) hours in-service training per year. Orientation of newly appointed Care Coordinators, addressing community resources and program eligibility, is the responsibility of the Program Director and must be accomplished prior to client contact. ( )

**053. CLIENT RIGHTS.**

The client retains the right to receive or refuse services. Every client will read or be informed of the Client Rights and Responsibilities prior to the completion of the Eligibility Evaluation. Every client must sign an ICOA consent form prior to the initiation of services. ( )

**054. CARE PLAN.**

The Care Plan must be accomplished on an ICOA form, in ink. ( )

**055. REVIEW OF CARE PLAN.**

All Care Plans will be reviewed at least once each year. The review must be accomplished in the presence of the client. If there are no changes in the Care Plan, it may be re-authorized. Re-authorization implies the client is in agreement and in continued need of services as outlined in the Care Plan. Re-authorization requires the completion of the ICOA Care Coordination Re-evaluation form, the signatures of the client and the Care Coordinator, and the date. ( )

**056. MONITORING.**

Monitoring is quality control and quality assurance. From a quality control perspective the Care Coordinator determines if services are being provided as outlined in the Care Plan and if the client is satisfied with the care. Through quality assurance the Care Coordinator determines if the services meet the goals established in the Care Plan. Monitoring of care includes a review of the client record to determine if changes in service have been authorized, if the Care Plan continues to be cost and client effective, provider observations and information relative to informal caregivers, additional actions required by the Care Coordinator, reevaluations, amended Care Plan, and contacts with the client. All contacts with or on behalf of the client will be documented, signed, and dated in the client's case record. In all instances the AAA is responsible for monitoring CC activities from a quality control and quality assurance perspective. Case files will be maintained for three years after termination of services. ( )

**057. PROVIDER NOTIFICATION.**

Contracted services must be approved, suspended, or terminated in writing by the CC Program Director, AAA Director, or Care Coordinator. Verbal approval for emergency service activities will be followed by written authorization, including any special instructions. ( )

**058. TERMINATION.**

01. Documentation. Documentation of notice of termination must be duplicated in the case record, signed, and dated by the Care Coordinator. ( )

02. Appeals Process. The client must be provided information on the appeals process specific to any service funding source. ( )

03. AAA Services. AAA services authorized by the CC Program may be discontinued by the Care Coordinator for any of the reasons listed below, or at the discretion of the Program Director or AAA Director. ( )

04. Conditions of Termination. Services may be terminated for any of the following reasons: ( )

a. Services proved ineffective, insufficient, or inappropriate to meet client needs; ( )

b. Other resources were utilized; ( )

c. Client withdrew from the program or moved; ( )

d. Family or other support to client increased; ( )

e. Client placed in an institution or long term care; ( )

f. Client died (if obituary in case file, no notification of termination required); ( )

g. Client's functioning improved; ( )



- h. Client refused service; ( )
- i. Client's home is hazardous to the service provider, requires approval of AAA Director; ( )
- j. Client's home is not reasonably accessible to the service provider; ( )
- k. Client's behavior is a threat to the safety of the service provider, requires approval of AAA Director; ( )
- l. Client verbally abuses or sexually harasses service provider; ( )
- m. Client refuses to pay fee determined for service; ( )
- n. Service provider is not available in locale. ( )
- o. Services are no longer cost effective. ( )

05. Notification of Termination and Right to Appeal. Client will be informed in writing of the reasons for agency-initiated service termination and the right to appeal at least two (2) weeks prior to termination. Exceptions to the two (2) week advance notification of termination must be justified and approved in writing by the AAA Director. Appeal actions are the responsibility of the AAA. The client will be referred to other services as appropriate. ( )

**059. MEDICAL EMERGENCY.**

The primary physician must be notified immediately regarding all known medical emergencies. Written verification will follow within two (2) working days. Emergency follow-up or notification activities will be recorded in the case record. ( )

**060. CASE RECORD.**

There will be a individual case record for each CC client and may be reviewed by the client at any time. The case record will contain the following information: ( )

- 01. ICOA. A completed ICOA Eligibility Evaluation. ( )
- 02. Cost Comparison Worksheet. A current cost comparison worksheet. ( )
- 03. Care Plan. A standardized Care Plan. ( )
- 04. Written Record. A written record of all activities accomplished with, for, or on behalf of the client, maintained by the Care Coordinator. ( )
  - a. Entries will be dated and signed by the Care Coordinator. ( )
  - b. Entries will be maintained in chronological order. ( )

- c. Entries will be made in ink. ( )
- d. Statements included in the case record that relate to the client will reflect who made the statement and when the statement was made. ( )
- 05. Documentation of Guardianship, Conservatorship, or Power of Attorney or Legal Representative. ( )
- 06. Signed Release of Information. ( )

**061. -- 075. (RESERVED).**

**076. WAIVERS.**

Agencies seeking a "Waiver" to contract out CC must make a formal written request to the Director, ICOA. The waiver request will include clear and specific information, and documentation demonstrating the desired service will be provided in a more appropriate, effective, and fiscally responsible manner by the contracting agency. ( )

**077. -- 999. (RESERVED).**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.01.02 - WATER QUALITY STANDARDS AND  
WASTEWATER TREATMENT REQUIREMENTS**

**DOCKET NO. 16-0102-9502**

**NOTICE OF NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. The action is authorized pursuant to Sections 39-3601 through 39-3616, 39-105, and 39-107, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a statement in nontechnical language of the purpose and substance of the negotiated rulemaking and the principle issues involved:

The Division of Environmental Quality (DEQ) plans to modify the water quality standards consistent with the requirements of Sections 39-3601 et seq., Idaho Code, and federal requirements under the Clean Water Act. The proposed modifications will also be a part of the triennial review of Idaho's Water Quality Standards. This will require the elimination of stream segments of concern processes, consistency in definitions and terms, establish a process to determine when a water body is not fully supporting beneficial uses (water quality-limited listing required under section 303d of the Clean Water Act), and Total Maximum Daily Load (TMDL) processes. The rulemaking affects all citizens and parties with an interest or obligations related to surface water quality.

The Legislature passed water quality legislation in 1995, Sections 39-3601 et seq., Idaho Code (Senate Bill 1284), requiring the Department of Health and Welfare (Department) to develop a process for determining the beneficial uses and status of those uses for all surface waters, to identify water quality limited water bodies, and establish TMDLs for high priority water bodies in consultation with Basin Advisory Groups and Watershed Advisory Groups. The proposed rule will revise the Water Quality Standards and Wastewater Treatment Requirements to: 1) identify when and where the water quality-limited (303d) listing process will be published every two years; 2) establish a process to incorporate TMDL requirements within existing water quality programs and rules; 3) establish conditions or reference streams to identify water quality limited water bodies; and 4) make modifications to the water quality standards consistent with Sections 39-3601 et seq., Idaho Code, including new and modified definitions, legal authority, and antidegradation requirements.

A preliminary draft proposed rule is available for interested parties. To obtain a copy, contact Mark Shumar at the Division of Environmental Quality, Community Programs, 1410 N. Hilton, Boise, ID 83706, (208)373-0260. DEQ will accept comments on the preliminary draft proposed rule through December 18, 1995. A new draft and a response document will be prepared based on those comments received and will be sent to all respondents for further evaluation on January 15, 1996. Additional responses will be collected and a proposed rule will be developed. DEQ will then initiate formal rulemaking by publishing the proposed rule in the May 1996 Administrative Bulletin. DEQ will conduct public hearings, collect comments, and prepare the rule for presentation to the Board of Health and Welfare for adoption by November 1996. The final rule will then become effective subject to review by the Legislature during the 1997 Regular Legislative Session.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the negotiated rulemaking, contact Mark Shumar at (208)373-0260.

Anyone may submit written comment regarding this negotiated rulemaking. All written comments concerning the negotiated rulemaking must be received by the undersigned on or before December 18, 1995.

DATED this 1st day of November, 1995.

Paula Junae Saul  
Environmental Quality Section  
Attorney General's Office  
1410 N. Hilton  
Boise, Idaho 83706-1255  
Fax No. (208)373-0481

**IDAPA16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.01.05. - RULES AND STANDARDS FOR HAZARDOUS WASTE**

**DOCKET NO. 16-0105-9502**

**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-4401 et seq. and 39-5801 et seq., Idaho Code. In addition, 40 CFR 271.21 and Section 39-4404, Idaho Code, require the Idaho Department of Health and Welfare to adopt amendments to federal law as proposed under this docket.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this proposed rulemaking will be held as follows:

Pursuant to Section 67-5222(2), Idaho Code, public hearings will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for hearing must be received by the undersigned on or before November 15, 1995.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Rules and Standards for Hazardous Waste are updated annually to maintain consistency with the Environmental Protection Agency's regulations governing hazardous waste. This proposed rulemaking is the annual update to make Idaho rules consistent with revisions to those federal hazardous waste regulations up to July 1, 1995. This proposed rulemaking also amends the Rules and Standards for Hazardous Waste to clarify which federal terms should be replaced with state terms.

The Department intends to present the rule to the Board of Health and Welfare for temporary and final adoption once the Department has had an opportunity to respond to public comments.

This proposed rulemaking was not initiated as a negotiated rulemaking because the Idaho Department of Health and Welfare is required by 40 CFR 271.21(e) and Section 39-4404, Idaho Code, to adopt amendments to federal law as proposed under this docket.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rulemaking, contact John Brueck at (208)373-0298.

Anyone can submit written comment regarding this proposed rule. All written comments must be received by the undersigned on or before November 22, 1995.

DATED this 1st day of November, 1995.

Paula Junae Saul  
Environmental Quality Section  
Attorney General's Office  
1410 N. Hilton  
Boise, Idaho 83706-1255  
Fax No. (208)373-0481

**TEXT OF DOCKET 16-0105-9502**

**002. INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS.**

Any reference in these rules to requirements, procedures, or specific forms contained in the Code of Federal Regulations (CFR), Title 40, Parts 124, 260-266, 268, 270, and 279 shall constitute the full adoption by reference of that part and Subparts as they appear in 40 CFR, revised as of July 1, 1994<sup>5</sup>, including any notes and appendices therein, unless expressly provided otherwise in these rules. ~~(4-26-95)~~( )

01. Exceptions. Nothing in 40 CFR Parts 260 - 266, 268, 270, 279 or Part 124 as pertains to permits for Underground Injection Control (U.I.C.) under the Safe Drinking Water Act, the Dredge or Fill Program under Section 404 of the Clean Water Act, the National Pollution Discharge Elimination System (NPDES) under the Clean Water Act or Prevention of Significant Deterioration Program (PSD) under the Clean Air Act is adopted or included by reference herein. (2-11-94)

02. Availability of Referenced Material. Copies of the federal regulations adopted by reference throughout these rules are available in the following locations: (6-10-88)

a. Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, or U.S. Government Bookstore, Room 194, Federal Bldg., 915 Second Ave., Seattle, WA 98174, (206)553-4270; (4-26-95)

b. Administrative Procedure Section, Idaho Department of Health and Welfare Central Office, 450 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0036, (208)334-5552; and (4-26-95)

c. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051, (208)334-3316. (4-26-95)

**003. DEFINITIONS.**

For the purpose of these rules and any materials incorporated herein by reference, the following definitions apply unless their application would be inconsistent with the Hazardous Waste Management Act, or unless these rules expressly provide for different definitions. (3-1-93)

01. Board. The Idaho Board of Health and Welfare. (6-10-88)

02. CFR. The United States Code of Federal Regulations. (3-1-93)

03. Department. The Idaho Department of Health and Welfare. (6-10-88)

04. Director. The Director of the Idaho Department of Health and Welfare, or his designee. (12-31-91)

05. Environmental Appeals Board. When used in the context of 40 CFR,

the definition shall be the Director of the Idaho Department of Health and Welfare except where noted in these rules. When used in the context of these rules, the definition shall be the U.S. Environmental Appeals Board. (2-11-94)(\_\_\_\_)

06. U.S. Environmental Protection Agency, EPA Headquarters, or EPA. When used in the context of 40 CFR, the definition shall be the Idaho Department of Health and Welfare, except when used to refer to an EPA Identification number, EPA forms, publications or guidance, and EPA Acknowledgment of Consent, and where noted in these rules. Under the latter circumstances, the definition shall be the U.S. Environmental Protection Agency and the Headquarters of the U.S. Environmental Protection Agency as appropriate. When used in the context of these rules, the definition shall be the U.S. Environmental Protection Agency. (3-1-93)(\_\_\_\_)

07. HWFSA. The Hazardous Waste Facility Siting Act of 1985, Sections 39-5801 et seq., Idaho Code. (3-1-93)

08. HWMA. The Hazardous Waste Management Act of 1983, Sections 39-4401 et seq., Idaho Code. (3-1-93)

09. IDAPA. The Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code. (3-1-93)

10. RCRA. When used in the context of 40 CFR, the definition shall be the comparable sections of the Hazardous Waste Management Act of 1983, Sections 39-4401 et seq., Idaho Code. When used in the context of these rules, the definition shall be The Resource Conservation and Recovery Act, 42 U.S. Code, Sections 6901 et seq. (3-1-93)(\_\_\_\_)

11. Regional Administrator or Administrator. When used in the context of 40 CFR, the definition shall be the Director of the Idaho Department of Health and Welfare, or his designee, except where noted in these rules. When used in the context of these rules, the definition shall be the U.S. Environmental Protection Agency Region 10 Regional Administrator (3-1-93)(\_\_\_\_)

12. TSD. Treatment, storage or disposal. (6-10-88)

13. United States or U.S. When used in the context of 40 CFR, the definition shall be the State of Idaho, except where noted in these rules. When used in the context of these rules, the definition shall be the United States. (3-1-93)(\_\_\_\_)

**004. HAZARDOUS WASTE MANAGEMENT SYSTEM.**

40 CFR Part 260 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1994<sup>5</sup>. For purposes of 40 CFR 260.20 and 260.22, "Federal Register" shall be defined as the Idaho Administrative Bulletin. (4-26-95)(\_\_\_\_)

**005. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE.**

40 CFR Part 261 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1994<sup>5</sup>. (4-26-95)(\_\_\_\_)

**006. STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE.**

01. Incorporation By Reference. 40 CFR Part 262 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1994~~5~~. For purposes of 40 CFR 262.53, 262.55, 262.56, and 262.57(b), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. Copies of advance notification, annual reports, and exception reports, required under those sections, shall also be provided to the Director. ~~except that advance notification, annual reports, and exception reports in accordance with 40 CFR Parts 262.53, 262.55 and 262.56 shall be filed with the Regional Administrator and a copy of such reports shall be filed with the Director. For purposes of 40 CFR 262.51 and 262.54(g)(1), EPA shall be defined as the U.S. Environmental Protection Agency. All references to EPA in 40 CFR Parts 262.51 and 262.54(g)(1) shall be defined as EPA. All references to the Regional Administrator in 40 CFR Parts 262.57(b) shall be defined as the Regional Administrator.~~ (4-26-95)( )

02. Generator Emergency Notification. In addition to the emergency notification required by 40 CFR ~~Parts~~ 265.56(d)(2) and 262.34(d)(5)(iv)(c), (see 40 CFR 262.34(a)(4)), the emergency coordinator must also immediately notify the State Communications Center by telephone, 1-800-632-8000, to file an identical report. (3-1-93)( )

**007. STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE.**

40 CFR Part 263 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1994~~5~~. (4-26-95)( )

**008. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.**

40 CFR Part 264 and all Subparts (excluding 40 CFR ~~Parts~~ 264.149 ~~and~~, 264.150, ~~and~~ 264.301(l)) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1994~~5~~. For purposes of 40 CFR section 264.12(a), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. All references to the Regional Administrator in 40 CFR Part 264.12(a) shall be defined as the Regional Administrator. (4-26-95)( )

**009. INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.**

40 CFR Part 265, and all Subparts (excluding Subpart R and 40 CFR ~~Parts~~ 265.149 and 265.150) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1994~~5~~. (4-26-95)( )

**010. STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE FACILITIES.**

40 CFR Part 266 and all Subparts (excluding Subparts A and B) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1994~~5~~. (4-26-95)( )

**011. LAND DISPOSAL RESTRICTIONS.**

40 CFR Part 268 and all Subparts are herein incorporated by reference as provided in 40



CFR, revised as of July 1, 1994~~5~~, except for 40 CFR ~~Parts~~ 268.1(e)(3), 268.5, 268.6, 268.42(b) and 268.44. The authority for implementing the provisions of these excluded sections remains with the EPA. However, the requirements of Sections 39-4403(15) and 39-4423, Idaho Code, shall be applied in all cases where these requirements are more stringent than the federal standards. If the Administrator of the EPA grants a case-by-case variance pursuant to 40 CFR ~~Part~~ 268.5, that variance will simultaneously create the same case-by-case variance to the equivalent requirement of these rules. (4-26-95)(    )

**012. HAZARDOUS WASTE PERMIT PROGRAM.**

40 CFR Part 270 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1994~~5~~. For purposes of 40 CFR 270.2, 270.5, 270.10(e)(2), 270.10(e)(3), 270.10(f)(3), 270.72(a)(5), and 270.72(b)(5), "EPA" and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator, respectively. (4-26-95)(    )

**013. PROCEDURES FOR DECISION-MAKING (STATE PROCEDURES FOR RCRA OR HWMA PERMIT APPLICATIONS).**

40 CFR Part 124, Subpart A is herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1994~~5~~. For purposes of 40 CFR 124.6(e), 124.10(b), and 124.10(c)(1)(ii) "EPA" and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator, respectively. (4-26-95)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**015. STANDARDS FOR THE MANAGEMENT OF USED OIL.**

01. Incorporation by Reference. 40 CFR Part 279 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1994~~5~~. (4-26-95)(    )

02. Used Oil as a Dust Suppressant. 40 CFR Part 279 contains a prohibition on the use of used oil as a dust suppressant at 279.82(a), however, States may petition EPA to allow the use of used oil as a dust suppressant. Members of the public may petition the State to make this application to EPA. This petition to the State must: (2-11-94)

a. Be submitted to the Idaho Division of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706; and (2-11-94)

b. Demonstrate how the requirements of 40 CFR 279.82(b) will be met. (2-11-94)

**016. STANDARDS FOR UNIVERSAL WASTE MANAGEMENT.**

40 CFR Part 273 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1995. (    )

~~0167.~~ -- 354. (RESERVED).

**355. HAZARDOUS WASTE FACILITY SITING LICENSE FEE.**

An application for a siting license required by HWFSA shall be accompanied by a siting license fee in an amount established by these rules. The license fee shall not exceed seven thousand five hundred dollars (\$7,500) and shall be submitted with the siting license application. (3-1-93)

01. License Fee Criteria. The siting license fee required by HWFSA and these rules shall be based on the costs to the Department of reviewing the siting license application and the characteristics of the proposed hazardous waste facility, including the projected site size, projected waste volume, and the hydrogeological characteristics surrounding the site. (3-1-93)

a. "Projected Waste Volume" means the total actual or potential hazardous waste volume, in gallons or an equivalent measurement, proposed for the hazardous waste facility. (3-1-93)

b. "Site Size" means the sum in acres of all proposed "Hazardous Waste Management Unit(s)" as defined in Section 004 (40 CFR ~~Part~~ 260.10). ~~(3-1-93)~~(\_\_\_\_)

02. License Fee Scale. Except as provided in Subsection 355.03., the siting license fee required by HWFSA and these rules shall be determined using the table below.

**LICENSE FEE SCALE**  
**PROJECTED HAZARDOUS WASTE VOLUME**  
**(gallons)**

<b>Site Size</b>		<b>Up to 10,000</b>	<b>10,000-- 20,000</b>	<b>More than 20,000</b>
1 acre or greater		\$3,000	\$4,000	\$7,500
Equal to or greater than 1/2 acre, but less than 1 acre		\$4,000	\$5,000	\$7,500
Less than 1/2 acre		\$5,000	\$6,000	\$7,500

03. License Fee for Facilities Required to Submit Engineering or Hydrogeological Information. For any proposed commercial hazardous waste disposal, treatment or storage facility or any on-site land disposal facility for wastes listed pursuant

to Section 201(d)(2) and (e), as modified by Section 209 of the Federal Hazardous and Solid Waste Amendments of 1984, which must submit engineering or hydrogeological information to indicate compliance with technical criteria as adopted in the Hazardous Waste Management Plan, the siting license fee shall be seven thousand five hundred dollars (\$7,500). (3-1-93)

04. Expansion, Enlargement or Alteration of a Commercial Hazardous Waste Disposal, Treatment or Storage Facility or any On-site Land Disposal Facility for Wastes Listed Pursuant to Section 201(d)(2) and (e), as Modified by Section 209 of the Hazardous and Solid Waste Amendments of 1984. The significant expansion, enlargement or alteration of a hazardous waste treatment, storage or disposal facility in existence on July 1, 1985, constitutes a new proposal for which a siting license is required and for which a siting license fee must be paid. (9-22-89)

05. Siting License Fee Nonrefundable. The siting license fee required by these rules shall be nonrefundable and may not be applied toward any subsequent application should the siting license application be cancelled or withdrawn, or denied. (3-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**997. CONFIDENTIALITY OF RECORDS.**

Any disclosure of information obtained by the Department is subject to the restrictions contained in Idaho Department of Health and Welfare Rules, Title 5, Chapter 1, "Rules Governing the Protection and Disclosure of Department Records;" HWMA Section 39-4411(3), Idaho Code; the ~~Public~~ Idaho Public Writings Records Act, Sections 9-337 et seq., Idaho Code; and Section 004 of this chapter. (3-1-93)( )

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS**

**DOCKET NO. 16-0108-9502**

**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-101 et seq., Idaho Code. In addition, 40 C.F.R. 142.12 requires that the Idaho Department of Health and Welfare (Department) adopt the amendments to 40 C.F.R. Part 141 as proposed under this docket in order to retain primacy of the Idaho Drinking Water Program. The amendments to 40 C.F.R. Part 143, as proposed under this docket, relate to standards established for aesthetic purposes to be used as guidelines by public water systems and are not enforceable.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this proposed rulemaking will be held at 7:00 p.m., Thursday, November 16, 1995 at the following locations.

Division of Environmental Quality, Conference Center, 1410 N. Hilton, Boise, Idaho.

Holiday Inn, Bay II Room, I-90, Exit 12, 414 W. Appleway, Coeur d'Alene, Idaho.

Best Western Stardust Motor Lodge, Russet Room, 1-15, Exit 118, 700 Lindsay Blvd., Idaho Falls, Idaho.

Sacajawea Motor Inn, Locksaw Room, 1824 Main St., Lewiston, Idaho.

Holiday Inn, Madeira Room, I-15, Exit 71, 1399 Bench Rd., Pocatello, Idaho.

Best Western Canyon Springs Inn, Cedar Room, 1357 Blue Lakes Blvd. North, Twin Falls, Idaho.

The hearing site will be accessible to the physically disabled. Interpreters for persons with hearing impairments and brailled or taped information for persons with visual impairments can be provided upon five days' notice. For arrangements, contact the undersigned at (208)373-0418.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Since the last primacy revision of July 17, 1992, the U.S. Environmental Protection Agency (EPA) has adopted final regulations affecting public drinking water systems. To retain primary enforcement responsibility, EPA requires primacy states, such as Idaho, to adopt all new and revised federal primary drinking water regulations.

Two of the regulations offer laboratories additional alternative methods to use when analyzing drinking water for purposes of compliance. The other two regulations regard technical corrections to chemical contamination rules previously promulgated. They correct spelling, punctuation, and minor inconsistencies in various sections of these existing rules.

EPA has also issued a final regulation regarding maximum contaminant levels (MCLs) for inorganic contaminants.

The federal drinking water regulations to be adopted and incorporated by reference in the state rules are as follows:

58 Fed. Reg. 41344-45 (August 3, 1993) (codified at 40 C.F.R. 141)  
59 Fed. Reg. 33860-64 (June 30, 1994) (codified at 40 CFR Part 141)  
59 Fed. Reg. 34320-25 (July 1, 1994) (to be codified at 40 CFR Part 141)  
59 Fed. Reg. 62456-71 (December 5, 1994) (to be codified at 40 CFR Parts 141 and 143)  
60 Fed. Reg. 33928-30 (June 29, 1995) (to be codified at 40 C.F.R.141)

The proposed rule also adds a section stating that, if systems fail to pay the annual drinking water fee assessment, the Department may suspend technical services, review of engineering reports and plans and specifications for design and construction, renewal of monitoring waivers, granting of new monitoring waivers, and may disapprove the public drinking water system. In addition, the proposed rule deletes the late payment penalty clause for fee assessments.

Finally, the proposed rule adds a section requiring each system which provides filtration treatment to submit engineering evaluations and/or other documentation demonstrating ongoing compliance with the Idaho Rules for Public Drinking Water Systems. The proposed rule also includes correction to typographical errors and internal citations.

The Department intends to present the rule to the Board of Health and Welfare for temporary and final adoption once the Department has had an opportunity to respond to public comments.

Negotiated rulemaking for the proposed rule changes would not be appropriate because the amendments include typographical corrections and clarification of existing rules. In addition, in order to maintain primacy of the Drinking Water Program, Idaho is required to adopt certain federal Safe Drinking Water Act regulatory changes.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule-making, contact Bill Jarocki at (208)373-0260.

Anyone can submit written comment regarding this proposed rule. All written comments must be received by the undersigned on or before November 22, 1995.

DATED this 1st day of November, 1995.

Paula Junae Saul  
Environmental Quality Section  
Attorney General's Office  
1410 N. Hilton  
Boise, Idaho 83706-1255  
Fax No. (208)373-0481

**TEXT OF DOCKET 16-0108-9502**

**000. LEGAL AUTHORITY.**

The Idaho Legislature has given the Idaho Department Board of Health and Welfare the authority to promulgate rules governing quality and safety of drinking water, pursuant to Title 37, Chapter 21 and Title 39, Chapters 1 and 18, Idaho Code. (10-1-93)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**002. INCORPORATION BY REFERENCE.**

Any reference in these rules to requirements, procedures, or specific forms contained in any section or subsection of the Code of Federal Regulations (CFR), Title 40, Parts 141 and 143, amended as of ~~June 29, 1995~~ ~~July 17, 1992~~, shall constitute the full adoption by reference of that section or subsection. Including any notes and appendices therein, unless expressly provided otherwise in these rules. Any reference in these rules to procedures, methods, standards, or construction criteria contained in a published technical manual shall constitute the full adoption by reference of the part of the technical manual that pertains to the procedure, method, standard, or construction criterion as it appears in the manual. (10-1-93)(\_\_\_\_)

01. Availability of Specific Referenced Material. Copies of specific documents adopted by reference throughout these rules are available in the following locations: (12-10-92)

a. All federal regulations: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Telephone at (202)783-3238, or U.S. Government Bookstore, Room 194, Federal Bldg., 915 Second Ave., Seattle, WA 98174, (206)553-4270; and (12-10-92)(\_\_\_\_)

b. All documents herein incorporated by reference: Administrative Procedures Section, Idaho Department of Health and Welfare ~~Central Office~~, 450 W. State ~~Department~~ Street, P.O. Box 83720, Boise, Idaho 83720-0036, Telephone at (208)334-5552. (12-10-92)(\_\_\_\_)

c. Recommended Standards for Water Works: a committee report of the Great Lakes -- Upper Mississippi ~~R~~iver Board of Department of Public Health and Environmental Health Managers, published by Health Education Services, P.O. Box 7823, Albany, New York, 1992, Telephone (518)439-7286. (12-10-92)(\_\_\_\_)

d. Manual of Individual Water Supply Systems (EPA-430/9-74-007), published by the U.S. Environmental Protection Agency, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C.20402, Telephone (202)782-3238. (12-10-92)

e. U.S. Department of Commerce, National Bureau of Standards Handbook, No. 69, "Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure" as amended in 1963, NCRP Publications, P.O. Box

20175, Washington, D.C. 20014. (12-10-92)

f. Rules of the Idaho Water Resources Board, IDAPA 37, Title 03, Chapter 09, Well Construction Standards Rules, July 1993, available at August 1988, published by the Idaho Department of Water Resources, 1301 North Orchard, P.O. Box 83720 Statehouse Mail, Boise, Idaho 83720-0098, Telephone (208)327-7900. (~~10-1-93~~)( )

g. USEPA Guidance Manual, Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources, March 1991 Edition, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Telephone (202)782-3238. (12-10-92)

h. NSF 53 -- 1992, Drinking Water Treatment Units -- Health Effects, available from the National Sanitation Foundation, 3475 Plymouth Road, P.O. Box 1468, Ann Arbor, Michigan 48106, Telephone (313)769-8010. (10-1-93)

i. NSF 58 -- 1992, Reverse Osmosis Drinking Water Treatment Systems, available from the National Sanitation Foundation, 3475 Plymouth Road, P.O. Box 1468, Ann Arbor, Michigan 48106, Telephone (313)769-8010. (10-1-93)

j. American Water Works Association ~~Association~~ (AWWA) Standards, Edition effective July 23, 1992, available from ~~from~~ the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, Telephone (800) 926-7337. (~~12-10-92~~)( )

k. ANSI/NSF 60 -- 1988, Drinking Water Treatment Chemicals -- Health Effects, available from the National Sanitation Foundation, 3475 Plymouth Road, P.O. Box 1468, Ann Arbor, Michigan 48106, Telephone (313)769-8010. (12-10-92)

l. ANSI/NSF 61 -- 1991, Drinking Water System Components -- Health Effects, available from the National Sanitation Foundation, 3475 Plymouth Road, P.O. Box 1468, Ann Arbor, Michigan 48106, Telephone (208)313) 769-8010. (10-1-93)

02. Federal Regulations. 40 CFR 141.2 is herein incorporated by reference, except for the definition of the term "person". (10-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**007. DISAPPROVAL DESIGNATION.**

A disapproved designation may be assigned to a public water system when: (12-10-92)

01. Defects. There are design and/or construction defects; or (12-10-92)

02. Operating Procedures. Operating procedures constitute a health hazard; (12-10-92)  
or

03. Quality. Physical, chemical, microbiological or radiological quality does not meet the requirements of these rules; or (10-1-93)

04. Monitoring. The required monitoring as specified in these rules has not been conducted; or (10-1-93)

05. Unapproved Source. An unapproved source of drinking water is used or the system is interconnected with a disapproved water system. (12-10-92)

06. Non-payment of Annual Fee Assessment. The annual drinking water system fee assessment is not paid as set forth in Section 010. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. FEE SCHEDULE FOR PUBLIC DRINKING WATER SYSTEMS.**

All regulated public drinking water systems shall pay an annual drinking water system fee. The fee shall be assessed to regulated public drinking water systems as provided in this section. (10-1-93)

01. Effective Date. Annual fees shall be paid for each fee year beginning October 1, 1993, and continuing for each succeeding year. (10-1-93)

02. Fee Schedule. (10-1-93)

a. Community and Nontransient noncommunity public drinking water systems shall pay an annual fee according to the following fee schedule:

Number of Connections	Fee
1 to 20	\$100.00
21 to 184	\$5.00 per connection, not to exceed a total of \$735 per system
185 to 3,663	\$ 4.00 per connection, not to exceed a total of \$10,988 per system
3,664 or more	\$ 3.00 per connection

(10-1-93)( )

b. The annual fee for transient public drinking water systems is twenty-five dollars (\$25). (10-1-93)

c. New public drinking water systems formed after October 1 will not pay a fee until the following October. (10-1-93)

03. Fee Assessment. (10-1-93)



a. An annual fee assessment will be generated for each community and nontransient noncommunity public drinking water system listed in the Department's Drinking Water Information Management System (DWIMS). (10-1-93)

b. Community and nontransient noncommunity public drinking water systems will be notified each year of the official number of connections listed in DWIMS. Systems will have at least one (1) month to notify the Department if the number of connections listed in DWIMS is not in agreement with the system's records. (10-1-93)

c. The official number of connections listed in DWIMS following each yearly update, as required in Subsection 010.03.b., will be used to calculate the annual fee for community and nontransient noncommunity public drinking water systems for the next fee year of October 1 through September 30. (10-1-93)

04. Billing. An annual fee shall be assessed and a statement will be mailed to all community, nontransient noncommunity, and transient public drinking water systems listed in DWIMS by the Department on or before September 1 of each year. (10-1-93)

05. Payment. (10-1-93)

a. Payment of the annual fee shall be due on October 1, unless it is a Saturday, a Sunday, or a legal holiday, in which event the payment shall be due on the successive business day. Fees paid by check or money order shall be made payable to the Idaho Department of Health and Welfare and sent to Support Services, Division of Environmental Quality, Idaho Department of Health and Welfare, 1410 North Hilton Street, Boise, ID 83706-1290. (10-1-93)

b. If a public water system consists of two hundred and fifty (250) connections or more, the system may request to divide its annual fee payment into equal monthly or quarterly installments by submitting a request to the Department on the proper request form provided with the initial billing statement. (10-1-93)

c. The Department will notify applicable systems, in writing, of approval or denial of a requested monthly or quarterly installment plan within ten (10) business days of the Department receiving such a request. (10-1-93)

d. If a public water system has been approved to pay monthly installments then each installment shall be due by the first day of each month, unless it is a Saturday, a Sunday, or a legal holiday, in which event the installment shall be due on the successive business day. (10-1-93)

e. If a public water system has been approved to pay quarterly installments then each installment shall be due by the first day of the month of each quarter (October 1, January 1, April 1, and July 1), unless it is a Saturday, a Sunday, or a legal holiday, in which event the installment shall be due on the first successive business day. (10-1-93)

f. ~~On payment of the annual fee, the drinking water system will be issued an operating certificate for the fee year. Systems paying on a monthly or quarterly basis, will be issued an operating certificate on payment of the first installment. The operating~~

~~certificate is a document representing that a public drinking water system has paid its annual fee assessment, and does not signify that the system is in compliance with other applicable provisions of the Idaho Regulations for Public Drinking Water Systems.~~

~~(10-1-93)~~

06. Delinquent Unpaid Fees. (10-1-93)

a. A public water system will be delinquent in payment if its annual fee assessment has not been received by the Department by November 1; or if having first opted to pay monthly or quarterly installments, its monthly or quarterly installment has not been received by the Department by the last day of the month in which the monthly or quarterly payment is due. (10-1-93)

b. ~~A late payment penalty of 10 percent of the outstanding annual fee assessment charge will be added to each delinquent bill for each thirty (30) days.~~

~~(10-1-93)~~

e. ~~Nothing in this section waives the Department's right to undertake an enforcement action, including seeking penalties, as provided in Idaho Code 39-108.~~

~~(10-1-93)~~

07. Suspension of Services and Disapproval Designation. ( )

a. For any system delinquent in payment of fee assessed under Subsections 010.02 and 010.06, in excess of ninety (90) days, technical services provided by the Department may be suspended except for the following: ( )

i. Issuance of monitoring waivers; ( )

ii. Review and processing of engineering reports; and ( )

iii. Review of plans and specifications for design and construction as set forth in Sections 550 and 551. ( )

b. For any system delinquent in payment of fee assessed under Subsections 010.02 and 010.06, in excess of one hundred and eighty (180) days, the Department may suspend all technical services provided by the Department including any of the following: ( )

i. Review and processing of engineering reports; ( )

ii. Review of plans and specifications for design and construction as set forth in Sections 550 and 551.; ( )

iii. Renewal of monitoring waivers; or ( )

iv. Granting of new monitoring waivers. ( )

c. For any system delinquent in payment of fee assessed under Subsections 010.02 and 010.06, in excess of one hundred and eighty (180) days, the Department may

disapprove the public water system pursuant to Subsection 007.06. ( )

08. Reinstatement of Suspended Services and Approval Status. The suspension of technical services and/or the disapproval of a public water system pursuant to Subsection 010.07 may be reinstated upon payment of delinquent annual fee assessments. ( )

09. Nothing in Section 010 waives the Department's right to undertake an enforcement action at any time, including seeking penalties, as provided in Section 39-108, Idaho Code. ( )

10. Responsibility to Comply. Subsection 010.07 shall in no way relieve any system from its obligation to comply with all applicable state and federal drinking water statutes, rules, regulations, or orders. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**300. FILTRATION AND DISINFECTION.**

01. General Requirements. 40 CFR 141.70 is herein incorporated by reference. (10-1-93)

a. Each system using a surface water source or groundwater source directly influenced by surface water shall be operated by personnel as specified in 40 CFR 141.70(c) and Section 300. (12-10-92)

b. For systems serving more than five hundred (500) persons or utilizing coagulation treatment, all personnel operating the system must be certified as Drinking Water System Operators by an organization acceptable to the Department. (12-10-92)

c. For systems serving less than or equal to five hundred (500) persons and which do not utilize coagulation treatment, all personnel operating the system must: (12-10-92)

i. Be certified as Drinking Water System Operators by an organization acceptable to the Department; or (12-10-92)

ii. Be certified as qualified to operate the water system by the Department. The Department may certify an individual as qualified to operate the water system if: (12-10-92)

(1a) The individual operated the system on or before December 31, 1992; and (12-10-92)

(2b) The Department determines that the system has not been modified after December 31, 1992; and (12-10-92)

(3e) The Department determines that the compliance history of the system is

acceptable; and (12-10-92)

~~(4d)~~ The individual passes any field evaluation of operating and record keeping procedures required by the Department. (12-10-92)

d. Upon thirty (30) days notice, personnel operating the system shall attend periodic training sessions as required by the Department. (12-10-92)

02. Criteria for Avoiding Filtration. 40 CFR 141.71 is herein incorporated by reference. (10-1-93)

03. Disinfection. 40 CFR 141.72 is herein incorporated by reference. (10-1-93)

a. In addition to the disinfection requirements in 40 CFR 141.72, each system with a surface water source or groundwater source directly influenced by surface water shall maintain a minimum of at least two-tenths (0.2) parts per million of chlorine in the treated water after an actual contact time of at least thirty (30) minutes at maximum hourly demand before delivery to the first customer. (12-10-92)

b. The Department may allow a system to utilize automatic shut-off of water to the distribution system whenever total disinfectant residual is less than two-tenths (0.2) mg/l rather than provide redundant disinfection components and auxiliary power as required in 40 CFR 141.72(a)(2). An automatic water shut-off may be used if the system demonstrates to the satisfaction of the Department that, at all times, a minimum of twenty (20) psi pressure and adequate fire flow can be maintained in the distribution system when water delivery is shut-off to the distribution system and, at all times, minimum *Giardia lamblia* and virus inactivation removal rates can be achieved prior to the first customer. (12-10-92)

c. Each system which provides filtration treatment must provide disinfection treatment such that filtration plus disinfection provide ninety-nine and nine tenths (99.9) percent inactivation and/or removal of *Giardia lamblia* cysts and ninety-nine and ninety-nine one hundredths (99.99) percent inactivation and/or removal of viruses as specified in 40 CFR 141.72 and Section 300. (12-10-92)

i. Each system which provides filtration treatment shall submit engineering evaluations and/or other documentation as required by the Department to demonstrate ongoing compliance with Subsection 300.03.c. ( )

ii. The Department will establish filtration removal credit on a system-by-system basis. Unless otherwise demonstrated to the satisfaction of the Department, the maximum log removal and/or inactivation credit allowed for filtration is as follows: (12-10-92)

**Table -- Maximum Log Removal**

<b>Filtration Type</b>	<b>Giardia</b>	<b>Viruses</b>
Conventional	2.5	2.0
Direct	2.0	1.0
Slow sand	2.0	2.0
Diatomaceous earth	2.0	1.0
Alternate technology	2.0	0

(12-10-92)

iii. Filtration removal credit shall be granted for filtration treatment provided the system is: (12-10-92)

(1a) Operated in accordance with the Operations Plan specified in Subsection 552.06.a.; and (12-10-92)

(2b) The system is in compliance with the turbidity performance criteria specified under 40 CFR 141.73; and (12-10-92)

(3e) Coagulant chemicals must be added and coagulation and flocculation unit process must be used at all times during which conventional and direct filtration treatment plants are in operation; and (12-10-92)

(4d) Slow sand filters are operated at a rate not to exceed one-tenth (0.1) gallons per minute per square foot; and (12-10-92)

(5e) Diatomaceous earth filters are operated at a rate not to exceed one and one-half (1.5) gallons per minute per square foot. (12-10-92)

04. Filtration. 40 CFR 141.73 is herein incorporated by reference. (10-1-93)

05. Analytical and Monitoring Requirements. 40 CFR 141.74 is herein incorporated by reference. (10-1-93)

a. Each public water system which provides filtration treatment shall monitor as follows: (12-10-92)

i. Each day the system is in operation, the purveyor shall determine the total level of inactivation of *Giardia lamblia* cysts and viruses achieved through disinfection based on CT99.9 values provided in 40 CFR 141.74(b)(3) (Tables 1.1 through 1.6, 2.1 and 3.1). (12-10-92)

ii. At least once per day, the system shall monitor the following parameters to determine the total inactivation ratio achieved through disinfection: (12-10-92)

(1a) Temperature of the disinfected water at each residual disinfectant concentration sampling point; and (12-10-92)

(2b) If using chlorine, the pH of the disinfected water at each chlorine residual sampling point. (12-10-92)

(3e) The disinfectant contact time, "T", must be determined each day during peak hourly flow. Disinfectant contact time, "T", in pipelines used for Giardia lamblia and virus inactivation shall be calculated by dividing the internal volume of the pipe by the peak hourly flow rate through that pipe. Disinfectant contact time, "T", for all other system components used for Giardia lamblia and virus inactivation shall be determined by tracer studies or equivalent methods. (12-10-92)

(4d) The residual disinfectant concentrations at each residual disinfectant sampling point at or before the first customer, must be determined each day during peak hourly flow, or at other times approved by the Department. (12-10-92)

iii. The purveyor may demonstrate to the Department, based on a Department approved on-site disinfection challenge study protocol, that the system is achieving disinfection requirements specified in Subsection 300.03 utilizing CT99.9 values other than those specified in 40 CFR 141.74(b)(3) (Tables 2.1 and 3.1) for ozone, chlorine dioxide, and chloramine. (10-1-93)

iv. The total inactivation ratio shall be calculated as follows: (12-10-92)

(1a) If the system applies disinfectant at only one (1) point, the system shall determine the total inactivation ratio by either of the two (2) following methods: (12-10-92)

(a1) One inactivation ratio ( $CT_{calc}/CT_{99.9}$ ) is determined at/or before the first customer during peak hourly flow; or (12-10-92)

(b2) Sequential inactivation ratios are calculated between the point of disinfectant application and a point at or before the first customer during peak hourly flow. The following method must be used to calculate the total inactivation ratio: (12-10-92)

(iA) Step 1: Determine ( $CT_{calc}/CT_{99.9}$ ) for each sequence. (12-10-92)

(iiB) Step 2: Add the ( $CT_{calc}/CT_{99.9}$ ) values for all sequences. The result is the total inactivation ratio. (12-10-92)

(2b) If the system uses more than one point of disinfectant application at or before the first customer, the system must determine the CT value of each disinfection sequence immediately prior to the next point of disinfectant application during peak hourly flow. The sum of the ( $CT_{calc}/CT_{99.9}$ ) values from all sequences is the total inactivation ratio. ( $CT_{calc}/CT_{99.9}$ ) must be determined by the methods described in 40 CFR 141.74(b)(4)(i)(B). (12-10-92)

v. Log removal credit for disinfection shall be determined by multiplying

the total inactivation ratio by three (3). (12-10-92)

vi. The Department may reduce the CT monitoring requirements specified under Section 300, for any system which demonstrates that the required inactivation levels are consistently exceeded. Reduced CT monitoring shall be allowed only where the reduction in monitoring will not endanger the health of consumers served by the water system. (12-10-92)

b. Residual disinfectant concentrations for ozone must be measured using the Indigo Method, or automated methods may be used if approved as provided for in 40 CFR 141.74(a)(5) and Subsection 300.05. Automated methods for ozone measurement will be allowed by the Department provided they are listed as "Recommended" in the USEPA Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems using Surface Water Sources, Appendix D, as set forth in Subsection 002.01.g., and provided they are calibrated on a schedule approved by the Department using the Indigo Method. (12-10-92)

c. As provided for in 40 CFR 141.74(b), the Department may specify interim monitoring requirements for systems notified by the Department or U.S. Environmental Protection Agency that filtration treatment must be installed. Until filtration is installed, systems shall conduct monitoring for turbidity and disinfectant residuals as follows unless otherwise specified by the Departments; (12-10-92)

i. Disinfectant residual concentrations entering the distribution system shall be measured at the following minimum frequencies, and samples must be taken at evenly spaced intervals throughout the workday.

<b>Table -- Minimum Frequencies</b>	
<b>Population</b>	<b>Samples/day</b>
Less than 500	1
501 - 1000	2
1,001 - 2,500	3
Greater than 2501	4

(12-10-92)

ii. Turbidity shall be measured at least once per day at the entry point to the distribution system. (12-10-92)

iii. The Department may, at its discretion, reduce the turbidity monitoring frequency for any noncommunity system which demonstrates to the satisfaction of the Department: (12-10-92)

(1a) A free chlorine residual of two-tenths (0.2) part per million is maintained throughout the distribution system; (12-10-92)

(2b) The water source is well protected; (12-10-92)

(3e) The total coliform MCL is not exceeded; and (12-10-92)

(4d) No significant health risk is present. (12-10-92)

d. The Department may allow systems with surface water sources or groundwater sources under the direct influence of surface water, to substitute continuous turbidity monitoring for grab sample monitoring as specified in 40 CFR 141.74(b)(2) and 40 CFR 141.74(c)(1) and Subsection 300.05. The Department may allow continuous turbidity monitoring provided the continuous turbidimeter is operated, maintained, standardized and calibrated per the manufacturers recommendations. For purposes of determining compliance with turbidity performance criteria, discrete values must be recorded every four (4) hours water is supplied to the distribution system. (10-1-93)

e. The Department may allow systems using both a surface water source(s), or groundwater source(s) under the direct influence of surface water, and one (1) or more groundwater sources, to measure disinfectant residual at points other than the total coliform sampling points, as specified in 40 CFR 141.74(b)(6)(i) and 40 CFR 141.74(c)(3)(i) and Subsection 300.05. The Department may allow alternate sampling points provided the system submits an acceptable alternate monitoring plan to the Department in advance of the monitoring requirement. (10-1-93)

f. The Department may allow a reduced turbidity monitoring frequency for systems using slow sand filtration or technology other than conventional, direct, or diatomaceous earth filtration, as specified in 40 CFR 141.74(c)(1) and Subsection 300.05. To be considered for a reduced turbidity monitoring frequency, a system must submit a written request to the Department in advance of the monitoring requirement. (12-10-92)

06. Reporting and Recordkeeping. 40 CFR 141.75 is herein incorporated by reference. (10-1-93)

a. As provided in 40 CFR 141.75(a) and Section 300, the Department may establish interim reporting requirements for systems notified by the Department or U.S. Environmental Protection Agency that filtration treatment must be installed as specified in 40 CFR 141.75(a) and as referred to in Subsection 300.06. Until filtration treatment is installed, systems required to install filtration treatment shall report as follows: (12-10-92)

i. The purveyor shall immediately report to the Department via telephone or other equally rapid means, but no later than the end of the next business day, the following information: (12-10-92)

(1a) The occurrence of a waterborne disease outbreak potentially attributable to that water system; (12-10-92)

(2b) Any turbidity measurement which exceeds five (5) NTU; and (12-10-92)



(3e) Any result indicating that the disinfectant residual concentration entering the distribution system is below two-tenths (0.2) mg/l free chlorine. (12-10-92)

ii. The purveyor shall report to the Department within ten (10) days after the end of each month the system serves water to the public the following monitoring information using a Department-approved form: (12-10-92)

(1a) Turbidity monitoring information; and (12-10-92)

(2b) Disinfectant residual concentrations entering the distribution system. (12-10-92)

iii. Personnel qualified under Subsection 300.01 shall complete and sign the monthly report forms submitted to the Department as required in Subsection 300.06. (12-10-92)

b. In addition to the reporting requirements in 40 CFR 141.75(b) pertaining to systems with filtration treatment, each public water system which provides filtration treatment must report the level of Giardia lamblia and virus inactivation and/or removal achieved each day by filtration and disinfection. (12-10-92)

**(BREAK IN CONTINUITY OF SECTIONS)**

**550. DESIGN STANDARDS FOR PUBLIC DRINKING WATER SYSTEMS.**

01. System Design. Unless otherwise specified by the Department, the design of new, or modifications to existing, public drinking water systems shall be in conformance with "Recommended Standards for Water Works, A Report of the Committee of the Great Lakes-Upper Mississippi River Board of Department Sanitary Engineers," as set forth in Subsection 002.01.c. and with recommended changes and additions to this document as found in the "USEPA Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources", as set forth in Subsection 002.01.g. (~~10-1-93~~)(    )

02. Materials. Materials which are used to construct public drinking water systems and which have water contact surfaces must comply with applicable AWWA standards or ANSI/NSF standard 61 or NSF standard 53 or 58, unless otherwise approved by the Department on a site specific basis. (10-1-93)

03. Wells. Any supplier of water for a public water system served by one (1) or more wells shall ensure that the following requirements are met: (12-10-92)

a. Each well shall be located a minimum of fifty (50) feet from any potential source of contamination and no closer to specified sources of contamination than set forth in Subsection 900.01; (12-10-92)

b. Each well shall comply with the minimum ~~1988~~ Well Construction

Standards and with the permitting requirements of the Idaho Water Resources Board, as set forth in Subsection 002.01.f.; ~~(12-10-92)~~(\_\_\_\_)

c. Upon completion of a groundwater source, the following information and data must be submitted by the water system to the Department: (12-10-92)

i. A copy of all well logs; (12-10-92)

ii. For all wells, test pumping data including sand production, static water level, yield, drawdown and duration of test pumping; (12-10-92)

iii. As constructed plans showing at least the following: (12-10-92)

~~(1a)~~ Surface seal; (12-10-92)

~~(2b)~~ Casing; (12-10-92)

~~(3e)~~ Casing perforations, screens, gravel packs; and (12-10-92)

~~(4d)~~ Pump location; and (12-10-92)

iv. Other information as may be specified by the Department. (12-10-92)

d. Test Pumping. Upon completion of a groundwater source, test pumping shall be conducted in accordance with the following procedures to meet the specified requirements: (12-10-92)

i. A small capacity well yielding less than fifty (50) gallons per minute shall be test pumped for a minimum of four (4) hours at a rate equal to the permanent pump rate or until the drawdown stabilizes; (12-10-92)

ii. A large capacity well, one that yields more than fifty (50) gallons per minute, shall be test pumped at a rate of one hundred twenty five percent (125%) of the desired yield of the well. The test period shall be a minimum of six (6) hours, and longer if necessary to stabilize the drawdown. If the well fails the test, the design must be re-evaluated and resubmitted to the Department; and (12-10-92)

iii. Fifteen (15) minutes after the start of the test pumping, the sand content of a new well shall not be more than five (5) parts per million. Sand production shall be measured by a centrifugal sand sampler or equivalent. If sand production exceeds five (5) ppm, the well shall be screened and gravel packed. (12-10-92)

e. A sample tap shall be provided on the discharge piping from every well; (12-10-92)

f. The discharge line shall be equipped with the necessary valves and appurtenances to allow a well to be pumped to waste via an approved air gap; (12-10-92)

g. A pressure gauge shall be provided at all installations; (12-10-92)

- h. A flow meter shall be installed on the discharge line of each well;  
(12-10-92)
- i. All wells except flowing artesian wells shall be vented, with the open end of the vent screened and terminated downward at least eighteen (18) inches above the floor of the pump house.  
(12-10-92)
- j. The following requirements apply to well casings and seals: (12-10-92)
  - i. Casings shall extend a minimum of twelve (12) inches above the finished ground surface and six (6) inches above the well house floor.  
(12-10-92)
  - ii. Wells shall be cased and sealed in such a manner that surface water cannot enter the well.  
(12-10-92)
  - iii. A watertight seal shall be provided at the top of the well casing, and shall not allow water to enter the well.  
(12-10-92)
  - iv. Wells completed in unconsolidated water bearing formations shall be constructed to prevent caving of the walls of the well and sand pumping. Screens and/or gravel packs shall be provided where fine grained materials such as sands are being developed as the source of water.  
(12-10-92)
- k. The following requirements apply to well houses: (12-10-92)
  - i. Well houses shall be protected from flooding and be adequately drained.  
(12-10-92)
  - ii. Well houses shall be provided with a locking door or access to prohibit unauthorized entrance.  
(12-10-92)
  - iii. Well houses shall be kept clean and in good repair and shall not be used to store toxic or hazardous materials.  
(12-10-92)
  - iv. Floor drains shall not be connected to sewers, storm drains, chlorination room drains, or any other source of contamination.  
(12-10-92)
  - v. Sumps for well house floor drains shall not be closer than thirty (30) feet from the well.  
(12-10-92)
  - vi. Pitless adapters or pitless units: (12-10-92)
    - (1a) Shall be of the type marked approved by the National Sanitation Foundation or Pitless Adapter Division of the Water Systems Council. (12-10-92)
    - (2b) Shall be designed, constructed and installed to be watertight including the cap, cover, casing extension and other attachments. (12-10-92)
    - (3e) Shall be field tested for leaks before being put into service. The procedure outlined in "Manual of Individual Water Supply Systems," as set forth in

Subsection 002.01.d., or other procedure approved by the Department shall be followed. (12-10-92)

l. Wells shall not be located in pits. Exceptions to Subsection 550.03.1. will be granted by the Department if the well was constructed prior to November 5, 1964, and the installation is constructed or reconstructed in accordance with the requirements of the Department to provide watertight construction of pit walls and floors, floor drains and acceptable pit covers. (12-10-92)

m. A well lot shall be provided for wells constructed after November 1, 1977. The well lot shall be owned in fee simple by the supplier of water or controlled by lease with a term of not less than the useful life of the well and be large enough to provide a minimum distance of fifty (50) feet between the well and the nearest property line. (12-10-92)

n. Prior to drilling, the well site must be approved in writing by the Department. (12-10-92)

o. New community water systems constructed after July 1, 1985, shall have a minimum of two (2) sources if they serve more than twenty-five (25) homes. (12-10-92)

p. No pesticides, herbicides, or fertilizers shall be applied to a well lot without prior approval from the Department. (12-10-92)

q. No pesticides, herbicides, fertilizers, petroleum products, or other toxic or hazardous materials shall be stored on a well lot. (12-10-92)

04. Springs. Any supplier of water for a public water system served by one (1) or more springs shall ensure that the following requirements are met: (12-10-92)

a. Springs shall be housed in a permanent structure and protected from contamination including the entry of surface water, animals, and dust; (12-10-92)

b. A sample tap shall be provided; (12-10-92)

c. A flow meter or other flow measuring device shall be provided; and (12-10-92)

d. The entire area within one hundred (100) feet of the spring shall be owned by the supplier of water or controlled by a long term lease, fenced to prevent trespass of livestock and void of buildings, dwellings and sources of contamination. Surface water and drainage ditches shall be diverted from this area. (12-10-92)

05. Surface Sources and Groundwater Sources Under the Direct Influence of Surface Water . (10-1-93)

a. Design Criteria. (12-1-92)

i. The system shall ensure that filtration and disinfection facilities for

surface water or groundwater directly influenced by surface water sources are designed, constructed and operated in accordance with all applicable engineering practices designated by the Department. (12-10-92)

ii. Filtration facilities (excluding disinfection) shall be designed, constructed and operated to achieve at least two (2) log removal of *Giardia lamblia* cysts and one (1) log removal of viruses, except as allowed under Subsection 550.05.b.iii.; and (10-1-93)

iii. Disinfection facilities shall be designed, constructed and operated so as to achieve at least one half (0.50) log inactivation of *Giardia lamblia* cysts; and (10-1-93)

(1a) Two (2) log inactivation of viruses if using conventional and slow sand filtration technology; or (12-10-92)

(2b) Three (3) log inactivation of viruses if using direct and diatomaceous earth filtration technology; or (12-10-92)

(3e) Four (4) log inactivation of viruses if using alternate filtration technology. (12-10-92)

(4d) Four (4) log inactivation of viruses if filtration treatment is not used. (10-1-93)

iv. Higher levels of disinfection than specified under Subsection 550.05.a.iii. may be required by the Department in order to provide adequate protection against *giardia* and viruses. (10-1-93)

v. For plants constructed after December 31, 1992, each filter unit must be capable of filter to waste. (12-10-92)

vi. For plants constructed prior to December 31, 1992, each filter unit must be capable of filter to waste unless the system demonstrates through continuous turbidity monitoring or other means acceptable to the Department that water quality is not adversely affected following filter backwashing, cleaning or media replacement. (12-10-92)

vii. For conventional, direct and diatomaceous earth filtration technology, equipment must be provided to continuously measure the turbidity of each filter bed. (12-10-92)

viii. Equipment must be provided and operated for continuous measurement of disinfectant residual prior to entry to the distribution system, unless the system serves fewer than three thousand three hundred (3,300) people. (12-10-92)

ix. Diatomaceous earth filtration facilities shall include an alternate power source with automatic startup and alarm, or be designed in a manner to ensure continuous operation. (12-10-92)

b. Filtration technology. (12-1-92)

- i. The purveyor shall select a filtration technology acceptable to the Department. (12-10-92)
- ii. Conventional, direct, slow sand and diatomaceous earth filtration technologies are generally acceptable to the Department on a case-by-case basis. (12-10-92)
- iii. Alternate filtration technologies may be acceptable if the purveyor demonstrates all of the following to the satisfaction of the Department: (12-10-92)
  - (~~1a~~) That the filtration technology: (12-10-92)
    - (~~a1~~) Is certified and listed by the National Sanitation Foundation (NSF) under Standard 53, Drinking Water Treatment Units - Health Effects, as achieving the NSF criteria for cyst reduction; or (12-10-92)
    - (~~b2~~) Removes or inactivates at least ninety-nine (99%) percent (two (2) logs) of *Giardia lamblia* cysts or *Giardia lamblia* cyst surrogate particles in a challenge study acceptable to the Department. (12-10-92)
  - (~~2b~~) Using field studies or other means acceptable to the Department, that the filtration technology: (12-10-92)
    - (~~a1~~) In combination with disinfection treatment, consistently achieves ninety-nine and nine tenths (99.9%) percent (three (3) logs) removal or inactivation of *Giardia lamblia* cysts and ninety-nine and ninety-nine hundredths (99.99%) percent (four (4) logs) removal or inactivation of viruses; and (12-10-92)
    - (~~b2~~) Meets the turbidity performance requirements of 40 CFR 141.73 (b). (12-10-92)
- c. Pilot Studies. The system shall conduct pilot studies in accordance with the following requirements for all proposed filtration facilities and structural modifications to existing filtration facilities, unless the Department modifies the requirements in writing: (12-10-92)
  - i. The system shall obtain the Department's approval of the pilot study plan before the pilot filter is constructed and before the pilot study is undertaken. (12-10-92)
  - ii. The design and operation of the pilot study shall be overseen by a licensed professional engineer. (12-10-92)
  - iii. The system's pilot study plan shall identify at a minimum: (12-10-92)
    - (~~1a~~) The objectives of the pilot study; (12-10-92)
    - (~~2b~~) Pilot filter design; (12-10-92)
    - (~~3e~~) Water quality and operational parameters to monitor; (12-10-92)

- (4d) Amount of data to collect; and (12-10-92)
- (5e) Qualifications of the pilot plant operator. (10-1-93)
- iv. The system shall ensure that the pilot study is: (12-10-92)
  - (1a) Conducted to simulate conditions of the proposed full-scale design; (12-10-92)
  - (2b) Conducted for at least twelve (12) consecutive months; (12-10-92)
  - (3e) Conducted to evaluate the reliability of the treatment system to achieve applicable water quality treatment criteria specified for filtration systems in 40 CFR 141.72 and 40 CFR 141.73; and (12-10-92)
  - (4d) Designed and operated in accordance with good engineering practices documented in references acceptable to the Department. (12-10-92)
- d. New systems constructed after July 1, 1985, are required to install backup disinfection facilities. (12-10-92)
- 06. Distribution System. Any supplier of water for a public water system shall ensure that the distribution system complies with all of the following requirements: (12-10-92)
  - a. The distribution system shall be protected from contamination and be designed to prevent contamination by steam condensate or cooling water from engine jackets or other heat exchange devices. (12-10-92)
  - b. Booster pumps must comply with the following: (12-10-92)
    - i. In-line booster pumps shall maintain an operating pressure no less than twenty (20) psi, and shall be supplied with an automatic cutoff when intake pressure is less than or equal to five (5) psi. (12-10-92)
    - ii. Booster pumps located on suction lines directly connected to any storage reservoirs shall be supplied with an automatic cutoff when pressure is equal to or less than two and one-half (2.5) psi. (12-10-92)
  - c. Pipe materials and standards will comply with the following: (12-10-92)
    - i. Pipe, packing and jointing materials shall be manufactured, installed and tested in conformance with the current standards of the American Water Works Association, as set forth in Subsection 002.01.jh., or other standards approved in writing by the Department. (12-10-92)(\_\_\_\_)
    - ii. Pipe shall be manufactured of materials resistant internally or externally to corrosion, and not imparting tastes, odors, color or any contaminant into the system.

(12-10-92)

d. Fire hydrants shall not be connected to water mains smaller than six (6) inches in diameter, and fire hydrants shall not be installed unless fireflow is provided. (12-10-92)

e. Water and sewer (sanitary or storm) mains shall be separated by a horizontal distance no less than ten (10) feet. In any instance where such separation is not achievable, the following standards shall be met: ~~(12-10-92)~~( )

i. The water and sewer mains shall be separated by at least six (6) horizontal feet measured between the outside walls of the pipes, and the sewer main shall be constructed to water main standards or shall be encased in no less than four (4) inches of concrete at all such points; and (12-10-92)

ii. The water main shall be a minimum of eighteen (18) inches above the sewer main. (12-10-92)

f. The requirements for vertical separation of water and sewer mains are as follow: (10-1-93)

i. At any point where the sewer and water mains cross, they shall be separated by a vertical distance of no less than eighteen (18) inches. (12-10-92)

ii. At any point where the sewer main crosses above the water main, the sewer main shall be supported to prevent settling. (12-10-92)

iii. At any point where the sewer and water mains cross, the water main shall be centered at the crossing so that the joints will be an equal distance and as far as possible from the sewer main. (12-10-92)

iv. If the water main is below the sewer main, the sewer main shall be constructed of materials conforming to water main standards if the eighteen (18) inch vertical separation cannot be maintained. (12-10-92)

v. In lieu of constructing or reconstructing the sewer main either the sewer main or water main may be encased with four (4) inches of concrete for a distance of ten (10) horizontal feet on both sides of the crossing. (12-10-92)

g. All other pipelines which carry nonpotable water shall meet the minimum separation requirements of Subsections 550.06.e. and 550.06.f. (10-1-93)

h. A minimum horizontal distance of twenty-five (25) feet shall be maintained between a subsurface sewage disposal system and any water distribution pipe. (12-10-92)

i. All dead end water mains shall be equipped with a means of flushing and shall be flushed at least semiannually. (12-10-92)

j. Leaking water mains shall be repaired or replaced upon discovery and



disinfected in accordance with American Water Works Association standards as set forth in Subsection 900.02. ~~jh.~~ ~~(12-10-92)(\_\_\_\_)~~

07. Cross Connection. All suppliers of water for community water systems shall implement a cross connection control program to prevent the entrance of toxic or hazardous substances to the system. The program will include: (12-10-92)

a. An inspection once a year of all facilities listed in Subsection 900.02 (Table 2) to locate cross connections and determine required suitable protection. (12-10-92)

b. Required installation and operation of adequate backflow prevention devices. A list of minimum recommended devices for various facilities is provided in Subsection 900.02 (Table 2). (12-10-92)

c. Annual inspections by an American Water Works Association-certified tester, or equal, of all installed backflow prevention devices to insure operability ~~(10-1-93)(\_\_\_\_)~~

d. Discontinuance of service to any facility where suitable backflow protection has not been provided for a cross connection. (12-10-92)

e. If double check valves and/or reduced pressure principle backflow prevention devices are used, they must pass a performance test conducted by the University of Southern California ~~Engineering Center~~ Foundation for Cross-Connection Control and Hydraulic Research or meet American Water Works Association C-510 or C-511 standard, or another equal test approved by the Department. ~~(12-10-92)(\_\_\_\_)~~

f. If atmospheric vacuum breakers and pressure vacuum breakers are used, they shall be marked approved by the International Association of Plumbing and Mechanical Officials (IAPMO) or by the American Society of Sanitation Engineers (ASSE). (10-1-93)

g. Resilient seated shutoff valves shall be used after the effective date of these rules when double check valves, reduced pressure backflow prevention devices, and pressure vacuum breakers are installed. (12-10-92)

08. Water Storage. Storage reservoirs shall be constructed and maintained so that the following requirements are met: (12-10-92)

a. All storage reservoirs shall be protected from flooding; (12-10-92)

b. Stored water shall be protected from contamination; (12-10-92)

c. All storage reservoirs shall have watertight roofs or covers and be sloped so that water will drain; (12-10-92)

d. Manholes shall be fitted with an overlapping watertight locked cover and be at least four (4) inches above the surface of the roof; (12-10-92)

e. Overflows and drains shall have free fall discharges which are screened and shall not be connected to a sewer (storm or sanitary); (12-10-92)

f. Any vent shall extend twelve (12) inches above the roof and be constructed and screened to exclude rain, snow, birds, animals, insects, dust and other potential sources of contamination; (12-10-92)

g. The bottom of any reservoir located below the ground surface shall be constructed a minimum of four (4) feet above the high groundwater table; and (12-10-92)

h. There shall be a minimum distance of fifty (50) feet between any storage reservoir and any sanitary sewers, storm sewers, standing water, or any other source of contamination. Hydropneumatic (pressure) tanks are acceptable only for small water systems serving less than fifty (50) homes. (12-10-92)

09. Disinfection. Any supplier of water for a public water system shall ensure that new construction or modifications to an existing system will be flushed and disinfected in accordance with American Water Works Association Standards, as set forth in Subsection 002.01.jh., prior to being placed into service. (~~12-10-92~~)(    )

10. Violations. Any failure to comply with any provision contained in Section 550 shall be considered a design or construction defect. (12-10-92)

**551. CONSTRUCTION REQUIREMENTS FOR PUBLIC WATER SYSTEMS.**

01. Engineering Report. For all new water systems or modifications to existing water systems, an engineering report shall be submitted for the Department's review and approval prior to or concurrent with the submittal of plans and specifications as required in Subsection 551.04. This report shall provide the following information: (12-10-92)

a. A general description and location of the project; (12-10-92)

b. The estimated design population of the project; (12-10-92)

c. Design data for domestic, irrigation, fire fighting, commercial and industrial water uses, including maximum hourly, maximum daily, and average daily demands; (12-10-92)

d. Storage requirements; (12-10-92)

e. Pressure ranges for normal and peak flow conditions; (12-10-92)

f. A hydraulic analysis of the distribution system if requested by the Department; (12-10-92)

g. Adequacy, quality and availability of sources of water; (12-10-92)

h. For a community system, results of analysis for total coliform, turbidity inorganic chemical contaminants, organic chemicals other than trihalomethanes,

radionuclide contaminants, and total trihalomethanes listed in Subsections 100.01, 100.03, 100.04, 100.06, and 100.12, unless analysis is waived pursuant to Subsection 100.07.

(10-1-93)

i. For a nontransient noncommunity system, results of analysis for total coliform and inorganic and organic chemical contaminants listed in Subsections 100.01, 100.03 and 100.04, unless analysis is waived pursuant to Subsection 100.07. (12-10-92)

j. For a noncommunity system, results of a total coliform, nitrite, and nitrate analysis listed in Subsections 100.01 and 100.03. (12-10-92)

k. For any system supplied by surface water or groundwater under the direct influence of surface water, results of turbidity analysis listed in Subsection 100.02.

(12-10-92)

l. For all new groundwater sources, including but not limited to wells, springs, and infiltration galleries, systems shall supply information as required by the Department to determine if these sources are under the direct influence of the surface water.

(12-10-92)

m. Potential sources of contamination to proposed sources of water; (12-10-92)

n. Mechanisms for protection of the system from flooding; (12-10-92)

o. In addition to the items listed in Subsections 551.01.a. through 551.01.n., the following information must be provided for proposed surface water sources and groundwater sources under the direct influence of surface water: (12-10-92)

i. Hydrological and historical low stream flow data; (12-10-92)

ii. A copy of the water right from the Idaho Department of Water Resources; (12-10-92)

iii. Anticipated turbidity ranges, high and low; and (12-10-92)

iv. Treatment selection process and alternative evaluations. (12-10-92)

p. In addition to the items listed in Subsections 551.01.a. through 551.01.n., the following information must be provided for a proposed groundwater source: (12-10-92)

i. A site plan including potential sources of contamination within five hundred (500) feet of a well or spring; (12-10-92)

ii. Dimensions of the well lot; and (12-10-92)

iii. Underground geological data and existing well logs (12-10-92)

02. Ownership. Documentation of the ownership and responsibility for

operating the proposed system shall be made available to the Department prior to or concurrent with the submittal of plans and specifications as required in Subsection 551.04. The documentation must show organization and financial arrangements adequate to assure construction, operation and maintenance of the system according to these rules. Documentation shall also include the name of the water system, the name, address, and phone number of the supplier of water, the system size, and the name, address, and phone number of the system operator. (10-1-93)

03. Connection to an Existing System. If the proposed project is to be connected to an existing public water system, a letter from the purveyor must be submitted to the Department stating that they will be able to provide services to the proposed project. This letter must be submitted prior to or concurrent with the submittal of plans and specifications as required in Subsection 551.04. (12-10-92)

04. Review of Plans and Specifications. (12-1-92)

a. Prior to construction of new public water supply systems or modifications of existing public water supply systems, plans and specifications must be submitted to the Department for review, and approved. The minimum review requirements are as follow: (10-1-93)

i. Plans and specifications shall be submitted by an Idaho registered professional engineer and bear the imprint of the engineer's seal; (12-10-92)

ii. Plans shall provide topographical data; (12-10-92)

iii. Plans shall show location of sources or potential sources of contamination; (12-10-92)

iv. Plans shall require all new equipment, piping, and appurtenances to meet American Water Works Association standards, as set forth in Subsection 002.01.jh. Used materials shall be approved by the Department prior to installation, and shall have been used previously only in the delivery of potable water; and (12-10-92)( )

v. Plans shall specify that the project is to be disinfected prior to use in accordance with American Water Works Association standards, as set forth in Subsection 002.01.jh. (12-10-92)( )

b. During construction or modification, no deviation can be made from the approved plans without the Department's prior written approval; and (12-10-92)

c. Within thirty (30) days after the completion of construction, as constructed plans and specifications are to be submitted to the Department by an Idaho registered professional engineer. If the construction did not deviate from the approved plans and specifications, a registered professional engineer may certify in writing that the constructed plans and specifications are the same as the originally submitted plans and specifications. (12-10-92)

05. Exclusion. A District Health Department may exclude noncommunity water systems from the Department's plan and specification review if the District has

reviewed the project and will inspect it during construction. (12-10-92)

06. Construction. No construction shall commence until all of the necessary approvals have been received from the Department. (12-10-92)

07. Source. Before a public water system uses a new source of water to provide water to consumers, the source shall be approved by the Department. (12-10-92)

**552. OPERATING CRITERIA FOR PUBLIC WATER SYSTEMS.**

01. Quantity and Pressure Requirements. (12-1-92)

a. Minimum Pressure. (12-1-92)

i. Any public water system shall be capable of providing sufficient water during maximum hourly demand conditions (excluding fire flow) to maintain a minimum pressure of twenty (20) psi within the system measured at the consumer's water tap. (12-10-92)

ii. Any public water system constructed after July 1, 1985, shall maintain a minimum design working pressure of thirty-five (35) psi and a normal working pressure of sixty (60) psi, measured at the consumer's water tap. (12-10-92)

b. Fire Flows. (12-1-92)

i. Any public water system designed to provide fire flows shall be designed to provide such flows in addition to maximum daily demand for all other uses combined. (12-10-92)

ii. Fire flows shall be compatible with the water demand of existing and planned fire fighting equipment and fire fighting practices in the area served by the system. (12-10-92)

c. Irrigation Flows. (12-1-92)

i. Any public water system constructed after November 1, 1977, shall be capable of providing water for uncontrolled, simultaneous foreseeable irrigation demand, which shall include all cultivable land up to one (1) acre per lot. (12-10-92)

ii. The requirement of Subsection 552.01.c.i. shall not apply if: (12-10-92)

(1a) A separate irrigation system is provided; or (12-10-92)

(2b) The supplier of water can regulate the rate of irrigation through its police powers, and the water system is designed to accommodate a regulated rate of irrigation flow. (12-10-92)

iii. If a separate nonpotable irrigation system is provided for the consumers, all mains, hydrants and appurtenances shall be easily identified as nonpotable. All new potable services shall be sampled after installation for coliform bacteria to assure no cross

connections with the irrigation system exist. (12-10-92)

02. Additives. No chemical or other substance shall be added to drinking water, nor shall any process be utilized to treat drinking water, unless specifically approved by the Department. All chemicals shall conform to applicable American Water Works Association Standards as set forth in Subsection 002.01.j~~h~~, and be listed as approved under ANSI/NSF standard 60 or 61, as set forth in Subsections 002.01.k~~i~~ and 002.01.l~~j~~. (12-10-92)(    )

03. Groundwater. (12-1-92)

a. Public water systems constructed after July 1, 1985, and supplied by groundwater, shall treat water within the system by disinfection if the groundwater source is not protected from contamination. (12-10-92)

b. The Department may, in its discretion, require disinfection for any existing public water system supplied by groundwater if the system consistently exceeds the MCL for coliform, and if the system does not appear adequately protected from contamination. Adequate protection will be determined based upon at least the following factors: (12-10-92)

i. Location of possible sources of contamination; (12-10-92)

ii. Size of the well lot; (12-10-92)

iii. Depth of the source of water; (12-10-92)

iv. Bacteriological quality of the aquifer; (12-10-92)

v. Geological characteristics of the area; and (12-10-92)

vi. Adequacy of development of the source. (12-10-92)

04. Operating Criteria. The operating criteria for systems supplied by surface water or groundwater under the direct influence of surface water shall be as follows: (12-10-92)

a. Each system must develop and follow a water treatment operations plan acceptable to the Department, by July 31, 1993, or within six (6) months of installation of filtration treatment, whichever is later. For a maximum of twelve (12) months, this may be a draft operations plan based on pilot studies or other criteria acceptable to the Department. After twelve (12) months the plan shall be finalized based on full scale operation. (12-10-92)

b. The purveyor shall ensure that treatment facilities are operated in accordance with good engineering practices such as those found in the Recommended Standards for Water Works, A Committee Report of the Great Lakes - Upper Mississippi River Board of Department Public Health and Environmental Managers as set forth in Subsection 002.01.c., or other equal standard designated by the Department. (12-10-92)

c. New treatment facilities shall be operated in accordance with Subsection 552.04.b., and the system shall conduct monitoring specified by the Department for a trial period specified by the Department before serving water to the public in order to protect the health of consumers served by the system. (12-10-92)

05. Disinfection. Where chlorine is used as a disinfectant: (12-10-92)

a. Chlorinator capacity shall be such that a free chlorine residual of at least two (2) parts per million can be attained in the water after a contact time of thirty (30) minutes. This condition must be attainable even when the maximum hourly demand coincides with anticipated maximum chlorine demands. (12-10-92)

b. A minimum of at least two-tenths (0.2) part per million free chlorine shall be maintained in the treated water after an actual contact period of at least thirty (30) minutes at maximum hourly demand before delivery to the first consumer. (10-1-93)

c. Automatic proportioning chlorinators are required where the rate of flow is not reasonably constant. (12-10-92)

d. Analysis for free chlorine residual shall be made at least daily and records of these analyses shall be kept by the supplier of water for five (5) years. The frequency of measuring free chlorine residuals shall be sufficient to detect variations in chlorine demand or changes in water flow. (12-10-92)

e. A separate and ventilated room for gas chlorination equipment shall be provided. (12-10-92)

f. The Department may, in its discretion, require a treatment rate higher than that specified in Subsection 552.05.b. (12-10-92)

g. When chlorine gas is used, chlorine leak detection devices and safety equipment shall be provided in accordance with the 1992 Recommended Standards for Water Works, as set forth in Subsection 002.01.c. (12-10-92)

06. Fluoridation. (12-1-92)

a. Commercial sodium fluoride, sodium silico fluoride and hydrofluosilicic acid which conform to the applicable American Water Works Association Standards are acceptable as set forth in Subsection 002.01.c. Use of other chemicals shall be specifically approved by the Department. (10-1-93)

b. The accuracy of chemical feeders used for fluoridation shall be plus or minus five percent (5%) of the intended dose. (12-10-92)

c. Fluoride compounds shall be stored in covered or unopened shipping containers. Storage areas shall be ventilated. (12-10-92)

d. Provisions shall be made to minimize the quantity of fluoride dust. (12-10-92)

e. Daily records of flow and amounts of fluoride added shall be kept. An analysis for fluoride in finished water shall be made at least weekly. Records of these analyses shall be kept by the supplier of water for five (5) years. (12-10-92)



**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.01.11 - RULES GOVERNING GROUND WATER QUALITY**

**DOCKET NO. 16-0111-9501**

**NOTICE OF NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate a rule and desires public comment prior to initiating formal rulemaking procedures. The action is authorized pursuant to Sections 39-102, 39-105, 39-107, and 39-120, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a statement in nontechnical language of the purpose and substance of the negotiated rulemaking and the principle issues involved:

The rulemaking will establish a new rule chapter to be cited as IDAPA 16.01.11, Rules of the Idaho Department of Health and Welfare, Title 01, Chapter 11, Ground Water Quality Rule. The Ground Water Quality Rule will replace the existing rule in Section 299. of IDAPA 16.01.02, Rules of the Idaho Department of Health and Welfare, Title 01, Chapter 02, Water Quality Standards and Wastewater Treatment Requirements. The rulemaking will also implement the direction of the Ground Water Quality Protection Act of 1989 and the Idaho Ground Water Quality Plan, 1992 Session Law, Chapter 310, page 922.

The purpose of the rule is to fulfill the goals of the State Legislature which include: maintenance of the existing high quality of the state's ground water and protection of existing and projected future beneficial uses. Specifically, the rule will implement the direction provided by Policies I-C and I-D of the Ground Water Quality Plan. Policy I-C of the Plan establishes guidance for an aquifer categorization system to provide differential protection of the state's ground water. Policy I-D directs the development of ground water quality standards for biological, radiological, and chemical constituents.

A preliminary draft of the rule has not yet been developed. It will be developed through the assistance of an advisory committee over the next seven to eight months. Based on this schedule, the target date for publishing the proposed rule in the Administrative Bulletin is May 1996.

The interests which may be affected by the rule include members of the general public, business, industry and others whose activities may impact ground water quality. Those regulated by the rule will be required to conduct activities so that ground water standards identified in the rule are not exceeded.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the negotiated rulemaking, contact Sandy Richlen at (208)373-0260.

Anyone may submit written comment regarding this negotiated rulemaking. All written comments concerning the negotiated rulemaking must be received by the undersigned on or before December 1, 1995.

DATED this 1st day of November, 1995.

Paula Junae Saul  
Environmental Quality Section  
Attorney General's Office  
1410 N. Hilton  
Boise, Idaho 83706-1255  
Fax No. (208)373-0481

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM**

**DOCKET NO. 16-0304-9503**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These temporary rules are effective October 1, 1995.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(b) and 39-106(l), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be held as follows:

Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 15, 1995.

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 a concise statement of the supporting reasons for temporary rule-making and a statement in nontechnical language of the substance of the proposed rule:

Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to comply with deadlines in amendments to governing law of federal programs and to confer a benefit.

7 CFR 273.9(d) requires that the net income, gross income, standard deduction, standard utility allowance, homeless shelter, allowable shelter deduction and maximum food stamp allotments be adjusted annually. This change increases the amount of applicants who are eligible for food stamps. This change increases the food stamp allotments to recipients.

Public Law 103-66 requires the vehicle fair market value exclusion increase from \$4550 to \$4600.

Public Law 103-66 requires that legally obligated child support is included a food stamp deduction.

The following sections have been amended:

108. - Corrects the date an application is considered filed when the wrong field office is initially contacted. The application is not filed until received by the correct filed office. This rule was inadvertently submitted incorrectly in Docket number 16-0304-9402 when Docket number 16-0304-9401 was repealed.

135. - Adds types of sources of verification for legally obligated child support.

155. - Corrects working for proper context.

159. through 160. - Removes the requirement to complete a one month certification when the client applies on the first day of the month.

162. through 163 - Corrects wording for proper context.

227., 246. and 263. - Adds wording for clarification.

271. - Corrects numbering.

336. through 337. - Increases the vehicle fair market value exclusions from \$4550 to \$4600.

380. - Reorders the sentences in paragraph for clarification.

382. - Excludes from resources payments to the Confederated Tribes of the Colville Reservation for the Grant Coulee Dam Settlement.

406. - Excludes from income payments to the confederated Tribes of the Colville Reservation for the Grand Coulee Dam Settlement.

532. - Increases the gross income limit.

533. - Increases the standard deduction from \$131 to \$134. Also adds child support as an income deduction.

534. - Adds child support to items that can be averaged as a deduction.

535. - Updates the attendant meal allowance to match the October, 1995 food stamp allotment change for one person.

536. through 537. - Renumbers the Child Care Deductions sections to allow the addition of the Child Support Deduction sections in the order of the sequence of calculation.

538. - Adds the child support deduction.

539. - Adds the calculation of child support deduction.

542. - Increases the homeless shelter deduction from \$139 to \$143.

543. - Increases the standard utility deduction from \$162 to \$163.

548. - Increases the allowable shelter deduction from \$231 to \$247.

549. - Increases the net income limit.

550. - Updates the steps to compute food stamp benefits.

563. - Reverses the steps for the proration formula to correct the sequence.

581. - Increases the maximum food stamp allotments.

612. - Adds the reporting requirements for the child support deduction.

615. - Adds child support to possible changes affecting benefits.

775. through 777. - Adds child support deduction to possible expenses in calculation of benefits.

996. - Corrects cite for fair hearings.

**SUBMISSION OF WRITTEN COMMENTS, ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at (208) 334-5819.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before November 22, 1995.

DATED this 1st day of November, 1995.

STACI WELSH  
Administrative Procedures Section  
DHW - Division of Legal Services  
PO Box 83720  
450 West State Street, 10th Floor  
Boise, Idaho 83720-0036  
(208) 334-5564 phone, (208) 334-5548 fax

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**TEXT OF DOCKET 16-0304-9503**

**108. WRONG FIELD OFFICE CONTACTED.**

If a household contacts the wrong Field Office, the Department will give the household the address and phone number of the correct Field Office. The Department will offer to forward the AFA to the correct Field Office. The AFA must contain the applicant's name, address, signature and date of application. The AFA must be ~~date stamped and~~ mailed to the correct Field Office the same day. Inform the household its application is not filed until received by the correct Field Office. ~~(6-1-94)~~(10-1-95)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**135. SOURCES OF VERIFICATION.**

The following sources of verification must be considered:(6-1-94)

01. Written Confirmation. The primary source of proof is written confirmation of circumstances. Written proof includes driver's licenses, work or school identification, birth certificates, wage stubs, award letters, court orders, divorce decrees, separation agreements, insurance policies, rent receipts and utility bills. Acceptable proof is not limited to a single document. Proof can be obtained from the household or other sources. Secondary sources of proof must be used to verify a household's circumstances if the primary source cannot be obtained or does not prove eligibility or benefit level.

(6-1-94)(10-1-95)T

02. Collateral Contacts. A collateral contact is an oral confirmation of a household's circumstances by a person outside of the household. The collateral contact may be made either in person or over the telephone. Acceptable collateral contacts include employers, landlords, migrant service agencies, friends, neighbors and relatives not living in the household. The collateral contact must accurately confirm the household's statement. The Department is responsible for getting proof from the collateral contact. The household usually names the collateral contact. The household may request help in selecting a collateral contact.

(6-1-94)

03. Automated System Records. System records include BENDEX, SDX, DOE and INS records. The Department has routine access to automated system records.

(6-1-94)

04. Home Visits. Home visits may be conducted if primary proof cannot be obtained. Home visits must be scheduled with the client.

(6-1-94)

**136. REQUIRED PROOF.**

The Department must have proof for items listed below. The Department will tell the household what proof is required.

(6-1-94)

01. Residence. Proof of residence is required. Proof includes lease agreements, rent receipts showing the address and utility bills. Proof of residence is not required for unusual cases such as homeless households, migrant farmworkers or new arrivals to a project area.

(6-1-94)

02. Identity. Proof of identity is required for the applicant and representative. Proof includes a driver's license, school identification or a birth certificate. The Department can accept other proof.

(6-1-94)

03. SSN. SSNs are verified by submitting the SSNs reported by the households to the SSA. An automated interface in EPICS is completed. Certification cannot be delayed to an otherwise eligible household solely to verify a SSN. A SSN is also considered verified by another program participating in IEVS. If a person is unable to provide a SSN or does not have a SSN, the Department must require proof of application for a SSN prior to certifying the person.

(6-1-94)

04. Immigration Status. Proof of immigration status is required for all eligible alien household members. Proof includes alien registration cards, passports and SAVE. (6-1-94)

05. Resources. Proof of resources is required. Proof includes bank books, bank statements or documents verifying the resource value. (6-1-94)

06. Vehicles. If questionable, proof of vehicle value is required. Proof includes NADA values and statements from car dealers. (6-1-94)

07. Loans. Proof of loans is required. A statement signed by both parties is proof of a loan. A legally binding agreement is not required. The provider of the loan must sign a statement that loan payments received on a regular basis are being made or will be made under a fixed schedule. (6-1-94)

08. Income. Proof of income is required. Proof includes wage stubs, statements from employers, income interfaces and award letters. (6-1-94)

09. Shelter Costs. Proof of shelter costs is required. The household must be told benefits will be computed, without the shelter costs, if proof is not provided. Shelter costs include home shelter expenses. Shelter costs include homes unoccupied because of employment, training away from the home or illness. Shelter costs include homes abandoned due to a natural disaster or casualty loss. Shelter cost proof is required once, unless the household has moved or reports a change in shelter costs. Proof of shelter costs includes mortgage statements, rent receipts, lease agreements, tax notices and insurance premium notices. (6-1-94)

10. Heating or Cooling Costs For Standard Utility Allowance (SUA). Proof of separate heating or cooling costs is required for the SUA. Proof of costs is required once, unless the household moves or the utilities change. Proof includes utility bills, statements from utility companies and landlords. (6-1-94)

11. Utility Costs. Proof of actual utility costs is required if the household chooses actual costs. If proof of actual utility costs is not received before thirty (30) days, the SUA will be used if the household is eligible for the SUA. Proof of actual utility costs is required if the home is not occupied(6-1-94)

12. Dependent Care Costs. Proof of dependent care costs is required. Proof of costs is required once, unless the dependent care provider changes or the cost changes. Proof includes child care bills or statements. (6-1-94)

13. Medical Costs. Proof of incurred medical expenses is required for households claiming a medical deduction. Proof includes medical bills, medicare reimbursement statements and prescription receipts. Proof of anticipated medical expenses is not required provided the client has informed the Department of the expense and the expense is not questionable. Verification of other factors, including but not limited to the following, are required if questionable: (6-1-94)

a. The allowability of the medical services provided. (6-1-94)

- b. The provider qualifications. (6-1-94)
- c. The individual's eligibility to claim a deduction. (6-1-94)
- 14. Disability. Proof of disability is required. Proof includes SSA verification, VA verification and statements from doctors. (6-1-94)

15. Child Support Deduction. Proof of child support payments the noncustodial parent makes is required. The parent must be legally obligated to make the child support payments. The child support payments must be made on behalf of a nonhousehold child. Both the legal obligation to pay child support and the actual amount paid must be verified. Proof of the legal obligation includes: Court order, divorce decree, administrative order or legally enforceable separation agreement. Proof of child support paid includes: BCSS records, cancelled checks, wage withholding statements, UI withholding statements, statements from the custodial parent. Proof of legally obligated health insurance coverage on behalf of a nonhousehold child is required. Proof includes: Insurance policy, insurance company statement, employer statement. If the household fails or refuses to submit required proof, determine the household's eligibility and coupon allotment without the child support deduction. If there is a discrepancy between information provided by the household and BCSS, the household must be given an opportunity to resolve the discrepancy. Proof of child support payment is required at each certification and recertification. (10-1-95)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**155. EXPEDITED SERVICE ELIGIBILITY.**

Application forms must be screened to determine if the household is entitled to expedited service. The household must meet one of the expedited service criteria below. The household must have provided proof postponed by the last expedited service or have been certified under the normal standards since the last expedited service. (6-1-94)

01. Low Income and Resources. To receive expedited services the household's monthly countable gross income must be less than one hundred fifty dollars (\$150) and the household's liquid resources must not exceed one hundred dollars (\$100). (6-1-94)

02. Destitute ~~Migrant or Seasonal Farmworker~~. To receive destitute expedited services the household must be a destitute migrant or seasonal farmworker household. The household's ~~application month~~ liquid resources must not exceed one hundred dollars (\$100). ~~(6-1-94)~~(10-1-95)T

03. Income Less than Rent and Utilities. The household's combined monthly gross income and liquid resources are less than their monthly rent, or mortgage, and utilities cost. (6-1-94)

04. Homeless. The household members are all homeless. A homeless person has no fixed or regular nighttime residence or the primary night time residence is a

temporary residence in the home of another person or household, or a supervised public or private shelter providing temporary residence for homeless persons, or an institution providing temporary residence for people being transferred to another institution or a public or private place, not designed or commonly used as sleeping quarters for people.  
(6-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**159. SSN FOR EXPEDITED FOOD STAMPS.**

The household must furnish or apply for a SSN for each person before the first full month of Food Stamps. Household members unable to provide SSNs before the end of the first full month of Food Stamps, and not having good cause for the SSN problem, cannot continue to get Food Stamps. ~~If the application date is the first day of the month, the household will be certified for one (1) month pending SSNs.~~ (10-1-94)(10-1-95)T

**160. EXPEDITED CERTIFICATION.**

If all required proof is provided for expedited certification, a normal certification period is assigned. Certification based on application date, household type and proof is listed below:  
(6-1-94)

01. Nonmigrant Household Applying From the First Through the Fifteenth of the Month. For a non-migrant household applying from the first (1st) through the fifteenth of the month, if proof of eligibility factors ~~other than furnishing a SSN~~ is postponed, assign a normal certification period. Issue the first month's benefits. Do not issue the second month's benefits until the postponed proof is received. When proof is postponed the household has thirty (30) days from the application date to provide the proof. The household must be given timely and adequate notice no further benefits will be issued until proof is completed. If the proof results in changes in the household's Food Stamps, the Department will act on the changes without advance notice. If postponed proof is provided before the second month, process an issuance for the first working day of the second month. If proof is provided in the second month, issue benefits within five (5) calendar days from the date the proof is received. If postponed proof is not provided within thirty (30) days from the application date, close the case. (6-1-94)(10-1-95)T

02. Nonmigrant Household Applying From the Sixteenth Through the End of the Month. For a non-migrant household applying from the sixteenth (16th) to the end of the month, if proof of eligibility factors ~~other than furnishing a SSN~~ is postponed, assign a normal certification period. Issue the first and second month's benefits within the expedited timeframe. When proof is postponed the household has thirty (30) days from the application date to complete the proof. The household must be given timely and adequate notice no further benefits will be issued until proof is completed. If the proof results in changes in the household's Food Stamps, the Department will act on the changes without advance notice. If postponed proof is provided within thirty (30) days, process an issuance for the first working day of the third month. If postponed proof is not provided within thirty (30) days from the application date, close the case. (6-1-94)(10-1-95)T

03. Migrant Household Applying From the First Through the Fifteenth of the Month. For a migrant household applying from the first through the fifteenth of the



month, if proof of eligibility factors ~~other than furnishing a SSN~~ is postponed, assign a normal certification period. Issue the first month's benefits. When proof is postponed the household has thirty (30) days from the application date to complete in-state proof. The household has sixty (60) days from the application date to complete out-of-state proof. The household must be given adequate and timely notice no further benefits will be issued until the postponed proof is completed. Before the second month's benefits are issued, the household must provide all in-state postponed proofs. Before the third month's benefits are issued, the household must provide all out-of-state postponed proof. If the proofs result in changes in the household's Food Stamps the Department will act on these changes, without providing advance notice. Migrants are entitled to postponed out-of-state proof only once each season. If postponed in-state proof is provided before the second month, process an issuance for the first working day of the second month. If postponed out-of-state proof is provided before the third month, process a regular issuance for the third month. If postponed out-of-state proof is provided in the third month, issue benefits within five (5) calendar days from the date proof is received. If postponed in-state proof is not provided within thirty (30) days from the application date, close the case. If postponed out-of-state proof is not provided within sixty (60) days from the application date, close the case. ~~(6-1-94)~~(10-1-95)T

04. Migrant Household Applying From the Sixteenth Through the End of the Month. For a migrant household applying from the Sixteenth to the end of the month, if proof of eligibility factors ~~other than furnishing a SSN~~ is postponed, assign a normal certification period. Issue the first and second months' benefits within the expedited time frame. When proof is postponed the household has thirty (30) days from the application date to provide in-state proof. The household has sixty (60) days from the application date to provide out-of-state proof. The household must be given adequate and timely notice no further benefits will be issued until the postponed proof is completed. Before the third month's benefits are issued, the household must provide all in-state and out-of-state postponed proofs. If the proofs result in changes in the household's Food Stamps the Department will act on these changes without providing advance notice. Migrants are entitled to postponed out-of-state proof only once each season. If postponed proof is provided before the third month, process a regular issuance for the third month. If postponed out-of-state proof is provided in the third month, issue benefits within five (5) calendar days from the date proof is received. If postponed in-state proof is not provided within thirty (30) days from the application date, close the case. If postponed out-of-state proof is not provided within sixty (60) days from the application date, close the case. ~~(6-1-94)~~(10-1-95)T

05. Reapplying Household. When a household granted postponed proof at the last expedited certification reapplies, it must provide the postponed proof. The Department does not require postponed proof if the household was certified under normal standards since the last expedited certification. (6-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**162. EXPEDITED SERVICES FOR DESTITUTE MIGRANT OR SEASONAL FARMWORKER HOUSEHOLDS.**

Migrant or seasonal farmworker households meeting destitute conditions below can get

expedited services. The rules for destitute households apply at initial application and recertification, but only for the first month of each certification period. ~~(6-1-94)~~(10-1-95)T

01. **Terminated Source of Income.** The household's only income for the application month was received before the application date and was from a terminated source. The household is considered destitute. Terminated income is income received monthly or more often, no longer received from the same source the rest of the application month or the next month or income received less often than monthly, not expected in the month the next regular payment is normally due. (6-1-94)

02. **New Income in Application Month.** When only new income is expected in the application month, the household is considered destitute. Only twenty-five dollars (\$25), or less, of new income can be received in the ten (10) days after the application date. Income is new if twenty-five dollars (\$25), or less, is received during the thirty (30) days before the application date. New income received less often than monthly was not received in the last normal payment interval or was twenty-five dollars (\$25) or less. (6-1-94)

03. **Terminated Income and New Income in Application Month.** Destitute households can get terminated income before the application date and new income before and after the application date. New income must not be received for ten (10) days after application and must not exceed twenty-five dollars (\$25). The household must get no other income in the application month. (6-1-94)

04. **Application Month.** For the application month, count only income received between the first day of the month and the application date. Do not count income from a new source expected after the application date. (6-1-94)

**163. SPECIAL CONSIDERATION OF INCOME FOR DESTITUTE ~~OR~~ SEASONAL FARMWORKER HOUSEHOLDS.**

Special consideration of income for destitute ~~or seasonal farmworker~~ households is listed below. The rules for destitute households apply at initial application and recertification, but only for the first month of each certification period. ~~(6-1-94)~~(10-1-95)T

01. **Travel Advances.** For destitute eligibility and benefit level, travel advances apply as follows: Travel advances from employers for travel costs to a new employment location are excluded. Travel advances against future wages are counted as income, but not a new source of income. (6-1-94)

02. **Household Member Changes Job.** A person changing jobs with the same employer is still getting income from the same source. A migrant's income source is the grower, not the crew chief. When a migrant moves with a crew chief from one (1) grower to another, the income from the first grower is ended. The income from the next grower is new income. (6-1-94)

03. **Recertification.** Disregard income from the new source for the first month of the new certification period if more than twenty-five dollars (\$25) will not be received by the tenth calendar day after the normal issuance. (6-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**227. EXEMPTIONS FROM JSAP.**

Household members listed below are exempt from JSAP registration and participation.  
(6-1-94)

01. Parents and Caretakers of Child Under Six (6) Years of Age. A parent or caretaker responsible for the care of a dependent child under age six (6). If the child becomes six (6) during the certification period, the parent or caretaker must register at the next scheduled recertification, unless exempt for another reason. (6-1-94)

02. Parents and Caretakers of An Incapacitated Person. A parent or caretaker responsible for the care of a person incapacitated due to illness or disability. (6-1-94)

03. Incapacitated Person. A person physically or mentally unfit for employment. If a disability is claimed which is not evident, proof to support the disability can be required. Proof includes, but is not limited to, receipt of permanent or temporary disability benefits, or a statement from a physician or licensed or certified psychologist. (6-1-94)

04. ~~Students~~ Persons Enrolled Half Time. ~~Students~~ Persons enrolled at least half-time in any recognized school, training programs or institutes of higher education. To be exempt from work registration, students enrolled at least half-time in an institution of higher education must meet the FNS student definition. (~~6-1-94~~)(10-1-95)T

05. SSI Applicant. A person applying for SSI may have registration waived until determined SSI eligible and exempt from JSAP. A person applying for SSI may have registration waived until determined SSI ineligible and must register for JSAP. (6-1-94)

06. Employed Person. An employed person is working at least thirty (30) hours per week, or receiving earnings equal to the Federal minimum wage multiplied by thirty (30) hours. An employed person is also a migrant or seasonal farm worker under contract or agreement to begin employment within thirty (30) days. (6-1-94)

07. Self-Employed Person. A person is self-employed if he is working a minimum of thirty (30) hours per week or receiving earnings equal to the Federal minimum wage multiplied by thirty (30) hours. (6-1-94)

08. Addicts or Alcoholics. Regular participants in a drug or alcoholic treatment and rehabilitation program are exempt from JSAP. (6-1-94)

09. Unemployment Insurance (UI) Applicant/Recipient. A person getting UI is exempt from JSAP. A person applying for, but not getting UI, if required to register for work with the DOE as part of the UI application process is exempt from JSAP. (6-1-94)

10. AFDC or AFDC-UP Clients in JOBS. AFDC or AFDC-UP recipients complying with the JOBS Program are exempt from JSAP. Persons referred to JOBS but

not yet registered are exempt from JSAP. The client is not exempt if the EE is notified the client has failed to comply with JOBS requirements. This exemption does not apply to AFDC-UP recipients getting Medicaid, but not getting cash benefits. (6-1-94)

11. Children Under Sixteen (16) Years of Age. Persons younger than sixteen (16) are exempt from JSAP. If a child turns sixteen (16) within a certification period, he must register at recertification, unless exempt for another reason. (6-1-94)

12. Sixteen (16) or Seventeen (17) Year Old. A household member age sixteen (16) or seventeen (17) is exempt if the person is: Not the head of the household or attending school at least half-time or enrolled in an employment and training program at least half-time. (6-1-94)

13. Age Sixty (60) or Older. A person sixty (60) or older is exempt from JSAP. (6-1-94)

14. AFDC-UP Recipients Participating in Work and Training. AFDC-UP clients living in non-JOBS areas who registered for work at Job Service are exempt from JSAP. (6-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**246. HOUSEHOLD MEMBERS EXEMPT FROM WORK REGISTRATION IN NON-JSAP COUNTIES.**

Household members listed below are exempt from work registration. (6-1-94)

01. Parents and Caretakers of Child Under Six (6) Years of Age. A parent or caretaker responsible for the care of a dependent child under age six (6). If the child becomes six (6) during the certification period, the parent or caretaker must register at the next scheduled recertification, unless exempt for another reason. (6-1-94)

02. Parents and Caretakers of An Incapacitated Person. A parent or caretaker responsible for the care of a person incapacitated due to illness or disability. (6-1-94)

03. Incapacitated Person. A person physically or mentally unfit for employment. If a disability is claimed which is not evident, proof to support the disability can be required. Proof includes, but is not limited to, receipt of permanent or temporary disability benefits, or a statement from a physician or licensed or certified psychologist. (6-1-94)

04. ~~Students~~ Persons Enrolled Half Time. ~~Students~~ Persons enrolled at least half-time in any recognized school, training programs or institutes of higher education. To be exempt from work registration, students enrolled at least half time in an institution of higher education must meet the FNS student definition. ~~(6-1-94)~~ (10-1-95)T

05. SSI Applicant. A person applying for SSI may have work registration waived until determined SSI eligible and exempt. A person applying for SSI may have

work registration waived until determined SSI ineligible and then must register. (6-1-94)

06. **Employed Person.** An employed person is working at least thirty (30) hours per week, or receiving earnings equal to the Federal minimum wage multiplied by thirty (30) hours. An employed person is also a migrant or seasonal farm worker under contract or agreement to begin employment within thirty (30) days. (6-1-94)

07. **Self-Employed Person.** A person is self-employed if he is working a minimum of thirty (30) hours per week or receiving earnings equal to the Federal minimum wage multiplied by thirty (30) hours. (6-1-94)

08. **Addicts or Alcoholics.** Regular participants in a drug or alcoholic treatment and rehabilitation program are exempt. (6-1-94)

09. **Unemployment Insurance (UI) Applicant/Recipient.** A person getting UI is exempt. A person applying for, but not getting UI, if required to register for work with the DOE as part of the UI application process. (6-1-94)

10. **AFDC or AFDC-UP Clients in JOBS.** AFDC or AFDC-UP recipients complying with the JOBS Program are exempt. Persons referred to JOBS but not yet registered are exempt. The client is not exempt if the EE is notified the client has failed to comply. This exemption does not apply to AFDC-UP recipients getting Medicaid, but not getting cash benefits. (6-1-94)

11. **Children Under Sixteen (16) Years of Age.** Persons younger than sixteen (16) are exempt. If a child turns sixteen (16) within a certification period, he must register at recertification, unless exempt for another reason. (6-1-94)

12. **Sixteen (16) or Seventeen (17) Year Old.** A household member age sixteen (16) or seventeen (17) is exempt if the person is not the head of the household. A household member age sixteen (16) or seventeen (17) is exempt if the person is attending school at least half-time. A household member age sixteen (16) or seventeen (17) is exempt if the person is enrolled in an employment and training program at least half-time. (6-1-94)

13. **Age Sixty (60) or Older.** A person sixty (60) or older is exempt. (6-1-94)

14. **AFDC-UP Cash Recipients.** AFDC-UP persons getting cash payments are exempt. (6-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**263. DESIGNATING NEW PRINCIPAL WAGE EARNER.**

A person meeting the requirements in Section 262 can be designated the new principal wage earner and head of household. Except for households with children, the designation must not be changed if the current principal wage earner head of household has a period of ineligibility for ~~violation of work program requirements~~ voluntary quit. The ~~principal~~

wage-earner head of household can be changed after the sanction period ends. A household with children can change the head of household at certification, recertification and when a new household member enters the household. ~~(6-1-94)~~(10-1-95)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**271. PENALTY FOR RECIPIENT QUITTING A JOB.**

If the Department determines a head of household voluntarily quit a job, the household's benefits must be stopped for three (3) continuous calendar months. The benefits must end, beginning the first month after timely notice. The household must be told the information listed below within ten (10) calendar days of the voluntary quit ruling: (6-1-94)

01. Closure Reason. The household must be informed of the reason for the closure. (6-1-94)

02. Sanction Period. The household must be informed of the proposed sanction period. (6-1-94)

03. Sanction Start. The household must be informed the sanction will begin the first month after timely notice. (6-1-94)

~~05~~4. Actions to End Sanction. The household must be informed of the actions the household can take to end the sanction. (6-1-94)

~~06~~5. Right to Reapply. The household must be informed of the right to reapply. Eligibility begins after the sanction period ends. (6-1-94)

~~07~~6. Fair Hearing. The household must be informed of the right to a fair hearing. (6-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**336. VEHICLES COUNTED AS A RESOURCE.**

Determine if a vehicle is excluded from resources. Determine if a vehicle is licensed or unlicensed. (6-1-94)

01. Resource Value of Licensed Vehicles. Count the resource value of licensed vehicles, not excluded, as shown below: (6-1-94)

a. Licensed vehicle used for general household use. One licensed vehicle per household regardless of use. Vehicle's fair market value over four thousand ~~five~~six hundred ~~thirty~~ dollars ~~(\$4550)~~(\$4600) counted as a resource, regardless of debt. ~~(9-1-94)~~(10-1-95)T

b. Licensed vehicle used to commute to work or training. Vehicle used to commute to work, training for work, or to seek work. This is in addition to general use vehicle. This includes use by household member, ineligible alien, or disqualified person.

Vehicle's fair market value over four thousand ~~five~~six hundred ~~five~~ty dollars (~~\$4550~~)(~~\$4600~~)  
counted as a resource, regardless of debt. (9-1-94)(10-1-95)T

c. Licensed vehicle used for job search. Vehicle used to seek work or comply with job search requirements. This is in addition to the general use vehicle. Vehicle's fair market value over four thousand ~~five~~six hundred ~~five~~ty dollars (~~\$4550~~)(~~\$4600~~) counted as a resource, regardless of debt. (9-1-94)(10-1-95)T

d. Other licensed vehicles. All other licensed vehicles. Greater of client's equity or the vehicle's fair market value over four thousand ~~five~~six hundred ~~five~~ty dollars (~~\$4550~~)(~~\$4600~~) counted as a resource. (9-1-94)(10-1-95)T

02. Resource Value of Unlicensed Vehicles. The resource value of unlicensed vehicles is counted as shown below: (6-1-94)

a. All unlicensed vehicles. All unlicensed vehicles, working or not working. Client's equity is counted as a resource. (6-1-94)

b. Unlicensed vehicles on Indian reservation. Unlicensed vehicles, driven by tribal members on Indian reservations not requiring licensure. Treated as licensed vehicles. Resource value is determined by use. (6-1-94)

### **337. COMPUTING VEHICLE FAIR MARKET VALUE.**

The Department will use an official used car valuations book, such as the NADA Official Used Car Guide, to compute the vehicle's fair market value. Do not add the value of low mileage or optional equipment. Do not add the value of special equipment for a handicapped person. If the household does not agree with the book value, it must provide proof of the vehicle's value from a reliable source such as a car dealer or a bank. (6-1-94)

01. Older Vehicles. If the vehicle is no longer listed in the NADA Official Used Car Guide, the Department will accept the household's estimate of the vehicle's value. If the Department has reason to question the estimate and if the value of the vehicle will affect eligibility, the household must get an appraisal from a car dealer or produce other evidence of its value. Accept a newspaper advertisement showing the selling price of similar vehicles. (6-1-94)

02. New Vehicles. If a new vehicle is not listed, get the fair market value by other means. The client may contact a dealer selling that type of vehicle. The dealer's wholesale value is the fair market value. For licensed antique, custom made, or classic vehicles, the household must provide proof of the value from a reliable source. (6-1-94)

03. Multiple Vehicles. If the household owns more than one (1) vehicle, assess each vehicle individually. Do not add the fair market value of two (2) or more vehicles to reach a total fair market value over four thousand ~~five~~six hundred dollars (~~\$4500~~)(~~\$4600~~). (6-1-94)(10-1-95)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**380. RESOURCES PREVIOUSLY PRORATED AS INCOME EXCLUDED.**

Resources previously prorated as income are excluded as resources. Prorated income may be loans to persons attending school or self-employed persons, paid in amounts to cover several months. ~~If this money is combined with countable funds, such as a bank account, the prorated amount is excluded for the proration period.~~ After the proration period, the total amount of combined funds is a countable resource. If this money is combined with countable funds, such as a bank account, the prorated amount is excluded for the proration period. (6-1-94)(10-1-95)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**382. RESOURCES EXCLUDED BY FEDERAL LAW.**

Resources listed below are excluded by Federal law: (6-1-94)

01. P.L. 91-646. Reimbursements under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970. (6-1-94)

02. P.L. 92-203. The Alaska Native Claims Settlement Act. (6-1-94)

03. P.L. 93-134 As Amended By P.L. 103-66. Effective January 1, 1994, interest of individual Indians in trust or restricted lands. (6-1-94)

04. P.L. 93-288 as amended by P.L. 100-707. Payments from Disaster Relief and Emergency Assistance. (6-1-94)

05. P.L. 93-531. Relocation assistance to Navajo and Hopi tribal members. (6-1-94)

06. P.L. 94-114. The submarginal lands held in trust by the U.S. for certain Indian tribal members. (6-1-94)

07. P.L. 94-189. The Sac and Fox Indian Claims Agreement. (6-1-94)

08. P.L. 94-540. Funds to the Grand River Band of Ottawa Indians. (6-1-94)

09. P.L. 95-433. The Confederated Tribes and Bands of the Yakima Indian Nation and the Apache Tribe of the Mescalero Reservation from the Indian Claims Commission. (6-1-94)

10. P.L. 96-420. The Passamaquoddy Tribe and Penobscot Nation funds paid under the Maine Indian Claims Settlement Act of 1980. (6-1-94)

11. P.L. 97-403. Payments to the Turtle Mountain Band of Chippewas, Arizona. (6-1-94)

12. P.L. 97-408. Payments to the Blackfeet, Gros Ventre and Asiniboine Tribes, Montana and the Papago Tribe, Arizona. (6-1-94)



13. P.L. 98-64 & P.L. 97-365. Up to two thousand dollars (\$2,000) of any per capita payment, and any purchases made with such payment, from funds held in trust by the Secretary of the Interior. (6-1-94)
14. P.L. 98-123. Funds awarded to members of the Red Lake Band of Chippewa Indians. (6-1-94)
15. P.L. 98-500. Funds provided to heirs of deceased Indians under the Old Age Assistance Claims Settlement Act, except for per capita shares in excess of two thousand dollars (\$2,000). (6-1-94)
16. P.L. 99-264. Payments to the White Earth Band of Chippewa Indian Tribe, Michigan. (6-1-94)
17. P.L. 99-346. Payments to the Saginaw Chippewa Indian Tribe, Michigan. (6-1-94)
18. P.L. 99-498 P.L. 102-523 Student Loans. Financial assistance funded in whole or in part under Title IV of the Higher Education Act. (6-1-94)
19. P.L. 101-41. Payments to the Puyallup Tribe of Indians, Washington. (6-1-94)
20. P.L. 101-277. Payments to the Seminole Nation of Oklahoma, the Seminole Tribe of Florida, the Miccosukee Tribe of Florida and the Independent Seminole Indians of Florida. (6-1-94)
21. P.L. 101-426. Payments from the Radiation Exposure Compensation Act. (6-1-94)
22. P.L. 102-237. Resources of any mixed household member who gets AFDC, AFDC-UP, or SSI. (6-1-94)
23. P.L. 103-286. Effective 8-1-94, payments made to victims of Nazi persecution. (1-1-95)
24. P.L. 103-436. Payments to the Confederated Tribes of the Colville Reservation for the Grand Coulee Dam Settlement. (10-1-95)
245. Civil Liberties Act of 1988. Restitution payments to persons of Japanese ancestry who were evacuated, relocated and interned during World War II as a result of government action. These payments are also excluded when paid to the statutory heirs of deceased internees. (6-1-94)
256. SSI Payments Under Zebley v. Sullivan Ruling. Retroactive lump sum SSI payments, for childhood disability, paid as a result of the Zebley v. Sullivan ruling. The payments are excluded resources for six (6) months from receipt. (6-1-94)
267. BIA Education Grant. Bureau of Indian Affairs (BIA) Higher Education

- Grant Program. (6-1-94)
278. WIC. Benefits from the Women, Infants, and Children (WIC) Program. (6-1-94)
289. JTPA. Payments from the Job Training Partnership Act (JTPA) (6-1-94)
2930. Energy Assistance. Payments from Federal, state, or local energy assistance, including insulation and weatherization payments. (6-1-94)
301. HUD Payments. HUD retroactive subsidy payments for tax and utilities are excluded the month received and the next month. (6-1-94)
342. Agent Orange Settlement Fund. Product liability payments, made by Aetna Life and Casualty from the Agent Orange Settlement Fund. Effective January 1, 1989. (6-1-94)
323. Federal EITC. Federal Earned Income Tax Credit (EITC) is excluded for the month of receipt and the following month. Federal EITC is excluded for twelve (12) months from receipt if the household member receives EITC while participating in the Food Stamp program. The exclusion continues only while the household participates in the Food Stamp program without a break, for up to twelve (12) months. The month of receipt is the first month of the exclusion. (1-1-95)

**(BREAK IN CONTINUITY OF SECTIONS)**

**402. UNEARNED INCOME.**

- Unearned income includes, but is not limited to income listed below: (6-1-94)
01. Public Assistance (PA). Payments from SSI, AFDC, AABD, GA, or other Public Assistance programs are unearned income. (6-1-94)
02. Retirement Income. Payments from annuities, pensions, and retirement are unearned income. Old age, survivors, or Social Security benefits are unearned income. (6-1-94)
03. Strike Benefits. Strike benefits are unearned income. (6-1-94)
04. Veteran's Benefits. Veteran's benefits are unearned income. (6-1-94)
05. Disability Income. Disability benefits are unearned income. (6-1-94)
06. Workers' Compensation. Workers' Compensation is unearned income. (6-1-94)
07. Unemployment Insurance. Unemployment Insurance is unearned income. (6-1-94)

08. Contributions. Contributions are unearned income. (6-1-94)
09. Rental Property Income. Rental property income, minus the cost of doing business, is unearned income if a household member is not managing the property at least twenty (20) hours per week. (6-1-94)
10. Support Payments. Support payments, including child support payments, are unearned income. (6-1-94)
11. Alimony. Alimony payments are unearned income. (6-1-94)
12. Education Benefits. Educational scholarships, grants, fellowships, deferred payment loans, and veteran's educational benefits exceeding excluded amounts are unearned income. (6-1-94)
13. Government Sponsored Program Payments. Payments from government sponsored programs are unearned income. (6-1-94)
14. Dividends, Interest, and Royalties. Dividends, interest, and royalties are unearned income. (6-1-94)
15. Contract Income. Contract income from the sale of property is counted as unearned income. (6-1-94)
16. Funds from Trusts. Monies withdrawn ~~or dividends~~ from trusts ~~exempt as a resource~~ are unearned income, ~~unless exempt as a resource~~. Dividends paid or dividends that could be paid from trusts exempt as a resource are unearned income.  
(6-1-94)(10-1-95)T
17. Recurring Lump Sum Payments. Recurring lump sum payments, such as child support pass through payments, are unearned income. (6-1-94)
18. Prizes. Cash prizes, gifts and lottery winnings are unearned income. (6-1-94)
19. Diverted Support or Alimony. Child support or alimony payments, diverted by the provider to a third party, to pay a household expense are unearned income. (6-1-94)
20. HUD Payments for Utilities. Housing and Urban Development (HUD) payments for utility costs, made directly to the household or jointly to the household and utility company, are unearned income. (6-1-94)
21. Agent Orange Payments. Payments made under the Agent Orange Act of 1991 and disbursed by the U.S. Treasury are unearned income. (6-1-94)
22. Garnishments. Garnishments from unearned income are unearned income. (6-1-94)
23. Other Monetary Benefits. Any monetary benefit, not otherwise counted

or excluded, is unearned income.(6-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**406. INCOME EXCLUDED BY FEDERAL LAW.**

Income listed below is excluded by Federal law when computing Food Stamp eligibility:  
(6-1-94)

01. P.L. 91-646. Reimbursements under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970. (6-1-94)

02. P.L. 92-203. Funds from the Alaska Native Claims Settlement Act. (6-1-94)

03. P.L. 93-113 RSVP. Payments under Title I and Title II, "Retired Senior Volunteer Program" (RSVP), the Foster Grandparents Program and the Domestic Volunteer Services Act of 1973. (6-1-94)

04. P.L. 93-134 as amended by P.L. 103-66. Effective January 1, 1994, up to two thousand dollars (\$2,000) per calendar year of payments derived from interest of individual Indians in trust or restricted lands. (6-1-94)

05. P.L. 93-288, P.L. 100-707 Disaster Relief. Payments from Disaster Relief and Emergency Assistance Disaster Relief Act. (6-1-94)

06. P.L. 93-531. Relocation assistance to Navajo and Hopi tribal members. (6-1-94)

07. P.L. 94-114. The submarginal lands held in trust by the U.S. for certain Indian tribal members. (6-1-94)

08. P.L. 94-189. Funds from the Sac and Fox Indian Claims Agreement. (6-1-94)

09. P.L. 94-540. Funds to the Grand River Band of Ottawa Indians. (6-1-94)

10. P.L. 95-433. Funds to the Confederated Tribes and Bands of the Yakima Indian Nation and the Apache Tribe of the Mescalero Reservation from the Indian Claims Commission. (6-1-94)

11. P.L. 96-420. Funds to the Passamaquoddy Tribe and Penobscot Nation funds paid under the Maine Indian Claims Settlement Act of 1980. (6-1-94)

12. P.L. 97-300 JTPA. All earned and unearned income received from the Job Training Partnership Act (JTPA) of 1982, except for earned income received from taking part in on-the-job training programs. (6-1-94)

13. P.L. 97-365 & P.L. 98-64. Up to two thousand dollars (\$2,000) of any

per capita payment, and any purchases made with such payment, from funds held in trust by the Secretary of the Interior. (6-1-94)

14. P.L. 97-403. Funds to the Turtle Mountain Band of Chippewas, Arizona. (6-1-94)
15. P.L. 97-408. Funds to the Blackfeet, Gros Ventre, and Assiniboine Tribes, Montana. Funds to the Papago Tribe, Arizona. (6-1-94)
16. P.L. 98-123. Funds to the Red Lake Band of Chippewa Indians. (6-1-94)
17. P.L. 98-500. Funds from the Old Age Assistance Claims Settlement Act, provided to heirs of deceased Indians, except for per capita shares over two thousand dollars (\$2,000). (6-1-94)
18. P.L. 99-264. Funds to the White Earth Band of Chippewa Indians, Minnesota. (6-1-94)
19. P.L. 99-346. Funds to the Saginaw Chippewa Indian Tribe, Michigan. (6-1-94)
20. P.L. 100-175. Effective October 1, 1987, payments received by persons age 55 and older under Title V, "Senior Community Service Employment Program". (6-1-94)
21. P.L. 100-435 WIC. Benefits from the Women, Infants, and Children (WIC) Program. (6-1-94)
22. P.L. 100-435. Payments or reimbursements for work related or child care expenses made under an employment, education, or training program under Title IV-A of the Social Security Act after September 19, 1988. (6-1-94)
23. P.L. 100-435. Payments made to a JSAP participant for work, training, or education-related expenses or for dependent care. (6-1-94)
24. P.L. 101-41. Funds to the Puyallup Tribe of Indians, Washington. (6-1-94)
25. P.L. 101-277. Payments to the Seminole Nation of Oklahoma, the Seminole Tribe of Florida, the Miccosukee Tribe of Florida, and the Independent Seminole Indians of Florida. (6-1-94)
26. P.L. 101-426. Payments made under the Radiation Exposure Compensation Act. (6-1-94)
27. P.L. 101-508. At-risk child care payments. (6-1-94)
28. P.L. 101-610 and P.L. 103-82. Allowances, earnings and payments to persons participating in programs under the National and Community Services Act. The

exclusion applies to all payments made under the AmeriCorps Program except earnings to individuals participating in an on-the-job training program equivalent to those under Section 204(5), Title II, of the Job Training Partnership Act. Those earnings are counted if the person is nineteen (19) years or older, or under nineteen (19) but not under parental control. (8-1-94)

29. P.L. 102-237. Amounts needed for attainment of a Plan for Achieving Self-Support (PASS) under Title XVI of the Social Security Act. (6-1-94)

30. P.L. 102-325. Educational income authorized under the BIA student assistance programs and under Title IV of the Higher Education Amendments of 1992. (6-1-94)

31. P.L. 103-286. Effective 08-01-94, payments made to victims of Nazi persecution. (1-1-95)

32. P.L. 103-436. Payments to the Confederated Tribes of the Colville Reservation for the Grand Coulee Dam Settlement. (10-1-95)T

323. Agent Orange Settlement Fund. Product liability payments, made by Aetna Life and Casualty from the Agent Orange Settlement Fund. Any other fund for the settlement of Agent Orange liability litigation. (6-1-94)

334. Civil Liberties Act of 1988. Restitution payments to persons of Japanese ancestry who were evacuated, relocated and interned during World War II as a result of government action. These payments are also excluded when paid to the statutory heirs of deceased internees. (6-1-94)

345. Negative Utility Allowance. Negative utility payments from HUD and FmHA. (8-1-94)

356. Energy Assistance. Payments from Federal, state, or local energy assistance, including insulation and weatherization payments. (6-1-94)

367. SSI Payments Under Zebley v. Sullivan Ruling. Retroactive lump sum SSI payments, for childhood disability, paid as a result of the Zebley v. Sullivan ruling. The payments are excluded resources for six (6) months from receipt. (6-1-94)

378. VISTA Payments. Payments under Title I, VISTA, University Year for Action and Urban Crime Prevention Program to volunteers who were receiving Food Stamps or public assistance when they joined the program. Payments to volunteers who were getting an income exclusion for a VISTA or other Title I allowance before the Food Stamp Act of 1977. Temporary breaks in participation do not alter the exclusion. (6-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**532. GROSS INCOME LIMIT.**

Households exceeding the gross income limit for the household size are not eligible,

unless they are categorically eligible or have an elderly or disabled member. Categorically eligible households are exempt from gross and net income limits. All members of categorically eligible households must be approved for AFDC, AFDC, or SSI. Households with elderly or disabled household members are exempt from the gross income limit. Gross income limits are listed in Table 532.

<b>TABLE 532</b>	<b>GROSS INCOME LIMIT</b>
HOUSEHOLD SIZE	GROSS INCOME LIMIT
1	\$ <del>798</del> <u>10</u>
2	\$1,066 <u>87</u>
3	\$1,335 <u>64</u>
4	\$1,604 <u>2</u>
5	\$1,872 <u>919</u>
6	\$2,141 <u>96</u>
7	\$2,440 <u>74</u>
8	\$2,678 <u>51</u>
Each Added Person Add	<del>\$269</del> <u>\$278</u>

(~~10-1-94~~)(10-1-95)T

**533. INCOME DEDUCTIONS.**

A household is entitled to a deduction when it gets a bill or, if there is no bill, when the payment is due. Only the deductions listed below must be taken from household's gross income: (6-1-94)

01. Standard Deduction. The standard deduction is one hundred and thirty-four ~~eight~~ dollars (~~\$134~~)(\$138) per month per household. (~~10-1-94~~)(10-1-95)T

02. Earned Income Deduction. The earned income deduction is twenty percent (20%) of gross earned income. (6-1-94)

03. Excess Medical Deduction. The excess medical deduction is nonreimbursed medical expenses more than thirty-five dollars (\$35) per household per month. The household member must be either age sixty (60) or older or disabled to get this deduction. Special diets are not deductible. (6-1-94)

04. Dependent Care Deduction. The dependent care deduction each month is dependent care expenses up to a maximum of two hundred dollars (\$200) per dependent child under age two (2) and one hundred seventy-five dollars (\$175) for any other dependent. The care must be needed for a household member to accept, continue, or seek

employment, or attend school or training for employment. (9-1-94)

05. Child Support Deduction. The child support deduction is the legally obligated child support amount the household pays, or expects to pay, on behalf of a non-household member. (10-1-95)T

056. Shelter Costs. The monthly shelter cost, over fifty percent (50%) of the household's income after all other deductions, is the excess shelter cost. (6-1-94)

**534. AVERAGING PERIODIC DEDUCTIONS.**

Infrequent, changing, or one time only deductions for medical, child support, shelter or child care are averaged. Averaging deductible expenses and procedures are listed below: ~~(6-1-94)~~(10-1-95)T

01. Averaging Infrequent Expenses. Households can have infrequent expenses averaged forward over the interval between scheduled billings. If there is no scheduled interval, expenses are averaged over the intended coverage period. (6-1-94)

02. Averaging Fluctuating Expenses. Households can have fluctuating expenses averaged over the certification period in which they are billed. (6-1-94)

03. Averaging One Time Only Expenses. One time only expenses can be averaged over the certification period in which they are billed. One time only expenses can be used as a one time deduction for one month. One time only expenses can be averaged over the remaining months in the certification period. Expenses averaged over the remaining certification period begin the month the change will become effective. (6-1-94)

04. Predicting Future Expenses. Predicted expenses must be based on the most recent month's bills, unless changes are expected to occur. (6-1-94)

05. Converting Expenses to Monthly Figures. Whenever an expense is billed on other than a monthly basis convert the expense to a monthly amount. (6-1-94)

a. Multiply weekly amounts by 4.3. (6-1-94)

b. Multiply bi-weekly amounts by 2.15. (6-1-94)

c. Multiply semi-monthly amounts by 2. (6-1-94)

d. Use a monthly figure if it can be predicted for each month of the certification period. (6-1-94)

e. The method used to compute monthly expenses must be documented. (6-1-94)

**535. MEDICAL DEDUCTIONS.**

Medical costs over thirty-five dollars (\$35), for elderly or disabled household members, must be deducted from the household income. Medical deductions are listed below. If an agreement is made between the medical provider and the client to pay a bill in monthly



amounts, count the monthly agreement amount. The agreement may be oral or written. The agreement must be made before the initial bill becomes due. The agreement must indicate a specific amount due each month. The specified amount is the monthly expense. If there is no agreement, amounts from past billing periods are not deductible. The amounts are not deductible, even if the past debt is in the current bill and actually paid by the household. (6-1-94)

01. Medical and Dental Services. Services must be performed by licensed practitioners, physicians, dentists, podiatrists, or other qualified health professionals. Other qualified health professionals include registered nurses, nurse practitioners, licensed physical therapists and licensed chiropractors. (6-1-94)

02. Psychotherapy and Rehabilitation Services. Services must be performed by licensed psychiatrists, licensed clinical psychologists, licensed practitioners, physicians or other qualified health professionals. (6-1-94)

03. Hospital or Outpatient Treatment. Hospital or outpatient treatment includes costs for hospital, nursing care, State licensed nursing home care, and care to a person immediately before entering a hospital or nursing home. (6-1-94)

04. Prescription Drugs. Prescription drugs and prescribed over-the-counter medication including insulin. (6-1-94)

05. Medical Supplies and Sickroom Equipment. Medical supplies and sickroom equipment including rental or other equipment. (6-1-94)

06. Health Insurance. Health and hospitalization insurance premiums. These do not include health and accident policies payable in a lump sum for death or dismemberment. These do not include income maintenance policies to make mortgage or loan payments while a beneficiary is disabled. (6-1-94)

07. Medicare Premiums. Medicare premiums related to coverage under Title XVIII of the Social Security Act. (6-1-94)

08. Cost-Sharing or Spend-Down Expenses. Cost-sharing or spend-down expenses incurred by Medicaid recipients. (6-1-94)

09. Artificial Devices. Dentures, hearing aids, and prostheses. (6-1-94)

10. Guide Dog. Costs for buying and caring for any animal trained and routinely used to help a disabled person. Deductions include costs for dog food, training, and veterinarian services. (6-1-94)

11. Eyeglasses. Costs for eye examinations and prescribed eyeglasses. (6-1-94)

12. Transportation and Lodging. Reasonable transportation and lodging costs to get medical services. (6-1-94)

13. Attendant Care. Attendant care costs necessary due to age, disability, or

illness. If attendant care costs qualify for both the medical and dependent care deductions, treat the cost as a medical expense. (6-1-94)

14. Attendant Meals. Deduct one hundred ~~twelve~~nineteen dollars ~~(\$112)~~(\$119) per month if the household provides most of the attendant's meals. ~~(6-1-94)~~(10-1-95)T

~~536. 539. (RESERVED).~~

**~~540-536.~~ DEPENDENT CARE DEDUCTIONS.**

A household can get a deduction for the costs of dependent care. The care of a dependent must be necessary for job search, employment, or training. The maximum deductible amount each month is two hundred dollars (\$200) per dependent child under age two (2) and one hundred seventy-five dollars (\$175) for any other dependent. The dependent care costs must be deducted from income. The dependent care must meet the criteria listed below: (9-1-94)

01. Employment. To accept employment or continue employment. (6-1-94)
02. Job Search. To look for work. Person does not need to be subject to job search requirements. (6-1-94)
03. Training or Education. To attend training or to pursue education. The training or education must be preparation for employment. (6-1-94)

**~~541-537.~~ DEPENDENT CARE RESTRICTIONS.**

Dependent care restrictions are listed below: (6-1-94)

01. Care By Household Member. Dependent care cannot be deducted if the care is provided by another household member. (6-1-94)
02. In-Kind Payment. Dependent care cannot be deducted if the payment is in-kind, such as food or exchanges for shelter. (6-1-94)
03. Vendor Payment. Dependent care cannot be deducted if paid by vendor payment. (6-1-94)
04. Education Exclusion. Dependent care cannot be deducted if income for dependent care is excluded from educational income. (6-1-94)
05. Spouse Can Give Care. Dependent care cannot be deducted if the spouse in the home is physically capable of the dependent care and is not working, seeking work, or registered for work. (6-1-94)
06. Dependent Care Repaid. Dependent care cannot be deducted if repaid under a Federal child care program. Federal programs include At Risk, Child Care Development Block Grant Act of 1990, Transitional Child Care Program, or Title IV-A of the Social Security Act child care payments. (6-1-94)

**538. CHILD SUPPORT DEDUCTIONS.**

Effective October 1, 1995, a child support deduction is allowed for a household paying or expecting to pay legally obligated child support to or for a child living outside the household. The child support deduction must reflect the child support the household pays or expects to pay during the certification period, rather than the obligated amount. The child support deduction applies to child support payments outlined in Subsections 538.01 through 538.04. (10-1-95)T

01. Monthly Child Support. Monthly legally obligated child support payments or portions of monthly legally obligated child support payments made on behalf of the nonhousehold child. (10-1-95)T

02. Health Insurance. Health insurance payments the noncustodial parent is legally obligated to make to obtain coverage for a nonhousehold child. (10-1-95)T

03. Payments Representing Child Support. Payments representing child support the household makes on behalf of the nonhousehold child. The payments must be legally obligated as ordered by a court or administrative authority. (10-1-95)T

04. Arrearages. Child support payments made for prior months are arrearages. Arrearages are deducted only if the household has paid legally obligated monthly child support to a nonhousehold child in the most recent three (3) months. Monthly child support payments are counted for the month of payment, not for arrearages, unless the household can prove otherwise. (10-1-95)T

**539. CALCULATION OF CHILD SUPPORT DEDUCTION.**

The household's child support payment history is used to determine the child support payment allowed. Use Subsections 539.01 through 539.03 to calculate the child support payment deduction. (10-1-95)T

01. Payments Made In Each of the Three (3) Most Recent Months. If legally obligated child support payments have been made in each of the three (3) most recent months and no income reduction is expected, average the child support amounts for the three (3) months. If the household has paid the monthly obligated child support for the current month, include the current month in the three (3) month period. Otherwise, average the three (3) prior months' child support. Anticipate changes in the legal obligation or other changes that would affect the payment. If obligated child support payments have been made in the most recent three (3) months, and a change in income occurs, determine whether reduced child support is expected. Base the child support deduction on what the household expects to pay, after reviewing household income and expenses with the household. If no child support payments can be made, do not allow a child support deduction. (10-1-95)T

02. Payments Not Made In Each Of The Last Three (3) Months. If child support payments have not been made in each of the last three (3) months, anticipate future payments based on household circumstances. Base the child support deduction on what the household expects to pay, after reviewing the household's income and expenses with the household. If no child support payments can be made, do not allow a child support deduction. If at the last certification the child support deduction was based on the amount the household expected to pay and no child support was paid, do not allow a child

support deduction for the new certification unless there is a change in income that would enable the household to make child support payments. Base the child support deduction on what the household expects to pay, after reviewing income and expenses with the household. (10-1-95)T

03. Arrearages. Arrearages are allowed if the household has paid legally obligated monthly child support to a nonhousehold child in the most recent three (3) months. The household must be financially able to pay arrearages. Average the child support arrearage amounts for the three (3) most recent months. If the household has paid arrearages in the current month, include the current month arrearage in the three (3) month period. Otherwise, average arrearages paid during the three (3) prior months. Do not include tax intercepts. (10-1-95)T

**540. -- 541. (RESERVED).**

**542. COSTS ALLOWED FOR SHELTER DEDUCTION.**

Shelter costs are current charges for the shelter occupied by the household. Shelter costs include costs for the home temporarily not occupied because of employment or training away from home or illness. The costs allowed for the shelter deduction are listed below: (6-1-94)

01. House Payments. Mortgages, second mortgages, mortgage fees and land payments. (6-1-94)

02. Rent. Rent and space rent. (6-1-94)

03. Loan Payments. Loan repayments for the purchase of a mobile or motor home, including interest. (6-1-94)

04. Taxes and Insurance. Property taxes, state, and local assessments and insurance on the structure. (6-1-94)

05. Utilities. Costs of heating, cooling, cooking fuel, electricity, the basic service fee for one telephone, water, sewer, garbage and trash collection, and fees for initial utility installation. (6-1-94)

06. Homeless Household. If the household is homeless, has a shelter expense, and is unable to show proof of the expense, deduct a shelter amount of one hundred ~~thirty-nine~~ ~~forty-three~~ dollars ~~(\$139)~~(\$143). This homeless deduction includes shelter and utility costs. The household may switch between the homeless deduction and actual shelter costs. There is no limit to the number of times a household may switch between the homeless deduction and actual shelter costs. ~~(10-1-94)~~(10-1-95)T

07. Vehicle Payments. Payments for vehicles used as the primary residence for the household. (6-1-94)

08. Costs for Home Repairs. Nonreimbursable costs to repair a home damaged or destroyed by a natural disaster such as a fire or flood or earthquake. (6-1-94)

09. Home Temporarily Not Occupied. Shelter costs for the home

temporarily not occupied because of employment or training away from home or illness. This shelter cost may be in addition to the shelter cost for the home the household currently occupies. Shelter costs for the home temporarily not occupied because of abandonment caused by a natural disaster or casualty loss. This shelter cost may be in addition to the shelter cost for the home the household currently occupies. For shelter deduction for a vacated home: (6-1-94)

- a. The household must intend to return. (6-1-94)
- b. Current occupants must not be claiming Food Stamp shelter costs. (6-1-94)
- c. The home must not be leased or rented. (6-1-94)
- d. The SUA is not allowed for a temporarily unoccupied home. (6-1-94)
- e. The household must claim actual costs for both the unoccupied home and its current residence. (6-1-94)

**543. STANDARD UTILITY ALLOWANCE (SUA).**

The shelter deduction is computed using the SUA or actual utility costs. The SUA is described below: (6-1-94)

01. Standard Utility Allowance (SUA). The Standard Utility Allowance (SUA) can be used instead of actual costs of heating, cooling, cooking fuel, electricity, the basic service fee for one telephone, water, sewer and garbage collection. The SUA is one hundred sixty-two ~~three~~ dollars (\$162~~3~~). The household must be told if actual utility costs exceed the SUA, the actual costs can be used if the household proves these costs. (10-1-94)(10-1-95)T

- 02. SUA Qualifications. To qualify for the SUA, households must: (6-1-94)
  - a. Receive energy assistance payments made under the Low Income Home Energy Assistance Act of 1981; or (6-1-94)
  - b. The household must have a primary heating or cooling system. The household must have out-of-pocket heating or cooling costs billed on a regular or irregular basis. The heating or cooling costs must be separate from rent or mortgage payments. If not billed regularly for heating or cooling costs, the household must be otherwise Food Stamp eligible between billing periods. (6-1-94)
  - c. If the household claims cooling costs, the household must have either an air conditioning system or a room air conditioner to qualify for the SUA. (6-1-94)
  - d. If the household claims heating costs, the household must have expenses for a primary source of heat. Households buying wood for their primary source of heat may get the SUA Cutting their own wood for the primary source of heat does not qualify a household for the SUA. Supplemental heat sources like, space heaters, electric blankets, cook stoves and a secondary heat source like a fireplace do not qualify households for the SUA. (6-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**548. COMPUTING THE SHELTER DEDUCTION.**

The shelter deduction is computed as listed below: (6-1-94)

01. Household With Elderly or Disabled Member. If the household has an elderly or disabled member, deduct the monthly shelter cost exceeding fifty percent (50%) of the household's income after all other deductions. (6-1-94)

02. Household With No Elderly or Disabled Member. If the household does not have an elderly or disabled member, deduct the excess of fifty percent (50%) of the household's income, after all other deductions, up to the maximum two hundred ~~thirty-one~~ ~~forty-seven~~ dollar ~~(\$231)~~ ~~(\$247)~~ limit. ~~(7-1-94)~~ ~~(10-1-95)~~T

**549. NET INCOME LIMIT TEST.**

Categorically eligible households do not have a net income limit. Households with an elderly or disabled household member must meet the net income limit. For all other households, compare the net income to the net income eligibility limit for that size household. This comparison must be completed for initial eligibility and when income changes. When the household income changes to a different income eligibility limit, apply the different limit. If the net income of the household exceeds the net income limit the household is not eligible for Food Stamps, unless categorically eligible. Net income limits are listed in Table 549. (6-1-94)

TABLE 549 NET INCOME LIMITS	
HOUSEHOLD SIZE	NET INCOME LIMIT
1	\$ <del>614</del> <u>23</u>
2	\$ <del>820</del> <u>36</u>
3	\$ <del>1027</del> <u>50</u>
4	\$ <del>1,263</del> <u>4</u>
5	\$ <del>1,440</del> <u>76</u>
6	\$ <del>1,647</del> <u>90</u>
7	\$ <del>1,854</del> <u>903</u>
8	\$ <del>2,011</del> <u>60</u>
Each Added Person Add	\$ <del>207</del> <u>14</u>

~~(10-1-94)~~ ~~(10-1-95)~~T

**550. STEPS TO COMPUTE FOOD STAMP PAYMENT.**

Use the steps in Subsections 550.01 through 550.368 to compute the Food Stamp issuance. Do not round figures or calculations of income and deductions in determining gross or net income. ~~(6-1-94)~~(10-1-95)T

01. Step 1. List projected wages and salaries for the household for the month. Do not count excluded income. (6-1-94)
02. Step 2. Compute and list net self-employment income. If a farmer, list any self-employment profit or loss. (6-1-94)
03. Step 3. Add results of step 1 and step 2. **THIS IS GROSS EARNED INCOME.** (6-1-94)
04. Step 4. Compute and list prorated monthly non-excluded educational income. (6-1-94)
05. Step 5. Compute and list prorated monthly tuition, mandatory fees, and allowed expenses. (6-1-94)
06. Step 6. Subtract amount in step 5 from the amount in step 4. (6-1-94)
07. Step 7. List other unearned income for household. (6-1-94)
08. Step 8. Add results of step 6 and step 7. **THIS IS TOTAL UNEARNED INCOME.** (6-1-94)
09. Step 9. Add results of step 3 and step 8. (6-1-94)
10. Step 10. Subtract any loss not used up in step 2 from step 9. **THIS IS GROSS MONTHLY INCOME.** Record the gross monthly income. Check to see if gross income exceeds the limit for family size. Categorically eligible households are exempt from the gross income test. Households with an elderly or disabled household member are exempt from the gross income test. (6-1-94)
11. Step 11. Multiply amount in step 3 times 0.2 (20%). (6-1-94)
12. Step 12. Subtract amount in step 11 from amount in step 3. (6-1-94)
13. Step 13. Add amount in step 12 to amount in step 8. (6-1-94)
14. Step 14. List the standard deduction of one hundred thirty-four ~~eight~~ dollars ~~(\$134)~~(\$138) ~~(6-1-94)~~(10-1-95)T
15. Step 15. Subtract amount in step 14 from amount in step 13. (6-1-94)
16. Step 16. List converted medical costs over thirty-five dollars (\$35) for household with elderly or disabled member. (6-1-94)
17. Step 17. Subtract amount in step 16 from amount in step 15. (6-1-94)

18. Step 18. List converted dependent care costs (not to exceed two hundred dollars (\$200) per dependent under age two (2) and one hundred seventy five dollars (\$175) for any other dependent). (10-1-94)

19. Subtract amount in step 18 from amount in step 17. (10-1-95)T

20. List child support paid or expected to be paid by the household. (10-1-95)T

~~1921.~~ Step ~~1921.~~ Subtract amount in step ~~1820~~ from amount in step 179. THIS IS INCOME, AFTER DEDUCTIONS, EXCEPT SHELTER DEDUCTION. (~~6-1-94~~)(10-1-95)T

~~202.~~ Step 202. Divide amount in step ~~1921~~ by 2 (this is used to weigh shelter costs). THIS IS HALF THE ADJUSTED INCOME. (~~6-1-94~~)(10-1-95)T

~~213.~~ Step 213. List rent or mortgage payment. (~~6-1-94~~)(10-1-95)T

~~224.~~ Step 224. List property taxes (averaged over 12 months). (~~6-1-94~~)(10-1-95)T

~~235.~~ Step 235. List homeowners insurance on structure (averaged over 12 months). (~~6-1-94~~)(10-1-95)T

~~246.~~ Step 246. Add amount in step ~~213~~ and amount in step ~~224~~ and amount in step ~~235~~. (~~6-1-94~~)(10-1-95)T

~~257.~~ Step 257. If client chooses the standard utility allowance (SUA), add one hundred sixty ~~two~~ three dollars (\$1623) to the amount in step ~~246~~. (~~10-1-94~~)(10-1-95)T

~~268.~~ Step 268. If client has chosen to use actual utility expenses, list and add the following expenses. (~~6-1-94~~)(10-1-95)T

- a. Basic rate for telephone. (6-1-94)
- b. Electric bill. (6-1-94)
- c. Gas bill. (6-1-94)
- d. Heating oil. (6-1-94)
- e. Wood costs (only if purchased for heat). (6-1-94)
- f. Water and sewer bill. (6-1-94)
- g. Garbage and trash collection. (6-1-94)
- h. Installation costs for utilities. (6-1-94)



- i. Other allowed utility costs. (6-1-94)
- ~~279.~~ Step ~~279.~~ If client has chosen to use actual utility expenses, add amount in step ~~246~~ and amount in step ~~268~~. ~~(6-1-94)(10-1-95)T~~
- ~~2830.~~ Step ~~2830.~~ Use amount from step ~~257~~ (using standard utility allowance) or amount from step ~~279~~ (using actual utility costs) as total shelter cost. ~~(6-1-94)(10-1-95)T~~
- ~~2931.~~ Step ~~2931.~~ Subtract half adjusted income (step ~~202~~) from amount in step ~~2830~~. THIS IS THE EXCESS SHELTER DEDUCTION. The maximum excess shelter deduction for household with no elderly or disabled member is two hundred ~~thirty-one~~~~forty-seven~~ dollars (~~\$231~~)(~~\$247~~). If any member of the household is age sixty (60) or disabled, the maximum is the full excess shelter allowance. ~~(10-1-94)(10-1-95)T~~
- ~~302.~~ Step ~~302.~~ Subtract amount in step ~~2931~~ from amount in step ~~1921~~. THIS IS THE NET INCOME. ~~(6-1-94)(10-1-95)T~~
- ~~343.~~ Step ~~343.~~ List maximum net income limit based on household size. ~~(6-1-94)(10-1-95)T~~
- ~~324.~~ Step ~~324.~~ If amount in step ~~302~~ is less than or equal to amount in step ~~343~~, or if all household members are categorically eligible, compute the Food Stamp amount. If the amount in step ~~302~~ is greater than the amount in step ~~343~~, net income exceeds allowed limits. ~~(6-1-94)(10-1-95)T~~
- ~~335.~~ Step ~~335.~~ List maximum Food Stamp amount for number of eligible household members. ~~(6-1-94)(10-1-95)T~~
- ~~346.~~ Step ~~346.~~ Multiply amount in step ~~302~~ times 0.3 (30%). ~~(6-1-94)(10-1-95)T~~
- ~~357.~~ Step ~~357.~~ Subtract amount in step ~~346~~ from the amount in step ~~335~~. ~~(6-1-94)(10-1-95)T~~
- ~~368.~~ Step ~~368.~~ Round the amount in step ~~357~~ to the next lower dollar. THIS IS THE FOOD STAMP ISSUANCE AMOUNT. ~~(6-1-94)(10-1-95)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**563. FOOD STAMP PRORATING FORMULA.**

Determine the prorated Food Stamp amount using the steps listed in Subsections 563.01 through ~~045~~. ~~(6-1-94)(10-1-95)T~~

01. Step 1. ~~Multiply the monthly Food Stamp benefit by the application date (1 through 30). If the application date is the thirty-first (31st) day of the month, use thirty (30).~~ Subtract the application date (1 through 30) from 31. If the application date is the

thirty-first (31st) day of the month, use thirty (30). ~~(6-1-94)~~(10-1-95)T

~~02. Step 2. Subtract the amount in Step 1 from a full month's Food Stamps.~~ Divide the amount in Step 1 by 30. ~~(6-1-94)~~(10-1-95)T

~~03. Step 3. If the difference in Step 2 ends in one (1) through ninety-nine (99) cents, round down to the lower dollar.~~ Multiply the monthly Food Stamp benefit by the amount in Step 2. ~~(6-1-94)~~(10-1-95)T

~~04. Step 4. If the difference in Step 3 ends in one (1) through ninety-nine (99) cents, round down to the lower dollar.~~ ~~(10-1-95)T~~

~~045. Step 45. If the amount in step 34 is for the initial month, and is less than ten dollars (\$10), benefits must not be issued.~~ ~~(6-1-94)~~(10-1-95)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**581. MAXIMUM FOOD STAMPS BY HOUSEHOLD SIZE.**

The maximum Food Stamp amount by household size is listed in Table 581.~~(6-1-94)~~

<b>TABLE 581</b>	<b>MAXIMUM FOOD STAMPS BY HOUSEHOLD SIZE</b>
<b>HOUSEHOLD SIZE</b>	<b>MAXIMUM FOOD STAMPS</b>
1	<del>\$1159</del>
2	<del>\$2128</del>
3	<del>\$30413</del>
4	<del>\$38697</del>
5	<del>\$45972</del>
6	<del>\$55066</del>
7	<del>\$60826</del>
8	<del>\$71695</del>
Each Added Person Add	<del>\$8790</del>

~~(10-1-94)~~(10-1-95)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**612. HOUSEHOLD MUST REPORT CHANGES.**

Households must report any changes listed below: (6-1-94)

01. Household Composition. Households must report when a person enters or leaves the Food Stamp household. (~~6-1-94~~)(10-1-95)T

02. Residence. Households must report residence changes and resulting shelter cost changes. (6-1-94)

03. Unearned Income. Households must report changes in an unearned income source. Households must report changes in unearned gross monthly income of twenty-five dollars (\$25) or more, except changes in AFDC or AABD grants. (7-1-94)

04. Earned Income. Households must report a change in an earned income source. Households must report a change in hourly rate or salary. Households must report a change from part-time to full-time work or full-time to part-time work. Work of less than thirty (30) hours weekly is part-time work. Thirty (30) or more hours weekly is full-time work. (7-1-94)

05. Vehicles. Households must report any change in the number or type of licensed vehicles. (6-1-94)

06. Resources. Households must report changes in cash on hand, stocks, bonds, savings, and bank accounts combining to reach or exceed two thousand dollars (\$2,000). (6-1-94)

07. Child Support. Households must report changes in legal obligations. Legal obligations include but are not limited to changes in the child support amount or the child reaches an age at which child support is no longer legally obligated. Households must report changes greater than fifty dollars (\$50) in the amount of legally obligated child support actually paid. (10-1-95)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**615. CHANGES IN SHELTER, DEPENDENT CARE, CHILD SUPPORT OR MEDICAL EXPENSES.**

If a client reports a change in shelter, dependent care, child support or questionable medical expenses, the Department must request proof of the change. If the household provides the proof by the requested date, notice must be sent and benefits adjusted. If the household does not provide the proof and the change would result in decreased benefits, no deduction is allowed. If the change would result in an increase in benefits, but the household does not provide proof, the deduction is not increased. The deduction remains at the amount verified before the change. Proof of anticipated medical expenses is not required provided the client has informed the Department of the expense and the expense is not questionable. Act on a medical change learned from a source other than the household only if the change can be made without contact with the household for further information or proof. Do not act on a medical change learned from a source other than the household if not verified upon receipt or if contact with the household for proof is

necessary.

~~(1-1-95)~~(10-1-95)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**775. FOOD STAMPS FOR HOUSEHOLDS WITH IPV MEMBERS.**

Food Stamp eligibility and benefit level for households containing members disqualified for an IPV must be computed using steps in Subsections 775.01 through 08. The household's Food Stamps must not increase because a household member is disqualified for IPV. (6-1-94)

01. Step 1. Count all resources of the disqualified IPV members as resources to the household. (6-1-94)

02. Step 2. Do not count the IPV member as part of the household to compute the resource limit. (6-1-94)

03. Step 3. Count all income of the IPV members as income to the household. (6-1-94)

04. Step 4. Do not count the IPV member when computing household size for the gross and net income limit tests. (6-1-94)

05. Step 5. The entire household's allowable earned income, standard, medical, dependent care, child support, and excess shelter deductions apply to the remaining household members. ~~(6-1-94)~~(10-1-95)T

06. Step 6. Count the IPV member to compute medical deduction. (6-1-94)

07. Step 7. Count the IPV member to compute uncapped shelter deduction. (6-1-94)

08. Step 8. Do not count the IPV member to compute household size for Food Stamp issuance. (6-1-94)

**776. NON-HEAD OF HOUSEHOLD DISQUALIFIED FOR JSAP OR WORK REGISTRATION REQUIREMENTS.**

Food Stamp eligibility and benefit level for households containing members disqualified for failure to comply with JSAP or work registration requirements must be computed using steps in Subsections 776.01 through 08. (6-1-94)

01. Step 1. Count all resources of the disqualified members as resources to the household. (6-1-94)

02. Step 2. Do not count the disqualified member as part of the household to compute the resource limit. (6-1-94)

03. Step 3. Count all income of the disqualified members as income to the

household. (6-1-94)

04. Step 4. Do not count the disqualified member when computing household size for the gross and net income limit tests. (6-1-94)

05. Step 5. The entire household's allowable earned income, standard, medical, dependent care, child support, and excess shelter deductions apply to the remaining household members. ~~(6-1-94)~~(10-1-95)T

06. Step 6. Count the disqualified member to compute medical deduction. (6-1-94)

07. Step 7. Count the disqualified member to compute uncapped shelter deduction. (6-1-94)

08. Step 8. Do not count the disqualified member to compute household size for Food Stamp issuance. (6-1-94)

**777. MEMBER DISQUALIFIED FOR CAUSES OTHER THAN IPV OR JSAP.**  
Food Stamp eligibility and benefit level for households containing members disqualified for failure or refusal to provide a SSN, for failure to sign a citizenship or alien status declaration or because the member is an ineligible alien or an ineligible sponsored alien must be computed using steps in Subsections 777.01 through 09. (6-1-94)

01. Step 1. Count the resources of the disqualified members as resources to the Food Stamp household. (6-1-94)

02. Step 2. Count part of the income of the disqualified members as income to the household. (6-1-94)

a. Subtract Food Stamp exclusions from the disqualified member's income. (6-1-94)

b. Divide the income evenly among all members, including the disqualified member. (6-1-94)

c. Count all but the disqualified member's share as income to the Food Stamp household. (6-1-94)

03. Step 3. Apply the earned income deduction to the prorated income of the excluded member. (6-1-94)

04. Step 4. Divide the allowable shelter, ~~and~~ dependent care and child support expenses, paid by or billed to the disqualified member, among the household members. All but the disqualified member's share is a deductible ~~shelter~~ expense. ~~(6-1-94)~~(10-1-95)T

05. Step 5. Do not count the disqualified member as part of the household to compute the resource limit. (6-1-94)

06. Step 6. Do not count the disqualified member when computing household size for the gross and net income limit tests. (6-1-94)

07. Step 7. Count the disqualified member to compute medical deduction. (6-1-94)

08. Step 8. Count the disqualified member to compute uncapped shelter deduction. (6-1-94)

09. Step 9. Do not count the disqualified member to compute household size for Food Stamp issuance. (6-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**996. FAIR HEARING.**

If the client does not agree with the actions of the Department, he can request a fair hearing under IDAPA 16, Title 05, Chapter 03, Idaho Department of Health and Welfare Rules, Section 05.03.300, "Rules Governing Contested Cases and Declaratory Rulings, Section 350." (~~6-1-94~~)(10-1-95)T

**IDAPA 18 - DEPARTMENT OF INSURANCE**  
**18.01.09 - CERTIFICATE TO ACCOMPANY ALL SUBMITTED POLICY FORMS**  
**DOCKET NO. 18-0109-9501**  
**NOTICE OF PROPOSED RULE**

**ACTION:** This action, under Docket No. 18-0109-9501, involves the proposed repeal of the rule supplying the certificate to accompany all submitted policy forms, IDAPA 18, Title 01, Chapter 09, Idaho Department of Insurance.

**AUTHORITY:** These rules are promulgated and adopted pursuant to the authority vested in the Director of the Department of Insurance under title 41, chapter 2, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a statement in nontechnical language of the substance of these proposed rules:

In 1995 the statute was amended to remove the approval requirement. Therefore these rules are no longer needed and are being repealed in their entirety.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. These requests must be received by the Department no later than November 15, 1995.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning these proposed rules, contact John Michael Brassey, at (208) 334-4250.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before November 22, 1995.

DATED this 18TH day of September, 1995.

JOHN MICHAEL BRASSEY, Director  
Idaho Department of Insurance  
700 West State Street- 3rd Floor  
P.O. BOX 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250

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**THIS RULE IS REPEALED IN ITS ENTIRETY.**

**IDAPA 18 - DEPARTMENT OF INSURANCE**  
**18.01.75 - CREDIT FOR REINSURANCE PROVISION RULES**  
**DOCKET NO. 18-0175-9501**  
**NOTICE OF PROPOSED RULE**

**AUTHORITY:** These rules are promulgated and adopted pursuant to the authority vested in the Director of the Department of Insurance under Title 41, Chapter 2, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a statement in nontechnical language of the substance of these proposed rules:

The purpose of this rule is to set forth rules and procedural requirements which the director deems necessary to carry out the Credit for Reinsurance provision, Section 41-514, Idaho Code. The actions and information required by this rule are hereby declared to be necessary and appropriate in the public interest and for the protection of the ceding insurers in this state.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be held as follows:

At 9:00 a.m., November 7, 1995,  
Department of Insurance, 700 West State Street  
3rd Floor, Conference Room 3A  
Boise, Idaho.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning these proposed rules, contact John Michael Brassey, at (208) 334-4250.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before November 22, 1995.

DATED this 20th day of September, 1995.

JOHN MICHAEL BRASSEY, Director  
Idaho Department of Insurance  
700 West State Street- 3rd Floor  
P.O. BOX 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250



**IDAPA 18**  
**TITLE 01**  
**Chapter 75**

**CREDIT FOR REINSURANCE PROVISION RULES**  
**RULES OF THE DEPARTMENT OF INSURANCE**

**000. LEGAL AUTHORITY.**

In accordance with Section 41-211, Idaho Code, the Director of the Idaho Department of Insurance shall promulgate rules implementing the provisions of Title 41, Idaho Code. ( )

**001. TITLE AND SCOPE.**

These rules shall be cited as IDAPA 18.01.75, Rules of the Idaho Department of Insurance, IDAPA 18, Title 01, Chapter 75, Credit for Reinsurance Provision Rules. The purpose of this rule is to set forth rules and procedural requirements which the director deems necessary to carry out the Credit for Reinsurance provision, Section 41-514, Idaho Code. The actions and information required by this rule are hereby declared to be necessary and appropriate in the public interest and for the protection of the ceding insurers in this state. ( )

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(16)(b)(iv), Idaho Code, this agency has written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. The document is available for public inspection and copying at cost at the Office of the State Auditor, 700 West State -- 4th Floor, P.O. Box 83720, Boise, Idaho, 83720. ( )

**003. ADMINISTRATIVE APPEALS.**

All contested cases shall be governed by the provisions of IDAPA 04.11.01, Model Rules of Procedure of the Office of the Attorney General. ( )

**004. -- 010. (RESERVED).**

**011. CREDIT FOR REINSURANCE - REINSURER LICENSED IN THIS STATE.**

Pursuant to Idaho Code, Section 41-514(1)(a), the director shall allow credit for reinsurance ceded by a domestic insurer to assuming insurers which were licensed in this state as of the date of the ceding insurer's statutory financial statement. ( )

**012. - 020. (RESERVED).**

**021. CREDIT FOR REINSURANCE - ACCREDITED REINSURERS.**

01. Accredited Reinsurers. Pursuant to Idaho Code, Section 41-514(1)(b), the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which is accredited as a reinsurer in this state as of the date of the ceding insurer's statutory financial statement. An accredited reinsurer is one which: ( )

- a. Files a properly executed Form AR-1 (attached as an exhibit to this rule)

as evidence of its submission to this state's jurisdiction and to this state's authority to examine its books and records; ( )

b. Files with the director a certified copy of a letter or a certificate of authority or of compliance as evidence that it is licensed to transact insurance or reinsurance in at least one state, or, in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state; ( )

c. Files annually with the director a copy of its annual statement filed with the insurance department of its state of domicile or, in the case of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, and a copy of its most recent audited financial statement; and ( )

d. Maintains a surplus as regards policyholders in an amount not less than twenty million dollars (\$20,000,000) and whose accreditation has not been denied by the director within ninety (90) days of its submission or, in the case of companies with a surplus as regards policyholders of less than twenty million dollars (\$20,000,000), whose accreditation has been approved by the director. ( )

02. Denial of Accreditation. If the director determines that the assuming insurer has failed to meet or maintain any of these qualifications, he may upon written notice and hearing revoke the accreditation. No credit shall be allowed a domestic ceding insurer with respect to reinsurance ceded after 9/1/97 if the assuming insurer's accreditation has been denied or revoked by the director after notice and hearing. ( )

**022. - 030. (RESERVED).**

**031. CREDIT FOR REINSURANCE - REINSURER DOMICILED AND LICENSED IN ANOTHER STATE.**

Pursuant to Idaho Code, Section 41-514(1)(c) the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which as of the date of the ceding insurer's statutory financial statement: ( )

01. Applicable Domicile and License. Is domiciled and licensed in (or, in the case of a United States branch of an alien assuming insurer, is entered through and licensed in) a state which employs standards regarding credit for reinsurance substantially similar to those applicable under the Act and this rule. ( )

02. Maintains Surplus. Maintains a surplus as regards policyholders in an amount not less than twenty million dollars (\$20,000,000). ( )

03. Proper AR-1 Form Filed. Files a properly executed Form AR-1 with the director as evidence of its submission to this state's authority to examine its books and records. ( )

04. Provisions. The provisions of this section relating to surplus as regards policyholders shall not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system. As used in this

section, "substantially similar" standards means credit for reinsurance standards which the director determines equal or exceed the standards of Idaho Code, Section 41-514 and this rule. ( )

**032. - 040. (RESERVED).**

**041. CREDIT FOR REINSURANCE - REINSURERS MAINTAINING TRUST FUNDS.**

01. Trust Fund. Pursuant to Idaho Code, Section 41-514(1)(d), the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which, as of the date of the ceding insurer's statutory financial statement maintains a trust fund in an amount prescribed below in a qualified United States financial institution as defined in Idaho Code, Section 41-514(4), for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the director substantially the same information as that required to be reported on the NAIC annual statement form by licensed insurers, to enable the director to determine the sufficiency of the trust fund. ( )

02. Requirements. The following requirements apply to the following categories of assuming insurer: ( )

a. The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to business written in the United States, and in addition, a trustee surplus of not less than twenty million dollars (\$20,000,000). ( )

b. The trust fund for a group of individual unincorporated underwriters shall consist of funds in trust in an amount not less than the group's aggregate liabilities attributable to business written in the United States and, in addition, the group shall maintain a trustee surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of the United States ceding insurers of any member of the group. The group shall make available to the director annual certifications by the group's domiciliary regulator and its independent public accountants of the solvency of each underwriter member of the group. ( )

c. The trust fund for a group of incorporated insurers under common administration, whose members possess aggregate policyholders surplus of ten billion dollars (\$10,000,000,000) (calculated and reported in substantially the same manner as prescribed by the annual statement instructions and Accounting Practices and Procedures Manual of the National Association of Insurance Commissioners) and which has continuously transacted an insurance business outside the United States for at least three (3) years immediately prior to making application for accreditation, shall consist of funds in trust in an amount not less than the assuming insurers' liabilities attributable to business ceded by United States ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group and, in addition, the group shall maintain a joint trustee surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of United States ceding insurers of any member of the group. The group shall file a properly executed Form AR-1 as evidence of the submission to this state's authority to examine the books and records of any of its members and shall

certify that any member examined will bear the expense of any such examination. The group shall make available to the director annual certifications by the members' domiciliary regulators and their independent public accountants of the solvency of each member of the group. ( )

03. Acceptable Form. The trust shall be established in a form approved by the director and complying with Idaho Code, Section 41-514(1) and this section. The trust instrument shall provide that: ( )

a. Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied thirty (30) days after entry of the final order of any court of competent jurisdiction in the United States. ( )

b. Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's United States policyholders and ceding insurers, their assigns and successors in interest. ( )

c. The trust shall be subject to examination as determined by the director. ( )

d. The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust. ( )

e. No later than February 28 of each year the trustees of the trust shall report to the director in writing setting forth the balance in the trust and listing the trust's investments at the preceding year end, and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31. ( )

f. No amendment to the trust shall be effective unless reviewed and approved in advance by the director. ( )

**042. - 050. (RESERVED).**

**051. CREDIT FOR REINSURANCE REQUIRED BY LAW.**

Pursuant to Idaho Code, Section 41-514(1)(e), the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Idaho Code, Section 41-514(1)(a), (b), (c) or (d), but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required by the applicable law or regulation of that jurisdiction. As used in this section, "jurisdiction" means any state, district or territory of the United States and any lawful national government. ( )

**052. - 060. (RESERVED).**

**061. REDUCTION FROM LIABILITY FOR REINSURANCE CEDED TO AN UNAUTHORIZED ASSUMING INSURER.**

Pursuant to Idaho Code, Section 41-514(2), the director shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting

the requirements of Idaho Code, Section 41-514(1) in an amount not exceeding the liabilities carried by the ceding insurer. Such reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder. Such security must be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution as defined in Idaho Code, Section 41-514(4). This security may be in the form of any of the following: ( )

01. Cash. ( )

02. Securities. Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners and qualifying as admitted assets. ( )

03. Letters of Credit. Clean, irrevocable, unconditional and "evergreen" letters of credit issued or confirmed by a qualified United States institution, as defined in Idaho Code, Section 41-514(3), effective no later than December 31 of the year for which filing is being made, and in the possession of the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs. ( )

04. Any Other Form Of Security Acceptable To The Director. An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to Section 061.01, 061.02, and 061.03 shall be allowed only when the requirements of Sections 071, 081, or 091 of this rule are met. ( )

**062. - 070. (RESERVED).**

**071. TRUST AGREEMENTS QUALIFIED UNDER SECTION 061.**

01. Beneficiary. Beneficiary means the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator). ( )

02. Grantor. Grantor means the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer. ( )

03. Obligations. "Obligations", as used in Subsection 071.04.k., means: ( )

a. Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer; ( )

- b. Reserves for reinsured losses reported and outstanding ( )
- c. Reserves for reinsured losses incurred but not reported; and ( )
- d. Reserves for allocated reinsured loss expenses and unearned premiums. ( )
- 04. Required Conditions. ( )
  - a. The trust agreement shall be entered into between the beneficiary, the grantor and a trustee which shall be a qualified United States financial institution as defined in Idaho Code, Section 41-514(4). ( )
  - b. The trust agreement shall create a trust account into which assets shall be deposited. ( )
  - c. All assets in the trust account shall be held by the trustee at the trustee's office in the United States, except that a bank may apply for the director's permission to use a foreign branch office of such bank as trustee for trust agreements established pursuant to this section. If the director approves the use of such foreign branch office as trustee, then its use must be approved by the beneficiary in writing and the trust agreement must provide that the written notice described in Subsection 071.04.d.i. must also be presentable, as a matter of legal right, at the trustee's principal office in the United States. ( )
  - d. The trust agreement shall provide that: ( )
    - i. The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee; ( )
    - ii. No other statement or document is required to be presented in order to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets; ( )
    - iii. It is not subject to any conditions or qualifications outside of the trust agreement; and ( )
    - iv. It shall not contain references to any other agreements or documents except as provided for under Subsection 071.04.k. ( )
  - e. The trust agreement shall be established for the sole benefit of the beneficiary. ( )
  - f. The trust agreement shall require the trustee to: ( )
    - i. Receive assets and hold all assets in a safe place; ( )
    - ii. Determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may whenever necessary negotiate any such

assets, without consent or signature from the grantor or any other person or entity; ( )

iii. Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter; ( )

iv. Notify the grantor and the beneficiary within ten (10) days, of any deposits to or withdrawals from the trust account; ( )

v. Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary; and ( )

vi. Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account. ( )

g. The trust agreement shall provide that at least thirty (30) days, but not more than forty-five (45) days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary. ( )

h. The trust agreement shall be made subject to and governed by the laws of the state in which the trust is established. ( )

i. The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying compensation to, or reimbursing the expenses of, the trustee. ( )

j. The trust agreement shall provide that the trustee shall be liable for its own negligence, willful misconduct or lack of good faith. ( )

k. Notwithstanding other provisions of this rule, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, such a trust agreement may, notwithstanding any other conditions in this rule, provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, for the following purposes: ( )

i. To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer; ( )

ii. To make payment to the assuming insurer of any amounts held in the trust account that exceed one hundred and two percent (102%) of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or ( )

iii. Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution as defined in Idaho Code, Section 41-514(4) apart from its general assets, in trust for such uses and purposes specified in Subsections 071.04.k. and 071.04.k.ii. as may remain executory after such withdrawal and for any period after the termination date. ( )

1. The reinsurance agreement entered into in conjunction with the trust agreement may, but need not, contain the provisions required by Subsection 071.06.a.ii., so long as these required conditions are included in the trust agreement. ( )

05. Permitted Conditions. ( )

a. The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than ninety (90) days after receipt by the beneficiary and grantor of the notice and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than ninety (90) days after receipt by the trustee and the beneficiary of the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee. ( )

b. The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any such interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name. ( )

c. The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions which the trustee determines are at least equal in market value to the assets withdrawn and that are consistent with the restrictions in Subsection 071.06.a.ii. ( )

d. The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Such transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets. ( )

e. The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor. ( )

06. Additional Conditions Applicable to Reinsurance Agreements. ( )



a. A reinsurance agreement, which is entered into in conjunction with a trust agreement and the establishment of a trust account, may contain provisions that: ( )

i. Require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, and specifying what the agreement is to cover; ( )

ii. Stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash (United States legal tender), certificates of deposit (issued by a United States bank and payable in United States legal tender), and investments of the types permitted by the Insurance Code or any combination of the above, provided that such investments are issued by an institution that is not the parent, subsidiary or affiliate of either the grantor or the beneficiary. The reinsurance agreement may further specify the types of investments to be deposited. Where a trust agreement is entered into in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, then the trust agreement may contain the provisions required by this paragraph in lieu of including such provisions in the reinsurance agreement; ( )

iii. Require the assuming insurer, prior to depositing assets with the trustee, to execute assignments or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate these assets without consent or signature from the assuming insurer or any other entity; ( )

iv. Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and ( )

v. Stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes: ( )

(1) To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies; ( )

(2) To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement; ( )

(3) To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer liabilities for policies ceded

under the agreement. The account shall include, but not be limited to, amounts for policy reserves, claims and losses incurred (including losses incurred but not reported), loss adjustment expenses and unearned premium reserves; and ( )

(4) To pay any other amounts the ceding insurer claims are due under the reinsurance agreement. ( )

b. The reinsurance agreement may also contain provisions that: ( )

i. Give the assuming insurer the right to seek approval from the ceding insurer to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided: ( )

(1) The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a market value equal to the market value of the assets withdrawn so as to maintain at all times the deposit in the required amount, or ( )

(2) After withdrawal and transfer, the market value of the trust account is no less than one hundred and two percent (102%) of the required amount. ( )

(3) The ceding insurer shall not unreasonably or arbitrarily withhold its approval. ( )

ii. Provide for: ( )

(1) The return of any amount withdrawn in excess of the actual amounts required for Subsections 071.09.a.i.(i), (ii) and (iii), or in the case of Subsection 071.09.a.i.(iv), any amounts that are subsequently determined not to be due; and ( )

(2) Interest payments, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to Subsection 071.09.a.i.(iii). ( )

iii. Permit the award by any arbitration panel or court of competent jurisdiction of: ( )

(1) Interest at a rate different from that provided in Subsection 071.06.b.ii.(i), ( )

(2) Court of arbitration costs, ( )

(3) Attorney's fees, and ( )

(4) Any other reasonable expenses. ( )

c. Financial reporting. A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this department in compliance with the provisions of this regulation when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may

be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure. ( )

d. Existing agreements. Notwithstanding the effective date of this rule, any trust agreement or underlying reinsurance agreement in existence prior to 7/1/96 will continue to be acceptable until 7/1/96, at which time the agreements will have to be in full compliance with this rule for the trust agreement to be acceptable. ( )

e. The failure of any trust agreement to specifically identify the beneficiary as defined in Subsection A of this section shall not be construed to affect any actions or rights which the director may take or possess pursuant to the provisions of the laws of this state. ( )

**072. - 080. (RESERVED).**

**081. LETTERS OF CREDIT QUALIFIED UNDER SECTION 061.**

01. Letters of Credit Under Section 061. The letter of credit must be clean, irrevocable and unconditional and issued or confirmed by a qualified United States financial institution as defined in Idaho Code, Section 41-514(3). The letter of credit shall contain an issue date and date of expiration and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit shall also indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in Subsection 081.09.a. As used in this section, "beneficiary" means the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator). ( )

02. Heading of Letter. The heading of the letter of credit may include a boxed section which contains the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only. ( )

03. Statement. The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto. ( )

04. Term of Letter. The term of the letter of credit shall be for at least one (1) year and shall contain an "evergreen clause" which prevents the expiration of the letter of credit without due notice from the issuer. The "evergreen clause" shall provide for a period of no less than thirty (30) days' notice prior to expiry date or nonrenewal. ( )

05. Disclosure Statement. The letter of credit shall state whether it is subject to and governed by the laws of this state or the Uniform Customs and Practice for

Documentary Credits of the International Chamber of Commerce (Publication 400), and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution. ( )

06. Letter Subject to Uniform Customs and Practice. If the letter of credit is made subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (Publication 400), then the letter of credit shall specifically address and make provision for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article 19 of Publication 400 occur. ( )

07. Issued or Confirmed by Authorized Institution. The letter of credit shall be issued or confirmed by a qualified United States financial institution authorized to issue letters of credit, pursuant to Idaho Code, Section 41-514(3). ( )

08. Exception. If the letter of credit is issued by a qualified United States financial institution authorized to issue letters of credit, other than a qualified United States financial institution as described in Subsection 081.07, then the following additional requirements shall be met: ( )

a. The issuing qualified United States financial institution shall formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts, and ( )

b. The "evergreen clause" shall provide for thirty (30) days' notice prior to expiry date for nonrenewal. ( )

09. Reinsurance Agreement Provisions. ( )

a. The reinsurance agreement in conjunction with which the letter of credit is obtained may contain provisions which: ( )

i. Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover. ( )

ii. Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and shall be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons: ( )

(1) To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies; ( )

(2) To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer under the terms and provisions of the policies reinsured under the reinsurance agreement; ( )

(3) To fund an account with the ceding insurer in an amount at least equal to

the deduction, for reinsurance ceded, from the ceding insurer's liabilities for policies ceded under the agreement (such amount shall include, but not be limited to, amounts for policy reserves, claims and losses incurred and unearned premium reserves); and ( )

(4) To pay any other amounts the ceding insurer claims are due under the reinsurance agreement. ( )

iii. All of the foregoing provisions of Subsection 081.09.a. should be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer. ( )

b. Nothing contained in Subsection 081.09.a. shall preclude the ceding insurer and assuming insurer from providing for: ( )

i. An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to Subsection 081.09.a.ii.(3); and/or ( )

ii. The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or, in the case of Subsection 081.09.a.ii.(4), any amounts that are subsequently determined not to be due. ( )

c. When a letter of credit is obtained in conjunction with a reinsurance agreement covering risks other than life, annuities and health, where it is customary practice to provide a letter of credit for a specific purpose, then the reinsurance agreement may, in lieu of Subsection 081.09.a.ii., require that the parties enter into a "Trust Agreement" which may be incorporated into the reinsurance agreement or be a separate document. ( )

10. No Reduction in Liability. A letter of credit may not be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this department unless an acceptable letter of credit with the filing ceding insurer as beneficiary has been issued on or before the date of filing of the financial statement. Further, the reduction for the letter of credit may be up to the amount available under the letter of credit but no greater than the specific obligation under the reinsurance agreement which the letter of credit was intended to secure. ( )

**082. - 090. (RESERVED).**

**091. OTHER SECURITY.**

A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control. ( )

**092. - 100. (RESERVED).**

**101. REINSURANCE CONTRACT.**

Credit will not be granted to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of Sections 011, 021, 031, 041, or 061 or otherwise in compliance with Idaho Code, Section 41-514(1) after the adoption of this rule unless the reinsurance agreement: ( )

01.       Insolvency Clause. Includes an insolvency clause which provides the following or substantially similar language: In the event of the ceding insurer's insolvency, the reinsurance afforded by the reinsurance agreement will be payable by the assuming insurer directly to the ceding insurer or its liquidator, receiver or statutory successor, on the basis of the ceding insurer's liability under the policy or policies reinsured, without diminution because of the ceding insurer's insolvency or because its liquidator, receiver, or statutory successor has failed to pay all or a portion of any claims. It is agreed, however, the ceding insurer's liquidator, receiver, or statutory successor shall give written notice to the assuming insurer of the pendency of a claim against the insolvent ceding insurer under the policy or policies reinsured within a reasonable time after such claim is filed in the insolvency proceeding. During the pendency of such claim, the assuming insurer may investigate such claim and interpose in the proceeding where the claim is to be adjudicated, at its own expense, any defense that it may deem available to the ceding insurer or its liquidator, receiver or statutory successor. The expense thus incurred by the assuming insurer will be chargeable against the ceding insurer, subject to court approval, as part of the expense of liquidation to the extent that of a proportionate share of the benefit which may accrue to the ceding insurer solely as a result of the defense undertaken by the assuming insurer. Where two or more assuming companies are involved in the same claim and a majority in elect to interpose a defense to such claim, each assuming insurer's share of the expense thus incurred shall be determined in accordance with the terms of the reinsurance agreement as though such expense had been incurred by ceding insurer. In the event of the insolvency of any company or companies included in the designation of the "ceding insurer," this clause will apply only to the insolvent company or companies. ( )

02.       Other Provision. Includes a provision pursuant to Idaho Code, Section 41-514(1)(f) whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give such court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of such court or panel. ( )

**102. - 110. (RESERVED).**

**111.     CONTRACTS AFFECTED.**

All new and renewal reinsurance transactions entered into after 7/1/96 shall conform to the requirements of the Idaho Code and this rule if credit is to be given to the ceding insurer for such reinsurance. ( )

**112. - 999.       (RESERVED).**

**FORM AR-1**  
**CERTIFICATE OF ASSUMING INSURER**

I, \_\_\_\_\_, \_\_\_\_\_  
(name of officer) (title of officer)  
of \_\_\_\_\_ the assuming insurer  
(name of assuming insurer)  
under a reinsurance agreement(s) with one or more insurers domiciled in \_\_\_\_\_, hereby certify that  
(name of state)  
\_\_\_\_\_ ("Assuming Insurer"):  
(name of assuming insurer)

1. Submits to the jurisdiction of any court of competent jurisdiction in

\_\_\_\_\_ (ceding insurer's state of domicile)  
for the adjudication of any issues arising out of the reinsurance agreement(s), agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement(s) to arbitrate their disputes if such an obligation is created in the agreement(s).

2. Designates the Insurance Commissioner of

\_\_\_\_\_ (ceding insurer's state of domicile)  
as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement(s) instituted by or on behalf of the ceding insurer.

3. Submits to the authority of the Insurance Commissioner of

\_\_\_\_\_ (ceding insurer's state of domicile)  
to examine its books and records and agrees to bear the expense of any such examination.

4. Submits with this form a current list of insurers domiciled in

\_\_\_\_\_ (ceding insurer's state of domicile)  
reinsured by Assuming Insurer and undertakes to submit additions to or deletions from the list to the Insurance Commissioner at least once per calendar quarter.

Dated: \_\_\_\_\_

BY: \_\_\_\_\_ (name of assuming insurer)  
\_\_\_\_\_ (name of officer)  
\_\_\_\_\_ (title of officer)

**IDAPA 20 - IDAHO DEPARTMENT OF LANDS**  
**20.01.10 - RULES FOR SELLING OF FOREST PRODUCTS**  
**ON STATE OWNED ENDOWMENT LANDS**

**DOCKET NO. 20-0210-9501**

**NOTICE OF FINAL RULE**

**ACTION:** The action, under Docket No. 20-0210-9501, concerns the final amendment of Rules for Selling of Forest Products on State Owned Endowment Lands, IDAPA 20, Title 2, Chapter 10.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a final rule. The action is authorized pursuant to article 9, sections 7 and 8, of the Idaho Constitution and sections 58-104 and title 58, chapter 4, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a summary of the reasons for adopting the final rule and any amendments to the initial proposed text:

The 1995 Legislature amended Title 58, Chapter 406, to allow the state board of land commissioners to set the dollar limitation for small state timber sales under 1,000,000 board feet and for very small timber sales under 100,000 board feet. This proposal amends subsections 020, 021 and 022 of the Rules for Selling of Forest Products on State Owned Endowment Lands, IDAPA 20.02.10.

No comments were received regarding the proposed rules and no public hearing was held. No subsequent amendments have been made to the initial proposed rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this final rule, contact George B. Bacon, Jr., at (208)769-1525.

DATED this 12th day of September, 1995.

George B. Bacon, Jr.  
Idaho Department of Lands  
P. O. Box 670  
Coeur d'Alene, ID 83816-0670



**IDAPA 20**  
**TITLE 02**  
**Chapter 10**

**RULES FOR SELLING OF FOREST PRODUCTS ON**  
**STATE OWNED ENDOWMENT LANDS**

**There Are No Substantive Changes From The Proposed Rule Text**

**The Original Text Was Published In The Idaho Administrative Bulletin,**  
**Volume 95-7, July 5, 1995 Pages 164 Through 165**

**This Rule Has Been Adopted As Final By The Agency And Is Now Pending**  
**Review By The 1996 Idaho State Legislature For Final Adoption**

**IDAPA 20 - IDAHO DEPARTMENT OF LANDS**  
**20.02.11 - RULES FOR THE TIMBER SUPPLY**  
**STABILIZATION ACT OF 1989 ON STATE FORESTS**

**DOCKET NO. 20-0211-9501**

**NOTICE OF FINAL RULE**

**ACTION:** The action, under Docket No. 20-0211-9501, concerns the final amendment of Rules for the Timber Supply Stabilization Act of 1989 on State Forests, IDAPA 20, Title 2, Chapter 11.

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has adopted a final rule. The action is authorized pursuant to article 9, sections 7 and 8, of the Idaho Constitution and sections 58-104 and title 58, chapter 4, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a summary of the reasons for adopting the final rule and any amendments to the initial proposed text:

The 1995 Legislature amended Title 58, Chapter 406, to allow the state board of land commissioners to set the dollar limitation for small state timber sales under 1,000,000 board feet and for very small timber sales under 100,000 board feet. This proposal amends rule 010.10 of the Rules for the Timber Supply Stabilization Act of 1989 on State Forests, IDAPA 20.02.11.

No comments were received regarding the proposed rules and no public hearing was held. No subsequent amendments have been made to the initial proposed rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this final rule, contact George B. Bacon, Jr., at (208)769-1525.

DATED this 12th day of September, 1995.

George B. Bacon, Jr.  
Idaho Department of Lands  
P. O. Box 670  
Coeur d'Alene, ID 83816-0670

**IDAPA20**  
**TITLE 02**  
**Chapter 11**

**RULES FOR THE TIMBER SUPPLY STABILIZATION**  
**ACT OF 1989 ON STATE FORESTS**

**There Are No Substantive Changes**  
**From The Proposed Rule Text**

**The Original Text Was Published In The Idaho**  
**Administrative Bulletin, Volume 95-7, July 5, 1995**  
**Pages 166 Through 168**

**This Rule Has Been Adopted As Final By The Agency**  
**And Is Now Pending Review By The**  
**1996 Idaho State Legislature**  
**For Final Adoption**

**IDAPA 22 - IDAHO STATE BOARD OF MEDICINE**  
**22.01.03 - REGISTRATION OF PHYSICIAN'S ASSISTANTS**  
**DOCKET NO. 22-0103-9501**  
**NOTICE OF FINAL RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to 54-1803 and 54-1806, Idaho Code.

**EFFECTIVE DATE:** These rules have been adopted as final by the Board and are now pending review by the 1996 legislature for final adoption.

**DESCRIPTIVE SUMMARY:** The final rule changes update the requirements for registration of Physician's Assistants (PA) and clarify Graduate PA registration requirements. Rule changes clarify and define the scope of practice related to surgery and the care of simple fractures. Rule changes amend Drug Formulary to include new drugs and drug categories for prescription authority.

There was a minor change to Section 021, found on page 171 of the July 5, 1995, edition of the Administrative Bulletin, Volume 95-7. This subsection should read as follows:

**IDAPA 22.01.03.021.02**

02. National Certifying Examination. Satisfactory completion and passage of the certifying examination for physician's assistants, administered by the ~~National Board of Medical Examiners~~ ~~National Commission of on the Certification for~~ of physician's assistants or such other examinations, which may be written, oral or practical, as the Board may require; and (7/1/93)(\_\_\_\_)

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this proposed rule, contact Gloria Pedersen, at (208) 334-2822.

DATED this 25th day of September, 1995.

Gloria Pedersen  
Idaho State Board of Medicine  
280 North 8th Street  
PO Box 83720  
Boise, ID 83720-0058  
Phone: (208) 334-2822  
Fax: (208) 334-2801

**IDAPA 22**  
**TITLE 01**  
**Chapter 03**

**REGISTRATION OF PHYSICIAN'S ASSISTANTS**

**There Are No Substantive Changes**  
**From The Proposed Rule Text**

**The Complete Original Text Was Published In The Idaho**  
**Administrative Bulletin, Volume 95-7, July 5, 1995**  
**Pages 169 Through 177**

**This Rule Has Been Adopted As Final By The Agency**  
**And Is Now Pending Review By The**  
**1996 Idaho State Legislature**  
**For Final Adoption**

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**

**24.01.01 - RULES GOVERNING THE BOARD  
OF ARCHITECTURAL EXAMINERS**

**DOCKET NO. 24-0101-9501**

**NOTICE OF PROPOSED RULES**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to 54-312, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be held as follows:

1. Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. The request must be made in writing and be within fourteen (14) days of the date of publication of the notice of proposed rule-making in the bulletin, or within fourteen (14) days prior to the end of the comment period, whichever is later.
2. The hearing site(s) will be accessible to the persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency at the address below.

**DESCRIPTIVE SUMMARY:** The following is a statement in nontechnical language of the substance of the proposed rule: delete portions of the rules which are repetitive of the law; establish the examination fee shall be that established by NCARB; establish an examination processing fee of \$25.00; change licensure by reciprocity to licensure by endorsement; and establish licensure by endorsement-equivalency.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning these proposed rules, contact Dee Ann Randall at (208) 334-3233.

Anyone may submit written comments regarding these rules. All written comments and data concerning these rules must be directed to the undersigned and must be postmarked or delivered on or before November 22, 1995.

DATED this 19th day of September, 1995.

Dee Ann Randall  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208) 334-3233  
(208) 334-3945 (FAX)

**TEXT OF DOCKET 24-0101-9501**

**100. ORGANIZATION (Rule 100).**

~~01. Board Name. In accordance with Idaho Statutes, the name of this Board shall be the State Board of Architectural Examiners, hereafter called the Board. Whenever reference is made to Law, the same shall refer to the Laws of the State of Idaho.~~ (7-1-93)

~~02. Board Members. The member of this Board shall be six architects, residents of Idaho who have been duly appointed to the Board.~~ (7-1-93)

~~031. Organization of the Board. At the last meeting of each year, the Board shall organize and elect from its members a Chairman, Vice Chairman, and Secretary who shall assume the duties of their respective offices immediately upon such selection.~~ (7-1-93)

~~042. Board Members and Duties.~~ (7-1-93)

a. Chairman. The Chairman shall be a voting member of the Board, and when present preside at all meetings, appoint with the consent of the Board, all committees, and shall otherwise perform all duties pertaining to the office of Chairman. The Chairman shall be an ex-officio member of all committees. (7-1-93)

b. Vice Chairman. The Vice Chairman shall, in the absence or incapacity of the Chairman exercise the duties and possess all the powers of the Chairman. (7-1-93)

c. Secretary. The Secretary of the Board shall keep an accurate record of the proceedings at the meetings of the Board, he shall cause a copy of the minutes of the previous meeting to be sent to all members of the Board at least fifteen (15) days prior to the next regular meeting of the Board, he shall receive correspondence directed to the Board, and he shall cause answers to be written in behalf of the Board. (7-1-93)

d. Executive Secretary. The Chief of the Bureau of Occupational Licenses shall be the acting Executive Secretary of the Board and all records of the Board shall be in the charge of the Executive Secretary. The office of the Executive Secretary shall provide such clerical assistance as may be required by the Board. He shall be an advisor to the Board, without membership status. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**150. PROCEDURES AND DUTIES (Rule 150).**

01. Meetings. The Board shall meet at least four times annually at such places as designated by the Board or the Chairman of the Board. A meeting shall be held at least thirty (30) days prior to the first day of each scheduled examination, and a meeting

shall be held within ninety (90) days following the last day of each scheduled examination. Special meetings shall be held at the call of the Chairman, and all members shall be notified in writing, thereof. (7-1-93)

- ~~02. Business. (7-1-93)~~
- ~~a. Order of Business. At each regular or special meeting of the Board, the order of business shall be as follows but not limited to: (7-1-93)~~
  - ~~i. Reading and approval of the minutes of the previous meeting. (7-1-93)~~
  - ~~ii. Report of committees. (7-1-93)~~
  - ~~iii. Reading of correspondence and report of other communications. (7-1-93)~~
  - ~~iv. Consideration of application for licensure. (7-1-93)~~
  - ~~v. Financial business. (7-1-93)~~
  - ~~vi. Unfinished business. (7-1-93)~~
  - ~~vii. New business. (7-1-93)~~
  - ~~viii. Adjournment. (7-1-93)~~
- ~~b02. Voting. A quorum shall be four Board members. A majority vote of Board members the quorum present shall be considered the action of the Board as a whole. Any motion before the Board shall fail on a tie vote. (7-1-93)( )~~

~~03. Duties of the Board. The duties of the Board shall be to administer the laws governing the practice of Architecture in the state of Idaho. The Board shall transact all business legally coming before it including but not limited to the following: (7-1-93)~~

- ~~a. Review fees for examination for licensure and establish changes in fees as necessary. (7-1-93)~~
- ~~b. Establish application procedures for examinations and licensing. (7-1-93)~~
- ~~e. Ascertain the qualifications of applicants to take the examination or examinations leading to the practice of Architecture. (7-1-93)~~
- ~~d. Conduct examinations to ascertain the qualifications of applicants to practice Architecture. (7-1-93)~~
- ~~e. Prescribe rules for a fair and impartial method of examination. (7-1-93)~~
- ~~f. Recommend issuance of a license to practice Architecture to those applicants qualifying by examination and otherwise meeting the standards of training and~~



~~character established by Board Rules or by Law. (7-1-93)~~

~~g. Review alleged violations of the Laws relating to the practice of Architecture and take action as is necessary. (7-1-93)~~

~~h. Conduct hearings to revoke, temporarily suspend, restrict, or refuse to renew licenses of persons exercising the practice of Architecture and revoke, temporarily suspend, restrict or refuse to renew licenses to practice Architecture. (7-1-93)~~

~~i. To formulate Rules and Board policy. (7-1-93)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**200. FEES (Rule 200).**

Fees for Examinations and Licensure. (7-1-93)

~~01. Fees For Examination. Fees for examination are established as follows: Examination fees will be as established by the National Council of Architectural Registration Boards (NCARB). (7-1-93)( )~~

~~a. All Divisions of the A.R.E. Five hundred dollars (\$500). (7-1-93)~~

~~b. Division A: Pre-Design Fifty two dollars (\$52). (7-1-93)~~

~~e. Division B.: Site Design One hundred eighteen dollars (\$118). (7-1-93)~~

~~d. Division C: Building Design One hundred forty five dollars (\$145). (7-1-93)~~

~~e. Division D/F: Structural General Long Span Forty five dollars (\$45). (7-1-93)~~

~~f. Division E: Structural Lateral Forces Twenty five dollars (\$25). (7-1-93)~~

~~g. Division G: Mechanical, Plumbing, Electrical and Safety Systems Fifty two dollars (\$52). (7-1-93)~~

~~h. Division H: Materials and Methods Fifty two dollars (\$52). (7-1-93)~~

~~i. Division I: Construction Documents and Services Fifty two dollars (\$52). (7-1-93)~~

~~a. Processing Fee. Applicants for licensing by examination must submit a twenty-five dollar (\$25) processing fee, together with the examination fees. ( )~~

~~j. Request to have answer sheet handscored - Ten dollars (\$10). (7-1-93)~~

- ~~k~~c. Proctor Fee - non Idaho applicant - Fifty dollars (\$50). (7-1-93)
- ~~02.~~ ~~Maximum Fee. When a candidate takes fewer than nine (9) divisions and the combination of fees for the parts to be taken exceeds the maximum, a candidate will be charged only the maximum of five hundred dollars (\$500).~~ (7-1-93)
- ~~03~~2. Annual Renewal Fee. Annual renewal fee - Seventy-five dollars (\$75). (7-1-93)
- ~~04~~3. Endorsement Fee. Endorsement Fee - One hundred fifty dollars (\$150). (7-1-93)
- ~~05~~4. Reinstatement Fees. Reinstatement fees are as provided in Section 67-2614, Idaho Code. The Bureau shall not renew expired licenses without the written approval of the license holder involved. (7-1-93)
- ~~06.~~ ~~Board Shall Annually Review Costs. The Board shall annually review the cost of examination, administrative cost, and other cost to ascertain the financial sufficiency of the Board and take action relevant to changes in cost.~~ (7-1-93)
- ~~07~~5. Refund of Fees. No refund of fees shall be made to any person who has paid such fees for examination, reexamination, licensure, or reinstatement of license. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**300. APPLICATION (Rule 300).**

01. Licensure by Examination. (7-1-93)
- a. Application for examination or reexamination shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Executive Secretary of the Board. (7-1-93)
- b. Applicants shall secure and furnish all information required by the uniform application form and shall include the following: (7-1-93)
- i. Certified transcript of all subjects and grades received for all college courses taken. (7-1-93)
- ii. If graduated from a college or university, furnish certification of graduation and a certified transcript of all work completed. (7-1-93)
- iii. Furnish statement or statements, of all actual architectural or other applicable experience signed by the person under whose supervision the work was performed, giving kind and type of work done, together with dates of employment. (7-1-93)

iv. A recent two inch by three inch (2" x 3") photograph taken within the previous year for identification purposes. (7-1-93)

v. In addition to the above required information, an applicant having credits or a degree or degrees from any college or university shall furnish the Board a certified statement from each above institution stating by what accrediting group, if any, such credits or degree or degrees are accredited. (7-1-93)

c. Application shall not be presented to the Board or evaluated by the Board until all required information is furnished and the required fee is paid. (7-1-93)

d. All properly completed applications for consideration or evaluation by the Board shall be received by the Executive Secretary at least forty-five (45) days prior to the first day of examination period at which time the applicant is to be examined. (7-1-93)

~~03e.~~ e. Qualifications of Applicants. All applicants for the Architectural Registration Examination (ARE) shall possess the minimum qualifications required by the current ~~National Council of Architectural Registration Boards~~ NCARB Circular of Information #1, Appendix "A" where such Circular of Information does not conflict with Idaho law. After June 1, 1993, all applicants for the ~~Architectural Registration Examination~~ ARE must have completed the Intern Development Program (IDP) requirements. (7-1-93)(    )

02. Licensure by ~~Reciprocity~~ Endorsement - Blue Cover. (7-1-93)(    )

a. General requirements. ~~Application for license under reciprocal provisions with other states will be considered only from such other states, territories, or foreign countries having requirements and examinations equivalent to that required by the State of Idaho. Every a~~Application for reciprocal license shall be accompanied by a current blue cover dossier compiled by the ~~National Council of Architectural Registration Boards~~ NCARB certifying that the applicant has satisfactorily passed the standard ~~N.C.A.R.B.~~ NCARB examinations, or ~~N.C.A.R.B.~~ NCARB authorized equivalent and shall include letters, transcripts, and other documents substantiating all statements relative to education and experience made in said application as required by the Board. (7-1-93)(    )

b. Seismic knowledge requirements for ~~reciprocity~~ endorsement applicants. Each applicant for license under a ~~reciprocal agreement~~ endorsement to practice architecture in the state of Idaho shall submit evidence of his skill and knowledge in seismic design and such evidence shall be submitted and signed by the applicants acknowledged before a notary public, and shall contain one of the following statements: (7-1-93)(    )

i. "I have passed the examinations in Building Construction and Structural Design of the Western Conference of State Architectural Registration Boards in June 1963 or since and/or the ~~National Council of Architectural Registration Boards~~ NCARB in 1965 or since." (7-1-93)(    )

ii. "I am registered in the State of      in 19     , where competence in seismic

was a requirement for registration since , 19 ." (7-1-93)

iii. Certification of the successful completion of the seismic seminar approved by the National Conference of Architectural Registration Boards. (7-1-93)

c. All applicants shall attach to their statement a certification from the State architectural registration agency of the cited state attesting the adequacy of the cited seismic examination. (7-1-93)

~~03. Qualifications of Applicants. All applicants for the Architectural Registration Examination shall possess the minimum qualifications required by the current National Council of Architectural Registration Boards Circular of Information #1, Appendix "A" where such Circular of Information does not conflict with Idaho law. After June 1, 1993, all applicants for the Architectural Registration Examination must have completed the Intern Development Program (IDP) requirements. (7-1-93)~~

03. Licensure By Endorsement - Equivalency. ( )

a. Application shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Executive Secretary of the Board. ( )

b. Applicant shall comply with all requirements set forth in Rules 300.01., 300.02.b.i.,ii.,iii. and 300.02.c. ( )

c. Applicant shall provide proof of holding a current and valid license issued by another state, a licensing authority recognized by the Board. ( )

d. Applicant shall provide proof of satisfactorily passing the NCARB examinations or NCARB authorized equivalent examination, as determined by the Board. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**350. REGISTRATION EXAMINATION (Rule 350).**

The Board, having found that the content and methodology of the ~~Architectural Registration Examination (ARE)~~ prepared by the ~~National Council of Architectural Registration Boards (NCARB)~~ is the most practicable and effective examination to test an applicant's qualifications for registration, adopts the ARE as the single, written and/or electronic examination for registration of architects in this state, and further adopts the following rules with respect thereto: (7-1-93)( )

01. When Taken. The Board will administer the ~~Architectural Registration Examination ARE~~, prepared by the ~~National Council of Architectural Registration Boards NCARB~~, to all applicants eligible, in accordance with the requirements of the Board, by their training and education to be examined for registration on dates scheduled by the NCARB. The Board shall administer repeat divisions of the ~~A.R.E.~~ ARE to qualified candidates on such dates as are scheduled by the NCARB. (7-1-93)( )

- 02. Content. The ARE comprises nine divisions as follows: (7-1-93)
  - a. Division A - Pre-Design. (7-1-93)
  - b. Division B - Site Design. (7-1-93)
  - c. Division C - Building Design. (7-1-93)
  - d. Division D - Structural - General. (7-1-93)
  - e. Division E - Structural - Lateral Forces. (7-1-93)
  - f. Division F - Structural - Long Span. (7-1-93)
  - g. Division G - Mechanical, Plumbing, Electrical and Life Safety Systems. (7-1-93)
  - h. Division H - Materials and Methods. (7-1-93)
  - i. Division I - Construction Documents and Services. (7-1-93)

03. Grading. The ARE shall be graded in accordance with the methods and procedures recommended by the NCARB. To achieve a passing grade on the ARE, an applicant must receive a passing grade in each division. Grades from the individual division may not be averaged. Applicants will have unlimited opportunities to retake division which they fail. The Board shall accept passing grades of computer administered divisions of the ARE as satisfying the requirements for said division(s) when such examinations are administered as prescribed by the NCARB regardless of the date of the examination or location in which the examination took place. (7-1-93)

04. Transfer Credits. Applicants who had passed portions of the previous registration examinations (Professional Examination - Section A, Professional Examination - Section B, and Qualifying Test) will receive the transfer credits set forth below and need only take those divisions of ARE for which no transfer credit has been received. To be eligible for transfer credits for any portion of the Professional Examination - Section B, the applicant must have passed three parts of that examination in one sitting, in or after December, 1980.

NOTE: Since the history and theory of architecture is incorporated into all divisions of the ARE, no credit will be given for having passed the Qualifying Test - Section A, History. (7-1-93)

- a. For previous examinations passed credits go to the following ARE divisions: (7-1-93)
  - i. Professional Examination - Section B, Parts I and II -- Division A. (7-1-93)
  - ii. Professional Examination - Section A, (Design/Site) -- Divisions B and C. (7-1-93)

- iii. Professional Examination - Section B, Part III -- Divisions D, E, F, G, and H. (7-1-93)
  - iv. Qualifying Test - Section B -- Divisions D, E and F. (7-1-93)
  - v. Qualifying Test - Section D -- Division G. (7-1-93)
  - vi. Qualifying Test - Section C -- Division H. (7-1-93)
  - vii. Professional Examination - Section B, Part IV -- Division I. (7-1-93)
- b. Applicants without an accredited professional degree in architecture must, in all cases, pass Divisions D, E, F, G and H of the ARE if they have not passed equivalent portions of the Qualifying Test: even though the applicant may have passed the professional Examination - Section B, Part III. (7-1-93)
- c. Applicants without an accredited professional degree in architecture must in all cases, pass Division A of the ARE if they have not passed Section A of the Qualifying Test: even though the applicant may have passed the Professional Examination - Section B, Parts I and II. (7-1-93)

**351. MISCELLANEOUS REQUIREMENTS FOR EXAMINATION (Rule 351).**

01. Administering Parts of the ARE. The Board may administer parts of the ARE to qualified applicants who have passed parts of the ARE in other states or jurisdictions. Such parts of the examination not passed will be administered upon approval of properly completed application and other required information and payment of required fees. (7-1-93)

~~02. Residency Requirement. To qualify for examination an applicant shall be a resident of Idaho, however the Board may waive this requirement. (7-1-93)~~

~~03. Minutes to Reflect Board Action. The Minutes of the Board shall show the action taken by the Board regarding applicant's examinations and regarding the issuance of license. (7-1-93)( )~~

~~04. Personal Interviews. Personal interviews shall may be administered by the Board to all original applicants at the option of the Board. (7-1-93)~~

~~05. Locations of Examinations. Examinations shall be administered at the locations designated by the Board prior to each examination period. (7-1-93)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**500. AFFILIATION (Rule 500).**

01. Board is an Active Member of the Western Conference of the Architectural Registration Boards. This Board by approved resolution and payment of the

proper fees by the proper authority is an active member of the Western Conference of the Architectural Registration Boards. The Board shall designate one or more delegates from the Board to attend the annual meeting of the Western Conference and approve payment of the expenses of the delegate or delegates by the state of Idaho in accordance with the law. (7-1-93)

02. Board is a Member of the ~~National Council of Architectural Registration Boards~~ NCARB. This Board by approved resolution and payment of any proper fees by the proper authority is a member of ~~the National Council of Architectural Registration Boards~~ NCARB. The Board shall designate one or more delegates from the Board to the annual meeting of the National Council and approve payment of expenses of the delegate or delegates by the state of Idaho in accordance with the law. (7-1-93)(      )

**(BREAK IN CONTINUITY OF SECTIONS)**

**601. -- 64950. (RESERVED).**

**~~650. AMENDMENTS (Rule 650).~~**

~~The Board may propose to amend these Rules at any meeting of the Board by a favorable vote of three members present, providing a copy of the proposed amendment shall have been mailed to each member of the Board at least fifteen (15) days prior to the meeting at which the amendment is to be considered and that such amendment is made in accordance with the requirements of the law. (7-1-93)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**750. CODE OF ETHICS (RULE 750).**

01. Rules of ~~eConduct~~. ~~The of the National Council of Architectural Registration Boards~~ NCARB Rules of Conduct are hereby adopted as the Rules of Conduct for all Idaho licensed architects. ~~shall be the Code of Ethics of the Idaho Board of Architectural Examiners.~~ (7-1-93)(      )

02. The Board will take action against a licensee under Section 54-305 (h), Idaho Code, who is found in violation of the Code of Ethics. (7-1-93)

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**

**24.06.01 - RULES GOVERNING THE BOARD  
OF HEARING AID DEALERS AND FITTERS**

**DOCKET NO. 24-0601-9501**

**NOTICE OF PROPOSED RULES**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to 54-2914, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be held as follows:

1. Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. The request must be made in writing and be within fourteen (14) days of the date of publication of the notice of proposed rule-making in the bulletin, or within fourteen (14) days prior to the end of the comment period, whichever is later.
2. The hearing site(s) will be accessible to the persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency at the address below.

**DESCRIPTIVE SUMMARY:** The following is a statement in nontechnical language of the substance of the proposed rule: establish a rule requiring a hearing aid dealer and fitter who cancels a written consumer contract to the refund of all monies paid by the consumer.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning these proposed rules, contact Dee Ann Randall at (208) 334-3233.

Anyone may submit written comments regarding these rules. All written comments and data concerning these rules must be directed to the undersigned and must be postmarked or delivered on or before November 22, 1995.

DATED this 19th day of September, 1995.

Dee Ann Randall  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208) 334-3233  
(208) 334-3945 (FAX)



**TEXT OF DOCKET 24-0601-9501**

**500. WRITTEN CONTRACTS (Rule 500).**

01. Consumer Cancellation. Should the consumer cancel the purchase, a maximum retention fee of no greater than twenty-five (25%) percent of the total purchase price of the hearing instrument and fitting expenses is nonrefundable. (~~7-1-93~~)( )

02. Dealer Cancellation. In the event that any hearing aid dealer and fitter cancels, nullifies, or otherwise, of his own volition, refuses to honor any written contract, for any reason other than consumer cancellation as set forth in 01 above, that hearing aid dealer and fitter shall promptly refund any and all moneys paid for the purchase of the hearing aid, including any monies designated by the contract as nonrefundable in the event that the consumer had cancelled the purchase. ( )

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**

**24.15.01 - RULES GOVERNING THE IDAHO  
COUNSELOR LICENSING BOARD**

**DOCKET NO. 24-1501-9501**

**NOTICE OF PROPOSED RULES**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to 54-3404, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be held as follows:

1. Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. The request must be made in writing and be within fourteen (14) days of the date of publication of the notice of proposed rule-making in the bulletin, or within fourteen (14) days prior to the end of the comment period, whichever is later.
2. The hearing site(s) will be accessible to the persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency at the address below.

**DESCRIPTIVE SUMMARY:** The following is a statement in nontechnical language of the substance of the proposed rule: establish a rule setting forth the requirements for licensed professional counselor speciality standards.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning these proposed rules, contact Dee Ann Randall at (208) 334-3233.

Anyone may submit written comments regarding these rules. All written comments and data concerning these rules must be directed to the undersigned and must be postmarked or delivered on or before November 22, 1995.

DATED this 19th day of September, 1995.

Dee Ann Randall  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208) 334-3233  
(208) 334-3945 (FAX)

**TEXT OF DOCKET 24-1501-9501**

**150. QUALIFICATIONS FOR LICENSED PROFESSIONAL COUNSELOR LICENSURE (Rule 150).**

Licensure as a "licensed professional counselor" shall be restricted to persons who have successfully completed each of the following requirements: (7-1-93)(    )

01. Graduate Program Requirement. A planned graduate program of sixty (60) semester hours which is primarily counseling in nature, six (6) semester hours of which are earned in an advanced counseling practicum, and including a graduate degree in a counseling field from an accredited university or college offering a graduate program in counseling. (7-1-93)

a. A planned graduate program in a counseling field shall be defined as completion of one of the following: (7-1-93)

i. A counseling program accredited or approved by the National Council for accreditation of Teacher Education or a counseling program listed in the Interstate List of Approved Programs, OR (7-1-93)

ii. A counseling program approved by the Council for Accreditation of Counseling and Related Educational Programs, OR (7-1-93)

iii. A counseling program approved by the Council on Rehabilitation Education, OR (7-1-93)

iv. A counseling program approved by the Board which shows evidence of education in the following areas: Counseling Theory, Counseling Techniques and Supervised Counseling Experience (this practicum must be supervised at the ratio of at least one (1) hour of one-to-one supervision for every ten (10) hours of experience in the setting) and at least six (6) of the following: (7-1-93)

(1) Human growth and development: Includes studies that provide a broad understanding of the nature and needs of individuals at all developmental levels. Emphasis is placed on psychological, sociological, and physiological approaches. Also included are areas such as human behavior (normal and abnormal), personality theory, and learning theory. (7-1-93)

(2) Social and cultural foundations: Includes studies of change, ethnic groups, subcultures, changing roles of women, sexism, urban and rural societies, population patterns, cultural mores, use of leisure time, and differing life patterns. (7-1-93)

(3) The helping relationship: Includes philosophic bases of the helping relationship: Consultation theory and/or an emphasis on the development of counselor and client (or consultee) self-awareness and self-understanding. (7-1-93)

(4) Groups: Includes theory and types of groups, as well as descriptions of group practices, methods dynamics, and facilitative skills. It includes either a supervised practice and/or a group experience. (7-1-93)

(5) Life-style and career development: Includes areas such as vocational-choice theory, relationship between career choice and life-style, sources of occupational and educational information, approaches to career decision-making processes, and career-development exploration techniques. (7-1-93)

(6) Appraisal of the individual: Includes the development of a framework for understanding the individual, including methods of data gathering and interpretation, individual and group testing, case-study approaches and the study of individual differences. Ethnic, cultural, and sex factors are also considered. (7-1-93)

(7) Research and evaluation: Includes areas such as statistics, research design, and development of research and demonstration proposals. It also includes understanding legislation relating to the development of research, program development, and demonstration proposals, as well as the development and evaluation of program objectives. (7-1-93)

(8) Professional orientation: Includes goals and objectives of professional counseling organizations, codes of ethics, legal consideration, standards of preparation, certification, and licensing and role of identity of counselors. (7-1-93)

b. A total of at least sixty (60) graduate semester hours or ninety (90) graduate quarter hours shall be required. (7-1-93)

c. Advanced counseling practicum shall be practica taken at the graduate school level. (7-1-93)

d. A graduate degree shall be one of the following beyond the baccalaureate level: The master's degree, the educational specialist certificate or degree, or the doctor's degree. (7-1-93)

e. An accredited university or college shall be a college or university accredited by one of the following: the Middle States Association of Colleges and Secondary Schools, the New England State Association of Colleges and Secondary Schools, the North Central Association of Colleges and Secondary Schools, the Northwest Association of Colleges and Secondary Schools, the Southern Association of Colleges and Secondary Schools, or the Western College Association. (7-1-93)

02. Supervised Experience Requirement. One thousand (1000) hours of supervised experience in counseling acceptable to the Board. (7-1-93)

a. One thousand (1000) hours is defined as one thousand (1000) clock hours of experience working in a counseling setting. Supervised experience in practica and/or internships taken at the graduate level may be utilized. The supervised experience shall include a minimum of one hour of face-to-face consultation with the supervisor for every twenty (20) hours of job/internship experience. (As stated under Subsection 150.01.a.iv. counseling practicum experiences opposed to job or internship experience)

shall be supervised at a ratio of one hour of supervision for every ten (10) hours in the settings.) For example: (7-1-93)

i. A person in a twenty (20) hour per week job/internship who is receiving one (1) hour of individual supervision each week would accumulate one thousand (1000) supervised hours in fifty (50) weeks to equal the twenty to one (20/1) ratio. (7-1-93)

ii. A person in a forty (40) hour per week setting with one (1) hour of supervision per week would still require fifty (50) weeks to equal the twenty to one (20/1) ratio. (7-1-93)

iii. A person in a forty (40) hour per week setting with two (2) hours of supervision per week would accumulate the one thousand (1000) hours at the twenty to one (20/1) supervision ratio in twenty-five (25) weeks. (7-1-93)

b. The supervision must be provided by a qualified counselor educator as a part of a planned graduate program or by a person who holds a graduate degree beyond the baccalaureate level who is certified and/or licensed as a counselor, social worker, psychologist, or psychiatrist. Supervision by an administrative superior who is not in a counseling related profession is not acceptable to the Board. Supervision by a professional counseling peer, however, may be acceptable to the Board if the peer/supervisory relationship includes the same controls and procedures expected in an internship setting. (See Subsection 150.02.a.) For example, the relationship should include the staffing of cases, the critiquing of counseling tapes and this supervision must be conducted in a formal, professional, consistent manner on a regularly scheduled basis. Effective July 1 1988, the supervision must be provided by a Licensed Professional Counselor licensed by the state of Idaho; if the applicant's supervision was provided in another state, it must have been provided by a counseling professional licensed by that state, provided the requirements for licensure in that state are substantially equivalent to the requirements of Title 54, Chapter 34, Idaho Code. (7-1-93)

c. Experience in counseling is defined as assisting individuals or groups, through the counseling relationship, to develop an understanding of personal problems, to define goals, and to plan action reflecting interests, abilities, aptitudes, and needs as related to persona-social concerns, educational progress, and occupations and careers. Counseling experience may include the use of appraisal instruments, referral activities, and research findings. (7-1-93)

03. Examination. (7-1-93)

a. The Board requires a written examination. (7-1-93)

b. Completion of the examination will not be required until the applicant meets the requirements presented in Subsections 150.01 and 02. However, an applicant may take the examination earlier if he desires. (7-1-93)

c. The examination will be conducted at a time and place specified by the Board. (7-1-93)

d. Successful performance on the examination will be established by the

Board. (7-1-93)

e. The first time the examination is failed the applicant may take it again the next time it is given upon application and payment of fees. If the examination has been failed twice, the individual must wait at least one year before taking it a third time. The individual must wait at least one year and petition the Board for approval to take the examination the fourth time. The petition shall include evidence satisfactory to the Board that the applicant has taken additional study in the field of Counseling before approval will be granted. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**200. MATERIALS TO BE FILED BY ~~ALL~~ LICENSED PROFESSIONAL COUNSELOR APPLICANTS (Rule 200).**

Each applicant must: (7-1-93)( )

01. Complete an Application. Complete an application upon a form prescribed by the Counselor Licensing Board. (7-1-93)

02. Verify Counseling Program. Verify counseling program identified in application with official graduate transcripts sent by college(s) to Board. (7-1-93)

03. Submit Verification of Supervised Experience. Submit verification of supervised experience upon the form prescribed by the Board. (7-1-93)

04. Submit Application Fee. Submit a non-refundable application fee of seventy-five dollars (\$75). (7-1-93)

**201. -- ~~249~~24. (RESERVED).**

**225. LICENSED PROFESSIONAL COUNSELOR-PRIVATE PRACTICE LICENSURE (RULE 225).**

The following requirements must be met for licensed professional counselor-private practice licensure: (7-1-93)( )

01. Private Practice Specialty Licensure. Applicants applying for private practice specialty licensure prior to January 1, 1998, must meet the criterion of having provided two thousand (2,000) hours of direct client contact since being licensed as a licensed professional counselor. Additionally, applicants must: ( )

a. Hold a current Idaho Licensed Professional Counselor License: ( )

b. Document direct client contact by providing verification and/or practice records indicating hours of counseling; and ( )

c. Document proficiency in Diagnostic Evaluation by providing verification of successful completion of graduate course or other training/experience equivalent to a college course acceptable to the board. ( )

02. Other Requirements. After January 1, 1998 the following requirements must be met: ( )

a. Hold a current Idaho licensed professional counselor license; and ( )

b. Document two thousand (2,000) hours of supervised experience accumulated over a two (2) year period after licensure. ( )

i. A Licensed Professional Counselor-Private Practice must provide at least one thousand (1,000) hours of the supervised experience requirement; the remainder of the supervision may be provided by Psychiatrists, Counseling/Clinical Psychologists and/or Certified Social Workers-Private and Independent Practice. ( )

ii. The ratio for supervision will consist of one (1) hour of face-to-face, one-on-one supervision to every thirty (30) hours of direct client contact. ( )

c. Document proficiency in Diagnostic Evaluation by providing verification of successful completion of graduate course or other training/experience equivalent to a college course acceptable to the board. ( )

03. Supervisors. A supervisor may supervise no more than three (3) licensed professional counselors at any one time. ( )

04. Continuing Educations. Twenty (20) contact hours of continuing education, per year is required to renew a Licensed Professional Counselor - Private Practice license. ( )

a. Documentation must be copies of verification from providers, transcripts, or certificates acceptable to the board. ( )

b. Continuing education requirement shall begin upon the second renewal of the licensed professional counselor-private practice license. Prior to renewal, documentation of the continuing education credits must be provided along with the renewal application. ( )

**226. MATERIALS TO BE FILED BY LICENSED PROFESSIONAL COUSELOR-PRIVATE PRACTICE APPLICANTS (Rule 226).** ( )

Each applicant must: ( )

01. Complete an Application. Complete an application upon a form prescribed by the Counselor Licensing Board. ( )

02. Submit Verification of Supervised Experience. Submit verification of supervised experience upon the form prescribed by the Board. ( )

03. Submit Application Fee. Submit a non-refundable application fee of twenty-five dollars (\$25). ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**250. FEES (Rule 250).**

01. Application Fee. Application fee: ~~Seventy-five dollars (\$75).~~  
(7-1-93)(\_\_\_\_)
- a. Licensed Professional Counselor - Seventy-five dollars (\$75). (\_\_\_\_)
- b. Licensed Professional Counselor-Private Practice seventy-five dollars (\$75). (\_\_\_\_)
02. Licensed Professional Counselor Examination or Reexamination Fee.  
Licensed Professional Counselor Examination or reexamination fee - Fifty dollars (\$50).  
(7-1-93)(\_\_\_\_)
03. Original License Fee. Original License fee: ~~Seventy-five dollars (\$75).~~  
(7-1-93)(\_\_\_\_)
- a. Licensed Professional Counselor - Seventy-five dollars (\$75). (\_\_\_\_)
- b. Licensed Professional Counselor-Private Practice - Twenty dollars (\$20). (\_\_\_\_)
04. Annual Renewal Fee. Annual Renewal fee for Licensed Professional Counselor and Licensed Professional Counselor-Private Practice - Sixty dollars.  
(\$60). (7-1-93)(\_\_\_\_)
05. Fees Are Non-refundable. All fees are non-refundable. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**400. RENEWAL OF LICENSE (Rule 400).**

Each licensed counselor must renew his license prior to July 1 of each year or the license will be cancelled. ~~The Bureau shall cancel those that have become invalid for failure to renew on October 1st of that year. The Bureau~~ Cancelled licenses may be reinstated said licenses in accordance with the requirements of Section 67-2614, Idaho Code.

(7-1-93)(\_\_\_\_)



**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**

**39.03.46 - RULES GOVERNING STUDED TIRES**

**DOCKET NO. 39-0346-9502**

**NOTICE OF CORRECTION TO RULE  
(NON-SUBSTANTIVE RULE-MAKING)**

**ACTION:** The action, under Docket No.39-0346-9502, concerns the correction of rules governing the exemptions to the studded tire prohibition, IDAPA 39, Title 03, Chapter 46, Rules Governing Studded Tires.

**AUTHORITY:** In compliance with Section 67-5220(1) , Idaho Code, notice is hereby given that this agency has corrected a rule. The action is authorized pursuant to Section(s) 49-201 and 49-948, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a summary of the reasons for the correction:

Under Section 101., EXEMPTIONS, the wording **Section 3** should have been struck and in its place **Rule 39.03.46.100** should have been added. Section 03.46.101 should read as follows:

IDAPA 39.03.46.101

101. EXEMPTIONS. Pumper trucks and ladder trucks belonging to fire departments in Idaho are exempt from the restrictions specified in ~~Section 3~~ Rule 39.03.46.100.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this correction, contact Clayton Sullivan, at (208) 334-8405.

DATED this 19 day of September, 1995.

Mary F. Detmar  
P.O. Box 7129  
Boise, Idaho 83707  
Phone/Fax Numbers: (208)334-8804/(208)334-8195

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT  
39.03.49 - RULES GOVERNING IGNITION INTERLOCK  
BREATH ALCOHOL DEVICES**

**DOCKET NO. 39-0349-9501**

**NOTICE OF PROPOSED RULES**

**ACTION:** The action, under Docket No. 39-0349-9501, concerns the proposed adoption of rules governing the regulations for certification, installation, repair and removal of ignition interlock breath alcohol devices, IDAPA 39, Title 03, Chapter 49, Rules Governing Ignition Interlock Breath Alcohol Devices.

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Section 18-8008, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be held as follows:

"Pursuant to Section 67-5222(2), Idaho Code, public hearings will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. The request must be made within fourteen (14) days of the date of publication of this notice in the Bulletin, or within fourteen (14) days prior to the end of the comment period, whichever is later."

The hearing site(s) will be accessible to the physically disabled. Interpreters for persons with hearing impairments and brailled or taped information for persons with visual impairments can be provided upon five (5) days notice. For arrangements contact the undersigned at (208) 334-8804.

**DESCRIPTIVE SUMMARY:** The following is a statement in nontechnical language of the substance of the intended rule:

The breath alcohol ignition interlock device (BAIID) is an instrument designed to measure the breath alcohol content of an individual prior to that person starting a vehicle equipped with a BAIID. Adoption of this rule would implement the National Highway Traffic Safety Administration standards for BAIID instruments within Idaho and contribute to the consistency of standards among the states.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this proposed rule, contact Marie Bishop, at (208) 334-8101.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before November 27, 1995.

DATED this 19 day of September, 1995.

Mary F. Detmar  
P.O. Box 7129  
Boise, Idaho 83707  
Phone/Fax Numbers: (208)334-8804/(208)334-8195

**TEXT OF DOCKET 39-0349-9501**

**010. DEFINITIONS.**

01. Alcohol. The generic class of organic compounds known as alcohols and, specifically, the chemical compound ethyl alcohol. For the purpose of Ignition Interlock Devices, there is no requirement expressed or implied that the device be specifically for ethyl alcohol. (12-26-90)

02. Breath Alcohol Concentration (BAC). The weight amount of alcohol contained in a unit volume of breath, measured in grams Ethanol/two hundred ten (210) liters of breath. (12-26-90)

03. Court (or Originating Court). The particular Idaho state court that has required the use of an ignition interlock breath alcohol device by a particular individual. (12-26-90)

04. Certification. The approval process required by the Idaho Transportation Department. (12-26-90)

05. Department. The Idaho Transportation Department. ( )

065. Device. An breath alcohol ignition interlock device. (~~12-26-90~~)( )

07. Ignition Interlock Device. An instrument designed to measure the BAC of an individual and which prevents a motorized vehicle from starting when the BAC exceeds a predetermined and preset level. ( )

08. Independent Testing Laboratory. A laboratory facility that is not subject to the control of the manufacturer of the device. ( )

096. Interlock. The state in which a motor vehicle is prevented from starting by a device. (12-26-90)

107. Lessee. The person ordered by a court to drive only vehicles which have certified devices installed. (12-26-90)

118. Manufacturer or Manufacturer's Representative. The person, company or corporation who produces the device, or a recognized representative who sells, rents, leases, installs, maintains and removes the device. (~~12-26-90~~)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. CERTIFICATION PROCESS.**

01. Equipment Standards. To be certified, a device must meet or exceed the

federal National Highway Traffic Safety Administration's (NHTSA) model specifications for breath alcohol ignition interlock devices (BAIID) as published in the Federal Register/ Vol. 57, No.67/Tuesday, April 7, 1992 and are subject to any subsequent standards published by NHTSA.~~minimum test standards listed in this rule.~~ Only a notarized statement and a copy of the Certification Test Report, from ~~the manufacturer or a an independent testing~~ laboratory performing the tests as specified, will be accepted as proof of meeting or exceeding the standards. The statement shall include the calibration dates and the name and signature of the person in charge of the tests under the following sentence: All tests on two (2) samples of (model names) \_\_\_ manufactured by \_\_\_\_\_ were conducted in accordance with specifications listed in [the above referenced Federal Register.] Section 18-8008, Idaho Code. (42-26-90)(    )

a. A manufacturer must report to the Department any changes in the design of the device along with a notarized re-certification statement from an independent testing laboratory thirty (30) days prior to implementing device usage in Idaho. (    )

b. Devices that were certified under less stringent IDAPA rules governing BAIID devices or previous model specifications as published in the Federal Register will be grandfathered for use in the state for a period no longer than One Hundred Eighty (180) days from the effective date of the most recent published device specifications. (    )

02. Proof of Insurance. The manufacturer shall annually provide to the Idaho Transportation Department proof of insurance with minimum liability limits of one million dollars (\$1,000,000) per occurrence, with three million dollars (\$3,000,000.00) aggregate total. The liability covered shall include defects in product design and materials, as well as workmanship during manufacture, calibration, installation and removal. The proof of insurance shall include a statement from the insurance carrier that thirty (30) days' notice shall be given to the Idaho Transportation Department prior to cancellation. (42-26-90)(    )

03. Hold Harmless. The manufacturer shall provide to the Idaho Transportation Department a notarized statement that the manufacturer will be totally responsible for product liability and will indemnify the following from any liability resulting from the device or its installation or use: (    )

a. The state of Idaho; and (    )

b. The court that ordered the installation of the device. (    )

c. The county, its employees and designees administering the program. (    )

04. Manufacturer's Reporting Requirements. The manufacturer shall provide the Department a description of its installation and monitoring procedures, maintenance technician training program, and set of criteria for monitoring and reporting offenders. (    )

053. Criteria for Certification and/or Revocation. Upon receipt of a statement from a testing laboratory that two (2) samples of a device have successfully passed the test procedures ~~specified listed~~ in this rule, ~~the required documentation, and receipt of the~~

certificate of insurance, the Department shall issue a Letter of Certification for the device. The Letter of Certification shall be valid until voluntarily surrendered by the manufacturer or until revoked by the Department for cause. Reasons for revocation include, but are not limited to: (12-26-90)( )

- a. Evidence of repeated device failures due to gross defects in design, materials and/or workmanship during manufacture, installation or calibration of the device; (12-26-90)
- b. Notice of cancellation of manufacturer's liability insurance is received; (12-26-90)
- c. Notification that the manufacturer is no longer in business; (12-26-90)
- d. Voluntary request of the manufacturer to remove a device from the certified list; ( )
- e. Any other reasonable cause to believe the device was inaccurately represented to meet the performance standards; or ( )
- f. Failure to submit required reports to the Department. ( )

064. Notice of Revocation. Unless necessary for the immediate good and welfare of the public, revocation shall be effective ten (10) days after manufacturer's receipt of notice, which shall be sent via certified mail, return receipt requested. A copy of each Notice of Revocation shall be provided to all originating courts or their designees and lessees utilizing the revoked device with notice to contact the manufacturer for a replacement. (12-26-90)( )

07. Removal of Revoked Devices. Upon revocation or voluntary surrender of a certified device, a manufacturer shall be responsible for removal of all like devices from lessees' vehicles. ( )

a. A manufacturer shall be responsible for any costs connected with removal of their revoked devices from lessees' vehicles and the installation of certified replacement devices. ( )

085. Right to Appeal. Upon voluntary surrender, or revocation of a Letter of Certification for a manufacturer's device, ~~all like devices shall be removed and replaced.~~ ~~Manufacturers~~ may request a review of revocation. Such request shall be submitted to the Department, in writing, within twenty (20) days of revocation. (12-26-90)( )

0906. Repository for Letter of Certification. The Idaho Transportation Department shall maintain a file of all existing Letters of Certification. The Department shall provide the administrative office of the courts and each trial court administrator or designee of the court with a copy of each Letter of Certification. (12-26-90)( )

**101. TEST SPECIFICATIONS FOR CERTIFICATION.**  
A device must meet or exceed the federal National Highway Traffic Safety Administration's safety specifications and safety tests for breath alcohol ignition interlock

devices (BAIID) as published in the Federal Register/Vol.57, No.67/Tuesday, April 7, 1992 and are subject to any subsequent standards published by NHTSA. ( )

01. Ground Elevation Accuracy. The BAIID must maintain accuracy to ground elevations up to 2.5 km. ( )

02. High Altitude and Low Temperature Accuracy. The BAIID must maintain accuracy in combined situations of high altitude (2.5 km.) and low temperature (-40° C). ( )

The purpose of these test specifications is to establish the accuracy and reliability of ignition interlock breath alcohol devices only. This shall be accomplished by performing no less than twenty (20) tests utilizing simulators containing the alcohol solutions of known concentrations. A manufacturer shall provide to an approved testing agency four (4) devices of each model and type for which certification is sought. From the four (4) devices provided, the testing agency shall select two (2) devices for testing. For testing purposes, each device will be calibrated to interlock at a preset level no greater than zero point zero, three, zero percent (0.030%) BAC. (12-26-90)

**1024. -- 199. (RESERVED).**

**102. EQUIPMENT AND SOLUTIONS**

- 01. Equipment and Procedures List. (12-26-90)
  - a. The simulator will be clean. (12-26-90)
    - b. The simulator will be in good working order to check motor, heater and thermometer, fill glass jar with five hundred (500) ml deionized or distilled water, and reassemble; Plug into one hundred and fifteen (115) volt line and after thirty (30) minutes check temperature: thirty-four (34) degrees C + zero two point (0.2.) (Make sure mercury column in thermometer is intact.) Check to make sure the stirrer is stirring smoothly; The simulator must be leakproof. (12-26-90)
    - c. Rinse simulator and breath line with appropriate alcohol reference solution, then fill with five hundred (500) ml of the alcohol reference solution, and reassemble. (12-26-90)
    - d. Attach a one (1) inch piece of Tygon or FDA vinyl tubing to the simulator outlet and affix a saliva trap mouthpiece. Attach an eight (8) inch piece of tubing to the inlet. (12-26-90)
    - e. Live breath or regulated, filtered, dried compressed air will be introduced in the simulator according to the manufacturer's specifications. (12-26-90)
    - f. Each simulator is labeled with the BAC value to three (3) decimal places, the batch number of the alcohol reference solution and the date filled. (12-26-90)
    - g. A log will be kept of the test results. (12-26-90)

- h. ~~The solution in the simulator may be used for ten (10) tests and must be discarded after the tenth test.~~ (12-26-90)
- i. ~~All simulator testing shall be conducted by using live breath or regulated, filtered, dried, compressed air as the source of air.~~ (12-26-90)
02. ~~Environmental Chamber.~~ (12-26-90)
- a. ~~Capacity to place complete units inside chamber to run tests.~~ (12-26-90)
- b. ~~Ability to maintain temperature during test at, or lower than minus twenty eight (-28) degrees C, zero (0) degrees C, plus forty (+40) degrees C and plus seventy (+70) or greater degrees C.~~ (12-26-90)
- e. ~~Twenty (20) to twenty five (25) degrees C tests can be run at room temperature outside chamber.~~ (12-26-90)
03. ~~Standard Alcohol Reference Solutions.~~ (12-26-90)
- a. ~~Stock solution: Mix absolute ethanol with distilled or deionized water at a ratio of seventy seven point zero (77.0) ml of ethanol diluted up to one (1) liter of water.~~ (12-26-90)
- b. ~~Stock solution is stored in a well stoppered flask labeled "stock solution" and "contains seventy seven point zero (77.0) ml (sixty point five (60.5) gm ethanol/L", the date prepared, and initials of preparer.~~ (12-26-90)
- e. ~~Standard Alcohol Reference Solutions: Prepared from stock solution by pipetting the requisite amount of the stock solution into a volumetric flask and filled with distilled or deionized water to the mark as follows: For each zero point zero one zero (0.010), dilute at ratio of one point zero (1.0) ml stock solution to five hundred (500) ml. The solution is thoroughly mixed by capping the container securely and inverting at least twenty (20) times.~~ (12-26-90)
- d. ~~The exact concentration of the standard alcohol reference solution shall be determined by titration using Potassium Dichromate (NBS Primary Standard Grade). This standardized alcohol reference solution may then be used to calibrate a gas chromatograph.~~ (12-26-90)
- e. ~~The standard reference solution is stored in a glass bottle with a tight-fitting ground glass stopper or a teflon-coated screw cap.~~ (12-26-90)
- f. ~~The container is labeled with batch number, solution concentration in BAC, date prepared and the initials of the preparer. This data shall be recorded and filed.~~ (12-26-90)
- g. ~~The manufacturer may request a portion from the samples of the solutions for independent testing.~~ (12-26-90)
04. ~~Test Procedures.~~ (12-26-90)

a. ~~Set up simulators with standard alcohol reference solutions: Standard alcohol reference solution zero point zero two zero (0.020) BAC, allow to reach thirty four (34) degrees C + zero point two (0.2) degrees C. Standard alcohol reference solution zero point zero three zero (0.030) BAC, allow to reach thirty four (34) degrees C + zero point two (0.2) degrees C. Standard alcohol reference solution zero point zero four zero (0.040) BAC, allow to reach thirty four (34) degrees C + zero point two (0.2) degrees C.~~  
(12-26-90)

b. ~~To set up the test the alcohol devices shall not be modified. Use one (1) inch of tubing between simulator and saliva trap mouthpiece. Attach the mouthpiece to the breath sampling inlet. Operate the device according to the manufacturer's instructions. Use new mouthpiece and tubing after each sequence of ten (10) tests. Wait at least five (5) minutes between each test to avoid overloading sensors. For the purposes of laboratory testing, the device may give a "pass/fail" response when installed in a subject's vehicle.~~  
(12-26-90)

05. ~~Test Temperatures:~~ (12-26-90)

a. ~~Twenty (20) to twenty five (25) degrees C (room temperature):~~  
(12-26-90)

b. ~~Zero (0) degrees C:~~ (12-26-90)

e. ~~Minus twenty eight (-28) degrees C or lower:~~ (12-26-90)

d. ~~Plus forty (+40) degrees C:~~ (12-26-90)

e. ~~Plus seventy (+70) degrees C or higher:~~ (12-26-90)

06. ~~Alcohol Solutions:~~ (12-26-90)

a. ~~Zero point zero zero zero (0.000) BAC (distilled or deionized water):~~  
(12-26-90)

b. ~~Zero point zero one zero (0.010) BAC + point zero zero five (.005):~~  
(12-26-90)

d. ~~Zero point zero two zero (0.020) BAC + point zero zero five (.005):~~  
(12-26-90)

e. ~~Zero point zero three zero (0.030) BAC + point zero, zero, five (.005):~~  
(12-26-90)

f. ~~Zero point zero four zero (0.040) BAC + point zero zero five (.005):~~  
(12-26-90)

07. ~~Number of Tests:~~ (12-26-90)

a. ~~Accuracy: five (5) tests at each temperature and at three (3) or more of~~



~~the alcohol solution concentrations plus zero point zero zero zero (0.000) BAC.~~  
(12-26-90)

b. ~~Repeatability: Ten (10) tests at zero point zero three zero (0.030) BAC + point zero zero five (.005) repeated at least forty-eight (48) hours later.~~ (12-26-90)

e. ~~Ten (10) breath tests on each of two (2) interlock devices at room temperature using a minimum of three (3) human subjects having a BAC in the range zero point zero two zero (0.020) BAC and zero point zero five zero (0.050) BAC, as measured in a near simultaneous fashion using suitable evidentiary instrument (e.g., Intoximeter, Model three thousand (3000)).~~ (12-26-90)

d. ~~Ten (10) breath tests on each of two (2) interlock devices at room temperature using a minimum of three (3) alcohol-free human subjects registering (blank) BAC values on a suitable evidentiary instrument (e.g., Intoximeter, Model three thousand (3000)).~~ (12-26-90)

08. ~~Bogus Breath Samples. Non-alcoholic "Bogus Breath Samples" for test purposes shall be generated by the testing laboratory using three (3) or more of the following: Air compressor powered by a twelve (12) volt DC automobile battery; Portable car vacuum cleaner; Mylar plastic bag; Rubber balloon; Hair dryer;~~ (12-26-90)

a. ~~The methods of interface to the device under test shall be determined by the testing laboratory. At least three (3) tests will be run with each source of "bogus breath."~~ (12-26-90)

b. ~~Tests shall be conducted at room temperature to determine whether the use of filters can remove alcohol from breath sample, thus circumventing the device. Cigarette filters from "Carlton or Lark" cigarettes packed into a paper tube shall be used for these tests.~~ (12-26-90)

e. ~~Test units shall meet performance of specifications at room temperature after being subjected to a vibration of ten (10) g's at two hundred and fifty (250) Hz for thirty (30) minutes.~~ (12-26-90)

d. ~~The device must allow the driver to "restart" the vehicle for a period of no less than one (1) minute and no greater than three (3) minutes after the ignition has been shut off without requiring further testing of the driver.~~ (12-26-90)

e. ~~The device must purge any residual alcohol before subsequent use.~~ (12-26-90)

**103. ENVIRONMENTAL FEATURES.**

~~The device shall operate reliably over a range of automotive environments. The device shall:~~ (12-25-90)

01. ~~Resistance. Be resistant to shock and vibration as normally found in an automotive environment.~~ (12-26-90)

02. ~~Temperature Range. Operate accurately over temperature range of~~

~~minus twenty-eight (-28) degrees C to plus seventy (+70) degrees C. (12-26-90)~~

~~03. Altitude Range. Operate accurately within an altitude range of zero (0) to eighty-five hundred (8500) feet (sea level to eight-five hundred (8500) feet above sea level). (12-26-90)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**~~300. DEVICE ACCURACY AND RELIABILITY.~~**

~~01. BAC Levels. A device is certifiable when it can detect and interlock when the air sample provided to it contains alcohol at or above the calibrated setting, plus or minus point zero zero five (.005) BAC. The device must operate correctly ninety-five percent (95%) of the time up to zero point zero four zero (0.040) BAC. At zero point zero five zero (0.050) BAC the device must operate correctly one hundred percent (100%) of the time. (12-26-90)~~

~~02. Breath Specimens. The device must also allow the vehicle to be started ninety-five percent (95%) of the time when the breath sample provided to it contains no alcohol or less than the calibrated setting. The device shall utilize breath specimens which are alveolar air samples (deep lung air) in accordance with established Forensic Alcohol Standards. (12-26-90)~~

**~~301. VARIABLE CALIBRATION.~~**

~~To be certified, a device must be capable of being preset, by the manufacturer, to interlock when the breath sample provided is at any level from zero point zero two zero (0.020) through zero point zero five zero (0.050) BAC (plus or minus point zero zero five (.005) BAC). The actual setting of each device shall be determined by the originating court. The capability to change this setting shall be made secure, by the manufacturer, to prevent unauthorized adjustment of the device. (12-26-90)~~

**~~303. (RESERVED).~~**

**~~3002. DEVICE MAINTENANCE AND REPORTS.~~**

~~01. Device Examination Schedule. Each lessee shall have the device examined by a manufacturer or its representative for correct calibration and evidence of tampering every sixty (60) days, or more often as may be ordered by the originating court, or less frequently, as may be ordered by the originating court to a maximum of one hundred and twenty (120) days. (12-26-90)~~

~~02. Report of Examination. A report on the results of each check shall be provided to the trial court administrator or designee of for the originating court. The report shall reflect what adjustments, if any, were necessary in the calibration of the device, any evidence of tampering, and any other available information the originating court may order. (12-26-90)(\_\_\_\_\_)~~

~~03. Corrective Action Report. Complaints by the lessee shall be accompanied by a statement of the actions taken to correct the problem(s). Reports of the~~

problem(s) and action(s) taken shall be submitted to the originating court or its designee within three (3) business days. (12-26-90)(    )

04. Additional Report. An additional report shall be provided to the Idaho Transportation Department of Transportation on a quarterly basis summarizing all periodic checks ordered by the originating court and all complaints received by the manufacturer from the and lessee for each model or type of certified device. These reports shall be categorize by: (12-26-90)(    )

- a. Customer error of operation. (12-26-90)
- b. Faulty automotive equipment other than the device. (12-26-90)
- c. Apparent misuse or attempts to circumvent the device, causing damage. (12-26-90)
- d. Device failure due to material defect, design defect, workmanship errors in construction, installation or calibration. (12-26-90)

**3014. DEVICE SECURITY.**

01. Tampering Precaution. The manufacturer shall take all reasonable steps necessary to prevent tampering or physical circumvention of the device. These steps shall include special locks, seals and installation procedures that prevent and/or record evidence of tampering and/or circumvention attempts. (12-26-90)

02. Device Identification. Each device shall be uniquely serial numbered. All reports to the trial court administrator or designee of an originating court concerning a particular device shall include the name and address of the lessee, the originating court's file number, and the unique number of the device. (    )

032. Warning Label. The manufacturer shall provide a label containing a notice (at least ten (10) point boldface type) on each certified device reading: WARNING: ANY PERSON TAMPERING, CIRCUMVENTING, OR OTHERWISE MISUSING THIS DEVICE MAY BE SUBJECTED TO CRIMINAL SANCTIONS. (Section 18-8009, Idaho Code) (12-26-90)

- a. The label shall be capable of being affixed to the device. (12-26-90)
- b. The manufacturer shall provide an area on the outside of the device where the label is most likely to be seen by the operator of the vehicle. (12-26-90)
- c. The label must be affixed to the device at all times while installed in the lessee's vehicle. (12-26-90)

~~043.~~ Physical Anti-tamper Ssecurity. (12-26-90)(    )

- a. Use unique, easily identifiable wire, covering or sheathing over all wires used to install the device, which are not inside a secured enclosure. (12-26-90)

b. Use unique, easily identifiable covering, seal, epoxy or resin at all exposed electrical connections for the device. (12-26-90)

c. Make all connections to the vehicle under the dash or in an inconspicuous area of the vehicle. (12-26-90)

d. Use unique, easily identifiable tamper seal, epoxy or resin at all openings (except breath or exhaust ports). (12-26-90)

~~e. Depending upon the level of electronic anti-tampering security of a device, it may be important to consider additional anti-tamper measures. The following is representative of only a few possibilities: Use a special mark, seal, paint, epoxy, resin or other material to mark points likely to be accessed when attempting to bypass or tamper with the device (e.g., battery post terminals, wire to starter solenoid, wire to ignition, dash screws). (12-26-90)~~

~~04. Anti-Tampering Security — Records. (12-26-90)~~

~~a. Device should detect when the vehicle has been started without a breath test being passed, and should either display and/or record the tamper in a way that the information can be retrieved at a later date. (12-26-90)~~

~~b. Devices should be able to retain their tamper detection capabilities when disconnected from the vehicle's power supply, or should be able to record that it was disconnected. Devices, that lose their memory of tamper events when disconnected from a power source, should have an indicator or interrupt device that will require or strongly compel the lessee to return for maintenance and tamper inspection of the device. (12-26-90)~~

~~e. The device should continuously record the time and date of each of the following vehicle and device operations: Breath test fail; breath test pass; alcohol level of each breath test; vehicle start (through interlock); vehicle start (bypass interlock-tampering suspected); engine running (monitor voltage variations, engine vibrations, etc.) and/or vehicle motion (motion sensor, driveline sensor, etc.); and power disconnect. (12-26-90)~~

~~d. When a device detects a condition that would be considered tampering, the device should activate an indicator or interrupt device that will require or strongly compel the lessee to return for maintenance and tamper inspection of the device. (12-26-90)~~

05. Personnel Requirements. Devices must be installed, inspected, tested and maintained by a qualified manufacturer or its representative. (12-26-90)

a. Installers must have the training and skills necessary to install, troubleshoot and check for proper operation of the device, and to screen the vehicle for acceptable condition. (12-26-90)

b. Personnel whose functions and duties include ~~who~~ installing, calibrating, and performing tamper inspections; and ~~perform~~ reporting duties, should not

have been convicted of a crime substantially related to the convicted lessee's violation. ~~qualifications, functions and duties, installation, and inspection of the devices.~~ This may include, but is not limited to, persons convicted of: Driving under the influence (DUI) within the last five (5) years; more than one DUI overall; probation violation; and perjury.  
(12-26-90)( )

c. For the purposes of this section, "convicted" shall include entering a plea of guilty, nolo contendere, or to have been found guilty or been given a withheld judgment.  
(12-26-90)

~~3025.~~ -- 399. (RESERVED).

**400. MANDATORY OPERATIONAL FEATURES.**

Notwithstanding other provisions of this rule, a certified device must comply with the following:  
(12-26-90)

01. ~~Device Setpoint-Restart Timing.~~ The actual setpoint of each device to interlock when the breath sample is provided shall be determined by the originating court. The capability to change this setting shall be made secure, by the manufacturer, to prevent unauthorized adjustment of the device.  
(12-26-90)( )

~~The device shall be designed to permit a "restart" within three (3) minutes without additional test when the ignition has been turned off.~~  
(12-26-90)

02. ~~Purging Requirements.~~ The device shall automatically and completely purge residual alcohol before allowing subsequent tests.  
(12-26-90)

03. ~~Installation Assurance.~~ The device shall be installed in such a manner that it will not interfere with the normal operation of the vehicle after it has been started.  
(12-26-90)

04. ~~Mouthpieces.~~ Each device shall be provided with a supply of disposable mouthpieces with saliva traps. The manufacturer will ensure availability of additional mouthpieces.  
(12-26-90)

05. ~~Device Identification.~~ Each device shall be uniquely serial numbered. All reports to the trial court administrator of an originating court concerning a particular device shall include the name and address of the lessee, the originating court's file number, and the unique number of the device.  
(12-26-90)

**401. OTHER PROVISIONS.**

Notwithstanding other provisions of this rule, each manufacturer of a certified device:  
(12-26-90)

01. Repair Deadline. Shall guarantee repair or replacement of a defective device within the State of Idaho within a maximum of forty-eight (48) hours of receipt of complaint.  
(12-26-90)

02. Statement of Charges. Shall provide the originating court or its designee and the lessee a statement of charges clearly specifying warranty details, purchased cost,

and/or monthly lease amount, any additional charges anticipated for routine calibration and service checks, ~~and~~ what items (if any) are provided without charge, and under what conditions a lessee is responsible for payment for service calls and/or damage to the device. ~~(12-26-90)( )~~

03. Notice of Installation. Upon installation of each device, the manufacturer or its representative will provide the trial court administrator or designee of the originating court with a notice of installation that includes the name, address and telephone number of the lessee, the originating court's file number, and the unique number of the device. ~~(12-26-90)( )~~

04. Notice of Charges. Shall provide written notice to the Idaho Transportation Department and each ~~Idaho~~ trial court administrator or designee of the court ~~of the~~ statement of charges for each device model. ~~(12-26-90)( )~~

05. Nationwide Service Locations. Shall provide to all lessees at the time of installation: (12-26-90)

a. A list of all calibration/service locations in the continental United States. The list shall include the business name, address and telephone number of all such locations. (12-26-90)

b. A twenty-four (24) hour telephone number to call for service support for those who may be traveling outside service areas. (12-26-90)

06. Statewide Service Locations. Shall provide to all lessees at the time of installation: ( )

a. A list of all calibration/service locations in the state of Idaho. The list shall include the business name, address and telephone number of all such locations. ( )

b. Shall notify the Idaho Transportation Department of the location, including address, phone number and contact person, of each installation station in Idaho. ( )

07. Attempts to Disobey Court Order. Shall report to the originating court or its designee any requests to disconnect or circumvent, without court order, any device of their own or another manufacturer. ~~(12-26-90)( )~~

08. Removal of Device. Shall advise the originating court or its designee prior to removing the device under circumstances other than: ~~(12-26-90)( )~~

a. Completion of sentence or other terms of a court order. (12-26-90)

b. Immediate device repair needs. (12-26-90)

09. Substitute Device. Whenever a device is removed for repair and cannot immediately be reinstalled, a substitute device shall be utilized. Under no circumstances shall a lessee's vehicle be permitted to be driven without a required device. (12-26-90)

~~09. Statewide Service Locations. Shall notify the Idaho Department of Transportation of the location (including address, phone number and contact person) of each installation station in Idaho. (12-26-90)~~

**402. REMOVAL PROCEDURES.**

When so notified in writing by the originating court, the manufacturer shall remove the device and return the vehicle to normal operating condition. A final report, which includes a summary of all fees paid by the lessee over the life of the contract, shall be forwarded to the originating court or its designee and the Idaho Transportation Department. (12-26-90)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**500. PRIMARY RESPONSIBILITIES OF AGENCIES/OFFICES MONITORING THIS RULE.**

Listed below are some of the primary responsibilities of the indicated offices/agencies, as outlined in this rule. (12-26-90)

- 01. Testing Lab. (12-26-90)
  - a. Test devices for minimum standards. (12-26-90)
  - b. Submit notarized statement and copy of the Certification Test Report to manufacturer ~~Idaho Transportation Department.~~ (12-26-90)(\_\_\_\_)
  - c. Keep log of test results. (12-26-90)
- 02. Manufacturer. (12-26-90)
  - a. Submit device to lab for testing. (12-26-90)
  - b. Install, maintain and remove device as required by court. (12-26-90)
  - c. Set interlock level as established by court. (12-26-90)
  - d. Submit quarterly (or more frequent) maintenance reports to originating court or its designee. (12-26-90)(\_\_\_\_)
  - e. Submit quarterly reports to Idaho Transportation Department summarizing periodic device examinations and all complaints received. (12-26-90)(\_\_\_\_)
  - f. Provide court, lessee and Idaho Transportation Department with statement of charges and/or any additional fees. (12-26-90)
  - g. Provide lessee with service and repair information. (12-26-90)
  - h. Provide Idaho Transportation Department with proof of insurance

- annually. (12-26-90)( )
- i. Report any attempt to disconnect any device to originating court or its designee. (12-26-90)( )
- jk. Advise court or its designee before removing any device unless authorized or in need of immediate repair. (12-26-90)( )
03. Idaho Transportation Department. (12-26-90)
- a. Maintain a list of known calibration/service locations in the state testing labs. (12-26-90)( )
- b. Issue Letter of Certification for each device model to manufacturer (copy to courts or their designees.)~~administrative office of court and trial court administrator).~~ (12-26-90)( )
- c. When necessary, revoke Letter of Certification (copy to courts or their designees.)~~administrative office of court and each trial court administrator).~~ (12-26-90)( )
- d. Maintain file of all letters. (12-26-90)
- e. Maintain file of statement of charges (by device model). (12-26-90)
- f. Maintain proof of insurance. (12-26-90)
04. Court. (12-26-90)
- a. The judge will order device installation (including interlock setting), maintenance and removal. (12-26-90)
- b. The trial court administrator or designee of the originating court will receive maintenance reports on each device installed pursuant to order. (12-26-90)( )
- c. The trial court administrator or designee of the originating court will receive statement of charges. (12-26-90)( )
- d. The trial court administrator or designee of the originating court will receive manufacturer's reports of attempts to disconnect any device. (12-26-90)( )
05. Lessee. (12-26-90)
- a. Have device installed and maintained as ordered required by court. (12-26-90)( )
- b. Receive statement of charges and remit fees as scheduled. (12-26-90)( )
- c. Receive and comply with guidelines necessary information regarding



repairing and maintenance maintaining the vehicle in good working order.

(12-26-90)( )

**IDAPA 48 - IDAHO DEPARTMENT OF COMMERCE**  
**48.01.01 - RULES OF THE DIVISION OF COMMUNITY DEVELOPMENT**  
**DOCKET NO. 48-0101-9501**  
**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** In compliance with Section 67-5226, Idaho Code, notice is hereby given that the Department of Commerce has adopted temporary rules. The temporary rules become effective October 3, 1995. The final rule will be effective upon publication of the Notice of Final Rule Adoption and adoption of the concurrent resolution or such other date specified in the concurrent resolution, or upon the conclusion of the 1996 legislative session, whichever is sooner.

**AUTHORITY:** In 1981 Congress amended the Community Development Act of 1974 to allow states to assume the Department of Housing and Urban Development's Small Cities Community Development Block Grant Program. The Department of Commerce, through these rules, is implementing the states administration program as authorized by the Housing and Community Development Acts of 1974, as amended, (42 USC, Sec. 5301) and Department of Housing and Urban Development Rules 24 CFR, Part 570, Subpart I. Funds which are appropriated annually by Congress are allocated by statutory formula to each state.

**PUBLIC HEARING SCHEDULE:** Six public hearings were scheduled and held around the state between August 10, 1995 and August 18, 1995. All sites were accessible to persons with disabilities and prior accommodations were made available to insure full participation of local governments affected by the Idaho Community Development Block Grant (ICDBG) Program Rule changes. From these public hearings valuable feedback was received and the current Rule changes will insure a higher level of understanding and efficiency.

**DESCRIPTIVE SUMMARY:** The following is a statement in nontechnical language of the substance of the proposed rule changes: Clarification in job creation requirements for Economic Development (ED) grants; minor changes in rating criteria for ED grants; changes in federal requirements on ED projects resulting in simplifying the implementation process; changes to reflect Idaho Code regarding procurement requirements; revision in distribution of funds for technical assistance grants to assist communities with planning requirements, i.e. comprehensive plans and zoning ordinances.

The following is the required finding and a concise statement of the supporting reasons for temporary rule-making: This year's Rule changes to the ICDBG program are to clarify application requirements, bring program rules into conformation with new state and federal laws and to increase efficiency in program implementation.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENT:** For assistance on technical questions concerning these proposed rule changes, contact Jan Peter Blickenstaff or Gloria Mabbutt at (208)334-2470.

Anyone may submit written comments regarding these Rule changes. All written comments and data concerning these Rule changes must be directed to the undersigned and must be postmarked or delivered before November 22, 1995.

**DATED** this 20th day of September, 1995.

Jan Peter Blickenstaff, Administrator Division of Community Development  
Idaho Department of Commerce  
700 West State Street  
PO Box 83720  
Boise, Idaho 83720-0093  
Phone Number: 208-334-2470  
Fax Number: 208-334-2631

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**TEXT OF DOCKET 48-0101-9501**

**016. BENEFIT TO LOW AND MODERATE INCOME PERSONS.**

01. Definition. Members of a family having an income within family income standards established by HUD for housing and community development programs. Unrelated individuals are considered one (1) person families. Low income is defined as families with income of fifty percent (50%) or less of the county median income. Moderate income is defined as families with income of eighty percent (80%) or less of the county median income. HUD established that county median income is the greater of either the county median income or the median income of the "non-entitlement" area of the state. Activities considered to benefit LMI persons are divided into four (4) categories: area benefit activity, limited clientele activity, housing activity, and job creation or retention activity. (7-6-94)

02. Area Benefit Activity. A grant project which meets the needs of LMI persons residing in an area where at least fifty-one percent (51%) of the residents are LMI persons. The benefits of this project are available to all persons in the area regardless of income. Such an area need not have the same boundaries as census tracts or other officially recognized boundaries but must be the entire area served by the project. A project that serves an area that is not primarily residential in character (i.e. street construction in an industrial park) shall not qualify under this category. (7-6-94)

03. Limited Clientele Activity. A grant project which benefits a specific group of people, at least fifty-one percent (51%) of whom are LMI persons. Limited clientele activities also include special projects to remove material and architectural barriers which restrict the mobility and accessibility of elderly or persons with disabilities to publicly-owned and privately-owned nonresidential buildings. To qualify in limited clientele activity, the activity must meet one (1) of the following tests: (7-6-94)

a. Benefits a clientele group who are generally presumed to be principally LMI persons. Currently, the following groups are presumed by HUD to meet this criterion: elderly persons, homeless persons, persons with disabilities, migrant farm workers, abused children, battered spouses, illiterate persons; or (7-6-94)

b. Information on family size and income proves that at least fifty-one

percent (51%) of the clientele are persons whose family income does not exceed the LMI limit; or (7-6-94)

c. Income eligibility requirements limit the activity exclusively to LMI persons; or (7-6-94)

d. By the nature and location it may be concluded that the clientele will primarily be LMI persons; or (7-6-94)

e. A special project directed to removal of material and architectural barriers which restrict the mobility and accessibility of elderly or persons with disabilities to publicly owned and privately owned nonresidential buildings, facilities and improvements, and the common areas of residential structures containing more than one dwelling unit. (7-6-94)

04. Housing Activity. A grant project which adds to or improves permanent, residential structures which, upon completion, will be occupied by LMI households. This project may include, but not necessarily be limited to, the acquisition or rehabilitation of property, conversion of nonresidential structures, and new housing construction. (7-6-94)

a. The housing may be either one (1) family or multifamily structures. If the structure contains two (2) dwelling units, at least one (1) must be so occupied, and if the structure contains more than two (2) dwelling units, at least fifty-one percent (51%) of the units must be so occupied. Where two (2) or more rental buildings being assisted are or will be located on the same or contiguous properties, and the buildings will be under common ownership and management, the grouped buildings may be considered for this purpose as a single structure. For rental housing, occupancy by low and moderate income households must be at affordable rents to qualify under this criterion. The unit of general local government shall adopt and make public its standards for determining "affordable rents" for this purpose. (7-6-94)

b. The following shall also qualify under this criterion. When less than fifty-one percent (51%) of the units in a structure will be occupied by low and moderate income households, ICDBG assistance may be provided in the following limited circumstances: the assistance is for an eligible activity to reduce the development cost of the new construction of a multifamily, non-elderly rental housing project; not less than twenty percent (20%) of the units will be occupied by low and moderate income households at affordable rents; and the proportion of the total cost of developing the project to be borne by ICDBG funds is no greater than the proportion of units in the project that will be occupied by low and moderate income households. (7-6-94)

05. Job Creation or Retention Activity. A grant project which creates or retains permanent jobs, at least fifty-one percent (51%) of which are either taken by LMI persons or considered to be available to LMI persons. (7-6-94)

a. Acceptable documentation on applicant/employee family income includes any of the following: (10-3-95)T

i. Notice that employee/applicant is a referral from state, county, or local employment agency or other entity that agrees to refer individuals who they determine to

be low or moderate income based on HUD's criteria. These entities must maintain documentation which is to be available for grantee, Department, or federal inspection; or  
(10-3-95)T

ii. Written certification signed by the employee/applicant of family income and size to establish income status showing either: The actual income of the family; or, a statement that the family income is below that required by CDBG standards. These forms must include a statement that they are subject to verification by the local or federal government; or  
(10-3-95)T

iii. Evidence that employee/applicant qualifies for assistance under another program with income qualification criteria at least as restrictive as those used by HUD (e.g., referrals from the Joint Training Partnership Act (JTPA) Program), except for referrals under the JTPA Title III program for dislocated workers.  
(10-3-95)T

a**b**. For an activity designed to create permanent jobs where at least fifty-one percent (51%) of the jobs, computed on a full time equivalent basis, involve the employment of low and moderate income persons. For an activity that creates jobs, the unit of general local government must document that at least fifty-one percent (51%) of the jobs will be "held by", or will be made "available to", low and moderate income persons. The unit of local government and the business must determine at the time of pre-application whether they will use "held by" or the "available to" criteria as their method of documenting LMI jobs. The option chosen cannot be changed at a later date.  
(7-6-94)(10-3-95)T

b**c**. For an activity that retains jobs, the unit of general local government must document that the jobs would actually be lost without the ICDBG assistance and that either or both of the following conditions apply with respect to at least fifty-one percent (51%) of the jobs at the time the ICDBG assistance is provided: The job is known to be held by a low or moderate income person; or the job can reasonably be expected to turn over within the following two (2) years and that it will be filled by, or that steps will be taken to ensure that it is made available to, a low or moderate income person upon turnover.  
(7-6-94)

e**d**. Jobs will be considered to be "available to" low and moderate income persons for these purposes only if: special skills that can only be acquired with substantial training or work experience or education beyond high school are not a prerequisite to fill such jobs, or the business agrees to hire unqualified persons and provide training; and the unit of general local government and the assisted business take actions to ensure that low and moderate income persons receive first consideration for filling such jobs. First consideration shall consist of the business using hiring practices that in all likelihood will result in over fifty one percent (51%) of persons hired being LMI persons, the business must seriously consider/interview an adequate number of LMI applicants, the availability of transportation must be considered to allow LMI persons to commute to the job site. The hiring practice used to make jobs available to LMI persons shall be identified in the pre-application and approved by the Department.  
(7-6-94)(10-3-95)T

e**e**. As a general rule, each assisted business shall be considered to be a separate activity for purposes of determining whether the activity qualifies under this paragraph, except: in certain cases, such as where ICDBG funds are used to acquire,

develop or improve a real property (e.g., a business incubator or an industrial park), the requirement may be met by measuring jobs in the aggregate for all the businesses that locate on the property, provided the businesses are not otherwise assisted by ICDBG funds; and where ICDBG funds are used to pay for the staff and overhead costs of a subrecipient specified in section 105(a)(15) of the Act making loans to businesses from non-ICDBG funds, this requirement may be met by aggregating the jobs created by all of the businesses receiving loans during any one (1) year period. (7-6-94)

ef. In any case where ICDBG funds are used for public improvement (e.g., water, sewer and road) and the national objective is to be met by job creation or retention as a result of the public improvement, the requirement shall be met as follows: the assistance must be reasonable in relation to the number of jobs expected to be created or retained by the affected business(es) within three (3) years from the completion of the public improvement. Before ICDBG assistance is provided for such an activity, the unit of general local government shall develop an assessment which identifies the businesses located or expected to locate in the area to be served by the public improvement. The assessment shall include for each identified business a projection of the number of jobs to be created or retained as a result of the public improvement; and the jobs to be considered for purposes of meeting the requirement shall be all jobs created or retained as a result of the public improvement by the business(es) identified in the assessment as well as any other business that locates in the area within a period of three (3) years following the completion of the activity; except that, in any case where the amount of ICDBG assistance provided for the public improvement in relation to the number of jobs projected to be created or retained by the business(es) identified in the assessment is such that the amount per job does not exceed ~~three ten thousand dollars (\$3,000)~~ (\$10,000), jobs created by the businesses not identified in the assessment need not be considered. ~~(7-6-94)~~ (10-3-95)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**022. ELIGIBLE ACTIVITIES.**

An activity listed in ~~this section~~ Sections 023 through 051 which also meets one (1) of the three (3) national objectives is considered eligible and may be financed in whole or in part with Idaho Community Development Block Grant (ICDBG) funds. Each grantee must ensure, and maintain evidence, that each of its ICDBG-funded activities meets one (1) of the national objectives. A grant project shall consist of a combination of eligible activities. Each activity must also be in compliance with the following conditions:

~~(7-6-94)~~ (10-3-95)T

01. Environmental Review. An environmental review and clearance procedure (contained in the Code of Federal Regulations (24 CFR Part 58)) must be completed for each project consisting of activities as defined in this section. (7-6-94)

02. Cost Principles. Costs incurred must conform with the requirements of OMB Circulars A-87 "Cost Principles Applicable to Grants and Contracts with State and Local Governments" or A-122, "Cost Principles for Nonprofit Organizations". (7-6-94)

03. Mixing Eligible and Ineligible Uses. A public facility eligible for ICDBG assistance may be funded even if it is part of a multiple-use building containing

ineligible uses if: (7-6-94)

a. The eligible portion of the building is a designated and discreet area of the building; (7-6-94)

b. The applicant can determine the costs attributable to the eligible use or eligible portion of the facility as distinct from the overall costs of the facility. (7-6-94)

04. Special Assessments. (7-6-94)

a. Definition. The recovery of the capital costs of a public improvement, such as streets or sewer lines, through a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public improvement. The fee amount represents the pro-rata share of the capital costs of the public improvement levied against the benefiting properties. The term does not relate to user fees or taxes or the establishment of the value of real estate for the purpose of levying real estate, property or ad valorem taxes. (7-6-94)

b. Restrictions. For projects funded beginning in 1984, no special assessments will be levied against properties owned and occupied by low and moderate income persons to recover that portion of a capital expenditure funded in whole or in part by ICDBG funds. This includes fees or assessments made as a condition to obtain access to a facility. Grant recipients may levy assessments to recover the portion of a capital expenditure funded from other sources if the assessments of the low and moderate income owner-occupants are paid with ICDBG funds. Funds collected through special assessments are not program income if the assessment of LMI owner-occupants are paid with ICDBG funds. ICDBG funds may be used to pay for assessments levied against property owned and occupied by low and moderate income persons even if the public facility improvements are financed solely from other sources, and if the improvements were carried out in compliance with ICDBG regulations. (7-6-94)

05. Beneficiary Data. Each grantee shall collect and maintain data on the persons to directly benefit from the grant project. The data shall include information on race, gender and ethnic characteristics of persons who are applicants for, participants in, or beneficiaries of the grant project. (7-6-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**039. ADMINISTRATIVE ACTIVITIES.**

Payment of reasonable administrative costs and carrying charges related to the planning and execution of community development, ~~and housing activities, and the costs related to the establishment and administration of federally approved enterprise zones~~ ; to carry out management, coordination and monitoring of activities necessary for effective planning and implementation, including the provision of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of such activities including planning under Section 038. These costs shall not exceed ten percent (10%) of ICDBG grant funds and any program income. (7-6-94)(10-3-95)T

**040. SPECIAL ECONOMIC DEVELOPMENT ACTIVITIES.**

01. Economic Development Activities. Grant funds may be used for economic development activities which directly assist a specific business firm. In authorizing activities, the Department will take into account the amount of permanent employment to be generated which is available to low and moderate income persons, the necessity of the assistance or activity to stimulate private investment and the degree of impact on the economic conditions of the applicant. (7-6-94)

02. Eligible Activities. The following are eligible activities that may be carried out: (7-6-94)

a. Acquisition, construction, reconstruction, or installation of publicly-owned commercial or industrial buildings and structures, and other publicly-owned real property equipment and improvements, including public facilities, utilities, and other on site improvements, including railroad spurs, electrical, gas and telephone services. Such activities may be carried out by the grantee, sub-grantee, or private nonprofit firms. Rehabilitation of privately-owned commercial or industrial buildings is eligible under Subsection 040.02.b; or section.051.01. (~~7-6-94~~)(10-3-95)T

b. A project may include the provision of direct financial assistance to private-for-profit businesses including, but not limited to, assistance through grants, loans, loan guarantees, interest supplements, or technical assistance and other forms of support, for any eligible activities necessary or appropriate to carry out an economic development project, excluding these described as ineligible in Subsection 052.01. In order to ensure that any such assistance does not unduly enrich the for-profit business, an analysis shall be conducted to determine that the amount of any financial assistance to be provided is not excessive, taking into account the actual needs of the business in making the project financially feasible and the extent of public benefit expected to be derived from the economic development project. The analysis shall document any factors considered in making the determination that the assistance is "necessary or appropriate" to carry out the project. The requirement for making such a determination applies whether the business is to receive assistance from the grantee or through a sub-grantee; (7-6-94)

c. Other activities eligible under Section 022. of these rules which are necessary or appropriate to carry out an economic development project; and (7-6-94)

d. When the grantee determines such ineligible activities listed in Subsection 052.02. are necessary or appropriate to achieve its community development strategy. (7-6-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**050. ~~(RESERVED): HOUSING ACQUISITION FOR LMI HOMEOWNERS.~~**  
ICDBG funds may be used to facilitate and expand homeownership for LMI persons by: subsidizing interest rates and principle amounts for LMI home buyers; directly finance the home acquisition for LMI owner; acquire mortgage guarantees for LMI homebuyers



(grantees and grant funds cannot directly guarantee mortgage financing.); provide up to fifty percent (50%) of a down payment for LMI homebuyers; pay reasonable closing costs normally associated with the purchase of a home by a LMI homebuyer.

(7-6-94)(10-3-95)T

**051. HOUSING AND COMMERCIAL REHABILITATION AND PRESERVATION ACTIVITIES.**

01. Commercial Rehabilitation. ICDBG funds may be used to finance the substantial rehabilitation of privately-owned existing buildings or structures used for business, commercial or industrial purposes. It includes, but is not limited to, structural and foundation modifications, removal of building code violations, utility improvements (electrical, gas, water, sewer, air, telephone, vacuum), energy efficiency improvements, facade modifications, safety systems integral to the building, loading and unloading facilities which are part of a building, and expansion of the square footage of the building. The term is generally considered to mean improvements which become part of the building. Rehabilitation of a commercial or industrial building owned by a private for-profit business may qualify under the "rehabilitation" category only if it is limited to facade improvements of the exterior of the building and/or the correction of code violations. All other improvements must meet the requirements of the "Special Economic Development" category (Subsection 040.02.b.). The amount of ICDBG funding to finance commercial rehabilitation shall be reasonable compared to the value of the building less the value of the land. (See Subsection 040.02.b.) (7-6-94)

02. Housing Rehabilitation. ICDBG funds may be used to finance the rehabilitation and improvements of privately-owned buildings for residential purposes, low income public housing and other publicly-owned residential buildings. Funds may also be used to assist private individuals and entities, including profit-making and nonprofit organizations, to acquire property for residential rehabilitation and rehabilitation for the use or resale for residential purposes. (7-6-94)

03. Financial Assistance. Assistance may be in the form of grants, loans, loan guarantees, interest supplements, or other means to pay the costs related to the following activities: (7-6-94)

a. Labor, materials, and other costs of rehabilitation of properties, including repair directed toward an accumulation of deferred maintenance, replacement of principal fixtures and components of existing structures, installation of security devices, and renovation through alterations, additions to, or enhancement of existing structures, which may be undertaken singly, or in combination; (7-6-94)

b. Loans for refinancing existing indebtedness secured by a residential property rehabilitated with ICDBG funds if such financing is determined to be necessary or appropriate to achieve the community's development objectives; (7-6-94)

c. Improvements to increase the energy efficiency in residential structures through the installation of storm windows and doors, siding, wall and attic insulation; or conversion, modification, or replacement of heating and cooling equipment, including the use of solar energy equipment; (7-6-94)

d. Improvements to increase efficiency of residential water usage through water saving faucets and shower heads, repair of water leaks, etc; (7-6-94)

e. Financing of costs associated with the connection of residential structures to water distribution lines or local sewer collection lines; (7-6-94)

f. For residential rehabilitation carried out with ICDBG funds, costs of: Initial homeowner warranty premiums; hazard insurance premiums, except where assistance is provided in the form of a grant; and flood insurance premiums for properties covered by the Flood Disaster Protection Act of 1973; (7-6-94)

g. Cost of acquiring tools to be lent to owners and tenants who will use such tools to carry out rehabilitation; (7-6-94)

h. The rehabilitation or development of housing assisted under Section 17 of the United States Housing Act of 1937; or (7-6-94)

i. Renovation of closed school buildings for residential uses. (7-6-94)

04. Services. Rehabilitation services, such as rehabilitation counseling, energy auditing, preparation of work specifications, loan processing, inspections, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in rehabilitation activities authorized under this section, under Section 312 of the Housing Act of 1964, as amended, under Section 819 of the Act, or under Section 17 of the United States Housing Act of 1937. These services plus Administrative costs shall not exceed fifteen percent (15%) of the grant. (7-6-94)

05. Use of Grant Funds. A grantee may use grant funds to pay substantial reconstruction of a home, owned and occupied by a LMI family, if during rehabilitation construction the need for reconstruction is discovered or where reconstruction is part of a larger neighborhood revitalization effort and the grantee determines that rehabilitation efforts are not sufficient to restore the home and the cost of reconstruction is less than the fair market value of the property after reconstruction is completed. (10-3-95)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**061. NOTICE OF INTENT SOLICITED.**

The Notice of Intent to apply shall be submitted ~~on a form provided by the Department in a letter from the Chief Elected Official.~~ Notices for ED projects shall be continuously accepted and reviewed; Notices for SR and PFH shall be submitted ~~before following~~ the Application workshops held ~~in September~~ each year. Submittal is optional, but strongly recommended. First priority for technical assistance and staff travel will be given to those applicants which submit a Notice of Intent to apply. IT projects do not submit a Notice of Intent. (7-6-94)(10-3-95)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**074. SECTIONS.**

The Application shall consist of the following sections: (7-6-94)

01. Cover. The cover shall contain "An application for an Idaho Community Development Block Grant by the \_\_\_\_\_ (City/County) of \_\_\_\_\_ (Name) \_\_\_\_\_ Date: \_\_\_\_\_". (one (1) page) (7-6-94)

02. Cover Letter. A cover letter signed by the Mayor or the Chairman of the Board of County Commissioners on official stationery. This is the official letter of application for a grant. (one (1) page) (7-6-94)

03. Table of Contents. (one (1) page) (7-6-94)

04. ICDBG Application Information Form. Fully completed and signed by the applicant. (one (1) page) (7-6-94)

05. Threshold Factors. The first four (4) factors must all be answered in the affirmative before an Application is to be reviewed and ranked. An Application shall include only Subsections 074.05.a. through 074.05.e. An Addendum shall include Subsections 074.05.a. through 074.05.g. (7-6-94)

a. The applicant must be an eligible applicant (Section 012). Describe how the applicant meets the eligibility criteria. If this is a joint or in-behalf-of application, describe agreements and arrangements for managing the grant and the project. (7-6-94)

b. The project shall be an eligible activity(ies). Describe why the project and the various activities are eligible according to the rules in Section 022. (7-6-94)

c. The applicant shall adopt a citizen participation plan and shall conduct a public participation process. Applicants shall submit a copy of the Citizen Participation Plan and results of citizen involvement in developing the project. A copy of the Citizen Participation Plan must be submitted with the Application and Addenda. An ICDBG may be awarded only if the grantee certifies that it is following a detailed citizen participation plan which: provides for and encourages citizen participation, with particular emphasis on participation of persons of low and moderate income who are residents of slum and blight areas or provides for participation of residents in low and moderate income neighborhoods as defined by the applicant; provides citizens with reasonable and timely access to local meetings, information, and records relating to the grantee's proposed use of funds; provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including, at least, the development of needs, the review of proposed activities, and review of program performance. Hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for the ~~handicapped persons with disabilities~~; provides for a timely written answer to written complaints and grievances, within fifteen (15) working days where practicable; and identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate. (7-6-94)(10-3-95)T

d. At least one (1) public hearing is required to permit public examination

and appraisal of the Application. Public hearings shall be scheduled in ways and at times to provide for full participation of citizens. The building or facility must be accessible to the ~~handicapped persons with disabilities~~. All information presented in the hearings shall also be available, upon request, in a form usable by persons with ~~hearing or visual impairments disabilities~~. Proper notification shall be given by a public advertisement in a local newspaper no less than seven (7) days prior to the meeting date. The seven (7) days shall be counted beginning the date the advertisement appears and ending the day before the date of the hearing. The notice shall include: a brief description of the proposed project; the amount of funds being requested; the time and place of the public hearing, including a statement that the hearing will be held in a handicapped accessible facility; notification that both written and verbal comments will be accepted; and a description of the availability of services for persons with disabilities, upon request. It is recommended the applicant also post notification of the public hearing at various public locations and use other media notices of the hearing. At a minimum, applicants shall provide in the minutes of the meeting, evidence the following occurred at the public hearing: the Application and Application Handbook were available for review; the amount of funds available for local community development and housing activities was discussed; the range of activities to be undertaken was presented including community impact and benefit to low and moderate income (LMI) persons; verification that citizen's comments and views on the proposed Application were considered prior to submittal and, if determined appropriate, a description of how the Application was modified; a copy of the public notice, minutes and a list of those attending the public hearing(s); a description of any plans for the project regarding citizen participation, i.e., the formation of a citizen's advisory committee; and a description of any ~~handicapped~~ assistance for persons with disabilities requested and provided. (7-6-94)(10-3-95)T

e. The applicant shall have the administrative capacity to administer the grant. This means having ~~contracted~~ completed the procurement process for a Department approved grant manager in accordance with the Section 212. The grant manager shall be included in project development and Application writing efforts. (7-6-94)(10-3-95)T

f. The applicant shall have adopted a Fair Housing Ordinance or resolution. This ordinance or resolution must have been adopted and publicly advertised within the twelve (12) month period preceding the Application deadline date. (7-6-94)

g. The applicant shall have adopted an Anti-Displacement and Relocation Plan. This ordinance or resolution must have been publicly advertised within the twelve (12) month period preceding the Application deadline date. (7-6-94)

06. General Project Description. This is the critical section of the Application. It should include enough information for the reviewer to clearly understand the community, its needs, the project, and how the grant will help to solve the community problem. The information in each ranking section should substantively expand upon the project description. The narrative should, in three (3) pages, succinctly describe the following items: a description of the community as to size, location and economy; a thorough assessment of all the community's needs and how the proposed project is a priority in comparison with the other needs addressed. The applicant should also include a description which discusses how the existing condition came about, the number of people affected, and the seriousness of the problem(s); the particular project that is being proposed shall be described in detail. Describe the project, the various components,

anticipated costs, schedule of activities, maps showing the location of the project to the community (detailed enough to locate it by car) and a map of the boundaries of the project area. This description shall be detailed enough that it can be used to write a contract scope of work; describe the benefits of the project, how it solves the identified need, and how it will enhance the community and its economy. Provide a demographic profile of the persons to benefit. This shall include gender, minority status, handicapped status, and female head of household. Describe how the project meets the state objectives of the ICDBG program (see Sections 000, 010 and 011); and if program income is expected to be generated, a reuse plan must be developed according to Section 175. (7-6-94)

07. ICDBG Budget Form Fully Completed by the Applicant. (one (1) page). (7-6-94)

08. Assurances. The applicant shall sign the Assurances Form certifying that it will comply with the following federal laws and regulations: National Environmental Policy Act of 1969; Civil Rights Act of 1964 Pub.L 88-352; Civil Rights Act of 1968 Pub.L 90-284; Age Discrimination Act of 1975; Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 as amended and the implementing regulations at 49 CFR Part 24; Rehabilitation Act of 1973, Section 504 "Handicapped Accessibility"; Housing and Community Development Act of 1974 as amended Pub. L 93-383; Davis-Bacon Act (40-USC 276a--5); Historic Preservation Act; Anti-Lobbying Certification; Excessive Force Certification; and Section 106 of the Housing and Urban Recovery Act of 1983, certifying they will: minimize displacement and follow a residential anti-displacement and relocation assistance plan; affirmatively further fair housing; provide citizen participation; not use assessments or fees on low and moderate income owner occupants to recover capital costs of ICDBG-funded public improvements. (one (1) page) (7-6-94)

09. Review and Ranking Narrative. The applicant shall address each point category in the order given in the review and ranking section of the applicable grant category, referenced below. If a particular point category is not applicable or not selected, it should be indicated. (7-6-94)

- a. Economic Development Grants: (ten (10) pages) (7-6-94)
- i. Infrastructure (Section 096). (7-6-94)
- ii. Downtown Revitalization (Section 097.). (7-6-94)
- b. PFH (Sections 083 through 087) and SR (Section 101) Grants: (7-6-94)
- i. Program Impact and Eligible Activity Point Form (two (2) pages) (7-6-94)
- ii. National Objectives.(one (1) page) (7-6-94)
- iii. Project Categories.(one (1) page) (7-6-94)
- iv. Advisory Council Points Narrative.(one (1) page) (7-6-94)

10. Additional Information From Applicant (Appendix). Maps, letters of support, technical studies and appropriate background documentation should be placed in this section and bound into the Application. (no page limit) (7-6-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**084. PROGRAM IMPACT.**

(Three hundred forty (340) points). Some or all of the points may be granted in each subcategory. The local financing factors, which represents the largest portion of the total number of points each applicant may receive, is intended to ensure that the best overall proposals are selected for funding. The score on this factor is determined by evaluating how effectively local funds are used in comparison with other applicants. The Department may require an applicant to provide supplemental financial information to clarify the local ability to finance all or a portion of a proposed ICDBG project. The applicant should provide evidence or documentation of the nature, amount and/or value of match committed to the project. Housing projects should (if match is not committed) provide the names of the agency, staff person and program(s) which may provide match, a description of the program and a time table for the match approval process. (7-6-94)

01. Percentage of ICDBG Dollars in Total Project (Sixty (60) Points). All Applications will be ranked by percentage of Community Development funds requested divided by total project costs. Total project costs are the total funds committed from all sources - federal, state, local and private funds. The applicant must clearly identify the other funding sources with dollar amounts from each. The rankings shall be divided into four (4) equal categories. The lowest ICDBG percent (%) receives the most points and the highest ICDBG percent (%) receives the least points. Points will be assigned according to the following schedule: (7-6-94)

- a. First Quartile - sixty (60) points. (7-6-94)
- b. Second Quartile - forty (40) points. (7-6-94)
- c. Third Quartile - twenty (20) points. (7-6-94)
- d. Fourth Quartile - zero (0) points. (7-6-94)

02. Percentage of Local Matching Funds (Sixty (60) Points). All Applications will be ranked by the percentage of local matching funds divided by the total of local match and ICDBG funds. The highest percentage of local dollars will receive the highest points. See Subsection 053.03. for definition of local match. The rankings shall be divided into four (4) equal categories. The highest local match percent (%) receives the most points and the lowest local match percent (%) receives the least points. Points will be assigned according to the following schedule: (7-6-94)

- a. First Quartile - sixty (60) points. (7-6-94)
- b. Second Quartile - forty (40) points. (7-6-94)

c. Third Quartile - twenty (20) points. (7-6-94)

d. Fourth Quartile - zero (0) points. (7-6-94)

03. ICDBG Dollars Per Person (Fifty (50) Points). The ratio of total persons directly benefited by the project, compared to ICDBG funds requested (ICDBG dollars per person) shall be ranked and divided into quartiles. The lowest ICDBG dollars receives the most points and the highest ICDBG dollars receives the least points. The points shall be assigned to the ratio of ICDBG dollars per person as follows: (7-6-94)

a. First Quartile - fifty (50) points. (7-6-94)

b. Second Quartile - thirty (30) points. (7-6-94)

c. Third Quartile - fifteen (15) points. (7-6-94)

d. Fourth Quartile - zero (0) points. (7-6-94)

04. Local Matching Funds Per Person (Fifty (50) Points). The ratio of total persons directly benefited by the project, compared to local matching funds shall be ranked and divided into quartiles. The Department may request supplemental financial data from any applicant to determine local ability to finance a proposed project or clarify a community's financial situation. The Department may take into consideration a community's ability to contribute local matching funds in determining all rating and ranking points. The highest local funds per person receives the most points and the lowest local funds per person receives the least points. The points shall be assigned to the ratio of local matching funds per person as follows: (7-6-94)

a. First Quartile - fifty (50) points. (7-6-94)

b. Second Quartile - thirty (30) points. (7-6-94)

c. Third Quartile - fifteen (15) points. (7-6-94)

d. Fourth Quartile - zero (0) points. (7-6-94)

05. Eligible Activity Priority Ranking (One Hundred (100) Points). Each eligible activity (Sections 022 through 051) is assigned a priority point factor. The applicant should list the activities and the ICDBG funds budgeted to each. These points shall be assigned to an Application based upon the percentage of the total ICDBG funds committed to each activity and multiplied by the priority points assigned to each. The total of the priority points so calculated is the total of the priority points for the Application. Health and safety-related projects are defined as sewer, water, fire protection facilities, medical facilities, nursing homes, streets, and other similar projects. Social service facilities are defined to include community centers, senior centers, libraries, assisted housing, shelter care, senior housing, auditoriums, cultural facilities, recreation facilities, and parks. (7-6-94)

TABLE 1 -- "Eligible Activity Priority Ranking"

Acquisition of Real Property twenty - five (25) points  
Acquisition of Real Property for Housing Projects - fifty (50) points  
Public Facilities and Improvements - Health and Safety Related one hundred (100) points  
Public Facilities and Improvements - Housing Related seventy-five (75) points  
Public Facilities and Improvements - Social Service Related fifty (50) points  
Code Enforcement fifty - (50) points  
Clearance and Demolition - ten (10) points  
Removal of Architectural Barriers - fifty (50) points  
Rental Income Payments - zero (0) points  
Disposition of Property - ten (10) points  
Public Services - zero (0) points  
Completion of Urban Renewal Projects - zero (0) points  
Relocation Payments twenty-five (25) points  
Planning Activities - zero (0) points  
Administration Activities - one hundred (100) points  
Grants to Nonprofit Community Organizations - zero (0) points  
Grants to Nonprofit Community Organizations for Housing Projects - seventy-five (75) points  
Energy Planning - zero (0) points  
Housing Rehabilitation - seventy-five (75) points (7-6-94)

~~06. Distressed Communities/Downtown Projects (twenty (20) points). All or none of these points will be awarded. Full points will be awarded to projects which are located in a downtown area. These points will be given to communities which are experiencing high unemployment or loss of major businesses/employers, which have been declared economic disaster areas. High unemployment is calculated on a county-wide basis as determined by the Department of Employment. To receive full points, the annual unemployment rate shall be one and one-half (1-1/2) times higher than the most current annual state average. (7-6-94)~~

**085. NATIONAL OBJECTIVES (Two Hundred Sixty (260) Points).**

The Application must qualify in one (1) of two (2) national objective categories: benefit to low and moderate income persons or the prevention or elimination of slum and blight. If the Application does not qualify in at least one (1) category it will be declared ineligible for review and ranking. The Application will not be considered further. The applicant must choose only one (1) of the two (2) categories in which to compete. (7-6-94)

01. Benefit to Low and Moderate Income (LMI) Persons (Two Hundred Sixty (260) Points). To qualify in the LMI category the applicant shall demonstrate at least fifty-one percent (51%) benefit to LMI persons. ~~and have eighty (80) points from the Need and Impact categories. (7-6-94)(10-3-95)T~~

a. The applicant shall show that the project shall principally benefit a majority of LMI residents of the project area. Benefit is shown only if it meets one (1) of the following criteria: the activity shall be carried out in a neighborhood consisting of fifty-one percent (51%) LMI persons and provide services to such persons; the activity shall involve facilities designed for use predominantly by persons of LMI; or the activity shall improve permanent, residential structures which will be occupied by LMI households upon completion. See Section 016. for more information. (7-6-94)



b. All benefits shall be verified by an appropriate source(s). Numbers shall be documented either by census data or a reliable survey. This material shall be verifiable by the Department of Commerce. Multiplier effects or ratios shall not be considered in assigning benefit points because these numbers do not show direct benefit. The cost of planning, management, and administration shall not be included in calculating benefit of LMI persons. (7-6-94)

c. Applicants shall provide additional documentation that low and moderate income persons are receiving direct benefits of the program as determined by the following: (i) a narrative description with maps showing the location of the project area (census tract or enumeration districts must also be included when identifying these areas); (ii) the total number of households and persons in the project area; (iii) the total number of persons shown to be LMI in the project area; (iv) the percentage of LMI persons in the project area; (v) identification of all the needs of LMI persons in the project area including the scope and magnitude of these needs; (vi) the map(s) must also outline the area where there is a concentration of these needs; (vii) the total number of "minority households" in the project area and their needs, i.e. The term "minority household" is defined as one where one (1) or more adults are Black, Hispanic, Asian and Pacific Islanders, American Indian, or other nonwhite. If minority household information is not available from a survey, then Census data on the number of minority persons sixteen (16) years and over is acceptable; (8) the total number of "handicapped households" in the project area. The term "handicapped household" is defined as one in which there are one (1) or more persons who are physically or mentally disabled or handicapped. If handicapped household information is not available from a survey, then Census data on the number of disabled persons sixteen (16) years and over is acceptable and a description of LMI citizen participation during the data gathering process. (7-6-94)

d. LMI Need points for Public Facility projects will be determined according to the following standards. Critical Need receives the full eighty (80) points. Critical is defined as existing (officially identified) violations of federal or state health or safety regulations. Moderate Need is an officially identified problem related to health and safety regulations, but the situation is not in violation of any regulation. Moderate Need receives sixty (60) points. Potential Need is related to solving a current situation that would become a violation if left uncorrected. Potential Needs receives forty (40) points. Community Need is a general improvement not related to health and safety, but is a major improvement in community services and infrastructure. Community Need receives twenty (20) points. (7-6-94)

e. Identification of Impact (eighty (80) points). The applicant shall submit the following: specific identification of the project activities that will be undertaken to meet identified LMI needs. A distinction must also be made regarding direct and indirect benefits; a discussion of project impact in providing long-term permanent solutions to alleviate the need(s) identified above; identify procedures that are or will be developed to measure impact throughout the project; and describe and provide documentation of the process used to identify the LMI needs. Documented health and safety needs are awarded higher points. (7-6-94)

02. Housing Need and Impact. (7-6-94)

a. Identification of Need (Eighty (80) Points). An applicant shall develop a

housing conditions study to determine the need for a housing grant. Information to be collected about the community shall include population and growth, family size, the number of elderly, handicapped, and minority persons, and family incomes. Housing information collected shall be total number of units, number of rental units, age of housing, vacancy rates, overcrowding, number of substandard units in the community, and the number of each type of housing, i.e. owner, rental, institutional and seasonal. Historical trends should be included in this information. The housing need shall be reviewed and assigned points by the following criteria: percent (%) of housing stock older than 1970; percent (%) vacancy rates of rental units; estimated population growth rates since 1990 Census; number of overcrowded units and percent (%) of total housing units; and number of substandard units and percent (%) of total housing units. Housing applications shall be compared to each other and to the 1990 census statewide averages in each category. Data in any category which does not exceed the statewide average will receive a maximum of forty (40) points, even though the formula points may be a higher value. Each category shall be ranked by the seriousness of the problem demonstrated by the data. The most serious will be assigned eighty (80) points. Each rank will be separated by the number of points found by dividing eighty (80) by the number of housing applications. The average of the five (5) category points shall be the total need points assigned to the application. If the housing application does not exceed the statewide averages in a category, the rankings shall be calculated using forty (40) points. Substandard unit is defined as a housing unit which does not meet the Uniform Building Code standards. Overcrowding is defined as a housing unit occupied by more than one and one-half (1-1/2) persons per room as defined by the U.S. Census. (7-6-94)

b. Identification of Impact (eighty (80) points). The housing application shall demonstrate that the proposed project shall have a substantial impact on the needs identified above. In addition, the application shall be assigned points based upon the number and percentage of families living in poverty and the ICDBG dollars per bedroom. Housing units of more than four (4) bedrooms will be counted as a four (4) bedroom unit. Each category shall be ranked by the seriousness of the problem demonstrated by the data. The most serious will be assigned eighty (80) points. Each rank will be separated by the number of points found by dividing eighty (80) by the number of housing applications. The average of the two (2) category points shall be the total need points assigned to the application. (7-6-94)

c. Low and Moderate Income Percentage Points (One Hundred (100) Points). Points will be assigned according to the percentage of LMI in the project area. They are: (7-6-94)

TABLE 2 -- "Percentage of LMI in Project Area"

Percentage	Points
0 - 50.00%	zero (0)
51.00 - 60.00%	twenty (20)
60.01 - 70.00%	forty (40)
70.01 - 80.00%	sixty (60)

Percentage	Points
80.01 - 90.00%	eighty (80)
90.01 - 100.00%	one hundred(100)

(7-6-94)

03. Prevention or Elimination of Slum and Blight (Two Hundred Sixty (260) Points). To qualify in the Slum and Blight category, the applicant shall receive at least one hundred (100) total points by demonstrating that the proposed project will have a direct impact on the elimination or prevention of slum and blight conditions. In evaluating impact, the information described below shall be considered (see Slum and Blight definition, Section 020): (7-6-94)

a. Provide the following community data: location of the project area including a narrative description and map(s) showing the boundaries of the area; and an official declaration by the governing body that the area is an "Area of Slum and Blight". (7-6-94)

b. Identify need (one hundred thirty (130) points). Describe the nature and seriousness of existing conditions/needs in the project area. References to published engineering studies or surveys or letters from appropriate local agencies shall be included. Use maps to locate the conditions and their relationship to each other. The applicant shall describe the nature and seriousness of the need as it exists in the following areas: the number, location, and type of deteriorating structures present in the project area; the unsafe/unsanitary conditions that exist in the structures and area; the infrastructure and site improvements that are deteriorating (i.e., streets, sidewalks, parking lots, utilities, driveways, fences and landscaping); the danger to life and/or property that exists from fire, hazards or other causes; or the condition of the property that impairs economic growth in the community by being an economic or social liability. (7-6-94)

c. Identify Impact (one hundred thirty (130) points). Specify how project activities will eliminate or prevent conditions of slum and blight. Identify the impact of the proposed project in providing permanent solutions to alleviate the identifiable conditions. Identify the procedure that is or will be developed to measure impact throughout the project. (7-6-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**090. PROJECT CATEGORIES (Two Hundred (200) Points).**

PFH Applications shall address each of the categories below. The project description and its benefits should be discussed in previous sections. This section is a measure of the preparedness of the project and the community to undertake the project. To earn points, the applicant must demonstrate that the appropriate actions, procedures, agencies, permits, financing and inspections to initiate and complete the project were discovered and show how much has been completed. The object is to have well thought out projects which will then be quickly executed if funded. The items identified in the following five categories

must be related to each other. For example: if a building permit is required; it should be described in the Planning section; what has been done to secure the permit should be described in the Previous Action section; a date should be assigned to the receiving the permit in the Schedule section and any costs associated with securing the permit should be described in the Cost section; Any efforts by the Gem team to assist in the process should be described in the Gem Community section. (7-6-94)(10-3-95)T

01. Planning (~~forty (40) points~~)(Fifty (50) Points). The applicant shall describe the process used to plan the project and describe the components of the project. The completeness of the process and project detail earn more points. Describe the problem identification process, the public involvement, the appropriate agency(s) involvement. Describe the steps and actions necessary to implement or construct the project, including, but not limited to, permits, approvals, easements and property acquisition, demolition, relocation, other funding needed and the process to secure it, zoning, environmental problems, historic preservation, preliminary architectural or engineering, construction period, service hookups, fees and special assessments, program income, grant administration, accounting and audits. (7-6-94)(10-3-95)T

02. Previous Actions (~~forty (40) points~~)(Fifty (50) Points). This is a measure of how prepared the applicant is to undertake the project and how much of the planning described above has actually been accomplished. The faster a project can be implemented and completed (given the nature of the project), the more points the Application will earn. Also to be considered is all the other related actions a community has accomplished to prepare to undertake the project. For example, if a community wishes to improve its water storage capacity, other related actions might include water conservation, energy efficiency, other water system improvements, and water rate review. (7-6-94)(10-3-95)T

03. Cost Analysis (Forty (40) Points). Cost estimates for the project should be an accurate and realistic analysis of the administrative, legal, accounting, engineering or architectural services, property acquisition, construction and closeout costs. The various sources of funding should be assigned to the appropriate parts of the project. The source of the cost estimate should be described and documented. (7-6-94)

04. Schedule (Forty (40) Points). All of the activities needed to successfully administer and construct a project should be carefully scheduled to advance the project to completion rapidly and smoothly. The following items must be included in the schedule along with any additional necessary items. The schedule should include compliance activities such as asbestos, historic preservation and permits. (7-6-94)

TABLE 3 -- Schedule

DATE  
Grant Award  
Administrative Contract  
Engineering/Architectural Contract  
Environmental Review Begins  
Environmental Release  
Adoption and Publication of 504 Policy on Nondiscrimination  
Establish 504 Review Committee

Bid Document Approval  
Bid Opening  
Preconstruction Conference  
Acquisition Completed  
Second Public Hearing  
Civil Rights Report Completed  
Start Construction  
Adoption and Public Notification of Grievance Procedures  
Twenty-Five Percent (25%) Complete  
Fifty Percent (50%) Complete  
Complete 504 Self-Evaluation  
Seventy-Five Percent (75%) Complete  
Construction Completed and Accepted  
Complete 504 Transition Plan (if needed)  
Monitoring Visit  
Final Report  
Closeout  
Audit  
(7-6-94)

05. ~~Certified Gem Communities (Forty (40) Points). In order to promote the ongoing planning process and to more directly relate the grant funding to local economic development efforts, a proposed project should be identified as a priority in the One (1) Year Gem Community Plan. Certified Communities which generally include the proposed project in their One (1) Year Gem Community Plan are awarded the full forty (40) points. The proposed project must be identified in the current one (1) year plan on file with the Department at the date of application. The project must also be related to the goals and objectives of the plan. Applicants which are "Certified Gem Communities" will receive twenty (20) points. Applicants which are enrolled in the "Certified Gem Communities" will receive ten (10) points. A Certified Gem Community is one which has been certified for the first time and/or recertified, according to the Department's records as of the deadline date for Application or Addendum submission. To promote the ongoing planning process and to more directly relate the grant funding to the local economic development efforts, points will be awarded to local efforts to inventory their infrastructure. To receive the other twenty (20) points, any applicant shall have completed an "Infrastructure Inventory" which details the condition, character, quality and quantity of infrastructure such as water and sewer systems, fire and safety facilities, police protection, streets, roads and bridges, park and recreation facilities government offices and cultural facilities.~~  
(7-6-94)(10-3-95)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**093. ECONOMIC DEVELOPMENT GRANTS.**

Economic Development (ED) projects are combinations of eligible activities which are directed toward economic development through the stimulation of private investment, community revitalization, and expansion of economic opportunities principally for LMI persons. These projects meet the national objectives through job creation principally for LMI persons or are designed to prevent or eliminate slum and blight for business and

commercial areas for the stimulation of economic development. This generally includes projects which provide public infrastructure for business and industrial park development, rehabilitate publicly-owned commercial and industrial buildings, and revitalize downtown areas. The two (2) categories of ED grants, Business Expansion and Downtown Revitalization, have separate review and ranking criteria. See Award Process, Section 098, for Application and award process details. Economic Development Grants will be funded to a maximum of five hundred thousand dollars (\$500,000). (7-6-94)

01. Provision of Public Infrastructure. Cities and counties may apply for grant funds to extend publicly owned infrastructure to a commercial or industrial site. The intent is to help pay the public costs of business development. The infrastructure generally may not extend onto or become part of the private property. The infrastructure may include, but not limited to: sewer, water, street, rail, storm drain, power, gas, phone, and similar systems. A business(es) shall commit to occupying the site(s) served by the infrastructure. The applicant must demonstrate a direct relationship between the infrastructure; the business decision to occupy the site and the job creation principally for Low and Moderate Income (LMI) persons. The infrastructure capacity, in excess of the business needs, is not an allowable grant expense. Such unallowable expense should be apportioned to the other property being served by the excess capacity. (10-3-95)T

02. Rehabilitation of Publicly Owned Commercial or Industrial Real Estate. Application may be made for grant funds to acquire and/or rehabilitate commercial or industrial real estate upon meeting the following criteria. (10-3-95)T

a. The business cannot secure financing for the proposed property due to local economic conditions and/or bank requirements or restrictions, but could secure financing for similar property in other locations. (10-3-95)T

b. If the real estate is already publicly owned, a description of the acquisition of the property, its current and historical use, and written management policies and practices shall be included in the application. (10-3-95)T

c. Rental or lease policies and rates must be described and copies of draft lease agreements must be included in the application. (10-3-95)T

d. A fair market rent analysis must be prepared to demonstrate the cost of similar property. Rent payments must be at fair market value for the locality. (10-3-95)T

e. A program income reuse plan shall be developed in accordance with section 171 and included in the application. Rent subsidy to the business is not allowed. (10-3-95)T

f. Grant assisted construction must be general in nature and not specific to the business' criteria. Leaseholder improvements are not an allowable expense. (10-3-95)T

g. Sale of CDBG assisted or improved real estate cannot occur without Department approval. A deed restriction to this effect shall be executed. Sale of the property must be at the appraised value and monies received is considered program income and is subject to all CDBG regulations. (10-3-95)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**096. REVIEW AND RANKING NARRATIVE FOR BUSINESS EXPANSION PROJECTS.**

The following are the review and ranking narrative requirements for those projects which assist business expansion through the provision of infrastructure and creation of jobs.

(7-6-94)

01. Minimum Criteria.

(7-6-94)

a. The project must meet the national objective of benefitting LMI persons through job creation. Fifty-one percent (51%) of all the new jobs created or retained must be held by or made available to a member of a low and moderate income family. (LMI as defined in Section 016.). Family income must be certified by the employee at time of hire and must be able to be verified or may be ~~referred~~ documented through a JTPA screening referral agency.

(7-6-94)(10-3-95)T

b. The applicant and the business must certify compliance with applicable federal circulars A-87, A-102, A-110, and A-122 and meet the necessary assurances as listed in Subsection 074.08. as applicable.

(7-6-94)

c. A public hearing shall be held on the Application in accordance with Subsection 074.05.d.

(7-6-94)

d. The project may qualify as a Special Economic Development Project under Subsection 040.02.a. If the project qualifies under Subsection 040.02.b., a determination of Necessary or Appropriate is required.

(7-6-94)

e. Attach an eight and one-half inch (8 1/2") x eleven inch (11") map showing the location of the proposed project in the community. Attach a site plan of the proposed project showing existing and proposed improvements both business and infrastructure; existing and proposed land uses in the surrounding area and natural features and conditions on the site and nearby.

(7-6-94)(10-3-95)T

f. (Attachment) A brief analysis of the business to be assisted, including the market for the product/services to be produced, the business' position in the market, and the financial and managerial capabilities of the business(es) to be assisted. This should also include financial ~~data~~ statements and balance sheets for the business(es) to be assisted indicating sales, income, and net position for the prior three years, and the names and experience of senior managers of the business.

(7-6-94)(10-3-95)T

g. (Attachment) A letter of commitment from the business(es) stating their agreement to be part of the grant project, their ability to accomplish their expansion, their understanding of and compliance with all applicable federal regulations, their understanding of and compliance with the payback liability if the jobs creation does not meet federal standards; and their willingness to make available all records and information necessary to document all jobs created.

(7-6-94)(10-3-95)T

h. (Attachment) A description of the type and number of all the jobs to be created, a calculation of full-time equivalents (FTE), and a beginning payroll of the business(es) at the location of the proposed project, a detailed description of the hiring process and any training to be provided. The information should include both current job information and the job creation anticipated projected for to within two (2) years of beyond the completion of the grant funded construction. project completion. If training is necessary; a training plan and schedule outlining the responsibilities must be included in the application. (7-6-94)(10-3-95)T

02. Ranking Criteria (one thousand (1,000) points possible). (7-6-94)

a. Direct new or retained jobs, in full-time equivalents (FTE), created within two (2) years of project grant construction completion. Direct new jobs are those jobs created as a result of the ICDBG grant, over and above employment at the project site prior to the grant, and which do not displace any other employment in the same labor market area. A job creation cost of more than ten thousand dollars (\$10,000) ICDBG per job will not be considered. Points are assigned by the formula: (Number of jobs) X (maximum grant) divided by (the requested ICDBG funds), up to two hundred (200) points. (7-6-94)(10-3-95)T

b. Business Risk and Management. The probability of achieving the projected jobs and payroll within one (1) and two (2) years, as determined by the Department. The determination may be made on the basis of: the business plan and schedule, and the financial position and a credit analysis of the business; the performance record of senior management of the business project; and other criteria reasonably required by the Department. Projects receiving less than seventy-five (75) points in this category will be eliminated from further consideration. (zero (0) to one hundred (100) point (7-6-94)(10-3-95)T

c. Planning, Cost and Schedule (one hundred thirty five (400)-(135) points possible). Describe planning efforts to enhance economic development. A detailed and reliable cost estimate and a project construction schedule is required of all Applications. Cost analysis and schedule will receive equal emphasis. Because of priority the Department and Economic Advisory Council places on project costs and schedule, applicants are advised to seek experienced construction management counsel for their Application. (Subsection 090.04) (7-6-94)(10-3-95)T

i. Planning. Forty-five (45) points. Describe planning efforts to identify and detail all steps related to the implementation of the entire project. Identify all participants in the process. Describe all the partnerships and relationships involved in implementing the project. This will include local government actions, the business actions, other agency and utility actions, real estate, environmental, legal, financial and grant considerations. (10-3-95)T

ii. Costs. Forty-five (45) points. Detailed cost estimates of all actions, permits, construction, real estate etc. should be prepared by an engineer or architect. Because of the priority the Department and Economic Advisory Council places on project costs and schedule, applicants are advised to seek experienced construction management counsel for their Application. (Subsection 090.04.) (10-3-95)T



iii. Schedule Forty-five (45) points. A detailed and reliable schedule of all actions shall be identified in the plan. Also a separate grant funded project construction schedule is required of all Applications. (10-3-95)T

d. Idaho Inputs. Twenty (20) points ~~A ratio~~ The percentage of the value of Idaho produced inputs or products included in the total production/service cost for the business(es) assisted by the project, exclusive of payroll (percentage points divided by two (2), (zero (0) to ~~fifty (50)~~ twenty (20) points)). This is a measure of the value added to Idaho products. Include in the narrative a description of the products, their material components, the source of the components, the value of the components, and the finished product. ~~(7-6-94)~~(10-3-95)T

e. Minority Benefit. Percentage of the direct new jobs projected to be filled by minority applicants. (Percentage points, zero (0) to ~~twenty-five (25)~~ fifteen (15)). ~~(7-6-94)~~(10-3-95)T

f. Local Investment Leverage. (one hundred (100) points) The percentage of ICDBG funds in the total of local matching funds plus ICDBG funds in the project. Applicants shall state if there is a Revolving Loan Fund available in their region and, if so, describe what attempts have been made to secure funds for the project. Program Income from previous grants to be used in this project may be considered as local match. (one hundred (100) minus ICDBG percentage). (7-6-94)

g. Distressed Areas. Projects located in a county which has an average annual unemployment above the statewide average shall receive twenty-five (25) points. (7-6-94)

h. Rural Impact. Jobs created in smaller communities have a greater stabilizing influence than in larger communities. The points shall be assigned as follows: (7-6-94)

**TABLE 4 -- "Rural Impact On Jobs"  
Community Population**

<b>Population (latest census estimates)</b>	<b>Points - 25 Total</b>
0 - 1,000	25
1,001 - 3,000	15
3,001 - 10,000	5
10,001 - 50,000	0

(7-6-94)

i. Gem Community. ~~To promote the ongoing planning process and more directly relate the grant funding to local economic development efforts, a proposed project should be identified as a priority in the One Year Gem Community Plan. Certified Communities which generally include the proposed project in their One Year Gem Community plan are awarded the full fifty (50) points. The proposed project must be identified in the current one year plan on file with the Department at the date of application. The project must also be related to the goals and objectives of the plan.~~ Applicants which are "Certified Gem Communities" will receive ~~twenty-five (25)~~ thirty (30) points. Applicants which are enrolled in the "Certified Gem Communities" program will receive fifteen (15) points. Certified Communities must be currently certified or recertified as of the quarterly deadline date to be eligible for these points.

(7-6-94)(10-3-95)T

j. Private Leverage. ~~(one hundred (100) points) This is the~~ The percentage of ICDBG funds is in the sum of total private investment plus ICDBG funds in the project. This includes the business' private investment in the capital facilities, real estate and business site development costs. Payroll and start-up costs are not included in this calculation. ~~(one hundred (100) minus ICDBG percentage).~~

(7-6-94)(10-3-95)T

k. Activities. Points will only be awarded for the percentage of ICDBG dollars committed to the acquisition, construction, or reconstruction of public infrastructure (Section 024.); and for publicly-owned commercial building rehabilitation for the purpose of assisting a business or businesses. (Percentage of twenty-five (25) points).

(7-6-94)

l. Grant Management. If the grant funded activities are managed by the grantee, twenty-five (25) points will be awarded. Grantee management includes management under contract with a Department approved Grant Manager. Subgranting of any ICDBG funds will receive zero (0) points.

(7-6-94)

m. Economic Advisory Council Evaluation. The EAC will evaluate each Application on the basis of overall value, including its ability to make a significant impact on the Idaho economy and the commitment of the community to the project. (two hundred (200) points).

(7-6-94)

03. Threshold Criteria. A minimum of forty (40) points is required from the combination of Subsections 096.02.k. and 096.02.l. for the Application to maintain its eligibility for review.

(7-6-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**099. SENIOR CITIZEN CENTER GRANTS.**

Senior Citizen Center (SR) Grants, which address the need for community centers for senior citizen groups, are part of a competitive application process which is separate from the PFH project grants in the annual grant selection process. They are only for Senior Citizen Centers, not for other facilities such as shelter homes, nursing homes, senior housing and other geriatric facilities. Only cities or counties may apply. SR grants will be funded to a maximum of one hundred thousand dollars (\$100,000). For construction of a

new Senior Center and on case-by-case basis; the staff may recommend for the EAC's consideration additional funding above the one hundred thousand dollars (\$100,000) grant limit, but not to exceed a total grant of one hundred fifty thousand dollars (\$150,000). Consideration of additional funds will be based upon whether the existing center is a designated meal site serving three (3) or more meals per week; the new facility will serve other significant community needs or groups; architectural plans and cost estimates are reasonable and well planned to suit the documented needs of the seniors, and with the supporting advice of the regional office on ageing. See Section 107 entitled Award Process, for details on the award process. (7-6-94)(10-3-95)T

01. Eligible Uses. The following are eligible uses of Senior Citizen Center Grants: construction of facilities; purchase of facilities; rehabilitation of facilities; purchase of essential fixtures (a fixture is defined as equipment that is permanently attached to the building); and removal of architectural barriers for the handicapped. (7-6-94)

02. Local Match Committed to the Project. Match can be in the form of dollars, land, building materials and fixtures, volunteer labor, and waived fees. In the case of new construction or purchase and rehabilitation, the appraised or assessed value of donated real estate can be part of the match. Value of an existing senior citizen facility cannot be used as match when the grant is for rehabilitation and/or expansion of the facility. Firm commitments of donated money, material and/or real estate must accompany the Application. (7-6-94)

03. Priorities in Funding. The first priority for funding will be remodeling existing facilities to meet Title III Standards, to meet building codes, to provide adequate handicapped access and facilities and to provide adequate kitchen facilities for serving the current senior citizen membership. The second priority for funding will be: construction of a new facility to replace an existing center. This will be considered only when the applicant demonstrates that the existing facility cannot be restored to adequate facility standards or that the cost of rehabilitation exceeds the cost of new construction, or that the facility is too small for the number of Seniors who presently use the facility and expansion costs of the existing structure exceed new construction costs; or the construction of a Senior Center facility in a community where no facility now exists; but only where: other Senior Center facilities are not available; and if adequate local operating funds are committed. (7-6-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**118. TECHNICAL ASSISTANCE GRANTS.**

To assist communities in their planning efforts and discourage uncoordinated piecemeal approaches to solving community problems, one percent (1%) of the annual Community Development allocation shall be set aside for technical assistance grants. Of this amount ~~one-half (1/2)~~ eighty percent (80%) shall be setaside for statewide technical assistance program. ~~The other one-half~~ Twenty percent (20%) shall be setaside for direct technical assistance grants to qualified communities. Each grant to a community will not exceed ~~fifteen ten thousand dollars (\$15,000)~~ (\$10,000) and would be available on a quarterly basis. An application may be submitted only by invitation of the Department Director.

~~(7-6-94)(10-3-95)T~~

**119. STATEWIDE TECHNICAL ASSISTANCE GRANT.**

01. Purpose. To create a statewide information base which all communities can use in their economic development, community development and growth management ~~and growth management, housing activities, and grant compliance.~~ ~~(7-6-94)(10-3-95)T~~

02. ~~Eligible Service Providers. Only statewide, nonprofit, local government membership organizations are eligible to receive a grant contract under this section. Grant contracts will be negotiated between the Department and an organization. Contract for Services. The Department may contract for these services.~~ ~~(7-6-94)(10-3-95)T~~

03. Technical Assistance Program. ~~The Service Provider Shall hire professional staff and provide office space and secretarial assistance to collect, develop, and provide information and materials upon request of local governments. Such materials and information may include including, but not limited to, "how to" information and "boiler plate" ordinances on capital improvement planning and budgeting; tax increment financing; impact fees; zoning; subdivisions; housing information; housing plans; community development and economic development plans; other ordinances and information on development as may be appropriate, or requested. The service provider may also provide direct hands on assistance to communities which contract for a specific service or assistance and who will cash match the assistance dollar for dollar.~~ ~~(7-6-94)(10-3-95)T~~

**152. GRANT AWARD.**

01. Funding Allocations. Each year the Department will receive an allocation from the Department of Housing and Urban Development. This allocation is derived from the formula contained in 42 USC, Sec. 5301, the Housing and Community Development Act of 1974, as amended. The allocation shall be generally divided in the following manner: first, one hundred thousand dollars (\$100,000) plus two percent (2%) of the total shall be reserved for the Department's administrative costs; second, one percent (1%) of the total shall be reserved for Technical Assistance Grants; third, five percent (5%) or three hundred thousand dollars (\$300,000), whichever is less, of the total allocation shall be set aside for Imminent Threat (IT) grants; fourth, ~~five six percent (5%) (6%) or three hundred fifty thousand dollars (\$350,000), six hundred thousand dollars (\$600,000)~~ whichever is less, of the total allocation, shall be set aside for Senior Citizen Center (SR) grants; fifth, any program income, recaptured funds, or carryover funds from the previous fiscal years shall be added to the remainder; and finally, of the remainder, fifty percent (50%) shall be reserved for Public Facilities or Housing (PFH) grants and fifty percent (50%) for Economic Development (ED) grants. ~~(7-6-94)(10-3-95)T~~

02. Shifting of Funds. The above allocation divisions are to establish target amounts for decision making by the Economic Advisory Council (EAC). This division shall be made for the first quarter EAC meeting. These targets may be modified by the Department Director with the advice of the EAC. The allocation system shall be updated quarterly before each quarterly EAC meeting to include any additional recaptured funds, program income, or carryover funds. Of the allocation for ED grants, one quarter of the amount shall be set aside for funding full-applications during the quarter following each

EAC meeting. The quarterly set-aside amount may be modified at the discretion of the Department Director upon the advice of the Council. Any funds not awarded in the PFH category shall be shifted to the first quarter ED category. If in any quarter there are surplus funds in the ED category, the Department Director, with the advice of the EAC, may shift funds back to the PFH or SR category to fund standby projects. Otherwise, surplus funds not awarded to ED projects in a quarter shall be carried into the succeeding quarter ED set-aside. (7-6-94)

03. Standby Applications. At its first quarterly meeting in March of each year, the Economic Advisory Council (EAC) may recommend PFH or SR Applications for funding even though not enough funds are available to fund the project(s). These Applications become "standby projects". Standby projects shall be eligible for funding should additional funds become available or surplus funds exist in the ED category. At any subsequent quarterly meeting, the Advisory Council may review and recommend a standby project to the Governor for funding. Standby status shall continue through the fourth quarterly meeting. Any standby projects not funded shall automatically be invited to submit an Addendum for the next Fiscal Year, thus bypassing the Application stage of the application process. However, the Application must remain eligible and must continue to meet all requirements of the program regulations. The standby applicant shall update its Application during the Addendum process. (7-6-94)

04. Termination of Project Selection for Funding. (7-6-94)

a. If, during the period between the award of a grant and signing of a grant contract, a project loses its viability, its status of being selected for funding may be terminated by the Department. The Department shall, by letter, notify the applicant that in the judgment of the Department, the applicant's project is no longer viable and that the applicant has a clearly stated period of time no less than fourteen (14) days to demonstrate the project's viability. If viability cannot be demonstrated within the stated period of time the award of the grant status shall be considered terminated and the funds be made available for the next standby project. (7-6-94)

b. After a grant contract has been executed, the Department shall, periodically evaluate the progress of the project. If, at any time, the project loses viability and/or cannot be completed as described in the Application, the Department shall, by letter, notify the grantee that the grant contract shall be terminated within a clearly stated period of time of no less than fourteen (14) days from the date of the letter. The grantee may, within the stated period of time demonstrate substantial progress on the project and request the Department revoke the termination. If viability cannot be demonstrated within the specified amount of time, the grant shall be considered terminated. (7-6-94)

c. Loss of viability will be defined to include: the inability to secure the other project financing; the lack of due diligence to pursue the implementation of project requirements; the lack of local coordination with all funding and regulatory agencies; the inability to develop agreements necessary to manage the cash flow and ownership of the project where several different entities are involved in the project; and the inability to complete a project of the same general size and benefits as presented in the application. (7-6-94)

05. Excessive Funds. In the event a project can be completed for less than

the grant amount, the difference between actual project costs and the grant amount shall be reserved by the Department for standby projects, or added to the total of the next fiscal year allocation for distribution. The Department shall amend the grant contract to reflect the reduced costs. In extraordinary circumstances the excess funds may be used for an eligible activity which further enhances the project as described in the Application. Before the Department decides to allow the additional activity, the grantee must demonstrate the activity will provide an equal or greater benefit than the original project; it will increase the benefits to low and moderate income persons, it will be completed within the original time frame, and the additional activity will be completed with the excess funds. The grantee must also show completion of the original project, its objectives and benefits.

(7-6-94)

06. Amendment of Project. A funded project as described in the Application shall not be changed without prior approval from the Department Director. Any amendment of the project shall be reviewed to determine if the project will retain its competitive ranking in the Application review and ranking system. Any amendment shall provide equal or greater benefits than the original project. In unusual circumstances, the Department Director may approve a grant amendment increasing the grant amount, provided unobligated funds are available. In unusual circumstances the Department Director may waive the ten percent (10%) limitation on administrative costs when, in the opinion of the Department, the complexity of the project warrants an increase. (7-6-94)

07. Allowable Costs. Once an applicant has been invited to submit an Addendum and prior to the effective date of a grant contract an applicant submitting an Addendum may obligate and spend out of local funds for the purpose below. If awarded a grant and after the effective date of the grant contract, the grantee may be reimbursed for these costs provided such locally funded activities are undertaken in compliance with the program requirements (including but not limited to procurement, financial, acquisition, environmental and the ten percent (10%) limitation on administrative costs). Other project costs shall not be incurred until the Special Terms and Conditions of the contract are completed by the grantee and the funds released by the Department. (See Section 080)

(7-6-94)

a. Planning, Design and Administration. Procure and proceed with administrative and architectural or engineering services, adopting the Fair Housing Resolution and the Anti-Displacement Plan, and having public hearings. (7-6-94)

b. Project Costs, such as: preliminary and final Engineering Design, preliminary and final Architectural Design, conducting the Environmental Assessment, and completing procedural requirements for acquisition, but not the cost of the property.

(7-6-94)

08. Audit Requirements. All ICDBG projects shall be audited annually or biannually in accordance with Sections 50-1010 and 31-1701, Idaho Code, the Single Audit Act of 1984, the implementing regulations in OMB Circular A-128, and all applicable federal audit standards, and other applicable state laws. Audits shall include any management letters associated with the audit. The audit shall be submitted to the Legislative Auditors Office within thirty (30) days of completion. Grantees shall require sub-grantees to provide audits conducted according to applicable federal and state laws, regulations and standards. The grantee shall have these audits reviewed as part of the

grantee's audit. This review shall be commented and noted in the audit report. This review shall opine that sub-grantees are in compliance with the applicable program laws, regulations, contracts, and standards. (7-6-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**162. CONSTRUCTION SERVICES.**

01. Costs Under Five Thousand Dollars (\$5,000). If the cost of the construction is under five thousand dollars (\$5,000), then the "small purchase" method of procurement may be used. The grantee should write or call two (2) or more potentially qualified contractors and request written or verbal quotations for the construction needed. The documentation of this transaction shall include, at a minimum, the date of communication, the person's name, the company name, the services discussed, the dollar amounts, and the basis of rates quoted. Once a contractor has been selected, the grantee shall inform the contractors of the selection and the reasons they were selected or rejected. (7-6-94)

~~02. Costs in Excess of Five Thousand Dollars (\$5,000). If the cost of the construction is over five thousand dollars (\$5,000), then the competitive sealed bid procedure must be followed. In most cases the grant manager and the project engineer will prepare the bid documents for review. The steps required to award construction contracts through the competitive sealed bid process are as follows: For Cities Only - Cost Over Five Thousand Dollars (\$5,000) and Under Twenty-five Thousand Dollars (\$25,000).~~  
(7-6-94)(10-3-95)T

~~a. Prepare bid documents. (7-6-94)~~

~~b. Contact the Department for most current wage decision to be included in the bid documents. (7-6-94)~~

~~c. Submit the bid documents to the Department for review and approval. Bid documents shall be submitted to the Department thirty (30) days prior to the proposed bid opening. Failure to meet the thirty (30) day time frame may result in the city/ county and grant manager being liable for lacking or wrong information. (7-6-94)~~

~~d. Publicly advertise bids in local newspaper of general circulation (minimum two (2) weeks for cities, thirty (30) days for counties). Cities shall publish twice, not less than one (1) week apart, two (2) weeks before the bid opening, and counties need to publish twice, at least one (1) week apart, with first publication thirty (30) days before bid opening. (7-6-94)~~

~~a. Price quotes - when an expenditure exceeds five thousand dollars (\$5,000) and is less than twenty- five thousand dollars (\$25,000) three price quotes are required to be obtained from registered vendors having a significant economic presence in Idaho. (7-6-94)~~

~~b. Responsible vendor - when a city finds it impractical or impossible to~~

obtain three quotations for the proposed transaction then the city may procure the goods or services from the lowest responsible bidder/vendor. (10-3-95)T

c. Bid security - cities are no longer required to obtain bid security but may at its discretion require bid security when it is in the best interest of the city. (10-3-95)T

d. Competitive bids - when an expenditure exceeds twenty-five thousand dollars (\$25,000) it shall be contracted for and let to the lowest responsible bidder. Where both bids and quality of property offered are the same, preference shall be given to property of local and domestic production and manufacture or from bidders having a significant Idaho economic presence as defined in Section 67-2349, Idaho Code. (10-3-95)T

e. Check with the Department ten (10) days prior to bid opening to update Davis-Bacon wage rates. (7-6-94)

f. Open and read bids publicly at the time and place specified in the newspaper publication. Document the bid opening proceedings with official minutes. (7-6-94)

g. Choose a responsible, apparent low bidder. If two bids are the same, preference shall be given to the bidder that has significant Idaho economic presence as defined in Section 69-2349, Idaho Code. ~~(7-6-94)~~(10-3-95)T

h. Check with the Department for clearance of the successful bidder against the Federal Debarred List. This needs to be done prior to the Notice of Award being sent to the apparent low bidder. (7-6-94)

i. Award the contract. (7-6-94)

03. Costs in Excess of Five Thousand (\$5,000) for Counties and Twenty-five Thousand Dollars (\$25,000) for Cities. If the cost of the construction is over five thousand dollars (\$5,000) for counties and twenty-five thousand dollars (\$25,000) for cities, then the competitive sealed bid procedure must be followed. In most cases the grant manager and the project engineer will prepare the bid documents for review. The steps required to award construction contracts through the competitive sealed bid process are as follows: (10-3-95)T

a. Prepare bid documents. (10-3-95)T

b. Contact the Department for most current wage decision to be included in the bid documents. (10-3-95)T

c. Submit the bid documents to the Department for review and approval. Bid documents shall be submitted to the Department thirty (30) days prior to the proposed bid opening. Failure to meet the thirty (30) day time frame may result in the city/ county and grant manager being liable for lacking or wrong information. (10-3-95)T

d. Publicly advertise bids in local newspaper of general circulation (minimum two (2) weeks for cities, thirty (30) days for counties). Cities shall publish



twice, not less than one (1) week apart, two (2) weeks before the bid opening, and counties need to publish twice, at least one (1) week apart, with first publication thirty (30) days before bid opening. (10-3-95)T

e. Check with the Department ten (10) days prior to bid opening to update Davis-Bacon wage rates. (10-3-95)T

f. Open and read bids publicly at the time and place specified in the newspaper publication. Document the bid opening proceedings with official minutes. (10-3-95)T

g. Choose a responsible, apparent low bidder. If two (2) bids are the same, preference shall be given to the bidder that has significant Idaho economic presence as defined in section 69-2349 Idaho Code. (10-3-95)T

h. Check with the Department for clearance of the successful bidder against the Federal Debarred List. This needs to be done prior to the Notice of Award being sent to the apparent low bidder. (10-3-95)T

i. Award the contract. (10-3-95)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**171. PROGRAM INCOME.**

01. Definition. Program income is monies earned by a grantee or its sub-grantee that were generated from the use of ICDBG funds. Program income includes, but is not limited to, the following: payments of principal and interest on loans made using ICDBG funds; proceeds from the sale of loans made with ICDBG funds; interest earned on ICDBG funds held in a revolving fund account; proceeds from the lease or disposition of real property acquired with ICDBG funds; gross income from the use or rental of property acquired, constructed or improved with ICDBG funds less the costs incidental to the generation of the income; interest earned on any program income pending disposition of such income; proceeds from the disposition of equipment purchased with ICDBG funds; proceeds from sale of loans secured by ICDBG funds; funds collected through "special assessments" made against properties owned and occupied by non-LMI households, where the "special assessment" is used to recover all or part of the ICDBG funds used to improve a public facility; and gross income for an equity position or interest in a for-profit entity which was acquired with ICDBG funds. (7-6-94)

02. Requirements on Usage. A grantee or sub-grantee may retain the program income only as long as it is used for the purpose and jurisdiction for which the funds were originally granted. Any other use of program income shall require the grantee to repay the program income to the Department. Other governing requirements of program income depend on when the income is received and the status of the grant. See Section 173 (Carry Forward of Program Income to Subsequent Grants), Section 176 (Program Income on Hand at Closeout), and Section 181 (Program Income Remaining in Closed Out Projects) for more applicable requirements. (7-6-94)

03. Responsibility of Grantee or Sub-grantee. Program income that is retained by the grantee or its sub-grantees and earned before or after grant closeout remains the revenue and responsibility of the local government grantee. These conditions shall be contained in the sub-grant contract between the local government grantee and the sub-grantee. (7-6-94)

04. Exception to Requirements. Receipts derived from the operation of a public work or facility which received an ICDBG grant for its construction do not constitute program income. Examples of receipts include admission fees paid by persons using recreational facilities constructed with grant funds and service fees paid by households using a water facility constructed with grant funds. (7-6-94)

05. Minor Amounts Exemption. If the total amount of program income earned in one program year (state fiscal year) is less than ~~ten thousand dollars (\$10,000)~~ twenty-five (\$25,000); the amount is not considered program income and is exempt from these regulations. The total amount is the total earned by the grantee and its subrecipients from all open ICDBG grants. ~~(7-6-94)~~(10-3-95)T

**IDAPA 48 - IDAHO DEPARTMENT OF COMMERCE**  
**48.01.01 - RULES OF THE DIVISION OF COMMUNITY DEVELOPMENT**  
**DOCKET NO. 48-0101-9402**  
**NOTICE OF VACATION OF TEMPORARY RULES**

**EFFECTIVE DATE:** Effective immediately the Department vacates previous temporary rules adopted in December 1994 (Docket Number 48-0101-9402)

**AUTHORITY:** In compliance with the Administrative Procedures Act as Amended, notice is hereby given that previous temporary rules are being vacated and replaced with updated temporary rules.

**DESCRIPTIVE SUMMARY:** Due to public comments the previous temporary rules had to be amended to accommodate the changes suggested by the commentors. In the meantime, the Department of Housing and Urban Development and the Idaho Legislature passed additional requirements that needed to be incorporated in these rules. The number of changes made it simpler to vacate the temporary rules and begin the rule making process over again.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENT:** For assistance on technical questions concerning this vacation, contact Jan Peter Blickenstaff or Gloria Mabbutt at (208)334-2470.

DATED this 20th day of September, 1995.

Jan Peter Blickenstaff, Administrator Division of Community Development  
Idaho Department of Commerce  
700 West State Street  
PO Box 83720  
Boise, Idaho 83720-0093  
Phone Number: 208-334-2470  
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