

IDAHO ADMINISTRATIVE BULLETIN

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December 7, 1995 -- Volume 95-12

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THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 95-10

CONFIRMING THAT THE DISABILITY DETERMINATIONS SERVICE WILL
CONTINUE ITS FUNCTIONS IN THE EXECUTIVE OFFICE OF THE GOVERNOR,
REPEALING AND REPLACING EXECUTIVE ORDER NO. 91-12

WHEREAS, a Disability Determinations Unit was established as a unit of state government within the Executive Office of the Governor on April 12, 1979; and

WHEREAS, there continues to be a need for the important services provided by the Disability Determinations Service; and

WHEREAS, to be in compliance with the federal government's nomenclature, it is deemed appropriate to rename this office to be the Disability Determinations Service;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of the State of Idaho, do hereby order that the Disability Determinations Service continue to function in the Executive Office of the Governor.

This Executive Order repeals and replaces Executive Order No. 91-12.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise the Capital, the twentieth day of September, in the year of our Lord nineteen hundred ninety-five, and of the Independence of the United States of America the two hundred nineteenth, and of the Statehood of Idaho the one hundred sixth.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

*EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE*

EXECUTIVE ORDER NO. 95-11

REDUCTION OF GENERAL FUND ALLOTMENTS

WHEREAS, Article 7, Section 11, of the Idaho Constitution provides that state government expenditures shall not exceed state government revenue; and

WHEREAS, I have determined that expenditures from the General Fund authorized by the Legislature for the current fiscal year will exceed anticipated state revenue for the fiscal year;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me pursuant to Section 67-3512A, Idaho Code, do hereby order:

- 1. That the General Fund spending authority on file in the Office of the State Controller be reduced for all departments, offices and institutions of the state by two percent (2%) of their Fiscal Year 1996 General Fund Appropriation with the exception of the offices of the elected State Constitutional officers, and the judicial and legislative departments.*
- 2. Each department, office and institution shall give priority to deleting authorized positions and related costs with the balance of the reduction to come from ongoing operating expenses. Each department, office and institution shall notify the Office of the State Controller and the Division of Financial Management of the Office of the Governor of budget changes within ten days of the date of this order to reflect their new spending authority.*
- 3. Elected State Constitutional officials and officers of the legislative and judicial branches of government are requested to reduce General Fund expenditures for Fiscal Year 1996 to reflect the realities of the projected revenue shortfall without impairing the discharge of their constitutional duties.*
- 4. Each department, office and institution funded by dedicated accounts or interagency billings is also requested to reduce their Fiscal Year 1996 expenditures to reflect the General Fund reductions.*

This order shall take effect immediately upon its execution and shall continue in effect until January 31, 1996 unless revoked or modified by the Governor, or until the Legislature or the Board of Examiners takes further action.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise the Capitol, the _____ day of _____, in the year of our Lord nineteen hundred ninety-five, and of the Independence of the United States of America the two hundred twentieth, and of the Statehood of Idaho the one hundred sixth.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

*EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE*

EXECUTIVE ORDER NO. 95-12

ESTABLISHMENT OF THE CRIMINAL JUSTICE RECORDS IMPROVEMENT ADVISORY COUNCIL REPEALING AND REPLACING EXECUTIVE ORDER NO. 93-04

WHEREAS, automated criminal histories are relied upon at virtually every stage of the criminal justice system and play a vital role in almost every decision in the process; and

WHEREAS, under legislative directive, the use of criminal histories for noncriminal justice purposes -- such as background screening for public and private employment and occupational licensing -- is expanding; and

WHEREAS, national studies have found that the accuracy and completeness of criminal justice records are seriously deficient, thereby compromising the usefulness of these important records; and

WHEREAS, concern about the quality of criminal justice records has led the U.S. Congress and state governments to initiate programs to improve data quality; and

WHEREAS, the Federal Crime Control Act of 1990 requires states to allocate five percent of their total law enforcement assistance formula grant award for the improvement of criminal justice records, and federal guidelines for use of the set-aside grant funds call for the states to establish and interagency advisory council to assist in meeting certain data quality goals; and

WHEREAS, the continued assistance of an advisory council representing the broad spectrum of the criminal justice community is crucial to the success of the Idaho's records improvement project;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me by law, do hereby establish the Criminal Justice Records Improvement Advisory Council and charge it with the responsibility of promoting interagency and intergovernmental cooperation involving efforts to improve the quality of Idaho's criminal justice records.

The Advisory Council shall have the following duties:

1. Assisting the effort to ascertain the reasons for incomplete and inaccurate records;
2. Recommending remedial actions for correcting deficiencies in the accuracy, completeness, and timeliness of criminal justice records;

3. Evaluating the criminal justice records improvement plan prepared for submission to the U.S. Department of Justice;
4. Reviewing the implementation of the criminal justice records improvement plan;
5. Reviewing plans or initiatives to link information systems operated by criminal justice agencies;
6. Recommending initiatives for achieving the goals of an approved records improvement plan and form meeting the varied needs of the criminal justice community regarding automated criminal histories;
7. Evaluating the adequacy of state laws and other reporting requirements relating to criminal justice records and assisting in the formulation of needed statutory revision.

The Advisory Council shall consist of the following twelve (12) members, who shall be appointed by and serve at the pleasure of the Governor:

Attorney General of the State of Idaho
A Member of the Idaho Senate
A Member of the Idaho House of Representatives
Two (2) County Sheriffs
Two (2) Municipal Chiefs of Police
A Prosecuting Attorney
Director, Idaho Department of Correction
Director, Idaho Department of Juvenile Corrections
Director, Idaho Department of Law Enforcement
A Noncriminal Justice User

The Advisory Council shall select a chairman and vice-chairman from among its members. The advisory council may appoint advisory committees to assist it in developing solutions to problems adversely affecting the quality of criminal justice records. A council member may designate a proxy to represent the member at council meetings.

The Department of Law Enforcement shall have the responsibility of insuring that the criminal justice records improvement project satisfies federal requirements and achieves the goals of the State's records improvement plan. To accomplish this responsibility, the Department of Law Enforcement shall undertake the following duties:

1. Preparing the criminal justice records improvement plan for submission to the U.S. Department of Justice;
2. Administering a criminal justice records improvement project that is based on a federally-approved records improvement plan and funded by five percent of the State's law enforcement assistance formula grant award;
3. Seeking the guidance of the Criminal Justice Records Improvement

Advisory Council and supporting it through:

- a. scheduling the meetings of the council,
- b. briefing the council on the records improvement project, and
- c. providing the council with needed administrative and clerical assistance;

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



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this _____ day of _____ in the year of our Lord nineteen hundred ninety-five and of the Independence of the United States of America the two hundred twentieth and of the Statehood of Idaho the one hundred sixth.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.04.14 - RULES GOVERNING DAIRY WASTE
DOCKET NO. 02-0414-9501
NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective November 1, 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 Title 37, Chapter 4, 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 December 20, 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:

These rules will carry out the intent of the Idaho Dairy Waste Initiative Memorandum of Understanding between the Idaho Dairymen's Association, Division of Environmental Quality, Environmental Protection Agency and the Idaho Department of Agriculture to improve Idaho water quality by initiating a dairy waste inspection program on Idaho dairy farms.

The following is the required finding and a concise statement of the supporting reasons for temporary rule-making:

The Department of Agriculture finds that pursuant to Section 67-5226 (1), Idaho Code, these rules are necessary to protect the public health, safety, and welfare of Idaho, enhance Idaho water quality and preserve the integrity of the Idaho dairy industry. The adoption of these rules establishes design, location, and inspection criteria for dairy waste systems on Idaho dairy farms. These rules also provide penalty provisions.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:

For assistance on technical questions concerning this proposed rule, contact Marv Patten at (208) 334-2149.

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 December 27, 1995.

DATED this 13th day of October, 1995.

John L. Hatch, Director

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

TEXT OF DOCKET NO. 02-0613-9501

IDAPA 02
TITLE 04
Chapter 14

02.04.14 - RULES GOVERNING DAIRY WASTE

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 37, Chapter 4, Idaho Code.
(11-1-95)T

001. TITLE AND SCOPE.

The title of this chapter is Rules of the Department of Agriculture Governing Dairy Waste. This chapter has the following scope: These rules shall govern the design, function and management practices of dairy waste systems. The official citation of this chapter is IDAPA 02.04.14.000 et. seq. For example, this section's citation is IDAPA 02.04.14.001.
(11-1-95)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (11-1-95)T

003. ADMINISTRATIVE APPEAL.

Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. There is no provision for administrative appeal before the Department of Agriculture under these rules. (11-1-95)T

004. DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this chapter:
(11-1-95)T

01. Dairy Farm. A place or premise where one (1) or more milking cows, sheep or goats are kept, and from which all or a portion of the milk produced thereon is delivered, sold or offered for sale. (11-1-95)T

02. Department. The Idaho Department of Agriculture. (11-1-95)T

03. Director. The Director of the Idaho Department of Agriculture.
(11-1-95)T

04. Discharge Violation. A practice or facility condition which has caused an unauthorized release of dairy waste into surface or ground water. (11-1-95)T

05. Farm Certification. A permit issued by the Department allowing the sale of manufacture grade milk. (11-1-95)T

06. Fieldman. An individual qualified and approved by the Department to perform dairy farm inspections. (11-1-95)T

07. Idaho Waste Management Guidelines for Confined Feeding Operations. A 1993 publication by the Idaho Department of Health and Welfare, Division of Environmental Quality which is hereby incorporated by reference. Copies of the guidelines are available at the Idaho Department of Agriculture, 2270 Old Penitentiary Road, Boise, Idaho 83712 and through the State Controller's Office, Division of Statewide Rules, Office of the Rules Coordinator, located at 700 West State Street, Boise, Idaho 83720. (11-1-95)T

08. Inspector. A qualified, trained person employed by the Department to perform dairy farm inspections. (11-1-95)T

09. Manufacture Grade Milk. Milk produced for processing into dairy products for human consumption but not subject to Grade A requirements. (11-1-95)T

10. Memorandum Of Understanding. The Idaho Dairy Pollution Prevention Initiative Memorandum of Understanding between the Environmental Protection Agency, Division of Environmental Quality, Idaho Department of Agriculture and the Idaho Dairymen's Association. The memorandum is hereby incorporated by reference and copies of the memorandum are available at the Idaho Department of Agriculture, 2270 Old Penitentiary Road, Boise, Idaho 83712 and through the State Controller's Office, Division of Statewide Rules, Office of the Rules Coordinator, located at 700 West State Street, Boise, Idaho 83720. (11-1-95)T

11. Non-Compliance. A practice or facility condition which will cause a discharge violation if left uncorrected. (11-1-95)T

12. Permit. A permit issued by the Department allowing the sale of Grade A milk. (11-1-95)T

13. Person. Any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not. (11-1-95)T

14. Producer. The person who exercises control over the production of milk delivered to a plant, and who receives payment for this product. (11-1-95)T

005. FINDINGS.

The Department finds that pursuant to Section 67-5226 (1), Idaho Code, these rules are necessary to protect the public health, safety, and welfare of Idaho, enhance Idaho water quality and preserve the integrity of the Idaho dairy industry. These rules establish design, location, and inspection criteria for dairy waste systems on Idaho dairy farms. These rules also provide penalty provisions. (11-1-95)T

006. -- 009. (RESERVED)

010. PERMITS AND CERTIFICATION.

No producer shall offer for sale or sell milk unless the producing dairy farm has been issued a Grade A permit or a Farm Certification from the Department. (11-1-95)T

01. Grade A Permit. A permit issued by the Department if the dairy farm complies with the requirements of the Pasteurized Milk Ordinance and has in place and/or operates a dairy waste system consistent with the Idaho Waste Management Guidelines for Confined Feeding Operations. (11-1-95)T

02. Farm Certification. A certification issued by the Department if the dairy farm complies with the requirements of IDAPA 02.04.05, Rules Governing Manufacture Grade Milk, and has in place and/or operates a dairy waste system consistent with the Idaho Waste Management Guidelines for Confined Feeding Operations. (11-1-95)T

011. WASTE SYSTEM APPROVAL.

The Department is authorized to approve the design and location of dairy waste systems. These systems must conform to the Idaho Waste Management Guidelines for Confined Feeding Operations. (11-1-95)T

012. INSPECTIONS.

Each dairy farm shall be inspected by an inspector or fieldman at least annually or at intervals sufficient to determine that dairy waste has been appropriately managed to prevent an unauthorized discharge or contamination of surface and ground water. An official inspection report form as described in Section 013 will be completed at the time of inspection. (11-1-95)T

013. INSPECTION REPORT FORMS.

An inspection report form shall be established by the Department based on parameters established in the Idaho Waste Management Guidelines for Confined Feeding Operations. Each inspection item on the form shall indicate compliance and non-compliance. (11-1-95)T

014. COMPLIANCE SCHEDULES.

When the Director identifies items of non-compliance or discharge violations, the deficiencies will be noted and discussed with the producer. Appropriate corrective actions will be identified and scheduled informally. The Director may develop a formal compliance schedule in the following cases: 1) when corrective actions cannot be completed within thirty (30) days; 2) when corrective actions require significant capital investment; 3) when informal schedules have not been complied with. Re-inspection of the dairy farm will be conducted as appropriate, to ensure compliance. A discharge violation shall be corrected immediately, when at all possible. (11-1-95)T

015. PENALTIES.

The Director may suspend the producer's permit or farm certification authorizing the producer to sell milk until such time that the dairy farm is in compliance. Repeat non-compliance violations on significant items, discharge violations, or violation of formal compliance schedule also may cause a dairy farm to lose authorization to sell milk.

(11-1-95)T

016. REINSTATEMENT.

Whenever a producer has lost authorization to sell milk for human consumption under the provisions of Section 015, the producer may apply for reinspection. A reinspection, conducted by an inspector or fieldman, will be made; if corrections have been made, the producer will be reinstated.

(11-1-95)T

017. DURATION.

These rules will no longer be in effect if or when the Memorandum of Understanding defined in Subsection 004.10 is revoked or expires.

(11-1-95)T

018. -- 999. (RESERVED).

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.06.13 - RULES RELATING TO RAPESEED PRODUCTION AND
ESTABLISHMENT OF RAPESEED DISTRICTS IN THE STATE OF IDAHO

DOCKET NO. 02-0613-9501

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective October 13, 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 Title 22, Chapter 1, Section 108, 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 December 20, 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 proposed amendment to the rules will allow farmers in Rapeseed Production District III (all land south of the Clearwater River and north of the Salmon River) to plant the winter edible type of rapeseed.

The following is the required finding and a concise statement of the supporting reasons for temporary rule-making: The proposed amendment to the rules will confer benefits to the rapeseed/canola industry. The proposed rule change was requested by farmers in Idaho and Lewis counties. The proposed rule change will enable the farmers to plant the winter edible type of rapeseed. Farmers need this rule change to be effective as soon as possible so that they can begin planting in the next few weeks.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Dr. Roger R. Vega or 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 December 27, 1995 .

DATED this 13th day of October, 1995.

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

TEXT OF DOCKET NO. 02-0613-9501

100. RESTRICTIONS.

01. Districts I, V, VI, and VII. Except as otherwise provided in this rule, only edible types of rapeseed may be planted in Districts I, VI, and VII. (9-1-94)

02. District II, III, and IV. Except as otherwise provided in this rule, only industrial types of rapeseed may be planted in District II and III, and no rapeseed of either variety may be planted in District IV. (7-1-93)

03. Exemptions: (7-1-93)

a. Industrial types of rapeseed may be planted in Districts I, VI and VII under these conditions: (9-1-94)

i. It is the responsibility of the person planting industrial types of rapeseed in District I, V, and VI to consult with and obtain the written approval from all farmers bordering the fields to be planted with industrial types of rapeseed. (7-1-93)

ii. Industrial types of rapeseed planted in District I, VI, and VII must be at least one (1) mile from a field planted to edible types of rapeseed. (9-1-94)

b. Spring edible types of rapeseed may be planted in Districts II and III, and winter edible types of rapeseed may be planted in District III. Planting of spring and winter edible types of rapeseed are subject to the following ~~under these~~ conditions: (7-1-93)(10-13-95)T

i. It is the responsibility of the person planting spring or winter edible types of rapeseed in Districts II and III to consult with and obtain the written approval from all farmers bordering the fields to be planted with the spring or winter edible type of rapeseed. (7-1-93)(10-13-95)T

ii. Spring or winter edible types of rapeseed planted in Districts II and III must be at least one (1) mile from a field planted to industrial types of rapeseed. (7-1-93)(10-13-95)T

c. This amendment to Section 100.03.b.i. and ii. is reasonably necessary to confer benefits to the rapeseed/canola industry. The proposed rule change was requested by farmers in Idaho and Lewis counties. The proposed rule change will enable the farmers to plant the winter edible type of rapeseed. (10-13-95)T

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.06.34 - RULES CONCERNING VIRUS-FREE CERTIFICATION
OF NURSERY STOCK

DOCKET NO. 02-0634-9501

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective October 13, 1995.

AUTHORITY: In compliance with Sections 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 Title 22, Chapters 1, 7 and 23, Idaho Code, Sections 22-103(22), 22-107, 22-702, and 22-2302(5).

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 December 20, 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: These rules were developed to provide a way to certify nursery stock to be "virus free" for export to other countries, especially Canada. This is a voluntary program. These rules will establish the following: Isolation distances for nursery stock entered into the program from other plants, procedures for the inspection, sampling, testing and maintaining the identity of nursery stock entered into the program, and a schedule of fees for participation in the program.

SUPPORTING REASONS FOR TEMPORARY RULE-MAKING: The following is the required finding and a concise statement of the supporting reasons for temporary rule-making: These rules will confer benefits by opening export markets to countries that will accept only certified "virus free" nursery stock. Nurseries who wish to participate in this voluntary program need to purchase and plant nursery stock the spring and summer preceding the year the nursery stock can be sold.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Dr. Roger R. Vega, Mr. Michael Cooper, or Mr. Curtis Thornburg 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 December 27, 1995.

DATED this 13th day of October, 1995.

John L. Hatch, Director
Idaho Department of Agriculture
P.O. Box 790

Boise, ID 83701-0790
(208) 334-3240/FAX (208) 334-2170

TEXT OF DOCKET NO. 02-0634-9501

IDAPA 02
TITLE 06
Chapter 34

RULES CONCERNING VIRUS-FREE CERTIFICATION OF NURSERY STOCK

000. LEGAL AUTHORITY.

Title 22, Chapters 1, 7 and 23, Idaho Code, Sections 22-103(22), 22-107, 22-702 and 22-2302(5). (10-13-95)T

001. TITLE AND SCOPE:

The title of this chapter is Rules Concerning Virus-Free Certification of Nursery Stock. This chapter has the following scope: These rules shall govern procedures for voluntary certification of virus-free nursery stock for export. The official citation of this chapter is IDAPA 02.06.34.000 et. seq. For example, this section's citation is IDAPA 02.06.34.001. (10-13-95)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (10-13-95)T

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeals before the Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (10-13-95)T

004. DEFINITIONS.

01. Certification. Verification that proper field sampling procedures were followed and that the indexing results as outlined in this rule are those determined by an approved laboratory designated to test for virus diseases under this rule. (10-13-95)T

02. Department. The Idaho Department of Agriculture. (10-13-95)T

03. Director. The Director of the Idaho Department of Agriculture. (10-13-95)T

04. Idaho Certified Nursery Seed. Seed produced from registered seed trees or commercial seed having been tested and found to have a transmissible virus content that

does not exceed five percent (5%). (10-13-95)T

05. Idaho Certified Nursery Stock. Nursery-grown, true seedlings, clonal rootstocks originating from certified virus-free trees, and nursery-grown trees or seedlings propagated by using top-stock from certified virus-free trees and rootstock originating from certified virus-free trees except as herein provided for certain rootstocks. (10-13-95)T

06. Index. To determine virus infection by means of inoculation from the plant to be tested to an indicator plant or by any other acceptable method as designated by the Director. (10-13-95)T

07. Indicator Plant. Any herbaceous or woody plant used to index or determine virus infection. (10-13-95)T

08. Interstock. Scionwood used for compatibility purposes to graft between a particular top-stock and rootstock. (10-13-95)T

09. Nursery Stock. For purposes of this rule shall include the plants and plant parts of the genera Prunus, Malus, Pyrus, Chaenomeles and Cydonia. (10-13-95)T

10. Off-Type. Not true-to-name (phenotype) as registered under this rule. (10-13-95)T

11. Registered Tree. A tree or clonal planting that has been inspected and tested in accordance with the provisions of this program and assigned a registration number by the Department. (10-13-95)T

12. Rootstock. That part of a plant including the roots on which another variety of plant material may be grafted. (10-13-95)T

13. Scion-Block. A planting of certified virus-free trees which serves as a source of scionwood for the propagation of "Idaho certified nursery stock." (10-13-95)T

14. Scion (Scionwood). A detached shoot or other portion of a plant consisting of one or more buds used in propagation by grafting. (10-13-95)T

15. Seed Block. A planting of certified virus-free trees which serves as a source of seed for producing rootstock used in the propagation of "Idaho certified nursery stock." (10-13-95)T

16. Stool Bed. A clonal planting of self-rooted, certified virus-free trees for the specific purpose of producing vegetatively propagated rootstock used in the propagation of "Idaho certified nursery stock." (10-13-95)T

17. Top-Stock. Usually scionwood used for grafting onto interstock or rootstock, may include seed. (10-13-95)T

18. True Seedling. A tree which has been grown from seed. (10-13-95)T

19. Virus-Infected. The presence of a harmful virus(es) in a plant or plant part. (10-13-95)T

20. Virus-Like. A disorder of genetic or non-transmissible origin and also includes mycoplasma-like organisms and rickettsia-like organisms. (10-13-95)T

005. FINDINGS.

These rules will confer a benefit to the nursery industry by establishing a voluntary virus-free certification program for nursery stock to allow the Idaho nursery industry to export this certified virus-free nursery stock to other domestic and foreign markets requiring the same. These rules will establish: Isolation distances for nursery stock entered into the program from other plants, procedures for the inspection, sampling and testing of nursery stock entered into the program, procedures for maintaining the identity of nursery stock entered into the program, and a schedule of fees for participation in the program.

(10-13-95)T

006. -- 049. (RESERVED).

050. REQUIREMENTS.

01. Participation. Participation is open only to those nurseries registered under Title 22, Chapter 23, Idaho Code, and is voluntary. (10-13-95)T

02. Application. Application forms for the establishment of new blocks will be provided by the Idaho Department of Agriculture. The applicant nurseryman shall furnish to the Department all information pertinent to the operation of this program, including a diagram of each block and shall give his consent to the Department to take plant parts (buds, leaves, roots, etc.) from any tree for testing purposes. (10-13-95)T

03. Registration. Trees may be registered as rootstock, top-stock, or seedstock sources for the propagation of certified nursery stock when inspected, tested, and found to be true-to-name and discernibly free from known harmful virus and virus-like diseases by procedures outlined in this program. (10-13-95)T

04. Responsibility. The applicant nurseryman shall be responsible, subject to the approval of the Director, for the selection of the location and the proper maintenance of registered plantings grown under the provisions of this rule. The applicant nurseryman shall be responsible for maintaining the identity of all nursery stock entered into this program in a manner approved by the Department. Any planting entered into this program shall be kept in a healthy growing condition and free of plant pests. (10-13-95)T

05. Filing Date. Application for inspection and testing of new or existing blocks of registered scion, seed, and stool-bed trees and for inspection of nursery stock for certification shall be filed by June 1 of each year with the Idaho Department of Agriculture. (10-13-95)T

06. Nematode Sampling. The ground being submitted for planting with virus-free stock as outlined in this rule shall be officially sampled, using established procedures acceptable to the Director, tested, and found free of virus transmitting nematodes prior to planting of any stock. Subsequent sampling for the presence of

nematodes after planting may be carried out at the discretion of the Director, to ensure that a nematode-free status is maintained. (10-13-95)T

07. Grafting. There shall be no budding, grafting, or top-working of registered trees in any scion-block, seed-block, or stool-block. (10-13-95)T

08. Inspection. Maintenance of virus-free integrity of all plants entered into this program shall be by inspection and spot-testing at a minimum of every three (3) years or as stated elsewhere in this rule. (10-13-95)T

09. Diseased Plants. Immediately following notice from the Director or his agent, any plant found to be infected by a virus or virus-like disease or if off-type, the plant(s) shall be removed and destroyed. Any ground found to be infested with virus transmitting nematodes must be fumigated with a fumigant registered and approved by the Idaho Department of Agriculture prior to planting, at the grower's expense. (10-13-95)T

051. -- 099. (RESERVED).

100. SCION-BLOCKS.

01. Location. A scion-block shall be located not less than one hundred (100) feet away from any non-registered cultivated plant of the Rosaceae family. The ground in a scion-block and for a distance of twenty (20) feet surrounding it shall be kept either clean-cultivated or in an approved, properly controlled ground cover. Registered scion-block trees shall be planted and maintained in a manner and at sufficient distance so that branches of different varieties do not overlap. Care shall be taken in the use of pollenizing insects and pollen application to prevent the transmission and spread of virus diseases through the use of infected pollen or its application. Registered scion-block trees shall not be used for propagation purposes until trueness-to-name or variety has been established. Each tree shall bear a permanent registration number. The ground in the scion-block shall be sampled, using established procedures acceptable to the Director, and be tested and found free of virus transmitting nematodes prior to planting of any stock. (10-13-95)T

02. Acceptability. The rootstock and top-stock sources of the scion-block trees shall have originated from foundation trees established under this program or from virus-tested trees originating through the USDA-ARS Inter-Regional Project No. 2 (IR-2) or other approved programs. If the tree is scion-rooted, its source shall have met the requirements stated in this subsection. Only registered trees shall be permitted in the scion-block. (10-13-95)T

101. -- 149. (RESERVED).

150. SEED-BLOCKS.

01. Location. A Prunus seed-block shall be located not less than three hundred (300) feet from any non-registered flowering plant of the Prunus species. The ground in a seed-block and for a distance of twenty (20) feet surrounding it shall be kept clean-cultivated or in an approved, controlled ground cover. Care shall be taken in the use of pollenizing insects and pollen application to prevent the transmission and spread of virus diseases through the use of infected pollen or its application. Each tree shall bear a

permanent registration number.

(10-13-95)T

02. Acceptability. The rootstock and top-stock sources of the seed-tree shall have originated from foundation trees established under this program or from virus-tested trees originating through the USDA-ARS Inter-Regional Project No. 2 (IR-2) or other approved program. If the tree is scion-rooted, its source shall have met the requirements stated in this subsection. Only registered trees shall be permitted in the seed-block.

(10-13-95)T

151. -- 199. (RESERVED).

200. STOOL-BEDS.

01. Location. A stool-bed shall be located not less than fifty (50) feet from any non-registered cultivated plant of the Rosaceae family. The following exception will apply: Non-registered stool-beds may be located not less than ten (10) feet from registered stool-bed plantings. The ground in a stool-bed and for a distance of ten (10) feet surrounding it shall be kept clean-cultivated.

(10-13-95)T

02. Acceptability. Existing stool-beds that index clean on the commonly used virus indicators will qualify as Registered Stool-Beds. New stool-beds (those planted after the effective date of this rule) shall have originated from foundation stock established under this program or from virus-tested plants originating through the USDA-ARS Inter-Regional No. 2 (IR-2) or other approved program. If the tree is scion-rooted, its source shall have met the requirements stated in this subsection. Only registered trees shall be permitted in the stool-beds.

(10-13-95)T

201. -- 249. (RESERVED).

250. NURSERY STOCK.

01. Rootstocks. All nursery stock being grown for certification, shall be on rootstock from registered trees except for stone fruit trees grown on peach seedlings and pome fruit trees grown on apple and pear seedlings. These seedling rootstocks, when grown from commercial seed, will be acceptable if seed transmissible virus content does not exceed five percent (5%). Clonal rootstock used in the production of Idaho Certified Nursery Stock must originate from Registered Stool-Beds.

(10-13-95)T

02. Location. The isolation distances between certified and non-certified nursery stock shall be:

(10-13-95)T

a. Not less than fifty (50) feet from non-certified plants of the Rosaceae family;

(10-13-95)T

b. Not less than twenty (20) feet from other non-certified nursery stock;

(10-13-95)T

c. Program participants shall maintain a twenty (20) foot clean-cultivated area around all certified nursery stock beds. Nursery stock shall be designated as to rootstock, top-stock, and inter-stock sources. There shall be no re-budding or re-grafting

of nursery raw stock unless such stock is re-worked with scions from the original registered scion-tree. (10-13-95)T

03. Identity Maintenance. The maintenance of certified stock identity shall be a tagging program identifying trees produced from: (10-13-95)T

a. Registered rootstock produced from registered seed or stool-beds; (10-13-95)T

b. Registered scion source trees. The tracking system shall involve a numbering diagram system of each participant's nursery stock beds in the program. (10-13-95)T

04. Seed. Certified seed shall have been produced on Registered Seed Trees or commercial seed having been tested and found to have a transmissible virus content that does not exceed five percent (5%). (10-13-95)T

05. Tagging. An Idaho Certified Nursery Stock Tag shall designate trees produced from registered scion-source trees and which have been propagated on rootstocks produced from registered seed-source or stool-bed trees, or which are self-rooted. All nursery stock meeting the requirements of this program when sold shall have the variety, inter-stock, and rootstock designated where applicable as follows: variety/inter-stock/rootstock. (10-13-95)T

06. Acceptability. All nursery stock meeting the requirements of this program shall be known as Idaho Certified Nursery Stock. (10-13-95)T

251. -- 299. (RESERVED).

300. BLOCK EXPANSION.

Expansion within a scion or stool-bed will be allowed with no restriction regarding the number of generations, provided accepted tissue culture methods are employed. Only two (2) propagative steps will be allowed between "mother plants" and foundation trees for scion, seed, and stool-bed blocks. (10-13-95)T

301. -- 349. (RESERVED).

350. INSPECTION PROCEDURES.

01. Time of Inspection. Inspections will be made at the discretion of the Department and at times when specific disease symptoms are most likely to be expressed. (10-13-95)T

02. Inspection of Nursery Stock for Certification. At least one (1) visual inspection shall be made of nursery rootstock in a planting being grown for certification during the first growing season. At the request of the Department, any undesirable rootstock shall be rogued before propagation. At least two (2) visual inspections shall be made of nursery stock during the growing season following bud or graft placement. (10-13-95)T

03. Refusal of Certification. The Department shall refuse certification if plants have been propagated from registered trees determined to be affected by a virus or virus-like disease or if other requirements of this program have not been met.(10-13-95)T

351. -- 399. (RESERVED).

400. TESTING PROCEDURES.

Testing standards prescribed in this program shall conform to USDA-ARS Inter-Regional Project No. 2 (IR-2) standards or to any other acceptable and approved procedures developed and used for determining the presence of virus diseases in nursery stock. All testing results shall be made available directly to the Department by the approved agency or laboratory. (10-13-95)T

401. -- 449. (RESERVED).

450. TAGGING, IDENTITY, AND RECORDS.

01. Official Certification Tags. The Department will authorize the use of official certification tags for identification of nursery stock or seed that meet the requirements of this program. These tags will be supplied at cost to all program cooperators by the Idaho Department of Agriculture. (10-13-95)T

02. Identity. Any person selling Idaho Certified Nursery Stock is responsible for the identity of the stock bearing each tag and for such nursery stock meeting the requirements of this program. (10-13-95)T

03. Records. Any person selling Idaho Certified Nursery Stock shall keep record on a form prescribed by the Director which shall include but not limited to the source of the stock, quantity, and disposition. (10-13-95)T

451. -- 499. (RESERVED).

500. FEES.

01. Application Fees. A fee of fifty dollars (\$50) per application submitted plus ten cents (\$0.10) per tree being certified shall be submitted with each application. (10-13-95)T

02. Laboratory Fees. Laboratory fees shall be those as established by a Department approved testing facility and will be paid directly to the facility. (10-13-95)T

03. Service Fees. Fees for plant or soil sampling and inspection services provided by the Idaho Department of Agriculture shall be in accordance with the following schedule. (10-13-95)T

a. A fee of twenty-five dollars (\$25) per hour for inspection and travel time with a minimum charge of fifty dollars (\$50). (10-13-95)T

b. Per diem costs shall be charged according to established state rates. (10-13-95)T

c. The fees charged for tags shall be at cost plus an administrative fee of ten percent (10%) for each order. (10-13-95)T

501. -- 999. (RESERVED).

IDAPA 07 - DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES

**07.01.03 - RULES OF ELECTRICAL LICENSING AND
REGISTRATION - GENERAL**

DOCKET NO. 07-0103-9501

NOTICE OF FINAL RULE

EFFECTIVE DATE: This rule has been adopted as final by the agency and is now pending review by the 1996 Idaho State Legislature for final adoption.

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 section 54-1006, Idaho Code.

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

1. The current rule relating to IDAPA 07.01.03.011 regarding electrical license applications will be changed to establish a time interval (90 days) for maintaining an application in an active status. Additionally the change provides a time interval (90 days) in which to purchase a license after meeting all the requirements.

2. The current rule relating to IDAPA 07.01.03.014 regarding master journeyman electricians will be changed to reduce the current renewal fee of twenty-five dollars (\$25) to fifteen dollars (\$15) to be consistent with the journeyman renewal fee.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Gary L. Malmén, Department of Labor and Industrial Services, 277 N. 6th Street, Suite 101, P.O. Box 83720, Boise, Idaho 83720-0028, (208) 334-2813.

DATED this 24th day of October, 1995.

Craig G. Bledsoe
277 N. 6th, Suite 100
P.O. Box 83720
Boise, ID83720-4801
(208) 334-3950/fax (208) 334-2683

There are no substantive changes from the proposed rule text

**The original text was published in the Idaho Administrative Bulletin,
Volume 95-9, September 6, 1995 Pages 4 through 6**

**The Rule has been adopted as Final by the Agency and is now pending
review by the 1996 Idaho State Legislature for final adoption**

IDAPA 09 - DEPARTMENT OF EMPLOYMENT
09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU
DOCKET NO. 09-0135-9502
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is December 27, 1995.

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code notice is hereby given that this agency has adopted a temporary rule and has proposed rulemaking. The action is authorized pursuant to Section 72-1333(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearings concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, 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 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 required finding and a concise statement of the supporting reasons for temporary rule-making and the substance of the proposed rule:

The Department of Employment finds that pursuant to Section 67-5226(1), Idaho Code, this rule confers a benefit by increasing the tolerance limit which allows employer taxpayers to remit monies owed less often. This saves them and the Department time and taxpayer money by reducing processing time and expenses collecting these amounts. The rule also provides for predictability in the law and provides for equal treatment of employers in the context of audit periods.

When an employer's tax is computed and falls below the tax tolerance amount set by the department, no assessment or attempt to collect this tax is taken. The present low-dollar tolerance amount is being raised to allow for a more cost-effective collection process. The statute of limitations modification clarifies the period of time an employer's records may be audited after notification of such audit, and sets the time frame for collection of delinquent amounts following a determination of the amounts due.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSIONS OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, contact Ken Dickinson, Employer Accounts Bureau Chief, Idaho Department of Employment, at (208) 334-6240.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned within twenty-one (21) days after the date of publication of the notice of proposed rule-making in the Bulletin.

Dated this 18th day of October, 1995.

Roger B. Madsen, Director
Idaho Department of Employment
317 Main Street
Boise, ID 83735
Phone: (208) 334-6240
Fax # (208) 334-6430

TEXT OF DOCKET NO. 09-0135-9502

061. DEFINITIONS.

The definitions listed in Rule 09.01.30.011 and the following are applicable to this Bureau. (7-1-93)

01. Tolerance Amount. A tolerance of ~~\$1.99~~ \$4.99 is established in connection with collection of amounts due; and under normal circumstances, no delinquency or credit will be issued or carried on the books of accounts for this amount or less. Ref. Sec. 72-1349 Idaho Code. (~~6-1-81~~)(12-27-95)T

02. Wages. All remuneration for personal service performed from whatever source, including commissions and bonuses, and the cash value of remuneration in any medium other than cash. "Wages" in covered employment, and subject to unemployment insurance reporting, include: (9-1-86)

- a. Bonuses, prizes, and gifts given to an employee in recognition of past services or to stimulate future services, sales, or production; (9-1-86)
- b. Commissions for past services in covered employment; (9-1-86)
- c. Salaries or remuneration paid to corporate officers; (9-1-86)
- d. Salary advances against commissions; (9-1-86)
- e. All forms of profit sharing for services rendered; (9-1-86)
- f. Excess travel allowances over actual expense, unless returned to the employer; (9-1-86)
- g. Vacation or "idle-time" pay, no matter when paid; (9-1-86)
- h. Personal expense reimbursement, not gifts, i.e., clothing, family expenses, rent. Ref. Sec. 72-1328 Idaho Code. (9-1-86)

03. Exclusions from wages. The term "wages" which are adequately described in Section 72-1328, Idaho Code. (9-1-86)

- a. Prizes or gifts for special occasions which are expressions of good will; (9-1-86)
- b. Bonuses paid for signing a contract; (9-1-86)
- c. Fees paid to participate periodically in meeting of boards of directors unless exceedingly high; i.e., amounts comparable to other employers in the same industry, of relatively the same size; (9-1-86)
- d. Drawings or advances by partners against the distribution of profits; (9-1-86)
- e. Rental charge for personal equipment provided by the employee on the job; (9-1-86)
- f. Stock issues for other than "services rendered" purposes; (9-1-86)
- g. Reimbursement for actual travel expense. Ref. Sec. 72-1328
Idaho Code. (9-1-86)

(BREAK IN CONTINUITY OF SECTIONS)

166. FIELD OPERATIONS CONTROL.

When circumstances dictate, and as a result of nonpayment of liabilities, the employer shall be notified by mail to his last known address of lien proceedings against his interests, with an explanation of the amounts due, and the accrual of interest at the proper rate until the lien is satisfied. Ref. Sec. 72-1360 Idaho Code. (6-1-81)

01. Execution Against Assets. The Department of Employment shall, when the situation warrants, serve executions against bank accounts, against accounts receivable, or garnish wages under the authority of Section Ref. 72-1360(a)(4) Idaho Code. (4-1-79)

02. Interstate Investigation Requests. Interstate requests to Employment Security agencies of other states for a field audit, an investigation, or other tax related activity shall be limited to employer accounts constituting an indebtedness of \$200.00 or more. Ref. Sec. 72-1344 Idaho Code. (6-1-81)

03. Removal of Employer Records. With the employer's permission, the Department of Employment Tax Representatives shall be authorized to remove the employer's payroll records and shall accept full responsibility for those records while in their possession. Ref. Sec. 72-1337 Idaho Code. (4-1-79)

04. Frequency of Audits. The frequency of audits of an employer's payroll records shall be determined by the size and scope of the employer's operation and the number of errors discovered in previous audits. Ref. Sec. 72-1337 Idaho Code. (4-1-79)

05. Notification of Audits. Employers shall be notified as soon as

practicable of an impending payroll records audit for tax liability purposes. This shall allow time in which to agree as to a convenient time and place for audit. Ref. Sec. 72-1337 Idaho Code. (4-1-79)

06. Confidential Information. The Department of Employment Tax Representative shall consider all information which he inspects during the course of an audit as confidential and shall not disclose the information to any unauthorized source. Ref. Sec. 72-1342 Idaho Code. (4-1-79)

~~07. Statute of Limitations. In the absence of fraudulent practices, employer's records shall not be audited for purposes of establishing a tax liability for quarters excluded by the statute of limitations. Subject employers shall be protected by the Idaho statute of limitations from civil action to force collection of tax indebtedness. This indebtedness instituted three (3) years from the last day of the quarter for which payment was due. (4-1-79)~~

~~a. The three year period runs concurrent with the employer's intrastate residence, and by break in this residence is tantamount to a break of equal duration in this statutory provision. (4-1-79)~~

~~b. A partial payment or acknowledgment of the indebtedness by the employer or his representative shall effect an extension of this limitation an additional three years from the date of such payment or acknowledgment. Ref. Sec. 72 1364 Idaho Code. (4-1-79)~~

07. Statute of Limitations. In the absence of fraudulent practices, the department shall not audit an employer's records for a period greater than three (3) years for purposes of establishing a tax liability. The three (3) year period shall be determined by, and extend three (3) years back from, the date that the employer is notified, orally or in writing by any representative of the department, of an intent to perform an audit of the records, and shall be deemed to include every quarter which, in whole or in part, falls within the three (3) year period. This statute of limitations shall not apply in any case in which an employer has engaged in fraudulent practices. (12-27-95)T

a. The three (3) year statute of limitations is tolled for any period in which the employer does not reside within the state. (12-27-95)T

b. If the employer or his representative acknowledges the indebtedness or makes a partial payment thereon, the statute of limitations shall be extended an additional three (3) years from the date of such payment or acknowledgment. (12-27-95)T

c. Administrative proceedings for collection of taxes from subject employers shall be instituted within five (5) years from the date that a subject employer receives notice that he owes any amount to the department. (12-27-95)T

d. The time limits contained in Subsection 166.07.c. shall not apply once a tax liability is recorded as a lien against the property of an employer. (12-27-95)T

08. Relief of Indebtedness. Neither the full running of the statute of limitations nor the writing off of the account as uncollectible relieves an employer of tax

indebtedness. Ref. Sec. 72-1364 Idaho Code. (4-1-79)

09. Cash Bonds. Employers subject to a property or interest lien shall have the option of posting a cash bond of double the amount of the tax liability with the clerk of the county wherein the lien is recorded. (4-1-79)

a. Upon the court's satisfaction, the court shall issue a certificate to the employer stating that bond is posted in lieu of property and the existing lien against the property is released. (4-1-79)

b. Collection by suit shall be required to receive judgment in the amount of the lien against this bond. Ref. Sec. 72-1360 Idaho Code. (4-1-79)

IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT
11.02.01 - RULES OF THE IDAHO STATE BRAND BOARD
DOCKET NO. 11-0201-9501
NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: The effective date of the temporary rule is December 1, 1995.

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and has proposed rule-making. The action is authorized pursuant to Title 25, Chapter 11, Idaho Code.

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

Public hearings 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 twenty-one (21) days after the first publication of this notice.

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

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the required finding and a concise statement of the supporting reasons for temporary rule-making and the substance of the proposed rule:

The Department of Law Enforcement finds that pursuant to Section 67-5226 (1), Idaho Code, these rules are necessary to protect the public health, safety, and welfare of Idaho, confers a benefit, and ensures the reasonable enforcement of the rules.

The 1995 Legislature changed the method of renewing brand registrations and created a scheme of staggered renewals and reduced fees while the new renewal procedure is implemented. This left the rule in question in conflict with the statute. The proposed change deletes the conflicting language and makes reference to the new statutory sections as governing the renewal of brands.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Larry Hayhurst, at (208) 884-7070. 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 within twenty-one (21) days of the date of first publication of this notice.

DATED this 25th day of October, 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)

TEXT OF DOCKET NO. 11-0201-9501

011. RECORDING, USE AND PLACEMENT OF BRANDS.

01. Recording And Use Of Brands. (7-1-93)
- a. All brands shall be recorded with the State Brand Inspector, as required by Section 25-1144, Idaho Code. (7-1-93)
- b. No person shall brand livestock with an unrecorded brand. (7-1-93)
- c. No person shall use any brand registered to any other person. (7-1-93)
- d. No person shall lease a brand to any other person. (7-1-93)
02. Recording Procedures. (7-1-93)
- a. Any person desiring to record a brand in the state of Idaho shall submit an application and fee with the State Brand Inspector, at the main office as provided by Section 25-1144, Idaho Code. If the State Brand Inspector finds that the proposed brand does not conflict with any presently recorded brand, the State Brand inspector shall record the proposed brand. (7-1-93)
- b. Upon recording of the brand, the State Brand Inspector shall issue a certificate of recorded brand and a brand card to each owner of the brand. The brand card shall be recognized by all brand inspectors as proof that the brand indicated thereon has been properly registered. (7-1-93)
- c. A brand may be recorded in more than one (1) name, subject to space limitations on the brand card. (7-1-93)
03. Brands Acceptable for Recording. (7-1-93)
- a. Dash brands and bar brands must be at least two (2) inches long and slashes at least four (4) inches long. Slashes must be placed diagonally between numerals or letters. Bars, dashes, quarter circles, rafters and mill irons may not be used above, below, in front of, or after any brand that is already recorded in Idaho. (7-1-93)
- b. Recorded brands appearing on the neck, horns, hooves or jaw of livestock, or on any other location not expressly included within the definition of "brand" found in Section 25-1101, Idaho Code, shall not be recorded and shall not be relevant for identification. (7-1-93)
- c. Markings made on the necks of equine animals made pursuant to the "International Horse Identification System," otherwise know as the "Angle Numerical system," U.S. Patent Number 3633584 shall not be recorded as brands, but may be recognized for identification purposes. (7-1-93)
- d. A vertical arrangement of numbers in groups of two (2) or more made

by freeze or hot iron branding for the purpose of individual identification of cattle shall be preceded with the oval cipher "o" and shall be placed on the shoulder, rib or hip. Such numbers shall not be recorded as brands, but may be recognized for identification purposes. (7-1-93)

e. Lip Tattoos shall not be recorded as brands, but may be recognized for identification purposes. (7-1-93)

f. Wattles, earmarks, dewlaps or ear tags shall not be recorded as brands, but may be recognized for identification purposes. (7-1-93)

04. Renewal of Brands. (7-1-93)

a. A brand may be renewed by making application and submitting the renewal fee to the Main Office of the Idaho State Brand Board. (7-1-93)

b. Recorded brands shall be renewed ~~on July 1, 1991 and ever two years thereafter as provided by law~~ as provided in Idaho Code Sections 25-1145 and 1145A. (7-1-93)(12-1-95)T

c. A minimum of two (2) new brand cards shall be issued to the recorded owner(s) upon renewal. The State Brand Inspector shall maintain a record of each renewal of a recorded brand. (7-1-93)

05. Transfer of Recorded Brands. (7-1-93)

a. Brands Shall be transferred whenever brand is sold or otherwise transferred to a new owner; or whenever persons are added to or deleted from the list of owners of a particular recorded brand. (7-1-93)

b. A transfer fee shall be charged for all transfers; provided, however, if the change is made on or before July 1 of the renewal year, no fee shall be charged whenever one (1) or more new owners are added to or deleted from the recorded brand; or whenever the brand is transferred to a corporation, the stockholders of which are the same persons who were the owners of the brand. (7-1-93)

c. If any owner of a recorded brand is deceased, the personal representative for the estate of the deceased person must file with the State Brand Inspector a certified copy of the court order showing his appointment. The personal representative may thereafter transfer the ownership interests of the deceased person in the brand. (7-1-93)

d. A brand inspection of the livestock shall occur prior to the transfer of the recorded brand under the circumstances enumerated in Subsection 019.01.d. (7-1-93)

06. Conflicts Between Brands. The State Brand Inspector may, at any time after recording, cancel any brand that infringes upon any previously recorded brand. Notice of cancellation of the brand shall be mailed to the owners of the brand. The owners shall have thirty-five (35) days from the date indicated on the postmark of the notice to appeal the Brand Inspector's decision to the Brand Board. (7-1-93)

IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT
11.04.01 - RULES OF THE IDAHO STATE RACING COMMISSION
GOVERNING HORSE RACING

DOCKET NO. 11-0401-9502

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: The effective date of the temporary rule is December 1, 1995.

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and has proposed rule-making. The action is authorized pursuant to Title 25, Chapter 11, Idaho Code.

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

Public hearings 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 twenty-one (21) days after the first publication of this notice. The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency at the address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the required finding and a concise statement of the supporting reasons for temporary rule-making and the substance of the proposed rule:

The Department of Law Enforcement finds that pursuant to Section 67-5226 (1), Idaho Code, these rules are necessary to protect the public health, safety, and welfare of Idaho, confers a benefit, and ensures the reasonable enforcement of the rules.

The proposed changes delete provisions of the horse racing rules, IDAPA 11.04.01 which relate to disciplinary action by the stewards. The deleted provisions are supplanted by a new chapter, IDAPA 11.04.04 which provides a uniform disciplinary procedure for use in both horse racing and greyhound racing.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Doug Ray, at (208) 884-7080. 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 within twenty-one (21) days of the date of first publication of this notice.

DATED this 25th day of October, 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)

TEXT OF DOCKET NO. 11-0401-9502

091: -- ~~099-109.~~ (RESERVED).

100. ~~REVIEW AND APPEAL.~~

01. ~~Hearing.~~ A person penalized or disciplined by the Stewards may request a hearing before the Commission. (7-1-93)

02. ~~Appeal.~~ The appeal shall be made in writing at the office of the Commission within five (5) days of date of penalty or imposition of discipline. (7-1-93)

03. ~~Signed.~~ The appeal shall be signed by the person appealing and must set forth grounds alleging why the penalty or discipline was wrongfully imposed. (7-1-93)

04. ~~Heard Appeal.~~ The appeal can be heard before the Commission, a hearing officer or in writing. (7-1-93)

a. ~~When directed by the Commission, a hearing officer may be assigned by the commission to sit as referee for the taking of evidence in any matter pending before the Commission; any such referee shall report to the Commission outlining all findings and the Commission shall determine the matter as if such evidence had been presented to the full Commission.~~ (7-1-93)

b. ~~When asked to by the Commission, an appeal may, with the consent of the appellant, be submitted in writing. The Commission shall determine the matter as if such evidence had been submitted to the Commission in a hearing.~~ (7-1-93)

05. ~~Papers.~~ All papers filed with the Commission shall be the property of the Commission. (7-1-93)

06. ~~Appeal.~~ An appeal to the Commission shall not suspend or affect the decision until the appeal has been acted upon by the Commission, unless stayed by the Commission or a Court of Competent Jurisdiction. (7-1-93)

~~101. — 109.~~ (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

180. STEWARDS.

01. Number of Stewards. There shall be three (3) Stewards to supervise each race meet; one (1) Steward shall be appointed by the Commission to be the Presiding State Steward and shall be compensated by the Commission; one (1) Steward shall be assigned by the Commission to be the Deputy State Steward and shall be compensated by the Association at an amount approved by the Commission; one (1) Steward shall be appointed by the Association and shall be compensated by the Association. (7-1-93)

02. Presiding State Steward. The presiding State Steward shall be responsible to the Commission for the conduct of all race meets in every detail, directly or indirectly, pertaining to the laws and Rules of the Commission; the other two (2) Stewards shall report to the Presiding State Steward. (7-1-93)

03. Minutes. The Presiding State Steward shall maintain minutes and records of all proceedings before the Stewards, which minutes shall contain a record of votes, a record of all actions taken and the penalties imposed, along with the reasons therefor. Such minutes shall be delivered to the Commission staff daily, with a copy to be forwarded to the Association. (7-1-93)

04. Supervision. The Stewards shall have general supervision and authority over all licensed persons and other persons attendant on horses and also over the premises where race meetings are conducted. (7-1-93)

05. Other. Matters not covered by the Rules of Racing herein outlined shall be determined by the Stewards of the race meeting in conformity with justice and in the interest of racing. (7-1-93)

06. Entries. All entries and declarations shall be under the supervision of the Stewards. (7-1-93)

07. Jurisdiction. The Board of Stewards' jurisdiction in any manner commences thirty (30) days prior to the first day of racing meeting and extends up to and including thirty (30) days following the conclusion of a racing meet. The Stewards may suspend licenses for a period not to exceed one hundred eighty (180) days, or impose fines not to exceed five hundred dollars (\$500) or they may impose both such fine and suspension. All such suspensions and fines shall be reported to the Commission. (7-1-93)

08. Penalty. If in the opinion of the Stewards the penalty allowed to be imposed is insufficient, they shall so report to the Commission and they may order the suspension of the licensee and refer the matter to the Commission. If such event, the Commission shall accept the matter for hearing and adjudication. (7-1-93)

~~09. Appeal. From every decision of the Stewards an appeal, in writing, may be made to the Commission. Appeals shall be made no later than five (5) days from the date of the decision. An appeal shall not affect a decision of the Stewards until the appeal has been sustained or dismissed or a stay order issued. (7-1-93)~~

~~10. Pending Hearing. Pending a hearing before the Commission upon any appeal, the Commission may temporarily stay any ruling, order or decision of the Stewards upon showing that irreparable harm will be incurred by the appellant prior to a decision in such matter by the Commission. The granting of a temporary stay by the Commission does not presume that the decision of the Stewards is or may be invalid. The Commission may dissolve a temporary stay order at any time. (7-1-93)~~

~~11. Inspection. The Stewards shall inspect owner's, Trainer's or Jockey's licenses, partnership papers, all papers and documents with respect to a contract between a~~

Jockey and his employer or employers and papers relating to the appointment of authorized agents or to the adoption of colors or to stable names. (7-1-93)

~~12~~10. Disqualification. The Stewards are vested with the power to determine the extent of disqualification in case of fouls. They may place the offending horse behind such horses as in their judgment it interfered with or they may place it last. (7-1-93)

~~13~~11. On Duty. On each entry, scratch and racing day at least one (1) Steward shall be on duty at regularly posted hours. Such duty shall include and not be limited to scratch time and when races are drawn. The full Board of Stewards shall on race day sit in regular session to exercise the authority and perform the duties imposed. (7-1-93)

~~14~~12. Emergencies. In case of emergency, the Stewards may appoint a substitute, subject to the confirmation of the Commission. Such appointments are effective only for one (1) day. (7-1-93)

~~15~~13. Deputy. If only two (2) Stewards are present at a race time, they shall by agreement appoint a deputy for the absent Steward but, if unable to reach an agreement, shall call upon the Commission to appoint such deputy. (7-1-93)

~~16~~14. Pro Tem. If none of the Stewards are present at race time, the Commission shall appoint three (3) qualified person to act as Stewards pro tem. (7-1-93)

~~17~~15. Reported. Appointment of any deputy or deputies for a Steward or Stewards shall be reported immediately to the Commission. (7-1-93)

~~18~~16. In Stands. There shall be three (3) Stewards in the stand when a race is being run. (7-1-93)

~~19~~17. Notice. The Stewards shall take notice of any questionable conduct with or without complaint thereof. (7-1-93)

~~20~~18. Substitute Jockey. The Stewards for reasonable cause may substitute a Jockey of their selection on any horse. (7-1-93)

~~21~~19. Temporary Charge. The Stewards for reasonable cause may place a horse in the temporary charge of a Trainer of their selection. (7-1-93)

~~22~~20. Investigations. The Stewards must investigate promptly and render a decision in every protest and in every complaint properly made to them. (7-1-93)

~~23~~21. File. The Stewards shall, before the close of the succeeding racing day, file with the Commission a signed report of observed infractions of the rules and shall file with the Commission a signed report of rulings on infractions or otherwise as soon as said rulings are made. (7-1-93)

~~24~~. ~~Infractions. When the Stewards observe or are informed of an infraction other than a rule of the race, they shall:~~ (7-1-93)

a. ~~Summon to a hearing before the Stewards the persons involved in the~~

~~matter. (7-1-93)~~

~~b. Give adequate notice of said hearing to the summoned person specifying the reason, time and place of hearing. The Stewards' decision as to what is adequate notice shall be final. (7-1-93)~~

~~e. Impose no penalty until such hearing. (7-1-93)~~

~~d. Construe non-appearance of the summoned party after adequate notice as a waiver of right to hearing before the Stewards. (7-1-93)~~

~~e. Make no special announcement of the hearing or of the alleged infraction of rules until after the hearing. The Stewards shall transmit their findings in a signed report to the Commission and to the persons involved in the matter. Thereafter, if a penalty is imposed for the infraction of the rules, the Commission may make a public statement. (7-1-93)~~

IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT
11.04.03 - RULES OF THE IDAHO STATE RACING COMMISSION
GOVERNING GREYHOUND RACING

DOCKET NO. 11-0403-9503

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: The effective date of the temporary rule is December 1, 1995.

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and has proposed rule-making. The action is authorized pursuant to Title 25, Chapter 11, Idaho Code.

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

Public hearings 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 twenty-one (21) days after the first publication of this notice.

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

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the required finding and a concise statement of the supporting reasons for temporary rule-making and the substance of the proposed rule:

The Department of Law Enforcement finds that pursuant to Section 67-5226 (1), Idaho Code, these rules are necessary to protect the public health, safety, and welfare of Idaho, confers a benefit, and ensures the reasonable enforcement of the rules.

Greyhounds are graded, from A to D, according to their record of finishing. Grade D greyhounds which fail to place in the top four during four consecutive starts must be officially "schooled." If they again fail to place in the top four during four consecutive starts, they must be dropped from competition for the season. In many cases such greyhounds are destroyed. The proposed rule permits greyhounds to be schooled twice and started fresh in grade D instead of a single time. This gives the greyhound a longer career and makes it less likely a losing greyhound will be destroyed.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Doug Ray, at (208) 884-7080. 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 within twenty-one (21) days of the date of first publication of this notice.

DATED this 25th day of October, 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)

TEXT OF DOCKET NO. 11-0403-9503

067. GRADING SYSTEM.

01. Secretary. The racing secretary shall be responsible for the proper grading of greyhounds under the provisions of this chapter. Before the opening of a racing meet, the racing secretary, after sufficiently schooling all greyhounds and considering their past performance, shall classify and assign them to their proper grades. (7-1-93)

02. Grades. There will be five (5) grades of greyhounds indicated as A, B, C, D, and M (maiden). The program shall indicate the grade of each race on the pages listing the entries for that race. The grades of the races in which each entry participated shall be indicated in front of the names of the winners of those races in the last performance lines. (7-1-93)

03. Maiden Race. The winner of a maiden race shall be advanced no higher than grade D. (7-1-93)

04. Reclassify. The racing secretary may reclassify a greyhound at any time within its first three (3) starts, but not more than one (1) grade higher or lower. (7-1-93)

05. Other. A greyhound finishing second, third, or fourth in maiden or official schooling events may, at the request of the owner or trainer to the racing secretary, be moved into grade D races and then must abide by all the provisions of the grading system. Maidens shall be designated by the letter "M" on the program after the name of the greyhound. (7-1-93)

06. Reclassified. Greyhounds not racing for thirty (30) days or more may be reclassified. (7-1-93)

07. Advance in Grade. The winner of any race is advanced one grade until reaching grade A. (10-1-93)

08. Reduction in Grade. If a greyhound fails to finish first, second, or third in three consecutive starts in grades A or B, or fails to earn more than one-third in four (4) consecutive starts in the same grade, that greyhound shall be lowered one (1) grade. In grade C, a greyhound failing to finish first, second, or third in three (3) consecutive starts will be lowered one (1) grade. In grade D, a greyhound failing to finish first, second, third, or fourth in four (4) consecutive starts must be schooled officially. Upon approval of the judges, such grade-D greyhounds may twice begin fresh in grade D. A greyhound failing

to finish first, second, third, or fourth in four (4) consecutive starts for a ~~second~~third time in one (1) season will be dropped from further competition during that season.

~~(10-1-93)~~(12-1-95)T

09. Entries. The racing secretary shall, at all times, be responsible for the grading of various races, determining this from the available entries. (7-1-93)

a. Entries for all races except those provided for in Subsections 067.09.d. and 09.g. shall be drawn by lot in the presence of a representative of the Racing Commission; (7-1-93)

b. Post positions for all official races shall be drawn by lot in the presence of the racing secretary and a representative of the Racing Commission; (7-1-93)

c. The greyhounds left over after the drawing of a race shall have priority in the next races to be drawn; (7-1-93)

d. The racing secretary may select from greyhounds of the same grade to fill five (5) feature races each week. Of these five (5) races, greyhounds of different grades may be used in races five sixteenths (5/16) of a mile and longer. Such mixed-grade races shall be identified by the letter "T", and all greyhounds will be governed by the grading system as if they were running in their proper grade. This same procedure shall govern stake and special races, but they shall be identified by the letter "S" and will not be counted as one (1) of the five (5) feature races described in this paragraph; and (10-1-93)

e. Double entries may be used by the racing secretary in feature, grade A, stake, and special races and in races longer than five sixteenths (5/16) of a mile. They may also be used in grade B, five sixteenths (5/16) of a mile, but only with the approval of the board of judges. (7-1-93)

IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT
11.04.03 - RULES OF THE IDAHO STATE RACING COMMISSION
GOVERNING GREYHOUND RACING

DOCKET NO. 11-0403-9504

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: The effective date of the temporary rule is December 1, 1995.

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and has proposed rule-making. The action is authorized pursuant to Title 25, Chapter 11, Idaho Code.

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

Public hearings 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 twenty-one (21) days after the first publication of this notice. The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency at the address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the required finding and a concise statement of the supporting reasons for temporary rule-making and the substance of the proposed rule:

The Department of Law Enforcement finds that pursuant to Section 67-5226 (1), Idaho Code, these rules are necessary to protect the public health, safety, and welfare of Idaho, confers a benefit, and ensures the reasonable enforcement of the rules.

The proposed changes delete provisions of Greyhound rules, IDAPA 11.04.03 which relate to disciplinary action by the judges. The deleted provisions are supplanted by a new chapter, IDAPA 11.04.04 which provides a uniform disciplinary procedure for use in both horse racing and greyhound racing.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Doug Ray, at (208) 884-7080. 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 within twenty-one (21) days of the date of first publication of this notice.

DATED this 25th day of October, 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)

TEXT OF DOCKET NO. 11-0403-9504

096. ~~--099-109.~~ (RESERVED).

~~100. DISCIPLINARY ACTION.~~

~~01. Hearing. A person penalized or disciplined by the judges may request a hearing before the Commission. (7-1-93)~~

~~02. Method. The appeal shall be made in writing at the office of the Commission within five (5) days of date of penalty or imposition of discipline. (7-1-93)~~

~~03. Form. The appeal shall be signed by the person appealing and must set forth grounds alleging why the penalty or discipline was wrongfully imposed. (7-1-93)~~

~~04. Hearing Officer. The appeal can be heard before the Commission, a hearing officer, or in writing. (7-1-93)~~

~~a. When directed by the Commission, a hearing officer may be assigned by the Commission to sit as referee for the taking of evidence in any matter pending before the Commission; any such referee shall report to the Commission outlining all findings, and the Commission shall determine the matter as if such evidence had been presented to the full Commission; and (7-1-93)~~

~~b. When asked to by the Commission, an appeal may, with the consent of the appellant, be submitted in writing. The Commission shall determine the matter as if such evidence had been submitted to the Commission in a hearing. (7-1-93)~~

~~05. Papers. All papers filed with the Commission shall be the property of the Commission. (7-1-93)~~

~~06. Decision. An appeal to the Commission shall not suspend or affect the decision until the appeal has been acted upon by the Commission, unless stayed by the Commission or a court of competent jurisdiction. (7-1-93)~~

~~101. REVIEW AND APPEAL. (7-1-93)~~

~~01. Hearing. A person penalized or disciplined by the judges may request a hearing before the Commission. (7-1-93)~~

~~02. Method. The appeal shall be made in writing at the office of the Commission within five (5) days of date of penalty or imposition of discipline. (7-1-93)~~

~~03. Form. The appeal shall be signed by the person appealing and must set forth grounds alleging why the penalty or discipline was wrongfully imposed. (7-1-93)~~

~~04. Hearing Officer. The appeal can be heard before the Commission, a hearing officer, or in writing. (7-1-93)~~

a. ~~When directed by the Commission, a hearing officer may be assigned by the Commission to sit as referee for the taking of evidence in any matter pending before the Commission; any such referee shall report to the Commission outlining all findings, and the Commission shall determine the matter as if such evidence had been presented to the full Commission; and~~ (7-1-93)

b. ~~When asked to by the Commission, an appeal may, with the consent of the appellant, be submitted in writing. The Commission shall determine the matter as if such evidence had been submitted to the Commission in a hearing.~~ (7-1-93)

~~05. Papers. All papers filed with the Commission shall be the property of the Commission.~~ (7-1-93)

~~06. Decision. An appeal to the Commission shall not suspend or affect the decision until the appeal has been acted upon by the Commission, unless stayed by the Commission or a court of competent jurisdiction.~~ (7-1-93)

~~102. 109.(RESERVED).~~

110. JUDGES. (7-1-93)

01. Number. There shall be three (3) judges to supervise each race meet; one (1) judge shall be appointed by the Commission to be the presiding state judge and shall be compensated by the Commission; one (1) judge shall be assigned by the Commission to be the deputy state judge and shall be compensated by the association at an amount approved by the Commission; one (1) judge shall be appointed by the association and shall be compensated by the association. (7-1-93)

02. Conduct. The presiding state judge shall be responsible to the Commission for the conduct of all race meets in every detail, directly or indirectly, pertaining to the laws and rules of the Commission; the other two (2) judges shall report to the presiding state judge. (7-1-93)

03. Minutes. The presiding state judge shall maintain minutes and records of all proceedings before the judges. Such minutes shall contain a record of votes, a record of all actions taken, and the penalties imposed, along with the reasons therefore. Such minutes shall be delivered to the Commission staff daily, with a copy to be forwarded to the association. (7-1-93)

04. Supervision. The judges shall have general supervision and authority over all licensed persons and other persons attendant on greyhounds and also over the premises where race meetings are conducted. (7-1-93)

05. Other Matters. Matters not covered by the rules of racing herein outlined, shall be determined by the judges of the race meeting in conformity with justice and in the interest of racing. (7-1-93)

06. Jurisdiction. The board of judges' jurisdiction in any manner commences thirty (30) days prior to the first day of a racing meeting and extends up to and

including thirty (30) days following the conclusion of a racing meet. The judges may suspend licenses for a period not to exceed one hundred and eighty (180) days, or impose fines not to exceed five hundred dollars (\$500) or they may impose both such fine and suspension. All such suspensions and fines shall be reported to the Commission.

(7-1-93)

07. ~~Insufficient Penalty.~~ If, in the opinion of the judges, the penalty allowed to be imposed is insufficient, they shall so report to the Commission, and they may order the suspension of the licensee and refer the matter to the Commission. In such event, the Commission shall accept the matter for hearing and adjudication. (7-1-93)

08. ~~Appeal.~~ From every decision of the judges, an appeal, in writing, may be made to the Commission. Appeals shall be made no later than five days from the date of the decision. An appeal shall not affect a decision of the judges until the appeal has been sustained or dismissed or a stay order issued. (7-1-93)

09. ~~Stays.~~ Pending a hearing before the Commission upon any appeal, the Commission may temporarily stay any ruling, order, or decision of the judges upon showing that irreparable harm will be incurred by the appellant prior to a decision in such a matter by the Commission. The granting of a temporary stay by the Commission does not presume that the decision of the judges is or may be invalid. The Commission may dissolve a temporary stay order at any time. (7-1-93)

IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT
11.04.04 - RULES OF THE IDAHO STATE RACING COMMISSION
GOVERNING DISCIPLINARY HEARINGS

DOCKET NO. 11-0404-9501

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: The effective date of the temporary rule is December 1, 1995.

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and has proposed rule-making. The action is authorized pursuant to Title 25, Chapter 11, Idaho Code.

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

Public hearings 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 twenty-one (21) days after the first publication of this notice.

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

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the required finding and a concise statement of the supporting reasons for temporary rule-making and the substance of the proposed rule:

The Department of Law Enforcement finds that pursuant to Section 67-5226 (1), Idaho Code, these rules are necessary to protect the public health, safety, and welfare of Idaho, confers a benefit, and ensures the reasonable enforcement of the rules.

The proposed rules adopt the model rules for due process and disciplinary proceedings advanced by the Association of Racing Commissioners International. The rules provide for at-the-track disciplinary procedures including summary proceedings by racing stewards and judges. They require certain minimum due process guarantees to racing licensees and provide for appeal to the full Racing Commission. The new rules supplant existing rules and procedures.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Doug Ray, at (208) 884-7080. 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 within twenty-one (21) days of the date of first publication of this notice.

DATED this 25th day of October, 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)

TEXT OF DOCKET NO. 11-0404-9501

IDAPA 11
TITLE 04
Chapter 04

IDAHO STATE RACING COMMISSION
RULES GOVERNING DISCIPLINARY HEARINGS

000. LEGAL AUTHORITY.

The Racing Commission is authorized to create rules governing racing pursuant to Idaho Code Section 54-2507. (12-1-95)T

001. EXEMPTION FROM ATTORNEY GENERAL RULES.

01. Findings. In accordance with Idaho Code Section 67-5206(5), the Racing Commission makes the following findings: (12-1-95)T

a. Horse and greyhound racing is a sport requiring racing officials to make immediate binding decisions affecting the races and participants in the races. (12-1-95)T

b. A central element of horse and greyhound racing is pari-mutuel betting, and public confidence in the outcome of races is critical to the racing industry and the general public. (12-1-95)T

c. Racing seasons at certain locations are often very short and involve preliminary and final races requiring quick action in order for disciplinary action to be effective and in order to permit final races to be run without controversy as to the participants and winners. (12-1-95)T

d. Nationwide, participants in racing have become accustomed to, and acknowledge the need for, immediate authoritative decisions and quick disciplinary action. (12-1-95)T

02. Administrative Procedure of the Attorney General. Because of the factors described in Subsection 001.01, the Racing Commission has adopted these rules of procedures. Proceedings by the stewards shall be governed exclusively by these rules and shall supersede the Administrative Procedure of the Attorney General. Proceedings before

the Commission shall be governed by the Administrative Procedure of the Attorney General insofar as such provisions are not inconsistent with these rules. (12-1-95)T

002. APPLICABILITY.

These rules shall apply to all proceedings for disciplinary action of licensees and associated proceedings including disqualification. (12-1-95)T

003. DEFINITIONS.

01. Stewards. For the purpose of these rules "stewards" shall included judges as set forth in the Greyhound Racing Rules, IDAPA 11.04.03. (12-1-95)T

004. -- 009. (RESERVED).

010. PROCEEDINGS BY STEWARDS.

011. RIGHTS OF THE LICENSEE.

A person who is the subject of a disciplinary hearing conducted by the stewards is entitled to: (12-1-95)T

01. Proper Notice Of All Charges. (12-1-95)T
02. Confront The Evidence Presented. This includes: (12-1-95)T
 - a. The right to counsel at the person's expense; (12-1-95)T
 - b. The right to examine all evidence to be presented against him; (12-1-95)T
 - c. The right to present a defense; (12-1-95)T
 - d. The right to call witnesses; and (12-1-95)T
 - e. The right to cross examine witnesses. (12-1-95)T

012. COMPLAINTS.

01. Time For Filing. A complaint must be in writing and filed with the stewards not later than five (5) days after the action that is the subject of the complaint. (12-1-95)T

02. Hearing. On their own motion or on receipt of a complaint from an official or other person regarding the actions of a licensee, the stewards may conduct an inquiry and disciplinary hearing regarding a licensee's actions. (12-1-95)T

013. SUMMARY SUSPENSION.

01. Suspension. If the stewards determine that a licensee's actions constitute an immediate danger to the public health, safety or welfare, the stewards may summarily suspend the license pending a hearing. (12-1-95)T

02. Entitlement to Hearing. A licensee whose license has been summarily suspended is entitled to a hearing on the summary suspension not later than the third day after the license was summarily suspended. The licensee may waive his right to a hearing on the summary suspension within the three (3) day limit. (12-1-95)T

03. Issue at Hearing. The stewards shall conduct a hearing on the summary suspension in the same manner as other disciplinary hearings. At a hearing on a summary suspension, the sole issue is whether the licensee's license should remain suspended pending a final disciplinary hearing and ruling. (12-1-95)T

014. NOTICE.

01. Time. Except as provided by these rules regarding summary suspensions, the stewards shall provide written notice at least three (3) days before the hearing to a person who is the subject of a disciplinary hearing. The person may waive his right to notice by executing a written waiver. (12-1-95)T

02. Content of Notice. Notice given under this section must include: (12-1-95)T

a. A statement of the time, place and nature of the hearing; (12-1-95)T

b. A statement of the legal authority and jurisdiction under which the hearing is to be held; (12-1-95)T

c. A reference to the particular sections of the statutes or rules involved; (12-1-95)T

d. A short, plain description of the alleged conduct that has given rise to the disciplinary hearing; (12-1-95)T

e. The possible penalties that may be imposed; and (12-1-95)T

f. A statement summarizing the rights of the licensee as outlined in Subsections 011.02.a. through 02.e. (12-1-95)T

03. Service of Notice. If possible, the stewards or their designee shall hand deliver the written notice of the disciplinary hearing to the person who is the subject of the hearing. If hand delivery is not possible, the stewards shall mail the notice to the person's last known address, as found in the Commission's licensing files, by regular mail and by certified mail, return receipt requested. If the disciplinary hearing involves an alleged medication violation that could result in the disqualification of a horse or greyhound, the stewards shall provide notice of the hearing to the owner, managing owner or lessee of the horse or greyhound in the manner provided by this subsection. (12-1-95)T

04. Nonappearance. Nonappearance of a summoned party after adequate notice shall be construed as a waiver of the right to a hearing before the stewards. The stewards may suspend the license of a person who fails to appear at a disciplinary hearing after written notice of the hearing has been sent, in compliance with this subsection.

(12-1-95)T

015. CONTINUANCES.

01. Request for Continuance. Upon receipt of a notice, a person may request a continuance of the hearing. (12-1-95)T

02. Good Cause. The stewards may grant a continuance of any hearing for good cause shown. (12-1-95)T

03. Order of Continuance. The stewards may at any time order a continuance on their own motion. (12-1-95)T

016. EVIDENCE.

01. Evidence To Be Taken Under Oath. Each witness at a disciplinary hearing conducted by the stewards must be sworn by the presiding steward. (12-1-95)T

02. Rules of Evidence. The stewards shall allow a full presentation of evidence and are not bound by the technical rules of evidence. However, the stewards may disallow evidence that is irrelevant or unduly repetitive of other evidence. The stewards shall have the authority to determine, in their sole discretion, the weight and credibility of any evidence and/or testimony. The stewards may admit hearsay evidence if the stewards determine the evidence is of a type that is commonly relied on by reasonably prudent people. The rules of privilege recognized by state law apply in hearings before the stewards. (12-1-95)T

03. Burden of Proof. The burden of proof is on the person bringing the complaint to show, by a preponderance of the evidence, that the licensee has violated or is responsible for a violation of the Act or a Commission rule. (12-1-95)T

04. Record of Hearing. The stewards shall make a tape recording of a disciplinary hearing. A copy or a transcript of the recording may be made available at the expense of the requesting person. (12-1-95)T

017. RULING.

01. Majority Vote. The issues at a disciplinary hearing shall be decided by a majority vote of the stewards. If the vote is not unanimous, the dissenting steward shall include with the record of the hearing a written statement of the reason(s) for the dissent. (12-1-95)T

02. Form of Ruling. A ruling by the stewards must be on a form prescribed by the Commission and include: (12-1-95)T

a. The full name, social security number, date of birth, last record address, license type and license number of the person who is the subject of the hearing; (12-1-95)T

b. A statement of the charges against the person, including a reference to

the specific section of the Act or rules of the Commission that the licensee is found to have violated; (12-1-95)T

- c. The date of the hearing and the date the ruling was issued; (12-1-95)T
 - d. The penalty imposed; (12-1-95)T
 - e. Any changes in the order of finish or purse distribution; (12-1-95)T
 - f. Other information required by the Commission. (12-1-95)T
03. Signing of Ruling. A ruling must be signed by a majority of the stewards. (12-1-95)T

04. Service of Ruling. If possible, the stewards or their designee shall hand deliver a copy of the ruling to the person who is the subject of the ruling. If hand delivery is not possible, the stewards shall mail the ruling to the person's last known address, as found in the Commission's licensing files, by regular mail and by certified mail, return receipt requested. A copy of the ruling shall be sent to the Association of Racing Commissioners International, and if the ruling includes the disqualification of a horse or greyhound, the stewards shall provide a copy of the ruling to the owner of the horse or greyhound, the horsemen's bookkeeper, the appropriate past performance service(s) and the Association of Racing Commissioners International in the manner provided by this subsection. (12-1-95)T

05. Notice of Right of Appeal. At the time the stewards inform a person who is the subject of the proceeding of the ruling, the stewards shall inform the person of the person's right to appeal the ruling to the Commission. (12-1-95)T

06. Time for Payment of Fines. All fines imposed by the stewards shall be paid to the Commission within seventy-two (72) hours after the ruling is issued, unless otherwise ordered. (12-1-95)T

018. EFFECT OF RULINGS.

01. Effect on Other Persons. Rulings against a licensee apply to another person if continued participation in an activity by the other person would circumvent the intent of a ruling by permitting the person to serve, in essence, as a substitute for the ineligible licensee. (12-1-95)T

02. Transfer to Avoid Ruling. The transfer of a horse or greyhound to avoid application of a Commission rule or ruling is prohibited. (12-1-95)T

019. APPEALS.

01. Appeal to Commission. A person aggrieved by a ruling of the stewards may appeal to the Commission except as provided in Subsection 019.06 of this rule. A person who fails to file an appeal by the deadline and in the form required by this section waives the right to appeal. (12-1-95)T

02. Time. An appeal under this section must be filed with the Commission's executive director not later than five (5) days after the entry of the ruling. If the Commission determines the appeal to be frivolous, the appellant may be subject to a fine. (12-1-95)T

03. Form of Appeal. An appeal must be in writing on a form prescribed by the Commission. The appeal must include: (12-1-95)T

a. The name, address, telephone number and signature of the person making the appeal; and (12-1-95)T

b. A statement of the basis for the appeal. (12-1-95)T

04. Record for Appeal. On notification by the Commission that an appeal has been filed, the stewards shall forward to the Commission the record of the proceeding on which the appeal is based. (12-1-95)T

05. Payment of Fines During Appeal. If a person against whom a fine has been assessed files an appeal of the ruling that assesses the fine, the person shall pay the fine in accordance with these rules. If the appeal is disposed of in favor of the appellant, the Commission shall refund the amount of the fine. (12-1-95)T

06. No Appeal From Disqualification For Interference. A decision by the stewards regarding a disqualification for interference during the running of the race is final and may not be appealed to the Commission. (12-1-95)T

020. STAY.

01. Application for Stay. A person who has been disciplined by a ruling of the stewards may apply to the executive director for a stay of the ruling. (12-1-95)T

02. Time. An application for a stay must be filed with the Commission's executive director not later than the deadline for filing an appeal. (12-1-95)T

03. Form of Application. An application for a stay must be in writing and include: (12-1-95)T

a. The name, address and telephone number and signature of the person requesting the stay; and (12-1-95)T

b. A statement of the justification for the stay. (12-1-95)T

04. Grant or Denial of Stay. The executive director may grant a stay for cause. The executive director shall notify the person in writing of the decision. The executive director may rescind a stay granted under this subsection for reasonable cause. (12-1-95)T

05. Effect of Stay. The fact that a stay is granted is not a presumption that the ruling by the stewards is invalid. (12-1-95)T

021. HEARING ON APPEAL.

01. Nature of Hearing. The hearing of the Commission on appeal shall be limited to oral argument regarding issues of law and fact as may be found in the record established before the board of stewards, except, the Commission may order a *de novo* hearing if the Commissions determines that exceptional circumstances require it.

(12-1-95)T

02. Written Arguments. Written arguments and briefs or briefs and motions regarding the appeal shall be allowed under such terms as the Commission may direct in its notice of hearing, which shall be issued at least twenty-eight (28) days prior to the date set for hearing.

(12-1-95)T

03. Motions. Requests for postponement and other motions shall be filed in writing not later than seven (7) days before the scheduled hearing. The executive director may determine whether good cause is shown for the postponement and may grant or deny the request on behalf of the Commission.

(12-1-95)T

04. Record of Proceedings. A verbatim record of the proceedings at hearings before the Commission shall be maintained either by electrical devices or by stenographic means, as the Commission may direct, but if any party to the action requests a stenographic record of the proceedings, the record shall be done stenographically. The requesting party shall pay the costs of reporting the proceedings.

(12-1-95)T

05. Final Order. Following the hearing the Commission shall issue a final order as provided by Idaho Code Section 67-5246. If the Commission shall make its decision on the record, the executive director may sign the final order on behalf of the Commission.

(12-1-95)T

022. -- 029. (RESERVED).

030. PROCEEDINGS BY THE COMMISSION.

De novo hearings and other proceedings before the Commission shall be governed by the Administrative Procedure of the Attorney General insofar as such provisions are not inconsistent with these rules.

(12-1-95)T

031. -- 049. (RESERVED).

050. EJECTION/EXCLUSION.

01. Ruling Off. The stewards or Commission may order an individual ejected or excluded from all or part of any premises under the regulatory jurisdiction of the Commission if the stewards, executive director or Commission determine that:

(12-1-95)T

a. The individual may be ejected or excluded under the statutes or rules of this jurisdiction; and

(12-1-95)T

b. The individual's presence on association grounds is inconsistent with maintaining the honesty and integrity of racing.

(12-1-95)T

02. Hearing on Exclusion. An exclusion may be ordered separately or in conjunction with other disciplinary action taken by the stewards or Commission. If an exclusion is ordered separately, the excluded individual is entitled to a hearing before the stewards or Commission. A hearing on an exclusion shall be conducted in the same manner as other hearings conducted by the stewards or Commission. (12-1-95)T

03. Effect of Exclusion. If an individual is excluded under this section, a horse or greyhound owned or trained by or under the care or supervision of the individual is ineligible to be entered or to start in a race in this jurisdiction. (12-1-95)T

051. RULINGS IN OTHER JURISDICTIONS.

01. Reciprocity. The stewards shall honor rulings from other pari-mutuel jurisdictions regarding license suspensions, revocation or eligibility of horses or greyhounds. (12-1-95)T

02. Appeals of Reciprocal Rulings. (12-1-95)T

a. Persons subject to rulings in other jurisdictions shall have the right to request a hearing before the Commission to show cause why such ruling should not be enforced in this jurisdiction. (12-1-95)T

b. Any request for such hearing must clearly set forth in writing the reasons for the appeal. (12-1-95)T

052. -- 999. (RESERVED).

IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT
11.11.01 - RULES OF THE IDAHO PEACE OFFICERS STANDARDS
AND TRAINING COUNCIL

DOCKET NO. 11-1101-9503

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: The effective date of the temporary rule is December 1, 1995.

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and has proposed rule-making. The action is authorized pursuant to Title 25, Chapter 11, Idaho Code.

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

Public hearings 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 twenty-one (21) days after the first publication of this notice.

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

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the required finding and a concise statement of the supporting reasons for temporary rule-making and the substance of the proposed rule:

The Department of Law Enforcement finds that pursuant to Section 67-5226 (1), Idaho Code, these rules are necessary to protect the public health, safety, and welfare of Idaho, confers a benefit, and ensures the reasonable enforcement of the rules.

Current hearing standards are incomplete. The rule specifies the decibel range of acceptable hearing for POST Academy applicants, but does not specify the frequency range for normal speech. The proposed rule includes not only decibel ranges, but also three frequency ranges considered within the range of normal speech. The new rule continues to have a waiver provision upon application to the Council.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Mike Becar, at (208) 884-7250. 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 within twenty-one (21) days of the date of first publication of this notice.

DATED this 25th day of October, 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)

TEXT OF DOCKET NO. 11-1101-9503

057. PHYSICAL - MEDICAL.

01. Requirements. (7-1-93)

a. Height and Weight. Weight should be in proportion to height. Underweight and overweight candidates may be put on notice to correct this defect to retain candidacy. A chart approved by the Council indicating acceptable height and weight ranges will be furnished to the applicant and his department, to be completed by a licensed physician as part of the application process. If the applicant's weight is excessive, a skin fold measurement test will be required to determine body fat percentage. Male applicants whose body fat exceeds twenty-four (24) percent and female applicants whose body fat exceeds thirty (30) must correct this problem before entering the Academy. (7-1-93)

b. Hearing. ~~Applicant should possess normal hearing in each ear. Normal hearing varies from zero to twenty-five (0-25) decibels. Applicants must have unaided or aided binaural hearing with a Speech Reception Threshold (hearing loss for speech) that does not exceed twenty-five (25) db, in each ear, at the three (3) middle speaking frequencies of five-hundred (500) Hz, one thousand (1000) Hz and two thousand (2000) Hz (or an average in both ears of no greater than twenty-five (25) db for the same frequencies: five hundred (500), one thousand (1000), and two thousand (2000)).~~ Waiver to the above may be considered by the Council if accompanied by a hearing specialist's certification, that the applicant's hearing is corrected to zero to twenty-five (0-25).
(7-1-93)(12-1-95)T

c. Vision. (7-1-93)

i. Applicant must possess normal binocular coordination; depth of proficiency of a minimum of one (1) minute of arc at twenty (20) feet; peripheral vision shall be binocularly two hundred (200) degrees laterally with sixty (60) degrees upward and seventy (70) degrees downward. There must be no pathology of the eye; applicant must possess a minimum seventy (70) degrees proficiency of the Dvorine or equivalent color discrimination test. Exceptions may be made by the Council. (7-1-93)

ii. Applicants must have uncorrected vision in each eye of 20-200 with the strong eye corrected to 20-20 and the weaker eye corrected to 20-60. Applicants who wear contact lenses are exempt from the uncorrected vision of 20-200, but must have the strong eye corrected to 20-20 and the weaker eye to 20-60. Exceptions may be made by the Council. (7-1-93)

d. Medical. The applicant must be free from any impediments of the senses; physically sound, well developed physically and in possession of his extremities; free from any physical defects, chronic or organic diseases, organic or functional conditions, or mental instabilities which may tend to impair efficient performance of duty which might endanger the lives of others or the life of the officer if lacking these qualities. (7-1-93)

e. Physical Agility and Fitness Test. (7-1-93)

i. A physical agility and/or fitness test to determine the applicant's physical capability may be administered by the employing department to each applicant. (7-1-93)

ii. POST Council shall provide suggested fitness and agility tests to the departments upon request. (7-1-93)

02. Procedures. (7-1-93)

a. A medical history form will be supplied by each applicant to the examining physician. The medical history will include information on past and present diseases, injuries and operations. (7-1-93)

b. A medical examination must be administered by a licensed physician or surgeon to determine if the applicant is free from any physical, emotional or mental condition which might adversely affect the performance of duty as a peace officer. The physician shall record his findings on the appropriate form or letter and shall note thereon, for evaluation by the hiring authority, any past or present physical defects, diseases, injuries, operations or conditions of an abnormal or unusual nature, or indications of mental or emotional instability. (7-1-93)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.11 - RULES GOVERNING FISH

DOCKET NO. 13-0111-9501

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective October 6, 1995.

ACTION: The action, under Docket No. 13-0111-9501, concerns the rules governing the Idaho Fish and Game Commission, IDAPA 13, Title 01 Chapter 11, Rules Governing Fish in the state of Idaho.

AUTHORITY: In compliance with Sections 67-5221 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule and proposed rule-making. The action is authorized pursuant to Sections 36-104(b), 36-105(3), and 36-901, Idaho Code.

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

This rule sets the fall steelhead seasons and limits based on returning fish counts.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Ed Bowles, 600 South Walnut, Boise, Idaho 83707, (208) 334-3791.

DATED this 25th day of October 1995.

W. Dallas Burkhalter, Deputy Attorney General
P.O. Box 25, Boise, ID 83707
(208) 334-3715/FAX (208) 334-2148

TEXT OF DOCKET NO. 13-0111-9501

506. FALL SEASONS AND LIMITS.

Daily bag, possession, and season limits are not cumulative limits. An angler may take a total of ten (10) steelhead during the fall season. Any person may fish for steelhead on a catch-and-release basis August 1 through December 31 in any water open to trout fishing EXCEPT in the Middle and South Forks of the Salmon River. (1-1-94)

01. Salmon River. From its mouth upstream to Redfish Lake Creek. Steelhead are the only game fish that may be kept between Horse Creek and the Pahsimeroi River during the steelhead season. (1-1-94)

a. Season: September 1-December 31. (7-1-93)

- b. Limits: Two (2) per day, four (4) in possession, ten (10) per season. (1-1-94)
02. Little Salmon River. From its mouth upstream to the U.S. Highway 95 Bridge near Smokey Boulder Road. (7-1-93)
- a. Season: September 1-December 31. (7-1-93)
- b. Limits: Two (2) per day, four (4) in possession, ten (10) per season. (1-1-94)
03. Snake River. From the Washington state line at the confluence of the Snake and Clearwater rivers upstream to ~~Oxbow Hells Canyon Dam~~ the Washington-Oregon state line. ~~(1-1-94)~~(10-6-95)T
- a. Season: September 1-December 31. (7-1-93)
- b. Limits: Two (2) per day, four (4) in possession, ten (10) per season. None over 30 inches. ~~(7-1-93)~~(10-6-95)T
- e. ~~Special Restriction: Fishing from a boat within one hundred fifty 150 yards of Hells Canyon Dam is prohibited.~~ ~~(7-1-93)~~
04. Snake River. From the Washington-Oregon state line upstream to Hells Canyon Dam. (10-6-95)T
- a. Season: September 1-December 31. (10-6-95)T
- b. Limits: Two (2) per day, four (4) in possession, ten (10) per season. (10-6-95)T
- c. Special Restriction: fishing from a boat within one hundred fifty (150) yards of Hells Canyon Dam is prohibited. (10-6-95)T
045. Clearwater River. From its mouth upstream to the Memorial Bridge of U.S. Highway 12 at Lewiston. (7-1-93)
- a. Season: September 1-December 31. (7-1-93)
- b. Limits: Two (2) per day, four (4) in possession, ten (10) per season. None over 30 inches. ~~(7-1-93)~~(10-6-95)T
056. Clearwater River and Middle Fork Clearwater River. From the Memorial Bridge of U.S. Highway 12 at Lewiston upstream to a posted line one hundred fifty (150) yards downstream to the mouth of Clear Creek; South Fork Clearwater River from its mouth upstream to the confluence of American and Red rivers; and the North Fork of the Clearwater River from its mouth upstream to Dworshak Dam. (7-1-93)
- a. Season: October 15-December 31. (7-1-93)

b. Limits: ~~Two (2) per day, four (4) in possession, ten (10) per season.~~
CLOSED TO HARVEST. (7-1-93)(10-6-95)T

c. Special Restrictions: (7-1-93)

i. Fishing from the shoreline along the perimeter of Dworshak National Fish Hatchery is prohibited. (7-1-93)

ii. Fishing from motorized watercraft is PROHIBITED from the Clearwater River Bridge at Orofino upstream to the mouth of Clear Creek. (7-1-93)

iii. Fishing from any watercraft is PROHIBITED between a posted line approximately one hundred fifty (150) yards upstream from the mouth of the North Fork of the Clearwater River and the Ahsahka Highway Bridge. (7-1-93)

067. Boise River. From its mouth upstream to Barber Dam. (1-1-94)

a. Season: September 1-December 31. (1-1-94)

b. Limits: Two (2) per day, four (4) per possession, ten (10) per season. (1-1-94)

c. Special Restrictions: Rainbow trout over 20 inches which have been marked by clipping the adipose fin are classified as steelhead and MUST be entered on a steelhead permit immediately after being reduced to possession. (1-1-94)

078. Payette River. From its mouth upstream to Black Canyon Dam. (1-1-94)

a. Season: September 1-December 31. (1-1-94)

b. Limits: Two (2) per day, four (4) in possession, ten (10) per season (1-1-94)

c. Special Restrictions: Rainbow trout over twenty (20) inches which have been marked by clipping the adipose fin are classified as steelhead and MUST be entered on a steelhead permit immediately after being reduced to possession. (1-1-94)

089. Snake River. From Hells Canyon Dam upstream to Oxbow Dam. (1-1-94)

a. Season: September 1-December 31. (1-1-94)

b. Limits: Two (2) per day, four (4) in possession, ten (10) per season. (1-1-94)

c. Special Restrictions: Rainbow trout over twenty (20) inches which have been marked by clipping the adipose fin are classified as steelhead and MUST be entered on a steelhead permit immediately after being reduced to possession. (1-1-94)

(Adopted August 14, 1985; amended October 23, 1985; amended August 21, 1986, effective August 30, 1986; amended October 8, 1986, effective October 8, 1986; amended December 5, 1986, effective January 1, 1987; amended August 7, 1987, effective September 1, 1987; amended August 27, 1987, effective September 1, 1987; re-adopted October 9, 1987, effective immediately; amended December 4, 1987, effective January 1, 1988; adopted August 23, 1988, effective September 1, 1988; amended August 21, 1989, effective September 12, 1989; adopted August 16, 1990, effective September 10, 1990; adopted August 15, 1991, effective September 9, 1991; adopted August 13, 1992, effective September 6, 1992.)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 16-0101-9505

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 39-105 and 39-107, Idaho Code.

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

Tuesday, January 9, 1996, 7:00 p.m.
Division of Environmental Quality, Conference Center
1410 N. Hilton, Boise, 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:

This proposed rule combines a number of issues into a single docket. This has been done for economy and efficiency of rulemaking efforts. While this proposed rule incorporates by reference a number of federal documents, the rule does not result from federal requirements.

Total Suspended Particulates (TSP): This proposed rule will remove TSP as a category of regulated criteria pollutants. This category was superseded in the federal regulations by particulate matter 10 microns or less in size (PM-10). Current Idaho rules regulate both TSP and PM-10. The rule change will bring Idaho rules into conformance with federal regulations.

New major source application procedure error: A long standing error exists in Subsection 202.01.c.viii. (Application Procedures for new major facilities in attainment or unclassified area requirements for monitoring increases of criteria pollutants). The error in wording inappropriately precludes any monitoring requirements and may preclude other analysis of the effects of increases in ambient concentrations of the listed pollutants. This wording is inconsistent with other subsections and was not the intent of the rule, nor is it the way the rule has been historically applied. The proposed wording of Subsection 202.01.c.viii. will not change the way that the subsection has been applied but will correct the problem with the current wording.

Routine update of documents incorporated by reference: Annual or other periodic updates of incorporated documents are necessary to maintain conformance with federal regulations. This proposed rule updates a number of state and federal documents that have been previously incorporated by reference into the Rules for the Control of Air Pollution in Idaho as well as incorporating currently applicable maximum achievable control technology (MACT) standards.

Volatile organic compound (VOC) definition: This rulemaking is also in response to two Petitions for Adoption of Rules filed with the Idaho Department of Health and Welfare by the Chemical Manufacturer's Association (CMA) and Dow Corning Corporation (Dow). In its Petition, CMA requested that the Idaho Department of Health and Welfare, Division of Environmental Quality (DEQ) delete acetone from its definition of VOC. In its Petition, Dow requested that DEQ delete volatile methyl siloxanes from its definition of VOC. The Idaho Rules for the Control of Air Pollution in Idaho do not specifically define VOCs as they relate to tropospheric (ground level) ozone production. Ozone at ground level is an air pollutant. This should not be confused with stratospheric (upper atmosphere) ozone which helps protect the earth from the harmful effects of ultraviolet radiation from the sun. In response to the Petitions filed by CMA and Dow, the proposed rule incorporates by reference the revised federal regulation which defines VOC, thereby eliminating acetone and methyl siloxanes from DEQ's definition of VOC as requested by the Petitioners.

In response to the Petition filed by Dow, a Notice of Intent to Promulgate (Negotiated Rulemaking) was published in the April 1995 Administrative Bulletin requesting comments from the public. No comments were received. With respect to the other issues included in this proposed rule, negotiated rulemaking has not been conducted because of the simple nature of the proposed rule change.

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.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule-making, contact Tim Teater at (208)373-0502.

Anyone can submit written comment regarding this proposed rule. All written comments must be received by the undersigned on or before January 12, 1996.

DATED this 6th day of December, 1995.

Paula Junae Saul
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
Fax No. (208) 373-0481
Phone No. (208) 373-0418

TEXT OF DOCKET NO. 16-0101-9501

006. GENERAL DEFINITIONS.

01. (RESERVED). (3-7-95)
02. Act. The Environmental Protection and Health Act of 1972 as amended (Sections 39-101 through 39-130, Idaho Code). (5-1-94)
03. Actual Emissions. The emission rate, in mass per unit time, of an air pollutant from a stationary source or emissions unit, averaged over the two (2) year period which is representative of normal operation and which precedes a particular date or the date on which an application for a permit was filed. Actual emissions shall be calculated using actual operating hours, production rates, and types of materials processed, stored, or combusted during this time period, except that: (5-1-94)
- a. The Department may allow the use of a different time period upon a determination that it is more representative of normal operation; (5-1-94)
- b. The Department may consider emission rates specifically allowed in a permit to construct or operating permit to be equivalent to actual emissions if the State Implementation Plan demonstration of attainment and/or maintenance is explicitly based on the permitted emissions; and (5-1-94)
- c. For any stationary source or emissions unit which has not yet begun normal operations, actual emissions shall be considered to be those allowed in the applicable permit to construct or operating permit. (5-1-94)
04. Air Pollutant/Air Contaminant. Any substance, including but not limited to, dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon or particulate matter or any combination thereof, regulated under the Act, 42 U.S.C. Sections 7401 through 7671q. these rules or any federal air quality regulation. (5-1-94)
05. Air Quality. The specific measurement in the ambient air of a particular air pollutant at any given time. (5-1-94)
06. Air Quality Criterion. The information used as guidelines for decisions when establishing air quality goals and air quality standards. (5-1-94)
07. Ambient Air. That portion of the atmosphere, external to buildings, to which the general public has access. (5-1-94)
08. Ambient Air Quality Violation. Any single ambient concentration of any air pollutant that exceeds any national, state or local ambient air quality standard at any point in an area outside the source property line. (5-1-94)
09. Atmospheric Stagnation Advisory. An air pollution alert declared by the Department when air pollutant impacts have been observed and/or meteorological conditions are conducive to additional air pollutant buildup. (5-1-94)
10. Attainment Area. Any area which is designated, pursuant to 42 U.S.C.

Section 7407(d), as having ambient concentrations equal to or less than national primary or secondary ambient air quality standards for a particular air pollutant or air pollutants. (5-1-94)

11. Baseline (Area, Concentration, Date). See Section 579. (5-1-94)

12. Best Available Control Technology (BACT). An emission standard (including a visible emissions standard) based on the maximum control of emissions achievable through application of production processes or available methods, systems, and techniques (including fuel cleaning or treatment or innovative fuel combination techniques) for control of such contaminants. BACT shall be determined on a case-by-case basis, taking into account energy, environmental and economic impacts, and other costs, and shall be at least as stringent as any applicable Sections of 40 CFR Part 60, 40 CFR Part 61 and 40 CFR Part 63. If an emissions standard is infeasible, a design, equipment, work practice, operational standard or combination thereof, may be prescribed as BACT. (5-1-94)

13. Board. Idaho Board of Health and Welfare. (5-1-94)

14. Breakdown. An unplanned and unforeseeable failure of any air pollution control equipment or emissions unit, including process equipment, which may cause excess emissions where such failure is not intentional or the result of negligence or improper maintenance. (5-1-94)

15. BTU. British thermal unit. (5-1-94)

16. Clean Air Act. The federal Clean Air Act, 42 U.S.C. Sections 7401 through 7671q. (5-1-94)

17. Collection Efficiency. The overall performance of the air cleaning device in terms of ratio of materials collected to total input to the collector unless specific size fractions of the contaminant are stated or required. (5-1-94)

18. Commence Construction or Modification. To engage in a continuous program of construction or modification, or to engage in a program of planned grading, dredging, or landfilling, specifically designed for the stationary source or facility in preparation of the fabrication, erection, or installation of the building components of the stationary source or facility. For the purpose of this definition, delays or interruptions resulting from natural disasters, strikes, litigation, and other matters beyond the control of the owner, shall be disregarded in determining whether a construction or a modification program has commenced and/or is continuous. (5-1-94)

19. Complete. A determination made by the Department that all information needed to process a permit application has been submitted for review. (5-1-94)

20. Construction. Fabrication, erection, installation, or modification of a stationary source or facility. (5-1-94)

21. Control Equipment. Any method, process or equipment which removes, reduces or renders less noxious, air pollutants discharged into the atmosphere. (5-1-94)

22. Controlled Emission. An emission which has been treated by control equipment to remove all or part of an air pollutant before release to the atmosphere. (5-1-94)
23. Criteria Air Pollutant. Any of the following: PM-10; ~~total suspended particulates (TSP);~~ sulfur oxides; ozone, nitrogen dioxide; carbon monoxide; fluorides; lead. (5-1-94)()
24. Department. The Department of Health and Welfare. (5-1-94)
25. Designated Facility. Any of the following facilities: (5-1-94)
- a. Fossil-fuel fired steam electric plants of more than two hundred fifty (250) million BTU's per hour heat input; (5-1-94)
- b. Coal cleaning plants (thermal dryers); (5-1-94)
- c. Kraft pulp mills; (5-1-94)
- d. Portland cement plants; (5-1-94)
- e. Primary zinc smelters; (5-1-94)
- f. Iron and steel mill plants; (5-1-94)
- g. Primary aluminum ore reduction plants; (5-1-94)
- h. Primary copper smelters; (5-1-94)
- i. Municipal incinerators capable of charging more than two hundred and fifty (250) tons of refuse per day; (5-1-94)
- j. Hydrofluoric, sulfuric, and nitric acid plants; (5-1-94)
- k. Petroleum refineries; (5-1-94)
- l. Lime plants; (5-1-94)
- m. Phosphate rock processing plants; (5-1-94)
- n. Coke oven batteries; (5-1-94)
- o. Sulfur recovery plants; (5-1-94)
- p. Carbon black plants (furnace process); (5-1-94)
- q. Primary lead smelters; (5-1-94)
- r. Fuel conversion plants; (5-1-94)

- s. Sintering plants; (5-1-94)
 - t. Secondary metal production facilities; (5-1-94)
 - u. Chemical process plants; (5-1-94)
 - v. Fossil-fuel boilers (or combination thereof) of more than two hundred and fifty (250) million BTU's per hour heat input; (5-1-94)
 - w. Petroleum storage and transfer facilities with a capacity exceeding three hundred thousand (300,000) barrels; (5-1-94)
 - x. Taconite ore processing facilities; (5-1-94)
 - y. Glass fiber processing plants; and (5-1-94)
 - z. Charcoal production facilities. (5-1-94)
26. Director. The Director of the Department of Health and Welfare or his designee. (5-1-94)
27. Effective Dose Equivalent. The sum of the products of absorbed dose and appropriate factors to account for differences in biological effectiveness due to the quality of radiation and its distribution in the body of reference man. The unit of the effective dose equivalent is the rem. It is generally calculated as an annual dose. (5-1-94)
28. Emission. Any controlled or uncontrolled release or discharge into the outdoor atmosphere of any air pollutants or combination thereof. Emission also includes any release or discharge of any air pollutant from a stack, vent, or other means into the outdoor atmosphere that originates from an emission unit. (5-1-94)
29. Emission Standard. A permit or regulatory requirement established by the Department, or a requirement contained in 40 CFR Part 60, 40 CFR Part 61, 40 CFR Part 63 or the State Implementation Plan (SIP), which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures to assure continuous emission control. (5-1-94)
30. Emission Standard Violation. Any emission rate that exceeds the applicable source-specific emission standard or any action or inaction that contravenes any source-specific opacity limit, equipment requirement, fuel specification or required operation or maintenance procedures. (5-1-94)
31. Emissions Unit. An identifiable piece of process equipment or other part of a facility which emits or may emit any air pollutant. This definition does not alter or affect the term "unit" for the purposes of 42 U.S.C. Sections 7651 through 7651o. (5-1-94)
32. EPA. The United States Environmental Protection Agency and its

Administrator or designee. (5-1-94)

33. Environmental Remediation Source. A stationary source that functions to remediate or recover any release, spill, leak, discharge or disposal of any petroleum product or petroleum substance, any hazardous waste or hazardous substance from any soil, ground water or surface water, and shall have an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. Nothing in this definition shall be construed so as to actually limit remediation projects to five years or less of total operation. (5-1-95)

34. Existing Stationary Source or Facility. Any stationary source or facility that exists, is installed, or is under construction on the original effective date of any applicable provision of this chapter. (5-1-94)

35. Facility. All of the combined sources which emit air pollutants, belong to the same industrial grouping (using the Major Groups as described in the Standard Industrial Classification Manual), are located on one or more contiguous or adjacent properties, and are owned or operated by the same person or by persons under common control. (5-1-94)

36. Federal Class I Area. Any federal land that is classified or reclassified "Class I" pursuant to Section 580. (5-1-94)

37. Federal Land Manager. The Secretary of the federal department with authority over any federal lands in the United States. (5-1-94)

38. Fire Hazard. The presence or accumulation of combustible material of such nature and in sufficient quantity that its continued existence constitutes an imminent and substantial danger to life, property, public welfare or adjacent lands. (5-1-94)

39. Fuel-Burning Equipment. Any furnace, boiler, apparatus, stack and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer. (5-1-94)

40. Fugitive Dust. Fugitive emissions composed of particulate matter. (5-1-94)

41. Fugitive Emissions. Those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. (5-1-94)

42. Garbage. Any waste consisting of putrescible animal and vegetable materials resulting from the handling, preparation, cooking and consumption of food including, but not limited to, waste materials from households, markets, storage facilities, handling and sale of produce and other food products. (5-1-94)

43. Grain Elevator. Any plant or installation at which grain is unloaded, handled, cleaned, dried, stored, or loaded. (5-1-94)

44. Grain Storage Elevator. Any grain elevator located at any wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean extraction

plant which has a permanent grain storage capacity of 35,200 cubic meters (ca. 1 million bushels). (5-1-94)

45. Grain Terminal Elevator. Any grain elevator which has a permanent storage capacity of more than 88,100 cubic meters (ca. 2.5 million bushels), except those located at animal food manufacturers, pet food manufacturers, cereal manufacturers, breweries, and livestock feedlots. (5-1-94)

46. Hazardous Air Pollutant (HAP). Any air pollutant which is regulated at its emitting source by 42 U.S.C. Section 7412, 40 CFR Part 61 or 40 CFR Part 63. (5-1-94)

47. Hazardous Waste. Any waste or combination of wastes of a solid, liquid, semisolid, or contained gaseous form which, because of its quantity, concentration or characteristics (physical, chemical or biological) may: (5-1-94)

a. Cause or significantly contribute to an increase in deaths or an increase in serious, irreversible, or incapacitating reversible illnesses; or (5-1-94)

b. Pose a substantial threat to human health or to the environment if improperly treated, stored, disposed of, or managed. Such wastes include, but are not limited to, materials which are toxic, corrosive, ignitable, or reactive, or materials which may have mutagenic, teratogenic, or carcinogenic properties; provided that such wastes do not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are allowed under a national pollution discharge elimination system permit, or source, special nuclear, or by-product material as defined by 42 U.S.C. Sections 2014(e),(z) or (aa). (5-1-94)

48. Hot-Mix Asphalt Plant. Those facilities conveying proportioned quantities or batch loading of cold aggregate to a drier, and heating, drying, screening, classifying, measuring and mixing the aggregate and asphalt for the purpose of paving, construction, industrial, residential or commercial use. (5-1-94)

49. Incinerator. Any source consisting of a furnace and all appurtenances thereto designed for the destruction of refuse by burning. "Open Burning" is not considered incineration. For purposes of these rules, the destruction of any combustible liquid or gaseous material by burning in a flare stack shall be considered incineration. (5-1-94)

50. Indian Governing Body. The governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government. (5-1-94)

51. Indian Reservation. Any federally recognized reservation established by treaty, agreement, executive order, or act of Congress. (5-1-94)

52. Kraft Pulping. Any pulping process which uses, for a cooking liquor, an alkaline sulfide solution containing sodium hydroxide and sodium sulfide. (5-1-94)

53. Lowest Achievable Emission Rate (LAER). The rate of emissions based

on the most stringent of the following: (5-1-94)

a. The most stringent emission standard which has been demonstrated in practice by similar stationary sources, facilities, or operations; (5-1-94)

b. The most stringent emission standard in any state implementation plan for similar stationary sources, facilities or operations, unless the owner or operator of the proposed facility demonstrates that such standards are not achievable; or (5-1-94)

c. Any applicable provision in 40 CFR Part 60. (5-1-94)

54. Major Facility. (5-1-94)

a. Any facility which has actual or allowable emissions of one hundred (100) tons per year or more of any air pollutant. (5-1-94)

b. Fugitive dust shall be included in the determination of emissions only for designated facilities and those source categories regulated under 40 CFR Part 60, 40 CFR Part 61, or 40 CFR Part 63. (5-1-94)

55. Major Modification. (5-1-94)

a. Any modification of a major facility that would result in a significant net emission increase of any air pollutant; or (5-1-94)

b. Any modification of a facility that would result in a potential emissions increase of any air pollutant of one hundred (100) tons per year or more; (5-1-94)

c. Fugitive dust shall be included in the determination of emissions only for designated facilities and those source categories regulated under 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63. (5-1-94)

56. Member of the Public. For purposes of Section 006.878.a.xx, a person located at any off-site point where there is a residence, school, business or office. (11-20-95)F()

57. Modification. Any physical change in, or change in the method of operation of, a stationary source or facility which increases the amount of any air pollutant to which an emission or ambient air quality standard applies emitted by such stationary source or facility or which results in the emission of any air pollutant to which an emission or ambient air quality standard applies not previously emitted except that routine maintenance, repair and replacement shall not be considered physical changes, and the following shall not be considered a change in the method of operation: (5-1-94)

a. An increase in the production rate if such increase does not exceed the operating design capacity of the affected stationary source, and if a more restrictive production rate is not specified in a permit; (5-1-94)

b. An increase in hours of operation if more restrictive hours of operation are not specified in a permit; and (5-1-94)

c. Use of an alternative fuel or raw material if prior to January 6, 1975 and the date any emission or ambient air quality standard becomes applicable to such stationary source, the affected stationary source is specifically designed to accommodate such alternative use and is not specifically prohibited in a permit. (5-1-94)

58. Monitoring. Sampling and analysis, in a continuous or noncontinuous sequence, using techniques which will adequately measure emission levels and/or ambient air concentrations of air pollutants. (5-1-94)

59. Multiple Chamber Incinerator. Any article, machine, equipment, contrivance, structure or part of a structure used to dispose of combustible refuse by burning, consisting of three (3) or more refractory lined combustion furnaces in series physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate parameters necessary for maximum combustion of the material to be burned. (5-1-94)

60. New Stationary Source or Facility. (5-1-94)

a. Any stationary source or facility, the construction or modification of which is commenced after the original effective date of any applicable provision of this chapter; or (5-1-94)

b. The restart of a nonoperating facility shall be considered a new stationary source or facility if: (5-1-94)

i. The restart involves a modification to the facility; or (5-1-94)

ii. After the facility has been in a nonoperating status for a period of two (2) years, and the Department receives an application for a Permit to Construct in the area affected by the existing nonoperating facility, the Department will, within five (5) working days of receipt of the application notify the nonoperating facility of receipt of the application for a Permit to Construct. Upon receipt of this Departmental notification, the nonoperating facility will comply with the following restart schedule or be considered a new stationary source or facility when it does restart: Within thirty (30) working days after receipt of the Department's notification of the application for a Permit to Construct, the nonoperating facility shall provide the Department with a schedule detailing the restart of the facility. The restart must begin within sixty (60) days of the date the Department receives the restart schedule. (5-1-94)

61. Nonattainment Area. Any area which is designated, pursuant to 42 U.S.C. Section 7407(d), as not meeting (or contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant. (5-1-94)

62. Noncondensibles. Gases and vapors from processes that are not condensed at standard temperature and pressure unless otherwise specified. (5-1-94)

63. Odor. The sensation resulting from stimulation of the human sense of smell. (5-1-94)

64. Opacity. A state which renders material partially or wholly impervious to rays of light and causes obstruction of an observer's view, expressed as percent. (5-1-94)

65. Open Burning. The burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through a stack, duct or chimney. (5-1-94)

66. Operating Permit. A permit issued by the Director pursuant to Sections 300 through 387 and/or 400 through 461. (5-1-94)

67. Particulate Matter. Any material, except water in uncombined form, that exists as a liquid or a solid at standard conditions. (5-1-94)

68. Particulate Matter Emissions. All particulate matter emitted to the ambient air as measured by an applicable reference method, or any equivalent or alternative method, specified in the Procedures Manual for Air Pollution Control. (5-1-94)

69. Permit to Construct. A permit issued by the Director pursuant to Sections 200 through 225. (5-1-94)

70. Person. Any individual, association, corporation, firm, partnership or any federal, state or local governmental entity. (5-1-94)

71. PM-10. All particulate matter in the ambient air with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers as measured by a reference method based on Appendix J of 40 CFR Part 50 and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53. (5-1-94)

72. PM-10 Emissions. All particulate matter, including condensable particulates, with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method, specified in the Procedures Manual for Air Pollution Control. (5-1-94)

73. Potential to Emit/Potential Emissions. The maximum capacity of a facility to emit an air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit an air pollutant, provided the limitation or its effect on emissions is state and federally enforceable, shall be treated as part of its design. Limitations may include, but are not limited to, air pollution control equipment, restrictions on hours of operation and restrictions on the type or amount of material combusted, stored or processed. This definition does not alter or affect the term "capacity factor" as defined in 42 U.S.C. Sections 7651 through 7651o. (5-1-94)

74. Portable Equipment. Equipment which is designed to be dismantled and transported from one job site to another job site. (5-1-94)

75. PPM (parts per million). Parts of a gaseous contaminant per million parts of gas by volume. (5-1-94)

76. Prescribed Fire Management Burning. The controlled application of fire to wildland fuels in either their natural or modified state under such conditions of weather, fuel moisture, soil moisture, etc., as will allow the fire to be confined to a predetermined area and at the same time produce the intensity of heat and rate of spread required to accomplish planned objectives, including: (5-1-94)

- a. Fire hazard reduction; (5-1-94)
 - b. The control of pests, insects, or diseases; (5-1-94)
 - c. The promotion of range forage improvements; (5-1-94)
 - d. The perpetuation of natural ecosystems; (5-1-94)
 - e. The disposal of woody debris resulting from a logging operation, the clearing of rights of way, a land clearing operation, or a driftwood collection system; (5-1-94)
 - f. The preparation of planting and seeding sites for forest regeneration; (5-1-94)
- and
- g. Other accepted natural resource management purposes. (5-1-94)

77. Primary Ambient Air Quality Standard. That ambient air quality which, allowing an adequate margin of safety, is requisite to protect the public health. (5-1-94)

78. Process or Process Equipment. Any equipment, device or contrivance for changing any materials whatever or for storage or handling of any materials, and all appurtenances thereto, including ducts, stack, etc., the use of which may cause any discharge of an air pollutant into the ambient air but not including that equipment specifically defined as fuel-burning equipment or refuse-burning equipment. (5-1-94)

79. Process Weight. The total weight of all materials introduced into any source operation which may cause any emissions of particulate matter. Process weight includes solid fuels charged, but does not include liquid and gaseous fuels charged or combustion air. Water which occurs naturally in the feed material shall be considered part of the process weight. (5-1-94)

80. Process Weight Rate. The rate established as follows: (5-1-94)

a. For continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof; (5-1-94)

b. For cyclical or batch source operations, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period. Where the nature of any process or

operation or the design of any equipment is such as to permit more than one interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply. (5-1-94)

81. Radionuclide. A type of atom which spontaneously undergoes radioactive decay. (5-1-94)

82. Responsible Official. One of the following: (5-1-94)

a. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either: (5-1-94)

i. The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or (5-1-94)

ii. The delegation of authority to such representative is approved in advance by the Department. (5-1-94)

b. For a partnership or sole proprietorship: a general partner or the proprietor, respectively. (5-1-94)

c. For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of Section 122, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA). (5-1-94)

d. For Phase II sources: (5-1-94)

i. The designated representative in so far as actions, standards, requirements, or prohibitions under 42 U.S.C. Sections 7651 through 7651o or the regulations promulgated thereunder are concerned; and (5-1-94)

ii. The designated representative for any other purposes under 40 CFR Part 70. (5-1-94)

83. Safety Measure. Any shutdown (and related start-up) or bypass of control equipment, process equipment or normal processes undertaken to prevent imminent injury or death to employees or severe damage to equipment which may cause excess emissions where such measure is not necessitated by negligence or improper maintenance. (11-20-95)T

834. Salvage Operation. Any source consisting of any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, such as, but not limited to, reprocessing of used motor oils, metals, chemicals, shipping containers, or drums, and specifically including automobile graveyards and junkyards.

(5-1-94)

845. Scheduled Maintenance. Planned upkeep, repair activities and preventative maintenance on any air pollution control equipment or emissions unit, including process equipment, and including shutdown and start-up of such equipment.

(11-20-95)T

856. Secondary Ambient Air Quality Standard. That ambient air quality which is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of air pollutants in the ambient air. (5-1-94)

867. Shutdown. The normal and customary time period required to cease operations of air pollution control equipment or an emissions unit beginning with the initiation of procedures to terminate normal operation and continuing until the termination is completed. (5-1-94)

878. Significant. A rate of air pollutant emissions that would equal or exceed any of the following: (5-1-94)

- a. Air pollutant emissions and rate: (5-1-94)
- i. Carbon monoxide, one hundred (100) tons per year; (5-1-94)
- ii. Nitrogen oxides, forty (40) tons per year; (5-1-94)
- iii. Sulfur dioxide, forty (40) tons per year; (5-1-94)
- iv. Particulate matter, twenty-five (25) tons per year; (5-1-94)
- v. Ozone, forty (40) tons per year of volatile organic compounds as a measure of ozone; (5-1-94)
- vi. Lead, six-tenths (0.6) of a ton per year; (5-1-94)
- vii. Asbestos, seven-thousandths (0.007) of a ton per year; (5-1-94)
- viii. Beryllium, four ten-thousandths (0.0004) of a ton per year; (5-1-94)
- ix. Mercury, one-tenth (0.1) of a ton per year; (5-1-94)
- x. Vinyl chloride, one (1) ton per year; (5-1-94)
- xi. Fluorides, three (3) tons per year; (5-1-94)
- xii. Sulfuric acid mist, seven (7) tons per year; (5-1-94)
- xiii. Hydrogen sulfide (H₂S), ten (10) tons per year; (5-1-94)
- xiv. Total reduced sulfur (including H₂S), ten (10) tons per year; (5-1-94)

- xv. Reduced sulfur compounds (including H₂S), ten (10) tons per year; (5-1-94)
- xvi. PM-10, fifteen (15) tons per year; (5-1-94)
- xvii. Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans), thirty-five ten-millionths (0.0000035) tons per year; (5-1-94)
- xviii. Municipal waste combustor metals (measured as particulate matter), fifteen (15) tons per year; (5-1-94)
- xix. Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride), forty (40) tons per year; (5-1-94)
- xx. Radionuclides, a quantity of emissions, from source categories regulated by 40 CFR Part 61, Subpart H, that have been determined in accordance with 40 CFR Part 61, Appendix D and by Department approved methods, that would cause any member of the public to receive an annual effective dose equivalent of at least 0.1 mrem per year, if total facility-wide emissions contribute an effective dose equivalent of less than three (3) mrem per year; or any radionuclide emission rate, if total facility-wide radionuclide emissions contribute an effective dose equivalent of greater than or equal to three (3) mrem per year; (5-1-95)
- b. In reference to a net emissions increase or the potential of a source or facility to emit an air pollutant not listed in (a) above and not a toxic air pollutant, any emission rate; or (5-1-94)
- c. For a major facility or major modification which would be constructed within ten (10) kilometers of a Class I area, the emissions rate which would increase the ambient concentration of an emitted air pollutant in the Class I area by one (1) microgram per cubic meter, twenty-four (24) hour average, or more. (5-1-94)
889. Significant Contribution. Any increase in ambient concentrations which would exceed the following: (5-1-94)
- a. Sulfur dioxide: (5-1-94)
- i. One (1.0) microgram per cubic meter, annual average; (5-1-94)
- ii. Five (5) micrograms per cubic meter, twenty-four (24) hour average; (5-1-94)
- iii. Twenty-five (25) micrograms per cubic meter, three (3) hour average; (5-1-94)
- b. Total suspended particulates: (5-1-94)
- i. One (1.0) microgram per cubic meter, annual average; (5-1-94)

- ii. Five (5) micrograms per cubic meter, twenty-four (24) hour average; (5-1-94)
- c. Nitrogen dioxide, one (1.0) microgram per cubic meter, annual average; (5-1-94)
- d. Carbon monoxide: (5-1-94)
- i. One-half (0.5) milligrams per cubic meter, eight (8) hour average; (5-1-94)
- ii. Two (2) milligrams per cubic meter, one (1) hour average; (5-1-94)
- e. PM-10: (5-1-94)
- i. One (1.0) microgram per cubic meter, annual average; (5-1-94)
- ii. Five (5.0) micrograms per cubic meter, twenty-four (24) hour average. (5-1-94)

890. Small Fire. A fire in which the material to be burned is not more than four (4) feet in diameter nor more than three (3) feet high. (5-1-94)

901. Smoke. Small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon and other combustible material. (5-1-94)

942. Smoke Management Plan. A document issued by the Director to implement Sections 606 through 616, Categories of Allowable Burning. (5-1-94)

923. Smoke Management Program. A program whereby meteorological information, fuel conditions, fire behavior, smoke movement and atmospheric dispersal conditions are used as a basis for scheduling the location, amount and timing of open burning operations so as to minimize the impact of such burning on identified smoke sensitive areas. (5-1-94)

934. Source. A stationary source. (5-1-94)

945. Source Operation. The last operation preceding the emission of air pollutants, when this operation: (5-1-94)

a. Results in the separation of the air pollutants from the process materials or in the conversion of the process materials into air pollutants, as in the case of fuel combustion; and (5-1-94)

b. Is not an air cleaning device. (5-1-94)

956. Stack. Any point in a source arranged to conduct emissions to the ambient air, including a chimney, flue, conduit, or duct but not including flares. (5-1-94)

~~967~~. Standard Conditions. Except as specified in Section 576.02. for ambient air quality standards, a dry gas temperature of 20C (68F) and a gas pressure of 760 millimeters of mercury (14.7 pounds per square inch) absolute. (5-1-94)

~~978~~. Start-up. The normal and customary time period required to bring air pollution control equipment or an emissions unit, including process equipment, from a nonoperational status into normal operation. (5-1-94)

~~989~~. Stationary Source. Any building, structure, emissions unit, or installation which emits or may emit any air pollutant. (5-1-94)

~~99~~100. Tier I Source. Any of the following: (5-1-94)

a. Any source located at any major facility; (5-1-94)

b. Any source, including an area source, subject to a standard, limitation, or other requirement under 42 U.S.C. Section 7411 or 40 CFR Part 60; (5-1-94)

c. Any source, including an area source, subject to a standard or other requirement under 42 U.S.C. Section 7412, 40 CFR Part 61 or 40 CFR Part 63, except that a source is not required to obtain a permit solely because it is subject to requirements under 42 U.S.C. Section 7412(r); (5-1-94)

d. Any Phase II source; and (5-1-94)

e. Any source in a source category designated by the Department. (5-1-94)

~~100~~1. Time Intervals. Where applicable, time intervals are defined as follows: (5-1-94)

a. "Annual" means calendar year; (5-1-94)

b. "Year" means calendar year; (5-1-94)

c. "Month" means calendar month; (5-1-94)

d. "Week" means calendar week; (5-1-94)

e. "Twenty-four (24) hour concentration" means twenty-four (24) hour average concentration starting at midnight and continuing until the following midnight; (5-1-94)

f. "Eight (8) hour concentration" means running eight (8) hour average concentration starting at each clock hour; (5-1-94)

g. "Three (3) hour concentration" means running three (3) hour average concentration starting at each clock hour; and (5-1-94)

h. "One (1) hour concentration" means one (1) hour average concentration starting at each clock hour. (5-1-94)

101. ~~Total Suspended Particulates. All particulate matter in the ambient air as measured by the method described in Appendix B of 40 CFR Part 50.~~ (5-1-94)

102. Toxic Air Pollutant. An air pollutant that has been determined by the Department to be by its nature, toxic to human or animal life or vegetation and listed in Section 585 or 586. (5-1-94)

103. Toxic Air Pollutant Carcinogenic Increments. Those ambient air quality increments based on the probability of developing excess cancers over a seventy (70) year lifetime exposure to one microgram per cubic meter (1 ug/m³) of a given carcinogen and expressed in terms of a screening emission level or an acceptable ambient concentration for a carcinogenic toxic air pollutant. They are listed in Section 586. (5-1-94)

104. Toxic Air Pollutant Non-carcinogenic Increments. Those ambient air quality increments based on occupational exposure limits for airborne toxic chemicals expressed in terms of a screening emission level or an acceptable ambient concentration for a non-carcinogenic toxic air pollutant. They are listed in Section 585. (5-1-94)

105. Toxic Substance. Any air pollutant that is determined by the Department to be by its nature, toxic to human or animal life or vegetation. (5-1-94)

106. Trade Waste. Any solid, liquid or gaseous material resulting from the construction or demolition of any structure, or the operation of any business, trade or industry including, but not limited to, wood product industry waste such as sawdust, bark, peelings, chips, shavings and cull wood. (5-1-94)

107. TRS (Total Reduced Sulfur). Hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide and any other organic sulfide present. (5-1-94)

108. Unclassifiable Area. An area which, because of a lack of adequate data, is unable to be classified pursuant to 42 U.S.C. Section 7407(d) as either an attainment or a nonattainment area. (5-1-94)

109. Uncontrolled Emission. An emission which has not been treated by control equipment. (5-1-94)

110. Upset. An unplanned and unforeseeable disruption in the normal operations of any air pollution control equipment or emissions unit, including process equipment, which may cause excess emissions where such disruption is not intentional or the result of negligence or improper maintenance. (5-1-94)

111. Wigwam Burner. Wood waste burning devices commonly called tepee burners, silos, truncated cones, and other such burners commonly used by the wood product industry for the disposal by burning of wood wastes. (5-1-94)

112. Wood Stove Curtailment Advisory. An air pollution alert issued through local authorities and/or the Department to limit wood stove emissions during air pollution episodes. (5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

008. DEFINITIONS FOR THE PURPOSES OF SECTIONS 300 THROUGH 387.

01. Accountable. Any SIP emission trading program must account for the aggregate effect of the emissions trades in the demonstration of reasonable further progress, attainment, or maintenance. (5-1-94)

02. Affected States. All States: (5-1-94)

a. Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or (5-1-94)

b. That are within 50 miles of the Tier I source. (5-1-94)

03. Air Pollution. The presence in the outdoor atmosphere of any air pollutant or combination thereof in such quantity of such nature and duration and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property. (5-1-94)

04. Allowance. An authorization allocated to a Phase II source by the EPA to emit during or after a specified calendar year, one ton of sulfur dioxide. (5-1-94)

05. Applicable Requirement. All of the following if approved or promulgated by EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the time of permit issuance but which have future-effective compliance dates): (5-1-94)

a. Any standard or other requirement provided for in the applicable state implementation plan, including any revisions to that plan that are specified in 40 CFR Parts 52.670 through 52.690. (5-1-94)

b. Any term or condition of any permits to construct issued by the Department pursuant to Sections 200 through 225 or by EPA pursuant to 42 U.S.C. Sections 7401 through 7515; provided that terms or conditions relevant only to toxic air pollutants are not applicable requirements. (5-1-94)

c. Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60; (5-1-94)

d. Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; (5-1-94)

e. Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; (5-1-94)

f. Any requirements established pursuant to 42 U.S.C. Section 7414(a)(3),

42 U.S.C. Section 7661a(b) or Sections 120 through 126 of these rules; (5-1-94)

g. Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; (5-1-94)

h. Any standard or other requirement for consumer and commercial products and tank vessels, under 42 U.S.C. Sections 7511b(e) and (f); and (5-1-94)

i. Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR Part 82. (5-1-94)

j. Any ambient air quality standard or increment or visibility requirement provided in 42 U.S.C. Sections 7470 through 7492, but only as applied to temporary sources receiving Tier I operating permits under Section 324. (5-1-94)

06. Designated Representative. A responsible person or official authorized by the owner or operator of a Phase II unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a Phase II unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Phase II unit. (5-1-94)

07. Draft Permit. The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. (5-1-94)

08. Emergency. (5-1-94)

a. For the purposes of Sections 326 through 332, an emergency is any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including natural disasters, which situation requires immediate corrective action to restore normal operation, and that causes the Tier I source to exceed a technology-based emission limitation under the Tier I operating permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. (5-1-94)

b. For the purposes of Sections 380 through 387 an emergency is any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including natural disasters, which situation requires immediate corrective action to restore normal operation. (5-1-94)

09. Emissions Allowable Under the Tier I Operating Permit. A federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emission cap that the facility has assumed to avoid an applicable requirement to which the source would otherwise be subject. (5-1-94)

10. Excess Emissions. Emissions of an air pollutant in excess of any applicable air quality standard, emission standard emission limit or permit terms or conditions. (5-1-94)

11. Final Permit. The version of a Tier I permit issued by the Department that has completed all review procedures required in Sections 364 and 366. (5-1-94)

12. General Permit. A Tier I permit issued pursuant to Section 323. (5-1-94)

13. Insignificant Activity. Categorically exempt insignificant activities as determined in section 317. (3-3-95)

14. Major Facility. A facility (as defined in Section 006.34) is major if the facility meets any of the following criteria: (5-1-94)

a. The facility emits or has the potential to emit ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides, which has been listed pursuant to 42 U.S.C. Section 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

b. The facility emits or has the potential to emit twenty five (25) tpy or more of any combination of any hazardous air pollutants, other than radionuclides, which have been listed pursuant to 42 U.S.C. 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

c. The facility directly emits or has the potential to emit, one hundred (100) tpy or more of any air pollutant. Fugitive emissions from emissions units within the facility shall be included as provided in any or all of the following: (5-1-94)

d. The facility is located in a "serious" particulate matter (PM-10) nonattainment area and the facility has the potential to emit seventy (70) tpy or more of PM-10. (5-1-94)

e. The facility is located in a "serious" carbon monoxide nonattainment area in which stationary sources are significant contributors to carbon monoxide levels and the facility has the potential to emit fifty (50) tpy or more of carbon monoxide. (5-1-94)

f. The facility is located in an ozone transport region established pursuant to 42 U.S.C. Section 7511c and the facility has the potential to emit fifty (50) tpy or more of volatile organic compounds. (5-1-94)

g. The facility is located in an ozone nonattainment area and, depending upon the classification of the nonattainment area, the facility has the potential to emit the following amounts of volatile organic compounds or oxides of nitrogen; provided that oxides of nitrogen shall not be included if the facility has been identified in accordance with 42 U.S.C. Section 7411a(f)(1) or (2): (5-1-94)

i. If the area is "marginal" or "moderate," one hundred (100) tpy or more. (5-1-94)

- ii. If the area is "serious," fifty (50) tpy or more. (5-1-94)
- iii. If the area is "severe," twenty five (25) tpy or more. (5-1-94)
- iv. If the area is "extreme," ten (10) tpy or more. (5-1-94)
- h. For facilities addressed in Subsections 008.14.c. through g. above, fugitive emissions from emissions units within the facility shall not be considered in determining whether a facility is major except in the following cases: (3-7-95)
 - i. For designated facilities. (3-7-95)
 - ii. For fossil-fuel-fired steam electric plants of more than two hundred fifty million (250,000,000) BTU's per hour heat input. (3-7-95)
 - iii. For any emissions units in a source category regulated, as of August 7, 1980, by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63, but only to the extent the fugitive emissions are regulated by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63 for the particular source category. (3-7-95)
- 15. Permit Revision. Any minor permit modification, substantive permit modification, administrative permit amendment or reopening. (5-1-94)
- 16. Phase II Source. A source that is subject to emissions reduction requirements of 42 U.S.C. Section 7651 through 7651o and shall have the meaning given to it pursuant to those sections. (5-1-94)
- 17. Phase II Unit. A unit that is subject to emissions reduction requirements of 42 U.S.C. Sections 7651 through 7651o and the term shall have the meaning given to it pursuant to those sections. (5-1-94)
- 18. Proposed Permit. The version of a permit that the Department proposes to issue and forwards to the EPA for review. (5-1-94)
- 19. Quantifiable. The Department must be able to determine the emissions impact of any SIP trading programs requirement(s) or emission limit(s). (5-1-94)
- 20. Regulated Air Pollutant. The following air pollutants: (5-1-94)
 - a. Nitrogen oxides including nitrogen dioxide, volatile organic compounds, ozone, lead, carbon monoxide, ~~total suspended particulates~~, PM-10 and sulfur oxides. (5-1-94)()
 - b. Any air pollutant that is regulated in 40 CFR Part 60. (5-1-94)
 - c. Any Class I or II substance listed in, or listed in accordance with 42 U.S.C. Sections 7671a(a) or 7671a(b). (5-1-94)
 - d. Any air pollutant subject to a standard promulgated under 42 U.S.C.

Section 7412 or other requirements established under 42 U.S.C. Section 7412, including 42 U.S.C. Section 7412(g), (j), and (r), including the following: (5-1-94)

i. Any air pollutant subject to requirements under 42 U.S.C. Section 7412(j). If the EPA fails to promulgate a standard by the date established pursuant to 42 U.S.C. Section 7412(e), any air pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to 42 U.S.C. Section 7412(e); and (5-1-94)

ii Any air pollutant for which the requirements of 42 U.S.C. Section 7412(g)(2) have been met, but only with respect to the individual source subject to 42 U.S.C. Section 7412(g)(2) requirement. (5-1-94)

21. Replicable. Any SIP procedures for applying emission trading shall be structured so that two independent entities would obtain the same result when determining compliance with the emission trading provisions. (5-1-94)

22. Tier I Operating Permit. Any permit covering a Tier I source that is issued, renewed, amended, or revised pursuant to Sections 300 through 387. (5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

107. INCORPORATIONS BY REFERENCE.

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Section 107.03 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term "documents" includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (5-1-94)

02. Availability of Referenced Material. Copies of the documents incorporated by reference into these rules are available at the following locations:(5-1-94)

a. All federal publications: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 at (202) 783-3238; and (5-1-94)

b. All documents herein incorporated by reference: (5-1-94)
i. Central Office, Division of Environmental Quality, Department of Health and Welfare, 1410 N. Hilton, Boise, Idaho 83706 at (208)334-5898373-0502. (5-1-94)()

ii. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051, (208)334-3316. ()

03. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (5-1-94)

a. Standard Industrial Classification Manual, Executive Office of the

- President, Office of Management and Budget, 1987. (5-1-94)
- b. Guidelines on Air Quality Models, Revised 2-93 including Supplements A 7-87 and B 2-93 (EPA 450/2-78-027R July 1986). (5-1-94)
- c. Interim Procedures for Evaluating Air Quality Models, EPA, September 1984. (5-1-94)
- d. Energy Supply and Environmental Coordination Act of 1974, 15 U.S.C. Section 792 (1988). (5-1-94)
- e. Federal Power Act, 16 U.S.C.A. Sections 791a et seq. (West 1985 & Supp. 1993). (5-1-94)
- f. Idaho Forestry Act, Idaho Code Sections 38-101 et seq. (1977 & Supp. 1993). (5-1-94)
- g. Idaho Environmental Protection and Health Act, Idaho Code Sections 39-101 through 130 (1993~~5~~). (~~5-1-94~~)()
- h. Idaho Administrative Procedure Act, Idaho Code Sections 67-5201 through 5292 (Supp. 1992~~5~~). (~~5-1-94~~)()
- i. Fire Hazard Reduction Law, Idaho Code Sections 38-401 through 414 (1977 & Supp. 1993). (5-1-94)
- j. IDAPA 20.04.01, Rules of the Department of Lands, "Rules Pertaining to Forest Fire Protection," (1993). (5-1-94)
- k. IDAPA 16.05.03, Rules of the Department of Health and Welfare, Title 5, Chapter 3, "Rules Governing Contested Cases and Declaratory Rulings," (1993~~4~~). (~~5-1-94~~)()
- l. IDAPA 16.01.06, Rules of the Department of Health and Welfare, Title 1, Chapter 6, "Solid Waste Management Rules and Standards," (1993). (5-1-94)
- m. Implementation Plan for the Control of Air Pollution in the State of Idaho (SIP), Division of Environmental Quality, Department of Health and Welfare, March 1994. (5-1-94)
- n. Atomic Energy Act of 1954, 42 U.S.C.A. Sections 2014 (e), (z) and (aa) (West 1973 & Supp. 1993). (5-1-94)
- o. ~~Procedures Manual for Air Pollution Control, Idaho Air Quality Bureau, Operating Permit Guidance Manual, Division of Environmental Quality, Idaho Department of Health and Welfare, September 1986~~ July 1995. (~~5-1-94~~)()
- p. "Ringelmann Smoke Chart", Manual Evaluation of Visible Emissions, Idaho Department of Health and Welfare, Division of Environment, Air Quality Bureau, Sections 6.1-6.10, September 1977. (5-1-94)

- q. National Primary and Secondary Ambient Air Quality Standards, 40 CFR Part 50, revised as of ~~April 1, 1994~~ October 1, 1995. (5-1-94)()
- r. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, Protection of Visibility, Identification of Integral Vistas, SubSection a, 40 CFR Part 51.304(a), revised as of ~~April 1, 1994~~ October 1, 1995. (5-1-94)()
- s. Approval and Promulgation of Implementation Plans, 40 CFR Part 52, revised as of ~~April 1, 1994~~ June 1, 1995. (5-1-94)()
- t. Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR Part 53, revised as of ~~April 1, 1994~~ June 1, 1995. (5-1-94)()
- u. Ambient Air Quality Surveillance, Quality Assurance Requirements for Prevention of Significant Deterioration (PSD Air Monitoring), 40 CFR Part 58, Appendix B, revised as of ~~April 1, 1994~~ June 1, 1995. (5-1-94)()
- v. Standards of Performance for New Stationary Sources, 40 CFR Part 60, revised as of ~~April 1, 1994~~ October 1, 1995. (5-1-94)()
- w. National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, revised as of ~~April 1, 1994~~ October 1, 1995. (5-1-94)()
- x. National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR Part 63, revised as of ~~April 1, 1994~~ October 1, 1995. (5-1-94)()
- y. Permits, 40 CFR Part 72, revised as of ~~April 1, 1994~~ October 1, 1995. (5-1-94)()
- z. Sulfur Dioxide Allowance System, 40 CFR Part 73, revised as of ~~April 1, 1994~~ October 1, 1995. (5-1-94)()
- aa. Protection of Stratospheric Ozone, 40 CFR Part 82, revised as of ~~April 1, 1994~~ October 1, 1995. (5-1-94)()
- bb. Clean Air Act, 42 U.S.C. Sections 7401 through 7671g ~~(1993)~~ (1995). (5-1-94)()
- cc. Emergency Episode Air Pollution Criteria, Division of Environmental Quality, Idaho Department of Health and Welfare, April 1972. (5-1-94)
- dd. National Emission Standards for Hazardous Air Pollutants for Source Categories: Petroleum Refineries. 60 Fed. Reg. 43,244-297 (August 18, 1995) (to be codified at 40 CFR Part 63). ()
- ee. National Emission Standards for Hazardous Air Pollutants for Source Categories: Petroleum Refineries, Amended. 60 Fed. Reg. 49,976 (September 27, 1995) (to be codified at 40 CFR Part 63). ()

ff. National Emission Standards for Aerospace Manufacturing and Rework Facilities. 60 Fed. Reg. 45,948-80 (September 1, 1995) (to be codified at 40 CFR Part 63). ()

gg. National Emission Standards for Marine Tank Vessel Loading Operations and National Emissions Standards for Hazardous Air Pollutants for Marine Tank Vessel Loading Operations. 60 Fed. Reg. 48,388-417 (September 19, 1995) (to be codified at 40 CFR Part 63). ()

hh. National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks. 60 Fed. Reg. 4948-93 (January 25, 1995) (to be codified at 40 CFR Part 63). ()

ii. National Emission Standards for Ethylene Oxide Commercial Sterilization and Fumigation Operations. 59 Fed. Reg. 62,585-601 (December 6, 1994) (to be codified at 40 CFR Part 63). ()

jj. National Emission Standards for Industrial Process Cooling Towers. 59 Fed. Reg. 46,339-53 (September 8, 1994) (to be codified at 40 CFR Part 63). ()

kk. National Emission Standards for Gasoline Distribution (Stage I) Facilities. 59 Fed. Reg. 64,303-26 (December 14, 1994) (to be codified at 40 CFR Part 63). ()

ll. National Emission Standards for Gasoline Distribution (Stage I) Facilities, Corrections. 60 Fed. Reg. 7627 (February 8, 1995) (to be codified at 40 CFR Part 63) and 60 Fed. Reg. 32,912-13 (June 26, 1995) (to be codified at 40 CFR Part 63). ()

mm. National Emission Standards for Halogenated Solvent Cleaning Operations. 59 Fed. Reg. 61,801-20 (December 2, 1994) (to be codified at 40 CFR Part 63). ()

nn. National Emission Standards for Halogenated Solvent Cleaning Operations, Corrections. 60 Fed. Reg. 29,484-85 (June 5, 1995) (to be codified at 40 CFR Part 63). ()

oo. National Emission Standards for Emissions from Epoxy Resins Production and Non-Nylon Polyamides Production 60 Fed. Reg. 12,670-85 (March 8, 1995) (to be codified at 40 CFR Part 63). ()

pp. National Emission Standards for Magnetic Tape Manufacturing Operations. 59 Fed. Reg. 64,580-612 (December 15, 1994) (to be codified at 40 CFR Part 63). ()

qq. National Emission Standards for National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks, as amended. 60 Fed. Reg. 18020-30

(April 10, 1995) (to be codified at 40 CFR Part 63).

()

(BREAK IN CONTINUITY OF SECTIONS)

202. APPLICATION PROCEDURES.

Application for a permit to construct must be made using forms furnished by the Department, or by other means prescribed by the Department. The application shall be certified by the responsible official in accordance with Section 123 and shall be accompanied by all information necessary to perform any analysis or make any determination required under Sections 200 through 225. (5-1-94)

01. Required Information. Depending upon the proposed size and location of the new or modified stationary source or facility, the application for a permit to construct shall include all of the information required by one or more of the following provisions: (5-1-94)

a. For any new or modified stationary source or facility: (5-1-94)

i. Site information, plans, descriptions, specifications, and drawings showing the design of the stationary source, facility, or modification, the nature and amount of emissions (including secondary emissions), and the manner in which it will be operated and controlled. (5-1-94)

ii. A schedule for construction of the stationary source, facility, or modification. (5-1-94)

b. For any new major facility or major modification in a nonattainment area which would be major for the nonattainment air pollutant(s): (5-1-94)

i. A description of the system of continuous emission control proposed for the new major facility or major modification, emission estimates, and other information as necessary to determine that the lowest achievable emission rate would be applied. (5-1-94)

ii. A description of the emission offsets proposed for the new major facility or major modification, including information on the stationary sources or facilities providing the offsets, emission estimates, and other information necessary to determine that a net air quality benefit would result. (5-1-94)

iii. Certification that all other facilities in Idaho, owned or operated by (or under common ownership of) the proposed new major facility or major modification, are in compliance with all local, state or federal requirements or are on a schedule for compliance with such. (5-1-94)

iv. An analysis of alternative sites, sizes, production processes, and environmental control techniques which demonstrates that the benefits of the proposed major facility or major modification significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification. (5-1-94)

v. An analysis of the impairment to visibility of any federal Class I area,

Class I area designated by the Department, or integral vista of any mandatory federal Class I area that the new major facility or major modification would impact (including the monitoring of visibility in any Class I area near the new major facility or major modification, if requested by the Department), except for those new major facilities and major modifications exempted by Section 204.04. (5-1-94)

c. For any new major facility or major modification in an attainment or unclassifiable area for any air pollutant, except for those new major facilities and major modifications exempted under Sections 205.04.a., 205.04.b. (5-1-94)

i. A description of the system of continuous emission control proposed for the new major facility or major modification, emission estimates, and other information as necessary to determine that the best available control technology would be applied. (5-1-94)

ii. An analysis of the effect on air quality by the new major facility or major modification, including meteorological and topographical data necessary to estimate such effects. (5-1-94)

iii. An analysis of the effect on air quality projected for the area as a result of general commercial, residential, industrial, and other growth associated with the new major facility or major modification. (5-1-94)

iv. A description of the nature, extent, and air quality effects of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the new major facility or major modification would affect. (5-1-94)

v. An analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the new major facility or major modification and general commercial, residential, industrial, and other growth associated with establishment of the new major facility or major modification. The owner or operator need not provide an analysis of the impact on vegetation or soils having no significant commercial or recreational value. (5-1-94)

vi. An analysis of the impairment to visibility of any federal Class I area, Class I area designated by the Department, or integral vista of any mandatory federal Class I area that the new major facility or major modification would affect. (5-1-94)

vii. An analysis of the existing ambient air quality in the area that the new major facility or major modification would affect for each air pollutant that a new major facility would emit in significant amounts or for which a major modification would result in a significant net emissions increase. (5-1-94)

viii. ~~No analysis is needed~~ Ambient analyses as specified in Sections 202.01.c.vii., x., and xii. may not be required if the projected increases in ambient concentrations or existing ambient concentrations of a particular air pollutant in any area that the new major facility or major modification would affect are less than the following amounts, or the air pollutant is not listed herein: carbon monoxide - five hundred and seventy-five (575) micrograms per cubic meter, eight (8) hour average; nitrogen dioxide -

fourteen (14) micrograms per cubic meter, annual average; PM-10 - ten (10) micrograms per cubic meter, twenty-four (24) hour average; ~~total suspended particulates - ten (10) micrograms per cubic meter, twenty-four (24) hour average;~~ sulfur dioxide - thirteen (13) micrograms per cubic meter, twenty-four (24) hour average; ozone - any net increase of one hundred (100) tons per year or more of volatile organic compounds, as a measure of ozone; lead - one-tenth (0.1) of a microgram per cubic meter, calendar quarterly average; mercury - twenty-five hundredths (0.25) of a microgram per cubic meter, twenty-four (24) hour average; beryllium - one-thousandth (0.001) of a microgram per cubic meter, twenty-four (24) hour average; fluorides - twenty-five hundredths (0.25) of a microgram per cubic meter, twenty-four (24) hour average; vinyl chloride - fifteen (15) micrograms per cubic meter, twenty-four (24) hour average; hydrogen sulfide - two-tenths (0.2) of a microgram per cubic meter, one (1) hour average. (5-1-94)(_____)

ix. For any air pollutant which has an ambient air quality standard, the analysis shall include continuous air monitoring data, gathered over the year preceding the submittal of the application, unless the Department determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one (1) year, but not less than four (4) months, which is adequate for determining whether the emissions of that air pollutant would cause or contribute to a violation of the ambient air quality standard or any PSD increment. (5-1-94)

x. For any air pollutant which does not have an ambient air quality standard, the analysis shall contain such air quality monitoring data that the Department determines is necessary to assess ambient air quality for that air pollutant in any area that the emissions of that air pollutant would affect. (5-1-94)

xi. If requested by the Department, monitoring of visibility in any Class I area the proposed new major facility or major modification would affect. (5-1-94)

xii. Operation of monitoring stations shall meet the requirements of Appendix B to 40 CFR Part 58 or such other requirements as extensive as those set forth in Appendix B as may be approved by the Department. (5-1-94)

02. Estimates of Ambient Concentrations. All estimates of ambient concentrations shall be based on the applicable air quality models, data bases, and other requirements specified in the U.S. Environmental Protection Agency's "Guideline on Air Quality Models (Revised 2-92)" (EPA 450/2-78-027R, July 1986), including Supplement A and B (July 1987). (5-1-94)

a. Where an air quality model specified in the "Guideline on Air Quality Models (Revised)", including "Supplement A" and "Supplement B" is inappropriate, the model may be modified or another model substituted, subject to written approval of the Administrator of the U.S. Environmental Protection Agency and public comment pursuant to Section 209.01.c; provided that modifications and substitutions of models used for toxic air pollutants will be reviewed by the Department. (5-1-94)

b. Methods like those outlined in the U.S. Environmental Protection Agency's "Interim Procedures for Evaluating Air Quality Models (Revised)" (September 1984) should be used to determine the comparability of air quality models. (5-1-94)

03. Additional Information. Any additional information, plans, specifications, evidence or documents that the Department may require to make the determinations required under Sections 200 through 225 shall be furnished upon request. (5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

577. AMBIENT AIR QUALITY STANDARDS FOR SPECIFIC AIR POLLUTANTS.

01. Particulate Matter. PM-10 - particles with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers. (5-1-94)

a. Primary and Secondary Standards. Primary and secondary PM-10 standards are: (5-1-94)

i. Annual Standard. Fifty (50) micrograms per cubic meter, as an annual arithmetic mean -- never expected to be exceeded in any calendar year. (5-1-94)

ii. Twenty-four Hour Standard. One hundred fifty (150) micrograms per cubic meter as a maximum twenty-four (24) hour concentration -- never expected to be exceeded more than once in any calendar year. (5-1-94)

b. Attainment and Expected Exceedance Determination. For the purpose of determining attainment of the primary and secondary PM-10 standards, expected exceedances shall be determined in accordance with Appendix K of 40 CFR Part 50. (5-1-94)

~~02. Total Suspended Particulate (TSP). (5-1-94)~~

~~a. Primary Standards. Primary TSP air quality standards are: (5-1-94)~~

~~i. Annual Standard. Seventy five (75) micrograms per cubic meter, as an annual geometric mean -- not to be exceeded in any calendar year. (5-1-94)~~

~~ii. Twenty four Hour Standard. Two hundred sixty (260) micrograms per cubic meter, as a maximum twenty four (24) hour concentration -- not to be exceeded more than once in any calendar year. (5-1-94)~~

~~b. Secondary Standards. Secondary TSP air quality standards are: (5-1-94)~~

~~i. Annual Standard. Sixty (60) micrograms per cubic meter, as an annual geometric mean -- not to be exceeded in any calendar year. (5-1-94)~~

~~ii. Twenty four Hour Standard. One hundred fifty (150) micrograms per cubic meter, as a maximum twenty four (24) hour concentration -- not to be exceeded more than once in any calendar year. (5-1-94)~~

032. Sulfur Oxides (Sulfur Dioxide). (5-1-94)
- a. Primary Standards. Primary sulfur dioxide air quality standards are:
(5-1-94)
- i. Annual Standard. Eighty (80) micrograms per cubic meter (0.03 ppm), as an annual arithmetic mean -- not to be exceeded in any calendar year. (5-1-94)
- ii. Twenty-four Hour Standard. Three hundred sixty-five (365) micrograms per cubic meter (0.14 ppm), as an maximum twenty-four (24) hour concentration -- not to be exceeded more than once in any calendar year. (5-1-94)
- b. Secondary Standards. Secondary air quality standards are one thousand three hundred (1,300) micrograms per cubic meter (0.50 ppm), as an maximum three (3) hour concentration -- not to be exceeded more than once in any calendar year. (5-1-94)
- c. Conflicting Standards. When more than one (1) standard is applicable, the interpretation that results in the most stringent standard shall apply. (5-1-94)
043. Ozone. Primary and secondary air quality standards are 0.12 ppm (two hundred thirty-five (235) micrograms per cubic meter) -- maximum one (1) hour concentration not expected to be exceeded more than once per year. (5-1-94)
054. Nitrogen Dioxide. Primary and secondary air quality standards are one hundred (100) micrograms per cubic meter (0.05 ppm) -- annual arithmetic mean. (5-1-94)
065. Carbon Monoxide. Primary and secondary air quality standards are:
(5-1-94)
- a. Eight (8) Hour Standard. Ten (10) milligrams per cubic meter (9 ppm) - maximum eight (8) hour concentration not to be exceeded more than once per year. (5-1-94)
- b. One (1) Hour Standard. Forty (40) milligrams per cubic meter (35 ppm) -- maximum one (1) hour concentration not to be exceeded more than once per year. (5-1-94)
076. Fluorides. Primary and secondary air quality standards are those concentrations in the ambient air which result in a total fluoride content in vegetation used for feed and forage of no more than: (5-1-94)
- a. Annual Standard. 40 ppm, dry basis -- annual arithmetic mean. (5-1-94)
- b. Bimonthly Standard. 60 ppm, dry basis -- monthly concentration for two (2) consecutive months. (5-1-94)
- c. Monthly Standard. 80 ppm, dry basis -- monthly concentration never to be exceeded. (5-1-94)

087. Lead. Primary and secondary standards for lead and its compounds, measured as elemental lead, are one and one-half (1.5) micrograms per cubic meter (1.5 ug/m³), as a quarterly arithmetic mean -- not to be exceeded in any quarter of any calendar year. (5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

579. BASELINES FOR PREVENTION OF SIGNIFICANT DETERIORATION.

01. Baseline Date(s). (5-1-94)
- a. Major Source Baseline Date. January 6, 1975 in the case of particulate matter and sulfur dioxide; February 8, 1988 in the case of nitrogen dioxide. (5-1-94)
- b. Minor Source Baseline Date. The earliest date after August 7, 1977 in the case of particulate matter and sulfur dioxide, and after February 8, 1988 in the case of nitrogen dioxide, that a major facility or major modification subject to PSD submits a complete application. A minor source baseline date is established for ~~total suspended particulates~~, sulfur dioxide, or nitrogen dioxide if the area in which the new major facility or major modification would construct is designated attainment or unclassifiable under 42 U.S.C. Section 7407(d), and there would be a significant increase of the particular air pollutant. (5-1-94)()
02. Baseline Area. Any intrastate area designated as attainment or unclassifiable under 42 U.S.C. Section 7407(d), in which the major facility or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than a one (1) microgram per cubic meter (annual average) of the air pollutant for which the minor source baseline date is established. (5-1-94)
03. Baseline Concentration. The ambient concentration for a particular air pollutant which exists in the applicable baseline area on the applicable minor source baseline date. (5-1-94)
- a. The baseline concentration shall represent: (5-1-94)
- i. The actual emissions from sources in existence on the applicable minor source baseline date; and (5-1-94)
- ii. The allowable emissions of major facilities and major modifications which commenced construction before the applicable major source baseline date, but were not in operation by the applicable minor source baseline date. (5-1-94)
- b. The baseline concentration shall not include the actual emissions of new major facilities and major modifications which commenced construction on or after the applicable major source baseline date. (5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

581. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) INCREMENTS.

The purpose of Section 581 is to establish the allowable degree of deterioration for the areas within the State which have air quality better than the ambient standards. (5-1-94)

01. Class I, II and III Areas. In any area designated as Class I, II, or III, increases in any ambient concentration over the baseline concentration shall be limited to the following:

Maximum Allowable Increase (Micrograms per cubic meter)

CLASS I AREAS

~~Total Suspended Particulates:
Annual geometric mean 5
Maximum twenty-four (24)
hour average 10~~

Sulfur dioxide	
Annual arithmetic mean	2
Maximum twenty-four (24) hour average	5
Maximum three (3) hour average	25

Nitrogen dioxide	
Annual arithmetic mean	2.5

CLASS II AREAS

Total Suspended Particulates	
Annual geometric mean	19
Maximum twenty-four (24) hour average	37

Sulfur dioxide	
Annual arithmetic mean	20

Sulfur dioxide	
Maximum twenty-four (24) hour average	91
Maximum three (3) hour average	512

Nitrogen dioxide	
Annual arithmetic mean	25

CLASS III AREAS

~~Total Suspended Particulates:
Annual geometric mean 37
Maximum twenty-four (24)
hour average 75~~

Sulfur dioxide	
Annual arithmetic mean	40
Maximum twenty-four (24) hour average	182
Maximum three (3) hour average	700

Nitrogen dioxide	
Annual arithmetic mean	50

~~(5-1-94)()~~

02. Exceedances. For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one (1) such period per year at any one (1) location. (5-1-94)

03. Exclusions. The following concentrations shall be excluded in determining compliance with the maximum allowable increases: (5-1-94)

a. Concentrations attributable to the increase in emissions from facilities which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan in

effect pursuant to the Federal Power Act, over the emissions from such facilities before the effective date of such order or plan; this shall not apply more than five (5) years after the effective date of such order or plan; (5-1-94)

b. Concentrations of total suspended particulates attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified facilities; (5-1-94)

c. The increase in concentrations attributable to new facilities outside the United States over the concentrations attributable to existing facilities which are included in the baseline concentration; and (5-1-94)

d. Concentrations attributable to the temporary increase in emissions of sulfur dioxide, nitrogen dioxide, or particulate matter from facilities which are affected by a revision to the SIP approved by the U.S. Environmental Protection Agency; this exclusion shall not exceed two (2) years unless a longer time is approved by the U.S. Environmental Protection Agency, is not renewable, and applies only to revisions which: (5-1-94)

i. Would not affect air pollutant concentrations in a Class I area or an area where an applicable increment is known to be violated and would not cause or contribute to a violation of an ambient air quality standard; and (5-1-94)

ii. Require limitations to be in effect at the end of the approved time period which would ensure that the emissions from facilities affected by the revision would not exceed those concentrations occurring before the revision was approved. (5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

751. GENERAL RULES.

Any owner or operator of a facility subject to Sections 750 and 751 shall demonstrate compliance with Section 751 by January 1, 1982, in accordance with a compliance schedule, listing increments of progress, which shall be submitted to the Department on or before August 1, 1980. (5-1-94)

01. Emission Limitations -- Phosphate Fertilizer Plants. No person shall allow, suffer, cause or permit the discharge into the atmosphere of total fluoride emissions in gaseous and in particulate form, expressed as fluoride (F⁻), from the phosphate fertilizer plant sources listed in Section 751.03. in excess of 0.30 pounds of fluoride per ton of P₂O₅ input to the calciner operation, calculated at maximum rated capacity. (5-1-94)

02. Monitoring, Testing, and Reporting Requirements. Compliance with Section 751.01 will be adjudged upon the results of the continuing program of fluoride sampling of potential grazing areas and alfalfa growing areas conducted by the Department. Sampling conducted by any person subject to Section 751 may be accepted for determining compliance with Section 751.01 if such sampling is conducted at sites approved by the Department in advance of sampling, using analytical procedures appearing in the Procedures Manual for Air Pollution Control, Section I (Source Test

Methods) or equivalent methods approved by the Department in advance of sampling. Compliance with Section 751.01 shall be demonstrated by testing methods approved in advance by the Department. When approved by the Director in advance of sampling, engineering calculations may be submitted in lieu of emission data. Monitoring and reporting requirements shall be included in operating permits granted to each facility.

(5-1-94)

03. Source Specific Permits. To assure compliance with Section 751.01., the Director shall specify methods for calculating total allowable emissions and shall issue source specific permits containing emission limitations for the following sources within phosphate fertilizer plants:

(5-1-94)

- a. Calciner operation; and (5-1-94)
- b. Wet phosphoric acid plants; and (5-1-94)
- c. Super phosphoric acid production; and (5-1-94)
- d. Diammonium phosphate plants; and (5-1-94)
- e. Monoammonium phosphate production; and (5-1-94)
- f. Triple super phosphate (mono calcium phosphate) production. (5-1-94)

04. Exemptions. The provisions of Sections 751.01., 751.02., and 751.03. shall not apply to any phosphate fertilizer facility which produces mono ammonium phosphate exclusively if no animal feed is grown or if no animal grazing occurs or if the animal feed and forage meets the ambient air quality standards for fluorides specified in Section 577.076 within a three (3) mile radius of such facility. This exemption shall only apply if the owner or operator of the facility, on an annual basis:

(5-1-94)(____)

a. Conducts a fluoride sampling program of potential grazing areas at locations approved in advance of sampling by the Department, using analytical techniques appearing in the Procedures Manual for Air Pollution Control, Section I (Source Test Methods); and (5-1-94)

b. Submits the results of such sampling program to the Department as soon as they become available. (5-1-94)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS
DOCKET NO. 16-0108-9501
NOTICE OF VACATION OF PREVIOUS RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the rulemaking previously initiated under Docket No. 16-0108-9501. The action is authorized by Sections 39-101 et seq., Idaho Code.

DESCRIPTIVE SUMMARY: Docket No. 16-0108-9501, which was published as a proposed rule in the Idaho Administrative Bulletin, Volume 95-7, July 5, 1995, pages 70-77, is hereby vacated. For the sake of economy and efficiency, the rulemaking issues of Docket No. 16-0108-9501 have been included in the proposed rule initiated under Docket No. 16-0108-9502. Docket No. 16-0108-9502 was published as a proposed rule in the November 1995 issue of the Idaho Administrative Bulletin.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning vacation of this rulemaking, contact Bill Jarocki at (208)373-0502.

DATED this 6th day of December, 1995.

Paula Junae Saul
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

**16.03.01 - RULES GOVERNING AID TO FAMILIES
WITH DEPENDENT CHILDREN**

DOCKET NO. 16-0301-9502

NOTICE OF FINAL RULE

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

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 Section(s) 39-106(l) and 56-202(b), Idaho Code.

DESCRIPTIVE SUMMARY: The final rules are being adopted as proposed. The original text of the proposed rules was published in the September 6, 1995 Idaho Administrative Bulletin, Volume 95-9, pages 17 through 28.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the final rule, contact Chris Werner at (208) 334-5818.

DATED this 6th day of December, 1995.

Staci Welsh
Administrative Procedures Coordinator
DHW - Legal Services Division
PO Box 83720
450 West State Street - 10th Floor
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-5548 fax

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 95-9, September 6, 1995
Pages 17 through 28**

**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 16 - DEPARTMENT OF HEALTH AND WELFARE

**16.03.01 - RULES GOVERNING AID TO
FAMILIES WITH DEPENDENT CHILDREN**

DOCKET NO. 16-0301-9503

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective December 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) 39-106(l) and 56-202(b), 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 December 20, 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 to protect public health, safety or welfare and are required to confer benefits to recipients of Aid to Families with Dependent Children (AFDC) and Child-Related Medicaid.

The Department proposes the following temporary and proposed changes for the Aid to Families with Dependent Children (AFDC) and Child-Related Medicaid:

1. Adds rule that requires both parents sign the application for assistance in a two (2) parent AFDC budget unit.
2. Clarifies that a budget unit must meet AFDC income and resource eligibility in order to receive one (1) month continued benefits when deprivation no longer exists.
3. Adds rule, at State's option, requiring a resource maximum for Low Income Pregnant Women and Low Income Child Medicaid groups.
4. Makes other non-substantive changes to clarify meaning, correct typos, and correct cross references to other rules.

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 December 27, 1995.

DATED this 6th day of December, 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

TEXT OF DOCKET NO. 16-0301-9503

052. APPLICATION FORMS.

The client must complete an Application for Assistance (AFA), form HW 0901, to apply for AFDC and AFDC-related Medicaid. The AFA must be completed before an AFDC payment or Medicaid can be authorized. To receive Medicaid, the Insurance Information Request for Cost Effectiveness form HW-0902 must be completed at each application. The AFA must be completed when a client has an open Medicaid case and wishes to add AFDC or AFDC-AU to this case. (6-1-95)T

01. Copy of Application. A copy of the AFA's No-Carbon Required (NCR) pages must be given to the client. (6-1-95)T

02. Completion of Application Forms. The AFA can be completed by the client, an authorized representative, or by a person acting on behalf of a disabled client. (4-1-93)

03. Signatures Required on the Application Forms. The client must sign the application forms attesting, under penalty of perjury, that all the information provided on the form is true and correct. The following signatures must be contained on the AFA: (4-1-93)

a. The client's; (12-1-91)

b. If two (2) parents are applying for AFDC or AFDC-UP, both parent's;
(12-1-95)T

bc. The legal guardian, when one exists, or a person with power of attorney to conduct the client's business. (12-1-91)

ed. A person acting responsibly for the client. (12-1-91)

de. The signature on the AFA must be witnessed by a Health and Welfare employee. The witnessing may be waived where a face-to-face interview is not conducted. (4-1-93)

04. Signature by Mark. A signature by mark requires two witnesses. The witnesses' signatures must appear on the AFA followed by the word "WITNESS". (4-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

108. BUDGET UNIT.

An AFDC budget unit is a person or group of persons living in a common residence, whose needs, income, and resources are considered as a unit in determining eligibility for AFDC and Medicaid, and the amount of an AFDC grant. All members of the AFDC budget unit must meet AFDC eligibility requirements. If there is more than one (1) AFDC budget unit in a common residence, each budget unit is considered a separate unit. Budget units cannot be separate, if any member is a required member of both units. The units must be combined and treated as one (1) unit. Eligibility and grant amount of each budget unit is based on the number of budget unit members. No person may be a member of more than one (1) budget unit during the same month. (~~7-1-94~~)(12-1-95)T

01. Who Must be Included. The individuals listed in Subsections 108.01.a. through 108.06.e. of these rules must be included in the AFDC budget unit. (6-1-95)T

a. Parents. A dependent child's natural or adoptive parent(s) living in the same home as the dependent child must be in the budget unit. Both parents must be included, if the child is deprived due to the incapacity of one (1) or both parents. Both parents must be included, if one (1) parent is receiving AABD Medicaid based on the Community Property method and is not an SSI recipient. Both parents must be included, if the child is deprived due to the unemployment of the family's principal wage earner. Disqualified parents are members of the budget unit, but their needs are not included in the need standard. A disqualified parent's income and resources are counted in full. (6-1-95)T

b. Siblings. A dependent child's natural or adoptive brother or sister, including half siblings, living in the same home as the dependent child must be in the budget unit. The siblings must also be dependent children who meet all the non financial AFDC eligibility requirements. (6-1-95)T

c. Pregnant Woman With No Other Children. A pregnant woman who does not have a child residing in the home may receive a grant for herself. Medical verification of pregnancy must be verified by a licensed physician, certified laboratory, or district health department. The grant must not be started earlier than the third month before the month the baby is due. To determine the pregnant woman's eligibility, include the needs, income and resources of all persons living in the household who would be mandatory budget unit members if the child was born. If this unit is eligible, the pregnant woman is eligible for AFDC. Count only her needs, income, and resources in determining the AFDC

grant amount. (6-1-95)T

d. **Pregnant Woman with Other Children Who Are Not Receiving AFDC.** A pregnant woman who does not wish to apply for her other children may receive a grant for herself. The grant must not be started earlier than the third month before the month the baby is due. To determine the pregnant woman's eligibility, include the needs, income and resources of all persons living in the household who would be mandatory budget unit members if the child was born. If this unit is eligible, the pregnant woman is eligible for AFDC. Count only her needs, income, and resources in determining the AFDC grant amount. (6-1-95)T

e. **Disabled or Unemployed Stepparent.** A stepparent who meets the AFDC disability or Unemployed Parent requirements must be included when the AFDC caretaker relative and the stepparent have a child in common residing in the home. (4-1-93)

02. **Who Can be Included.** Individuals listed in Table 03.01.108.02. of these rules may be included in the AFDC budget unit if otherwise eligible, but are not mandatory to be included. (6-1-95)T

a. **Other Child.** A child who is not a natural or adoptive child of the specified relative and not a sibling or half-sibling of other children in the budget unit can be included. The child must be under eighteen (18), or expected to graduate from high school by his nineteenth (19th) birthday. (6-1-95)T

b. **Child of Pregnant Woman.** A pregnant woman's children are optional budget unit members, until the baby is born. This option applies if the pregnant woman is the only person receiving AFDC, if any children are included all siblings must be included. (4-1-93)

c. **Caretaker Relative other than Parent.** A caretaker relative who is not a natural or adoptive parent, such as an aunt, uncle, or grandparent can be included. (6-1-95)T

03. **Who Cannot be Included.** Individuals listed in Subsections 108.03.a. through 108.03.h. of these rules must not be included in the AFDC budget unit: (6-1-95)T

a. **SSI Recipient.** Persons receiving SSI benefits must not be included. (6-1-95)T

b. **AABD Recipient.** Persons receiving AABD benefits must not be included. (6-1-95)T

c. **Siblings Over Age Requirements.** Any siblings of the dependent child, including stepbrother(s) or stepsister(s) who do not meet the age requirements must not be included. A sibling who is over the age requirement and is the caretaker relative because the parents are absent can be an optional budget unit member. (6-1-95)T

d. **Stepparent.** Stepparents must not be included in the budget unit, unless

there is a mutual child and the child is deprived based on a parent's incapacity or unemployment. A step-parent who is the caretaker relative because the child's parent is absent can be an optional budget unit member. (6-1-95)T

- e. Ineligible Alien. Persons who are ineligible aliens must not be included. (6-1-95)T
- f. AFDC-FC Child. A child receiving foster care payments from the Department must not be included. (6-1-95)T
- g. Adoption Assistance. A child receiving adoption assistance payments from any federal, state or local agency providing adoption assistance payments must not be included. (6-1-95)T
- h. Ineligible Due to Lump Sum. Persons who are ineligible due to prior receipt of lump sum income must not be included. (6-1-95)T

04. Budget Unit with SSI Child. An SSI child is not a budget unit member. The child's needs, income and resources are not counted in determining AFDC eligibility. The specified relative of an SSI child has the choice of applying for himself only, or applying for himself and all siblings of the SSI child. The budget unit is determined as follows: (12-1-91)

- a. When the specified relative applies for himself and the SSI child as a dependent child, the relative may receive a grant on his own behalf; or, (12-1-91)
- b. When the specified relative applies for himself and the siblings of the SSI child, the budget unit excludes the SSI child. The budget unit will consist of the eligible siblings of the SSI child and their parents(s) living in the household. (6-1-95)T

05. Budget Unit with Foster Child. A child receiving foster care payments is not a budget unit member. The foster child's needs, income, and resources are not counted in determining AFDC eligibility. If a foster parent is a foster child's specified relative, the foster parent may apply for himself only. The foster parent may also applying for himself and his own dependent children. The budget unit is determined as follows: (7-1-94)

- a. When the specified relative who is a foster parent applies for himself and the foster child as a dependent child, the relative may receive a grant on his own behalf; or, ~~(7-1-94)~~(12-1-95)T
- b. When the specified relative who is a foster parent applies for himself and his other dependent children, the budget unit will consist of all household members except the foster child. ~~(7-1-94)~~(12-1-95)T

06. Disqualified Members. A disqualified person is a member of the budget unit, but his needs are not included. A person is disqualified because he does not meet an eligibility condition or fails to complete a requirement of the AFDC program. The disqualified person's needs are not counted to determine the budget unit's eligibility or grant amount. The disqualified person's income and resources are considered available to the budget unit. Income and resource exclusions apply for the disqualified person. Earned

income disregards are subtracted from the disqualified person's earned income. If the disqualified person is the only dependent child, and is disqualified for reasons other than noncooperation with JOBS, the AFDC grant must be stopped following timely notice. (7-1-94)

07. Budget Unit with Child Receiving Adoption Assistance. A child receiving Adoption Assistance payments is not a budget unit member. The child's needs, income, and resources are not counted in determining AFDC eligibility. The adoptive parent may apply for himself only. The adoptive parent may also apply for himself and his other dependent children. The budget unit is determined as follows: (6-1-95)T

a. When the specified relative applies for himself and the adoptive child as a dependent child, the relative may receive a grant on his own behalf; or, (6-1-95)T

b. When the specified relative applies for himself and his other dependent children, the budget unit will consist of the adoptive child's eligible siblings and their parent(s) living in the household. (6-1-95)T

(BREAK IN CONTINUITY OF SECTIONS)

182. ONE (1) MONTH CONTINUED BENEFITS.

The AFDC benefits will be continued for one (1) calendar month following the month an absent parent returns home, the parent is no longer incapacitated, or the PWE is employed for more than one-hundred (100) hours per month. To receive the additional benefits, the unit's income and resources must not exceed the AFDC income and resource limits. This is to help the budget unit overcome the effects of deprivation. (~~5-5-92~~)(12-1-95)T

(BREAK IN CONTINUITY OF SECTIONS)

555. RECOVERY RATE.

A maximum allowable recovery rate exists for grant reduction. The maximum recovery rate must allow the budget unit to keep as its combined AFDC, other income, and liquid resources at least ninety percent (90%) of the maximum payment standard for that size budget unit. If recovery is made at a lower rate, the rate must be high enough to assure prompt recovery. (~~7-1-94~~)(12-1-95)T

(BREAK IN CONTINUITY OF SECTIONS)

625. RESOURCE LIMITS.

The one thousand dollar (\$1,000) AFDC resource limit applies to AFDC-related Medicaid coverage groups. For poverty related coverage groups, Low Income Pregnant Women and Low Income Child, ~~there is no~~ resource limit is five thousand dollars (\$5,000). (~~6-1-95~~)(12-1-95)T

(BREAK IN CONTINUITY OF SECTIONS)

635. INDIVIDUAL MEDICAID.

An individual family member may qualify under any coverage group described in Sections 640 through 660 of these rules. Determine individual Medicaid eligibility as follows:

(6-1-95)T

01. Family Size. Use the same family size used in the family determination for the individual's determination. Family size is used to determine an income limit for an individual.

(6-1-95)T

02. Financial Responsibility. A parent is financially responsible for himself and for his child. A spouse is financially responsible for himself and for his spouse. A parent or spouse receiving SSI or AABD payments is not considered for the purpose of determining AFDC-related Medicaid as responsible for his spouse or child. Any family member, other than a parent or spouse, is financially responsible only for himself.

(6-1-95)T

03. Income Exclusions and Disregards. Count all non-exempt income of financially responsible persons in determining Medicaid eligibility. Non-exempt income is income remaining after the AFDC exclusions and disregards are subtracted from gross income.

(6-1-95)T

a. Earned Income Disregard. Applicable AFDC earned income disregards are subtracted from each person's earned income. Applicable earned income disregards are listed in Section 614.

(6-1-95)T

b. Fifty Dollar (\$50) Child Support Exclusion. The fifty dollar (\$50) exclusion is subtracted from each child's support payment. Any unused portion of the child support exclusion is not applied to any other child.

(6-1-95)T

04. Income Limits. Income limits are based on family size and coverage group. To determine income eligibility for an individual, compare non-exempt gross income of the individual and of financially responsible persons to the income limit for the coverage group and family size.

(6-1-95)T

a. AFDC-related Medicaid Coverage Group Income. The individual is income eligible if total countable income from financially responsible persons is less than the income limit for the family size. Countable income is income remaining after AFDC exclusions and disregards, including the fifty dollar (\$50) exclusion from child support, have been subtracted.

(6-1-95)T

b. Poverty-related Medicaid Coverage Group Income. The Low Income Pregnant Woman or Low Income Child is income eligible if total countable income is equal to, or less than, the applicable percentage of the Federal Poverty Guideline for the family size. Countable income is income remaining after AFDC exclusions and disregards, including the fifty dollar (\$50) exclusion from child support, have been subtracted.

(6-1-95)T

05. Resource Limits. To determine resource eligibility for an individual, compare non-exempt resources of the individual and of financially responsible persons to the resource limit for the coverage group. (6-1-95)T

a. ~~AFDC related Medicaid Resources. The AFDC resource limit is applied to the coverage groups related to the AFDC need standard.~~ (6-1-95)T

b. ~~Poverty related Medicaid Resources. There is no resource limit applied to coverage groups related to the Federal Poverty Guideline.~~ (6-1-95)T

(BREAK IN CONTINUITY OF SECTIONS)

642. NEWBORN CHILD OF A MEDICAID ELIGIBLE MOTHER.

A newborn child is eligible for Medicaid without an application if the child's mother is eligible for and receiving Medicaid on the child's birth date. A woman is considered eligible for and receiving Medicaid if her Medicaid application date is before the birth of the child and the woman is determined Medicaid eligible after the birth. The newborn child must meet the conditions in Subsections 642.01 through 642.04 of these rules.

(6-1-95)T

01. Resides with Medicaid Eligible Mother. The newborn child remains eligible for up to one (1) year from birth as long as he resides with his mother. His mother must remain eligible for Medicaid or would be Medicaid eligible if still pregnant.

(6-1-95)T

02. Idaho Residents. The newborn and his mother must be residents of Idaho. If residence is lost and the child returns to Idaho and reapplies for Medicaid before his first birthday, he does not regain his status as a newborn of a Medicaid eligible mother.

(6-1-95)T

03. Newborn Waived Criteria. A newborn child of a Medicaid eligible mother is not required to provide an SSN or application for an SSN. The newborn is not required to provide a declaration of citizenship. Proof of relationship is not required for a newborn. Changes in family income, even when income exceeds income standards, have not consequence to the newborn. Changes in family resources can affect the newborn's eligibility.

(6-1-95)T(12-1-95)T

04. Newborn's Continued Eligibility. For Medicaid eligibility to extend beyond the month in which the newborn child's first birthday falls, an application for Medicaid must be filed for the child not later than the date of his first birthday. The child must qualify under another Medicaid category to be further eligible.

(6-1-95)T

(BREAK IN CONTINUITY OF SECTIONS)

647. LOW INCOME CHILD.

A child not eligible for AFDC or Qualified Child Medicaid can be eligible for Medicaid under the poverty-related Low Income Child program. Family income and resources must

meet guidelines. An eligible child is allowed all Medicaid services available.

(6-1-95)T(12-1-95)T

01. Child Under Age Six (6). A child under six (6) years of age can qualify for Medicaid through the month of his sixth (6th) birthday. Family income must not exceed one hundred and thirty-three percent (133%) of the Federal Poverty Guideline for the family size. If the child is receiving Medicaid inpatient services when he turns six (6), eligibility continues through the month his inpatient stay ends. (6-1-95)T

02. Child Age Six (6) and Over Born After September 30, 1983. A child under age nineteen (19), born after September 30, 1983 can qualify. Family income must not exceed one hundred percent (100%) of the Federal Poverty Guidelines for the family size. If the child is receiving Medicaid inpatient services when he turns six (6) or nineteen (19), eligibility continues through the month his inpatient stay ends. (6-1-95)T

03. Family Size. Count family members living with the child. Family members include the child, parent(s), step-parent, minor siblings, minor half-siblings, minor step-siblings, and the child's dependent children and spouse. Count family members regardless of Medicaid ineligibility or disqualification. Do not include persons receiving SSI or AABD payments. For an individual Medicaid determination in Section 635. of these rules, do not include non-parent caretakers in Low Income Child family size. (6-1-95)T

04. Non-Financial Criteria. The child must meet the Medicaid non-financial eligibility criteria. These include residency, citizenship, Assignment of Rights to Medical Support and to Third Party Liability, and applying for and furnishing an SSN. (6-1-95)T

05. Application. If a child gets Medicaid as Newborn Child of a Medicaid Eligible Mother, an application for the child must be filed no later than his first (1st) birthday. A new application is not required after the child turns six (6). The child must be getting Medicaid at the one hundred thirty-three percent (133%) of Federal Poverty Guidelines and remain eligible under one hundred percent (100%) of Federal Poverty Guidelines. (6-1-95)T

06. ~~Resources. There is no resource limit for Low Income Child program family's countable resources must be five thousand dollars (\$5,000) or less for the child to be eligible. Resources are evaluated using AFDC methods except as noted in subsections a and b.~~ (6-1-95)T(12-1-95)T

a. Vehicles. One (1) vehicle, regardless of value is excluded. The family unit may determine which vehicle shall be excluded. In a two (2) parent family, a second vehicle, regardless of value, may be excluded. The second vehicle must be used for medical transportation, or seeking or retaining employment. The equity value of other vehicles is considered a countable resource. (12-1-95)T

b. Retirement Funds. Funds in IRA's or employment related retirement accounts are excluded and not considered against the resource limit. (12-1-95)T

07. Income. Family income must be determined using appropriate AFDC methods. This includes AFDC income exclusions and disregards. The thirty dollar (\$30)

plus one-third (1/3) and thirty dollar (\$30) disregard is applied to the child's earned income if needed for Medicaid eligibility. To get the disregard, the child must have received AFDC in one (1) of the four (4) previous months or his income must be below the AFDC need standard for his family size. (6-1-95)T

08. Continuing Eligibility. Changes in income, resources, and non-financial criteria must be considered prospectively to determine continuing eligibility. A client must report changes to the Department within ten (10) days of the date he becomes aware of the change. ~~(6-1-95)T~~(12-1-95)T

(BREAK IN CONTINUITY OF SECTIONS)

653. LOW INCOME PREGNANT WOMAN.

Pregnant women who do not qualify for AFDC or Qualified Pregnant Women can be eligible under the poverty-related Low Income Pregnant Women program. Family income and resources must meet guidelines. Medicaid services are limited to pregnancy related services only. ~~(6-1-95)T~~(12-1-95)T

01. Pregnancy Verification. Pregnancy must be medically verified by a doctor, certified laboratory, or health department. (6-1-95)T

02. Non-Financial Criteria. The pregnant woman must meet the Medicaid non-financial eligibility criteria. These include residency, citizenship, and Social Security Number. A Low Income Pregnant Woman failing to cooperate in establishing medical support for her born children loses her Medicaid eligibility. A Low Income Pregnant Woman failing to cooperate in establishing medical support for an unborn remains Medicaid eligible during the pregnancy and the two (2) postpartum months. (6-1-95)T

03. Family Size. Count family members living with the pregnant woman. Family members include the pregnant woman, spouse, minor dependent children, minor step-children, and unborn. Count family members regardless of their Medicaid ineligibility or disqualification. Do not include family members receiving SSI or AABD payments. For an individual Medicaid determination in Section 635. of these rules, do not count children other than the pregnant woman's own children and step-children. The children must be living with her. (6-1-95)T

04. Income. Family income must not exceed one hundred thirty-three percent (133%) of the Federal Poverty Guideline. Family income must be determined using appropriate AFDC methods. This includes AFDC income exclusions and disregards. The thirty dollar (\$30) plus one-third (1/3) and thirty dollar (\$30) disregard is applied to the pregnant woman's earned income if needed for Medicaid eligibility. To get the disregard, the pregnant woman must have received AFDC in one (1) of the four (4) prior months or her income must be below the AFDC need standard for her family size. (6-1-95)T

05. Resources. There is no resource limit for Low Income Pregnant Women program family's countable resources must be five thousand dollars (\$5,000) or less for the pregnant woman to be eligible. Resources are evaluated using AFDC methods except as

noted in Subsections 653.05.a. and b.

(6-1-95)T(12-1-95)T

a. Vehicles. One (1) vehicle, regardless of value, is excluded. The family unit may determine which vehicle shall be excluded. In a two (2) parent family, a second vehicle, regardless of equity value, may be excluded. The second vehicle must be used for medical transportation, or seeking or retaining employment. The equity value of other vehicles is considered a countable resource.

(12-1-95)T

b. Retirement Funds. Funds in IRA's or employment related retirement accounts are excluded and not considered against the resource limit.

(12-1-95)T

06. Continuing Eligibility. The pregnant woman remains eligible during the pregnancy regardless of changes in income. Changes in resources and non-financial criteria must be considered prospectively. The woman must report the end of pregnancy to the Department within ten (10) days. The woman is eligible for Extended Medicaid Coverage if she applied for Medicaid while pregnant and was receiving Medicaid when the child was born.

(6-1-95)T(12-1-95)T

(BREAK IN CONTINUITY OF SECTIONS)

655. EXTENDED MEDICAID COVERAGE FOR PREGNANT WOMAN.

pregnant woman receiving Medicaid continues to be eligible through the last day of the month when the sixty (60) day post partum period ends. Changes in family income are of no consequence during the postpartum period. Changes in family resources can affect eligibility during the postpartum period. The sixty (60) day period begins the last day of the pregnancy. Only pregnancy and postpartum services are covered. Timely notice of closure must be mailed ten (10) days before the end of the coverage period. Notice can be mailed as early as the last day of the pregnancy. An ineligible alien with a pregnancy related emergency medical condition does not qualify. A woman applying for Medicaid after the child is born does not qualify for Extended Medicaid.

(6-1-95)T(12-1-95)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE
DOCKET NO. 16-0309-9503
NOTICE OF VACATION OF RULE-MAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the rule-making previously initiated under this docket. The action is authorized pursuant to Section(s) 56-202(b) and 56-203(g), Idaho Code and is effective October 1, 1995.

DESCRIPTIVE SUMMARY: The Idaho Department of Health and Welfare has decided to vacate this rulemaking effective October 1, 1995. In response to testimony and comment made through negotiated settlement with the Idaho Hospital Association, further amendments to this rulemaking with a temporary effective date of October 1, 1995 will be published under docket no. 16-0309-9508.

SUBMISSION OF WRITTEN COMMENTS, ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation, contact Beldon Ragsdale at (208) 334-5795.

DATED this 6th day of December, 1995.

Staci Welsh
Administrative Procedures Coordinator
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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE
DOCKET NO. 16-0309-9504
NOTICE OF FINAL RULE

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

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 Section(s) 56-202(b) and 56-203(g), Idaho Code.

DESCRIPTIVE SUMMARY: The final rules are being adopted as proposed. The original text of the proposed rules was published in the September 6, 1995 issue of the Idaho Administrative Bulletin, Volume 95-9, pages 33 through 35.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the final rule, contact Lloyd Forbes at (208) 334-5795.

DATED this 6th day of December, 1995.

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

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 95-9, September 6, 1995
Pages 33 through 35**

**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 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE
DOCKET NO. 16-0309-9508
NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective July 6, 1995 and 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 56-203(g), 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 December 20, 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: Temporary rules are reasonably necessary to protect the public health, safety, and welfare; to comply with deadlines in amendments to governing law or federal programs; and to confer a benefit.

These changes are required to ensure that the state reimbursement methodology conforms with federal law and implements the negotiated settlement of a lawsuit brought by the Idaho Hospital Association.

These rules change the outpatient reimbursement methodology for certain outpatient hospital ambulatory surgical procedures and radiological and imaging services to the lesser of cost, covered charges, or a blended rate of cost and the Department's fee schedule from exclusive use of the Department's established fee schedule to conform with Medicare methods and levels of reimbursement. Hospital based ambulance services will be reimbursed according to Medicare reasonable cost principles. Companion rules are proposed under Docket No. 16-0310-9502.

SUBMISSION OF WRITTEN COMMENTS, ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary or proposed rule, contact Beldon Ragsdale at (208) 334-5795.

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 December 27, 1995.

DATED this 6th day of December, 1995.

STACI WELSH
Administrative Procedures Coordinator
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

TEXT OF DOCKET NO. 16-0309-9508

060. FEES AND UPPER LIMITS.

01. Inpatient Hospital Fees. In reimbursing licensed hospitals, the Department will pay the lesser of customary charges or the reasonable cost of semi-private rates for inpatient hospital care in accordance with Idaho Department of Health and Welfare Rules and Regulations, Title 3, Chapter 10, "Rules Governing Medicaid Provider Reimbursement in Idaho," however, the upper limits for payment must not exceed the payment which would be determined as reasonable costs using the Title XVIII Medicare standards and principles. Inpatient payments shall not exceed the Upper Payment limit set forth in the Code of Federal Regulations. ~~(12-31-91)~~(10-1-95)T

02. Outpatient Hospital Fees. The Department will not pay more than the combined payments the provider is allowed to receive from the beneficiaries and carriers or intermediaries for providing comparable services under comparable circumstances under Medicare. Outpatient hospital services identified below that are not listed in the Department's fees schedule will be reimbursed reasonable costs ~~will be based upon a year end cost settlement.~~ ~~(5-2-93)~~(10-1-95)T

a. Maximum payment for hospital outpatient diagnostic laboratory services will be limited to the Department's established fee schedule. (5-25-93)

b. Maximum payment for outpatient hospital diagnostic radiology procedures will be limited to the blended rate of costs and the Department's established fee schedule specified in IDAPA 16.03.10, Subsection 457.02 at the time of cost settlement. ~~(5-5-93)~~(7-6-95)T

c. Maximum payment for hospital outpatient partial care services will be limited to the Department's established fee schedule. (5-5-93)

d. Maximum payment for hospital out-patient surgical procedures will be limited to the blended rate of costs and the Department's fee schedule for ambulatory surgical centers specified in IDAPA 16.03.10, Subsection 457.01 at the time of cost

settlement.

~~(5-5-93)~~(7-6-95)T

ef. Hospital based ambulance services will be reimbursed according to Medicare cost reimbursement principles. All other ambulance providers will be reimbursed according to the Department's established fee schedule for medical transportation. ~~(5-25-93)~~(10-1-95)T

03. Long-Term Care Facility Fees. Long-term care facilities will be reimbursed the lower of their customary charges, their actual reasonable costs, or the standard costs for their class as set forth in the Provider Reimbursement Manual, but the upper limits for payment must not exceed the payment which would be determined as reasonable costs using the Title XVIII Medicare standards and principles. (11-10-81)

04. Individual Provider Fees. The Department will not pay the individual provider more than the lowest of: (11-10-81)

a. The provider's actual charge for service; or (11-10-81)

b. The maximum allowable charge for the service as established by the Department on its pricing file; or (11-10-81)

c. The Medicare upper limitation of payment on those services where a beneficiary is eligible under both programs and Medicaid is responsible only for the deductible and co-insurance payment. (11-10-81)

05. Fees for Other Noninstitutional Services. The Department will reimburse for all noninstitutional services which are not included in other Idaho Department of Health and Welfare Rules ~~and Regulations~~, but allowed under Idaho's Medical Assistance Program according to the provisions of 42 CFR Section 447.325 and 42 CFR Section 447.352 and Section 1902(a)(13)(E) of the Social Security Act. ~~(2-4-91)~~(10-1-95)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.10 - RULES GOVERNING PROVIDER REIMBURSEMENT
DOCKET NO. 16-0310-9501
NOTICE OF VACATION OF RULE-MAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the rule-making previously initiated under this docket. The action is authorized pursuant to Section(s) 56-202(b) and 56-203(g), Idaho Code and is effective October 1, 1995.

DESCRIPTIVE SUMMARY: The Idaho Department of Health and Welfare has decided to vacate this rulemaking effective October 1, 1995. In response to testimony and comment made through negotiated settlement with the Idaho Hospital Association, further amendments to this rulemaking with a temporary effective date of October 1, 1995 will be published under docket no. 16-0310-9502.

SUBMISSION OF WRITTEN COMMENTS, ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation, contact Beldon Ragsdale at (208) 334-5795.

DATED this 6th day of December, 1995.

Staci Welsh
Administrative Procedures Coordinator
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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.10 - RULES GOVERNING PROVIDER REIMBURSEMENT

DOCKET NO. 16-0310-9502

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective July 6, 1995 and October 10, 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 56-203(g), 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 December 20, 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: Temporary rules are reasonably necessary to protect the public health, safety, or welfare; to comply with deadlines in amendments to governing law or federal programs; and to confer a benefit.

These changes are required to ensure that the state reimbursement methodology conforms with federal law and implements the negotiated settlement of a lawsuit brought by the Idaho Hospital Association.

These rules change the year in which inpatient hospital reimbursement per diem limits are based from 1984 to 1992; change the method of determining and distributing payments for disproportionate share hospitals; obtain specific compliance with Section 7441 of OBRA 1993; increase payment level from \$20,000 to \$50,000 before the cost settlement with out-of-state hospitals must be pursued by the Department.

These rules change the Department's fee schedule method of reimbursement while remaining under the federal outpatient upper payment limits. Certain outpatient surgical procedures, and diagnostic, radiological, and imaging services, will be comparable to the Medicare blended rate methodology. Hospital based ambulance services will be reimbursed according to Medicare reasonable cost principles. Companion rules are proposed under docket no. 16-0309-9508.

SUBMISSION OF WRITTEN COMMENTS, ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary or proposed rule, contact Beldon Ragsdale at (208) 334-5795.

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 December 27, 1995.

DATED this 6th day of December, 1995.

STACI WELSH
Administrative Procedures Coordinator
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

TEXT OF DOCKET NO. 16-0310-9502

408. -- ~~499~~48. (RESERVED).

~~450~~49. MAXIMUM PAYMENT TO HOSPITALS.

Pursuant to the provisions of Title XIX of the Social Security Act, in reimbursing hospitals, the Department will pay in behalf of MA recipients the lesser of eCustomary eCharges or the Reasonable eCost of inpatient services in accordance with the procedures detailed in Sections ~~450-~~ through 499. The upper limits observed by the Department in reimbursing each individual hospital must not exceed the payment which would be determined as a Reasonable eCost under the policies, definitions and procedures observed under Medicare (Title XVIII) principles of cost reimbursement. ~~(12-31-94)~~(10-1-95)T

~~451~~0. EXEMPTION OF NEW HOSPITALS.

A hospital that has operated as the type of facility for which it is certified (or the equivalent thereof) under present and previous ownership for less than three (3) full years will be paid in accordance with the Title XVIII principles of Reasonable Cost reimbursement, including those provisions applicable to new providers for the carryover and recovery of unreimbursed costs, pursuant to 42 CFR ~~Subpart D,~~ Section ~~405.344(d)~~ 411.28 and ~~Subpart C,~~ Sections 413.30(g) and (h). ~~(7-1-87)~~(7-6-95)T

~~453~~1. DEFINITIONS BASIS OF PAYMENT.

In determining hospital reimbursement on the basis either of eCustomary eCharges or of the Reasonable eCost of inpatient services under Medicaid guidelines, whichever is the lesser, the following will apply: ~~(7-1-87)~~(7-6-95)T

01. Allowable Costs. The eCurrent yYear's Title XIX apportionment of a hospital's aAllowable eCosts determined at final or interim settlement consist of those costs permitted by the principles of reimbursement contained in the Medicare Health Insurance Manual Parts I and II (HIM-15-I & II) and do not include costs already having payment limited by Medicaid rate file or any other Medicaid charge limitation. ~~(7-1-87)~~(7-6-95)T

02. Apportioned Costs. Apportioned eCosts consist of the share of a hospital's total ~~a~~Allowable eCosts attributed to Medicaid program recipients and other patients so that the share borne by the program is based upon actual services received by program recipients, as set forth in the applicable Title XVIII principles of cost reimbursement as specified in Health Insurance Manual; (HIM-15); and in compliance with Medicaid reimbursement ~~regulations~~ rules. ~~(7-1-87)(7-6-95)T~~

03. Base Year. For services rendered prior to July 1, 1987, the Base Year is the most recent provider fiscal year in which a finalized Medicare cost report has been issued by the Intermediary. Providers with fiscal years which begin in the Base Year may not be exempt from the rules governing the Title XIX cost limitations in effect any time in the Current Year. The per admission costs related to the Base Year will be adjusted by the volume adjustment formula using the Current Year's total admissions under the rules in effect prior to the rules enacted July 1, 1987. The admissions and related services provided after the effective date of these rules during the Current Year will be governed by these rules. ~~(7-6-95)T~~

04. Capital Costs. For the purposes of hospital reimbursement, eCapital eCosts are those allowable costs considered in the final settlement that represent the cost to each hospital for its reasonable property related and financing expense, and property taxes. ~~(7-1-87)(7-6-95)T~~

05. Case-Mix Index. The Case-Mix Index for a hospital is the average weight of values assigned to a range of diagnostic related groups, including but not limited to, those used in the Medicare system or adjoining states and applied to Medicaid discharges included in a hospital's fiscal year end settlement. The index will measure the relative resources required to treat Medicaid inpatients. The Case-Mix Index of the Current Year will be divided by the index of the principal year to assess the percent change between the years. ~~(7-6-95)T~~

06. Charity Care. Charity Care is eCare provided to individuals who have no source of payment, third-party or personal resources. ~~(7-1-88)(10-1-95)T~~

07. Children's Hospital. A Children's Hospital is a Medicare certified hospital as set forth in 42 CFR Section 412.23(d). ~~(7-6-95)T~~

08. Cost Report. A Cost Report is the complete Medicare cost reporting form HCFA 2552, or its successor, as completed in full and accepted by the Intermediary for Medicare cost settlement and audit. ~~(7-6-95)T~~

09. Current Year. Any hospital cost reporting period for which Reasonable Cost is being determined will be termed the Current Year. ~~(7-6-95)T~~

10. Customary Charges. Customary eCharges reflect the regular rates for inpatient or outpatient services charged to patient(s) liable for payment for their services on a charge basis. Implicit in the use of charges as the basis for comparability (or for apportionment under certain apportionment methods) is the objective that services are related to the cost of services billed to the Title XIX program. No more than one hundred percent (100%) of covered charges will be reimbursed for the separate eOperating eCosts for either total inpatient services or total outpatient services at the time of final cost

settlement for any fiscal year with the exception set forth in Subsection 453.02.
(7-1-87)(7-6-95)T

11. Disproportionate Share Hospital (DSH) Allotment Amount. The DSH Allotment Amount determined by Health Care Financing Administration which is eligible for federal matching funds in any federal fiscal period for disproportionate share payments.
(10-1-95)T

12. Disproportionate Share Hospital (DSH) Survey. The DSH Survey is an annual data request from the Department to the hospitals to obtain the information necessary to compute DSH pursuant to Subsection 454.01.
(10-1-95)T

~~0613.~~ Disproportionate Share Threshold. The Disproportionate Share Threshold shall be:
(7-1-88)(10-1-95)T

a. The arithmetic mean average plus one (1) standard deviation of all Idaho general acute care hospital the Medicaid Utilization Rates of all Idaho Hospitals; or as determined from the best information available as of June 30 of each year.
(7-1-88)(10-1-95)T

b. A Low Income Revenue Rate exceeding twenty-five percent (25%).
(7-1-88)(10-1-95)T

14. Excluded Units. Excluded Units are distinct units in hospitals which are certified by Medicare according to 42 CFR Sections 412.25, 412.27 and 412.29 for exclusion from the Medicare prospective payment system.
(10-1-95)T

15. Hospital Inflation Index. For purposes of determining the rate of increases of historical and forecasted Title XIX Inpatient Operating Cost Limits, and interim rates, the DRI, Data Resources Incorporated, Type Hospital Market Basket quarterly moving average, or its successor, is the Hospital Inflation Index.
(7-6-95)T

~~0816.~~ Low Income Revenue Rate. For a hospital, The Low Income Revenue Rate is the sum of the following fractions, expressed as a percentage, calculated as follows:
(7-1-88)(10-1-95)T

a. Total Medicaid inpatient revenues paid to the hospital, plus the amount of the cash subsidies received directly from state and local governments in a cost reporting period, divided by the total amount of revenues and cash subsidies of the hospital for inpatient services in the same cost reporting period; plus
(7-1-88)

b. The total amount of the hospital's charges for inpatient hospital services attributable to charity care in the same cost reporting period, divided by the total amount of the hospital's charges for inpatient services in the hospital in the same period. The total inpatient charges attributed to charity care shall not include contractual allowances and discounts and reduction in charges given to Medicare, Medicaid, other third-party payors, and or cash for patient services received directly from state and local governments county assistance programs.
(7-1-88)(10-1-95)T

17. Medicaid Inpatient Day. For purposes of DSH payments, an inpatient

day is defined as a Medicaid inpatient day in a hospital for which there is also no Medicare inpatient day counted. (10-1-95)T

~~0718.~~ Medicaid Utilization Rate (MUR). Inpatient Day Utilization Rate. For a hospital, the total number of its Medicaid inpatient days in a cost reporting period, divided by the total number of its hospital inpatient days, excluding The MUR for each hospital will be computed using the Department's record of paid inpatient days for the calendar year divided by the total inpatient days for the same calendar year as reported in the DSH Survey. In this paragraph, the term "inpatient days" includes Medicaid swing-bed days, Administratively necessary days, newborn days, days in specialized wards, days provided at an inappropriate level of care, and Medicaid inpatient days from other states, in the same cost reporting period. In this paragraph, "Medicaid inpatient days" includes paid days not counted in prior DSH Threshold computations. (7-1-88)(10-1-95)T

~~019.~~ Obstetricians. For purposes of an adjustment for hospitals serving a disproportionate share of low income patients, and in the case of a hospital located in a rural area, as defined by the federal Executive Office of Management and Budget, the term "obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures. (7-1-88)

~~±20.~~ Operating Costs. For the purposes of hospital reimbursement, ~~Operating e~~Costs are the allowable costs included in the cost centers established in the finalized Medicare ~~e~~Cost r~~Report~~ to accumulate costs applicable to providing routine and ancillary services to patients for the purposes of cost assignment and allocation in the step-down process. (7-1-87)(10-1-95)T

~~±21.~~ Other Allowable Costs. Other ~~a~~Allowable e~~Costs~~ are those ~~r~~Reasonable e~~Costs~~ recognized under the Medicaid ~~r~~Reasonable e~~Cost~~ principles for services not subject to Medicaid limitations of coverage or reimbursement limits. Costs which are not reimbursed as ~~o~~Operating e~~Costs~~, but recognized by Medicare principles as ~~a~~Allowable e~~Costs~~ will be included in the total ~~r~~Reasonable e~~Costs~~. Other ~~a~~Allowable e~~Costs~~ include, but are not necessarily limited to, physician's component which was combined-billed, ~~e~~Capital e~~Costs~~, ambulance costs, excess costs, carry-forwards and medical education costs. (7-1-87)(10-1-95)T

22. Principal Year. The Principal Year is the period from which the Title XIX Inpatient Operating Cost Limit is derived. (7-6-95)T

a. For services rendered from July 1, 1987 through July 5, 1995, the Principal Year shall be the provider's fiscal year ending in calendar year 1984 in which a finalized Medicare Cost Report or its equivalent is prepared for Title XIX cost settlement. (7-6-95)T

b. For inpatient services rendered after July 5, 1995, through June 30, 1998, the Principal Year shall be the provider's fiscal year ending in calendar year 1992 in which a finalized Medicare Cost Report, or its equivalent, is prepared for Title XIX cost settlement. (7-6-95)T

c. For inpatient services rendered after June 30, 1998, the Principal Year shall be the provider's fiscal year ending in calendar year 1995 in which a finalized

Medicare Cost Report or its equivalent is prepared for Title XIX cost settlement. (7-6-95)T

23. Public Hospital. For purposes of Subsection 453.02, a Public Hospital is a hospital operated by a federal, state, county, city, or other local government agency or instrumentality. (10-1-95)T

24. Reasonable Costs. Except as otherwise provided in Section 453, Reasonable eCosts includes all necessary and ordinary costs incurred in rendering the services related to patient care which a prudent and cost-conscious hospital would pay for a given item or service which do not exceed the Title XIX cost limit. ~~(7-1-87)~~(7-6-95)T

25. Reimbursement Floor Percentage. The percentage of allowable Medicaid costs guaranteed to hospitals with more than forty (40) licensed and Medicare certified inpatient beds during the following state fiscal years is as follows: (7-6-95)T

- a. State Fiscal Year Ending June 30, 1996 - eighty percent (80%); (7-6-95)T
- b. State Fiscal Year Ending June 30, 1997 - eighty-one percent (81%); (7-6-95)T
- c. State Fiscal Year Ending June 30, 1998 - eighty-two percent (82%); (7-6-95)T
- d. State Fiscal Year Ending June 30, 1999 - eighty-three percent (83%); (7-6-95)T
- e. State Fiscal Year Ending June 30, 2000 - eighty-four percent (84%); (7-6-95)T
- f. State Fiscal Year Ending June 30, 2001 - eighty-five percent (85%). (7-6-95)T

26. TEFRA. TEFRA is the Tax Equity and Fiscal Responsibility Act of 1982, Public Law 97-248. (7-6-95)T

27. Uninsured Patient Costs. For the purposes of determining the additional costs beyond uncompensated Medicaid costs that may be reimbursed as a DSH payment without exceeding the state Allotment Amount, only inpatient costs of uninsured patients will be considered. An inpatient with insurance but no benefit covered for the particular medically necessary service, procedure or treatment provided is an uninsured patient. (10-1-95)T

28. Upper Payment Limit. The Upper Payment Limit for hospital services shall be as defined in the Code of Federal Regulations. (7-6-95)T

~~452. REPORTING PERIODS. Any hospital cost reporting period which:~~ (4-1-87)

~~01. Current Year. Any hospital cost reporting period for which reasonable~~

~~cost is being determined will termed the "current year". (7-1-87)~~

~~02. Principal Year. For services rendered after the effective date of this regulation, the "principal year" shall be the provider's fiscal year ending in calendar year 1984 in which a finalized Medicare cost report or its equivalent is prepared for Title XIX cost settlement. (7-1-87)~~

~~03. Base Year. For services rendered prior to the effective date of this regulation, the "base year" is the most recent available provider fiscal year in which a finalized Medicare cost report has been issued by the Intermediary. Providers with fiscal years which are split between the base year and the principle year may not be exempt from the regulations governing the Title XIX cost limitations in effect any time in the current year. The per admission costs related to the base year will be adjusted by the volume adjustment formula using the current year's total admissions under the regulations in effect prior to the enactment of these regulations. The admissions and related services provided after the effective date of these regulations during the current year will be governed by these regulations. (7-1-87)~~

4542. TITLE XIX INPATIENT OPERATING COST LIMITS.

~~In the determination of Reasonable eCosts, a separate Title XIX cost limit for the services rendered under prior to, and after, the effective date of this regulation, as designated in the approved state plan for hospitals will be in effect during the Current Year. will not exceed the Payments will meet the costs of a economically and efficiently operated facility when as constrained by the Title XIX cost limit, in effect during that period of service the same Current Year, is applied. (7-1-87)(7-6-95)T~~

~~01. Title XIX Cost Limits for Dates of Service Prior to a Current Year. Prior to Effective Date of regulations. The reimbursable Reasonable eCosts for services rendered prior to the beginning of the Principal Year, but included as prior period claims in a subsequent period's Cost Report, will be subject to the same operating cost limits as the claims under settlement. effective date of this regulation will be determined by the regulations in effect at the time. (7-1-87)(7-6-95)T~~

~~02. Application of the Title XIX Cost Limit After Effective Date of Regulations Rules. In the determination of a hospital's Reasonable eCosts for inpatient services rendered after the effective date of a Principal Year this regulation, a Hospital Cost Inflation Index, computed for each hospital's fiscal year end, will be applied to the Operating eCosts, excluding eCapital eCosts and eOther aAllowable eCosts as defined (see Subsection 453.11.) of for the pPrincipal yYear and adjusted on a per diem basis for each subsequent year under the Hospital Inflation Cost Index. (12-31-91)(7-6-95)T~~

~~a. The Hospital Cost Index will be the national forecast of the Hospital Market Basket of total operating costs, excluding capital costs, as reported by Data Resources Incorporated (DRI) health care costs as the percent moving average in the most recent index available before final settlement is completed. (7-1-87)~~

~~ab. Each inpatient routine service cost center, as reported in the finalized Principal 1984 fiscal yYear end Medicare eCost rReport, will be segregated in the Title XIX cost limit calculation and assigned a share of total Title XIX inpatient ancillary costs. The prorated ancillary costs shall be determined by the ratio of each Title XIX routine cost~~

center's reported costs to total Title XIX inpatient routine service costs in the ~~p~~Principal ~~y~~Year. ~~(7-1-87)(7-6-95)T~~

~~b~~e. Each routine cost center's total Title XIX routine service costs plus the assigned share of Title XIX inpatient ancillary costs of the ~~p~~Principal ~~y~~Year will be divided by the related Title XIX patient days to identify the total costs per diem in the ~~p~~Principal ~~y~~Year. ~~(7-1-87)(7-6-95)T~~

~~i~~. The related inpatient routine service cost center's per diem capital and ~~graduate~~ medical education costs plus the prorated share of inpatient ancillary capital costs will be subtracted from the per diem amount identified in Subsection 4542.02.b. to identify each inpatient routine service cost center per diem cost limit in the ~~p~~Principal ~~y~~Year. ~~(12-31-91)(7-6-95)T~~

~~ii~~. If a provider did not have any Title XIX inpatient utilization or render any Title XIX inpatient services in an individual inpatient routine service cost center in ~~the~~ its fiscal year ~~ending in 1984~~ serving as the Principal Year ending in 1984, the ~~p~~Principal ~~y~~Year for only those routine cost centers without utilization in the provider's ~~p~~Principal ~~1984 fiscal y~~Year will be appropriately calculated using the information available in the next subsequent year in which Title XIX utilization occurred. ~~(7-1-87)(7-6-95)T~~

~~c~~d. Claims with dates of admission prior to July 1, 1987 which include services on July 1, 1987, and thereafter ~~for that admission~~, will be reimbursed under the ~~regulations~~ ~~rules~~ in effect prior to ~~the effective date of this regulation~~ July 1, 1987. ~~(7-1-87)(7-6-95)T~~

~~d~~e. Each routine cost center's cost per diem for the ~~p~~Principal ~~y~~Year will be multiplied by a ~~the~~ Hospital ~~Inflation~~ Cost Index for each subsequent fiscal year. ~~(7-1-87)(7-6-95)T~~

~~e~~f. The sum of the per diem cost limits for the Title XIX inpatient routine service cost centers of a hospital during the ~~p~~Principal ~~y~~Year, as adjusted by the Hospital ~~Cost~~ Inflation Index, will be the Title XIX cost limit for ~~e~~Operating ~~e~~Costs in the ~~e~~Current ~~y~~Year. ~~(7-1-87)(7-6-95)T~~

~~i~~. At the date of final settlement, reimbursement of the Title XIX ~~e~~Current ~~y~~Year inpatient routine cost centers plus the assigned ancillary costs will be limited to the total ~~1984~~ per diem ~~e~~Operating ~~e~~Costs as adjusted for each subsequent fiscal year after the ~~p~~Principal ~~y~~Year through the ~~e~~Current ~~y~~Year by the Hospital ~~Inflation~~ Cost Index. ~~(7-1-87)(7-6-95)T~~

~~ii~~. ~~For fiscal years ending after the effective date of this regulation, the~~ ~~p~~Providers will be notified of ~~the an~~ estimated ~~inflation index periodically or~~ Hospital ~~Inflation~~ Cost Index (HCFA Market Basket Index) prior to final settlement only upon written request. ~~(7-1-87)(7-6-95)T~~

4553. EXCEPTIONS ADJUSTMENTS TO THE TITLE XIX COST LIMIT.

A ~~hospital's request by a provider~~ request for review by the Bureau of Medicaid Policy ~~and~~ ~~Reimbursement, or its successor~~, concerning an adjustment to or exemption from the cost limits imposed under the provisions set forth in Sections 450- through 499-, ~~can be made~~

~~to the Bureau of Medicaid Policy shall be granted~~ under the following circumstances (see also Section 459 500-): ~~(12-31-91)(7-6-95)T~~

01. Adjustments ~~Exception~~ Because of Extraordinary Circumstances. Where a provider's costs exceed the Title XIX limit due to extraordinary circumstances beyond the control of the provider, the provider can request an adjustment to the cost limit to the extent the provider proves such higher costs result from the extraordinary circumstances including, but not limited to, increased costs attributable to strikes, fires, earthquake, flood, or similar, unusual occurrences with substantial cost effects.

~~(7-1-87)(7-6-95)T~~

02. Reimbursement to Public Hospitals. A Public Hospital that provides services free or at a nominal charge, which is less than, or equal to fifty percent (50%) of its total allowable costs, will be reimbursed at the same rate that would be used if the hospital's charges were equal to, or greater than, its costs. ~~Adjustment for All Hospitals Serving a Disproportionate Share of Low Income Patients.~~ A provider may receive an adjustment retrospectively at the time of interim and final settlements for serving a disproportionate share of low income patients with special needs for periods ending on or after July 1, 1988. The hospital will qualify for the adjustment for serving a disproportionate share of low income patients with special needs when the conditions set forth in Subsections 455.02.a. and 455.02.b. are met:

~~(12-31-91)(7-6-95)T~~

a. ~~If the facility has a rate of at least one (1) standard deviation above the mean Medicaid inpatient day utilization rate for Idaho hospitals providing services to Idaho Medicaid recipients, or a low income revenue rate exceeding twenty-five percent (25%).~~

~~(7-1-88)~~

03. Adjustment to Cost Limits. A hospital shall be entitled to a reasonable increase in its Title XIX Cost limits if the hospital shows that its per diem costs of providing services have increased due to increases in case-mix, the adoption of new or changed services, the discontinuation of services or decrease in average length of stay for Medicaid inpatients since the Principal Year. Any hospital making such showing shall be entitled to an increase commensurate with the increase in per diem costs.

~~(7-6-95)T~~

a. The Title XIX operating cost limit may be adjusted by multiplying the ratio of the Current Year's Case-Mix Index divided by the Principal Year's Case-Mix Index.

~~(7-6-95)T~~

b. The contested case procedure set for forth in IDAPA 16.05.03.330.02, Rules Governing Contested Case Proceedings and Declaratory Rulings, shall be available to larger hospitals seeking such adjustments to their Title XIX Cost Limits.

~~(7-6-95)T~~

04. Hospitals with Forty (40) or Fewer Licensed and Medicare Certified Beds. Hospitals with forty (40) or fewer licensed and Medicare certified beds, excluding nursery and neonatal intensive care bassinets, will be guaranteed one hundred percent (100%) of their allowable Medicaid Operating and Capital and medical education costs upon final settlement excluding DSH payments.

~~(7-6-95)T~~

05. Hospitals with More Than Forty (40) Licensed and Medicare Certified Beds. Hospitals with more than forty (40) licensed and Medicare certified beds will be

guaranteed at least eighty percent (80%) of their total allowable Medicaid Operating and Capital and medical education costs upon final settlement excluding DSH payments.

(7-6-95)T

a. With the exception of Subsection 453.05.b., at the time of final settlement, the allowable Medicaid costs related to each hospital's fiscal year end will be according to the Reimbursement Floor Percentage defined for each state fiscal year end.

(7-6-95)T

b. In the event that HCFA informs the Department that total hospital payments under the Inpatient Operating Cost Limits exceed the inpatient Upper Payment Limit, the Department may reduce the guaranteed percentage defined as the Reimbursement Floor Percentage to hospitals with more than forty (40) licensed and Medicare certified beds to the level of the previous year.

(7-6-95)T

036. Adjustment to the Proration of Ancillary Costs in the Principal Year. Where the provider asserts that the proration of ancillary costs does not adequately reflect the total Title XIX cost per diem calculated for the inpatient routine service cost centers in the principal year, the provider may submit a detailed analysis of ancillary services provided to each Title XIX recipient for each type of patient day during each recipient's stay during the principal year. The provider will be granted this adjustment only once upon appeal prior to notice of program reimbursement for the provider's fiscal year ending after the effective date of these regulations rules.

~~(7-1-87)~~(7-6-95)T

454. ADJUSTMENT FOR DISPROPORTIONATE SHARE HOSPITALS (DSH).

All hospitals serving a disproportionate share of low income patients must qualify either as a Mandatory DSH or as Deemed DSH to receive a DSH payment.

(10-1-95)T

01. DSH Survey Requirements. On or before January 31, of each calendar year, the Department will send each hospital a DSH Survey. Each hospital shall return the DSH Survey on or before May 31 of the same calendar year. A hospital shall not be entitled to a DSH payment if the hospital fails to return the DSH Survey by the May 31 deadline without good cause as determined by the Department. From the DSH Survey and Department data, payments distributing the state's annual DSH allotment amount will be made by September 30 of the same calendar year.

(10-1-95)T

02. Mandatory Eligibility. Mandatory Eligibility for DSH status and outstationing shall be provided for hospitals which:

(10-1-95)T

a. Meet or exceed the disproportionate share threshold as defined in Subsection 451.13.

(10-1-95)T

b. The hospital must Have had at least two (2) obstetricians with staff privileges at the hospital who have agreed to provide obstetric services, and has provided such services to individuals entitled to such services under the Idaho Medical Assistance Program for the entire cost reporting period.

~~(7-1-88)~~(10-1-95)T

i. Subsection 4545.02.b. does not apply to a hospital in which the inpatients are predominantly individuals under eighteen (18) years of age; or

~~(12-31-91)(10-1-95)T~~

ii. Does not offer nonemergency inpatient obstetric services as of December 21, 1987. (7-1-88)

c. ~~The MUR shall not be less than one percent (1%). The payment adjustment for eligible hospitals will be determined by multiplying the formulas set forth in 42 CFR, Subpart G, Section 412.106(e) by the facility's Idaho Medicaid operating costs excluding capital costs.~~ (7-1-88)(10-1-95)T

d. ~~If a hospital exceeds both disproportionate share thresholds, set forth in Subsection 451.13, and the criteria of Subsections 454.02 b. and c. are met, the payment adjustment will be the greater of the amounts calculated using the methods identified in Subsections 454.02 f. through j. In the case of a hospital described in Subsection 455.02.b.i., the hospital's disproportionate share increase will be the disproportionate share adjustment percentage as defined in Section 1886(d)(f)(iv) of Title XVIII of the Social Security Act.~~ (12-31-91)(10-1-95)T

e. ~~In order to qualify for a DSH payment, a hospital located outside the State of Idaho shall: In the event a hospital exceeds both thresholds provided in Subsection 455.02.a. and the criteria of Subsection 455.02.b. are met, the payment adjustment will be the greater of the amounts calculated using the methods identified in Subsection 455.02.e.~~ (12-31-91)(10-1-95)T

i. Qualify under the mandatory DSH requirements set forth in this Section; (10-1-95)T

ii. Qualify for DSH payments from the state in which the hospital is located; and (10-1-95)T

iii. Receive fifty thousand dollars (\$50,000) or more in payments for services provided to Idaho recipients during the year covered by the applicable DSH Survey. (10-1-95)T

f. Hospitals qualifying for Mandatory DSH eligibility with Medicaid Inpatient Utilization Rates equal to or exceeding one (1) standard deviation and less than one and one-half (1 1/2) standard deviations above the mean of all Idaho hospitals shall receive a DSH payment equal to two percent (2%) of the interim payments related to the Medicaid inpatient days included in the MUR computation. (10-1-95)T

g. Hospitals qualifying for Mandatory DSH eligibility with Medicaid Inpatient Utilization Rates equal to or exceeding one and one-half (1 1/2) standard deviations and less than two (2) standard deviations of the mean of all Idaho hospitals shall receive a DSH payment equal to four percent (4%) of the interim payments related to the Medicaid inpatient days included in the MUR computation. (10-1-95)T

h. Hospitals qualifying for Mandatory DSH eligibility with Medicaid Inpatient Utilization Rates exceeding two (2) standard deviations of the mean of all Idaho hospitals shall receive a DSH payment equal to six percent (6%) of the interim payments related to the Medicaid inpatient days included in the MUR computation. (10-1-95)T

i. Hospitals qualifying for Mandatory DSH eligibility with Low Income Utilization Rates equal to or exceeding twenty-five percent (25%) shall receive a DSH payment equal to four percent (4%) of the interim payments related to the Medicaid inpatient days included in the MUR computation. (10-1-95)T

j. Hospitals qualifying for Mandatory DSH eligibility with Low Income Utilization Rates equal to, or exceeding, thirty percent (30%) shall receive a DSH payment equal to six percent (6%) of the interim payments related to the Medicaid inpatient days included in the MUR computation. (10-1-95)T

03. Out-of-State Hospitals Eligible for Mandatory DSH Payments. Out-of-state hospitals eligible for Mandatory DSH payments will receive DSH payments equal to one half (1/2) of the percentages provided for Idaho hospitals in Subsections 454.02.d. through 454.02.j. (10-1-95)T

04. Deemed Disproportionate Share Hospital (DSH). All hospitals in Idaho which have inpatient utilization rates of at least one percent (1%) only in Idaho inpatient days, and meet the requirements unrelated to patient day utilization specified in Subsection 454.02, will be designated a Deemed Disproportionate Share Hospital. Out of state hospitals will not be designated as Deemed DSH. The disproportionate share payment to a Deemed DSH hospital shall be the greater of: (10-1-95)T

a. Five dollars (\$5) per Medicaid inpatient day included in the hospital's MUR computation; or (10-1-95)T

b. An amount per Medicaid inpatient day used in the hospital's MUR computation that equals the DSH Allotment Amount, less the Mandatory DSH payment amount, divided by the number of Medicaid inpatient days used in the MUR computation for all Idaho DSH hospitals. (10-1-95)T

05. Insufficient DSH Allotment Amounts. When the DSH Allotment Amount is insufficient to make the aggregate amount of DSH payments, DSH hospitals, DSH payments to each hospital will be reduced by the percentage by which the DSH Allotment Amount was exceeded. (10-1-95)T

06. DSH Payments Will Not Exceed Costs. A DSH payment will not exceed the costs incurred during the year of furnishing services to individuals who are either eligible for medical assistance under the state plan or were uninsured for health care services provided during the year. (10-1-95)T

a. Payments made to a hospital for services provided to indigent patients by a state or a unit of local government within a state shall not be considered a source of third party payment. (10-1-95)T

b. Claims of uncompensated costs which increase the maximum amount which a hospital may receive as a DSH payment must be documented. (10-1-95)T

455. 04. ORGAN TRANSPLANT AND PROCUREMENT REIMBURSEMENT.

Organ transplant and procurement services by facilities approved for kidneys, bone marrow, liver, or heart will be reimbursed the lesser of one hundred percent (100%) of ~~Reasonable~~ Costs under Medicare payment principles or ~~Customary~~ Charges. Follow up care provided to an organ transplant patient by a provider not approved for organ transplants will be reimbursed at the provider's normal reimbursement rates. Reimbursement to Independent Organ Procurement Agencies and Independent Histocompatibility Laboratories will not be covered. (10-1-91)(10-1-95)T

~~05. Reimbursement to Independent Organ Procurement Agencies and Independent Histocompatibility Laboratories will not be covered. Independent organ procurement agencies and histocompatibility laboratories which wish to participate will receive the lesser of reasonable cost or customary charges for its services under Medicare Payment principles if the provider:~~ (10-1-91)

a. ~~Has a valid agreement with the Secretary of Health and Human Services and the Department to provide services; and~~ (10-1-91)

b. ~~Submits its Medicare cost report to the Department within three (3) months after the end of each reporting period.~~ (10-1-91)

456. OUT-OF-STATE HOSPITALS.

01. Cost Settlements for Certain Out-of-State Hospitals. Hospitals not located in the state of Idaho will have a cost settlement computed with the state of Idaho if the following conditions are met: (10-1-91)

a. Total inpatient and outpatient covered charges are more than ~~twenty fifty~~ thousand dollars (~~\$250,000~~) in the fiscal year; or (7-1-87)(10-1-95)T

b. When less than ~~twenty fifty~~ thousand dollars (~~\$250,000~~) of covered charges are billed to the state by the provider, and a probable significant underpayment or overpayment is identifiable, and the amount makes it administratively economical and efficient for cost settlement to be requested by either the provider or the state, a cost settlement will be made between the hospital and the Department. (7-1-87)(10-1-95)T

02. Payment for Hospitals Without Cost Settlement. Those out-of-state hospitals not cost settling with the state will have annually adjusted rates of payment no greater than seventy-five percent (75%) for inpatient covered charges and no greater than eighty percent (80%) of outpatient covered charges or, the Department's established fee schedule for certain outpatient services. These rates represent average inpatient and outpatient reimbursement rates paid to Idaho hospitals. (7-1-87)(10-1-95)T

457. OUTPATIENT HOSPITAL SERVICES.

Outpatient hospital services must be provided on-site. Covered outpatient services and items will be paid the lesser of Customary Charges or the Reasonable Cost of inpatient services. They will be paid in accordance with the Upper Payment Limit. (7-6-95)T

01. Hospital Outpatient Surgery. Those items furnished by a hospital to an

outpatient in connection with Ambulatory Surgical Center must be surgical procedures covered by Idaho Medicaid. The aggregate amount of payments for related facility services, furnished in a hospital on an outpatient basis, is equal to the lesser of:: (7-6-95)T

a. The hospital's Reasonable Costs as reduced by federal mandates for certain Operating Costs, Capital Costs, Customary Charges; or (7-6-95)T

b. The blended payment amount which is based on hospital specific cost and charge data and Medicaid rates paid to free-standing Ambulatory Surgical Centers (ASC). (7-6-95)T

c. The blended rate for outpatient surgical procedures is equal to the sum of forty-two percent (42%) of the hospital specific amount and fifty-eight percent (58%) of the ASC amount. (7-6-95)T

02. Hospital Outpatient Radiology Services. Radiology services include diagnostic and therapeutic radiology, CAT scan procedures, magnetic resonance imaging, ultrasound and other imaging services. The aggregate payment for hospital outpatient radiology services furnished will be equal to the lesser of:: (7-6-95)T

a. The hospital's Reasonable Costs; or (7-6-95)T

b. The hospital's Customary Charges; or (7-6-95)T

c. The blended payment amount for hospital outpatient radiology equal to the sum of forty-two percent (42%) of the hospital specific amount and fifty-eight percent (58%) of the Department's fee schedule amount. (7-6-95)T

03. Reduction to Outpatient Hospital Costs. With the exception of Medicare designated sole community hospitals and rural primary care hospitals, all other hospital outpatient costs not paid according to the Department's established fee schedule, including the hospital specific component used in the blended rates, will be reduced by five and eight-tenths percent (5.8%) of Operating Costs and ten percent (10%) of each hospital's Capital Costs component. (7-6-95)T

458. INSTITUTIONS FOR MENTAL DISEASE (IMD).

Except for individuals under twenty-two (22) years of age which are contracted with the Department under the authority of the Division of Family and Community Services and certified by the Health Care Financing Administration, no services related to inpatient care will be covered when admitted to a freestanding psychiatric hospital. (7-6-95)T

4579. AUDIT FUNCTION.

Under a common audit agreement, the Medicare Intermediary may perform any audit required for both Title XVIII and Title XIX purposes. The Department may elect to perform an audit even though the Medicare Intermediary does not choose to audit the facility. (7-1-87)

45860. ADEQUACY OF COST INFORMATION.

Cost information as developed by the provider must be current, accurate, and in sufficient detail and in such form as needed to support payments made for services rendered to

recipients. This includes all ledgers, books, reports, records and original evidences of cost (purchase requisitions, purchase orders, vouchers, requisitions for materials, inventories, labor time cards, payrolls, bases for apportioning costs, etc.), which pertain to the determination of ~~r~~Reasonable ~~e~~Costs, leaving an audit trail capable of being audited. Financial and statistical records will be maintained in a consistent manner from one (1) settlement period to another. ~~(7-1-87)~~(10-1-95)T

45961. AVAILABILITY OF RECORDS OF HOSPITAL PROVIDERS.

A participating hospital provider of services must make available to the Department in the state in which the facility is licensed, the provider's fiscal and other necessary records ~~in the state in which the facility is licensed~~ for the purpose of determining its ongoing record keeping capability and to ascertain information pertinent to the determination of the proper amount of program payments due the provider. ~~(7-1-87)~~(10-1-95)T

462. INTERIM COST SETTLEMENTS.

The Department will initiate interim cost settlements based on the Medicare cost reports as submitted to the Medicare Intermediary. (10-1-95)T

01. Cost Report Data. Interim settlement cost report data will be adjusted to reflect Medicaid payments and statistical summary reports sent to providers before the filing deadline. (10-1-95)T

02. Hard Copy of Cost Report. Hospitals which must undergo cost settlement with Idaho Medicaid must submit a hard copy of the Medicare cost report to the Bureau of Medicaid Policy and Reimbursement, or its designee, upon filing with the Intermediary. (10-1-95)T

a. The Department may grant extensions for filing the Medicare cost report for circumstances beyond the provider's control. (10-1-95)T

b. The Department may limit a recovery or payment of an interim settlement amount up to twenty-five percent (25%) of the total settlement amount when the cost report information is in dispute. (10-1-95)T

4603. NOTICE OF PROGRAM REIMBURSEMENT.

Following receipt of the finalized Medicare ~~e~~Cost ~~r~~Report and the timely receipt of any other information requested by the Department to fairly cost settle with the provider, a certified letter with the return receipt requested will be sent to the provider which sets forth the amounts of underpayment or overpayment made to the provider. The notice of the results of the final retroactive adjustment shall be sent even though the provider intends to request a hearing on the determination, or has appealed the Medicare Intermediary's determination of cost settlement. Where the determination shows that the provider is indebted to the Title XIX program because total interim and other payments exceed cost limits, the state will take the necessary action to recover overpayment, including the suspension of interim payments sixty (60) days after the provider's receipt of the notice. Such action of recovery or suspension will continue even after a request for an informal conference or hearing is filed with the state. If the hearing results in a revised determination, appropriate adjustments will be made to the settlement amount. ~~(7-1-87)~~(10-1-95)T

01. Timing of Notice. The Department will make every effort to issue a notice of program reimbursement within twelve (12) months of receipt of the eCost rReport from the Medicare Intermediary. ~~(7-1-87)~~(10-1-95)T

02. Reopening of Completed Settlements. A Medicaid completed cost settlement may be reopened by the provider or the state within a three (3) year period from the date of the letter of notice of program reimbursement. The issues must have been raised, appealed and resolved through the reopening of the eCost rReport by the Medicare Intermediary. Issues previously addressed and resolved by the Department's appeal process are not cause for reopening of the finalized cost settlement. ~~(7-1-87)~~(10-1-95)T

4644. INTEREST CHARGES ON OVERPAYMENTS AND UNDERPAYMENTS TO HOSPITALS.

The Title XIX program will charge interest on overpayments, and pay interest on underpayments, to hospitals as follows: (7-1-87)

01. Interest After Sixty (60) Days of Notice. If full repayment from the indebted party is not received within sixty (60) days after the provider has received notice of program reimbursement, interest will accrue from the date of receipt of the notice of program reimbursement as defined in Section 460-, and will be charged on the unpaid settlement balance for each thirty (30) day period that payment is delayed. Periods of less than thirty (30) days will be treated as a full thirty (30) day period, and the thirty (30) day interest charge will be applied to any unpaid balance. Each payment will be applied first to accrued interest, then to the principal. Interest accrued on overpayments and interest on funds borrowed by a provider to repay overpayments are not an allowable interest expense. ~~(12-31-91)~~(10-1-95)T

02. Waiver of Interest Charges. When the Department determines an overpayment exists, it may waive interest charges if it determines that the administrative costs of collecting them exceed the charges. (7-1-87)

03. Rate of Interest. The interest rate on overpayments and underpayments will be the statutory rate as set forth in Section 28-22-104(1), Idaho Code, compounded monthly. (7-1-87)

04. Retroactive Adjustment. The balance and interest shall be retroactively adjusted to equal the amounts that would have been due based on any changes which occur as a result of the final determination in the administrative appeal and judicial appeal process. Interest penalties shall only be applied to unpaid amounts and shall be subordinated to final interest determinations made in the judicial review process. (7-1-87)

4625. RECOVERY METHODS.

Recovery shall be effected by one (1) of the following methods: ~~(7-1-87)~~(10-1-95)T

01. Lump Sum Voluntary Repayment. Pursuant to the provider's receipt of the notice of program reimbursement, the provider refunds the entire overpayment to the Department. (7-1-87)

02. Periodic Voluntary Repayment. The provider shall request in writing that recovery of the overpayment be made over a period of twelve (12) months or less. The

provider must adequately document the request by demonstrating that the financial integrity of the provider would be irreparably compromised if repayments occurred over a shorter period of time than requested. (7-1-87)

03. Department Initiated Recovery. The Department shall recover the entire unpaid balance of the overpayment of any settlement amount in which the provider does not respond to the notice of program reimbursement within thirty (30) days of receipt. (7-1-87)

04. Recovery from Medicare Payments. The Department may request that Medicare payments be withheld in accordance with ~~Title 42, CFR, Subpart C, Section 405.375.~~ (7-1-87)(10-1-95)T

4636. NONAPPEALABLE ITEMS.

The formula for the determination of the Hospital ~~Cost Inflation~~ Index, the principles of reimbursement which define allowable cost, non-Medicaid program issues, interim rates which are in compliance with state and federal ~~regulations~~ rules, and the preliminary adjustments prior to final cost settlement determinations as supported by properly completed ~~eCost r~~Reports and audits must not be accepted as appealable items. (7-1-87)(10-1-95)T

4647. INTERIM REIMBURSEMENT RATES.

The interim reimbursement rates are reasonable and adequate to meet the necessary costs which must be incurred by economically and efficiently operated providers which provide services in conformity with applicable state and federal laws, ~~regulations~~ rules, and quality and safety standards. (7-1-87)(10-1-95)T

01. Annual Adjustments. Interim rates will be adjusted at least annually based on the best information available to the Department. (7-1-87)

a. For hospitals with more than forty (40) beds, the interim rate will reflect the Title XIX Inpatient Operating Cost Limits used to set inpatient rates and the Reimbursement Floor Percentage. (7-6-95)T

b. For hospitals with forty (40) or fewer beds, the interim rates will reflect one hundred percent (100%) of the Medicaid reasonable costs by determining the Medicaid cost-to-charge ratio from the most recent Medicare Cost Report submitted to the Department. (7-6-95)T

02. Retrospective Adjustments. Interim rates will not be adjusted retrospectively upon request for rate review by the provider. (7-1-87)

03. Basis for Adjustments. The Department may make an adjustment based on the Medicare ~~eCost r~~Report as submitted and accepted by the Intermediary after the provider's reporting year to bring interim payments made during the period into agreement with the tentative reimbursable amount due the provider at final settlement. (7-1-87)(7-6-95)T

04. Unadjusted Rate. The Title XIX interim reimbursement rate on file is synonymous with the term "unadjusted rate" used by other payors. (7-1-87)(7-6-95)T

4658. HOSPITAL SWING-BED REIMBURSEMENT.

The Department will reimburse hospitals which meet the requirements found in ~~Idaho Department of Health and Welfare Rules and Regulations, Title 3, Chapter 9, Section 161., "IDAPA 16.03.09.161, Rules Governing Medical Assistance."~~ (7-1-87)(10-1-95)T

4662. -- 499. (RESERVED).

500. DISPUTED PAYMENTS TO HOSPITALS.

If a hospital has a grievance or complaint or requests an exception to the requirements of ~~Idaho Department of Health and Welfare Rules and Regulations, Title 5, Chapter 3, Section 301, "IDAPA 16.05.03.101 and 330, Rules Governing Contested Cases Proceedings and Declaratory Rulings"~~. (12-31-91)(10-1-95)T

(BREAK IN CONTINUITY OF SECTIONS)

700. REIMBURSEMENT OF FEDERALLY QUALIFIED HEALTH CENTERS.

Pursuant to the provisions of Section 6404 of the Omnibus Budget Reconciliation Act of 1989, and as provided in ~~Idaho Department of Health and Welfare Rules and Regulations, Title 3, Chapter 9, Section 144., "IDAPA 16.03.09.144, Rules Governing Medical Assistance,"~~ services rendered by a federally qualified health center (FQHC) shall be covered effective retroactively to April 1, 1990. (12-31-91)(10-1-95)T

(BREAK IN CONTINUITY OF SECTIONS)

996. ADMINISTRATIVE PROVISIONS.

Contested case appeals shall be governed by ~~Idaho Department of Health and Welfare Rules and Regulations, Title 5, Chapter 3, Sections 000., et seq., "IDAPA 16.05.03, Rules Governing Contested Cases Proceedings and Declaratory Rulings."~~ (12-31-91)(10-1-95)T

997. CONFIDENTIALITY OF RECORDS.

Information received by the Department in connection with Medicaid provider reimbursement is subject to the provisions of ~~Idaho Department of Health and Welfare Rules and Regulations, Title 5, Chapter 1, "IDAPA 16.05.01, Rules Governing Protection and Disclosure of Department Records."~~ (1-16-80)(10-1-95)T

998. -- 999. (RESERVED).

INCLUSIVE GENDER AND NUMBER. For the purposes of these rules, words used in the masculine gender include the feminine, or vice versa, where appropriate. (12-31-91)

999. SEVERABILITY.

The rules found in Title 3, Chapter 10 are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance, is declared invalid, that invalidity does not affect the validity of any remaining portion of this chapter. (1-16-80)

IDAPA 20 - DEPARTMENT OF LANDS
20.04.02 - RULES PERTAINING TO THE IDAHO FORESTRY ACT
AND FIRE HAZARD REDUCTION LAWS

DOCKET NO. 20-0402-9501

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 38-132 and 38-402, 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 December 20, 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: Amends existing rules to allow more nonburning treatments for logging slash. Clarifies rules to match original intent.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Brian Shiplett, at (208) 769-1522.

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 December 27, 1995.

Dated this 20th day of September, 1995.

Idaho Department of Lands
Attn: Brian Shiplett
3802 Industrial Avenue
Coeur d'Alene, ID 83814
Phone/Fax Number: 208-769-1522 - 769-1534

TEXT OF DOCKET NO. 20-0402-9501

120. STANDARDS - TREATMENT OF HAZARDS.

01. Purpose. To provide standards for hazard reduction and the release of liability for the contractor who is working under a valid Agreement with the STATE.

(3-1-88)

02. Reduction of Total Hazard Points. The contractor must reduce the total hazard points charged against the contract area to five (5) points or less (see Table II) on or before the expiration date on the Agreement in order to receive a refund of slash monies withheld (less three (3) percent for the fire suppression fund, ref. Rule 150) or, to clear any demands that might be made against the surety bond and to receive a release of liability against any fires that start on or pass through the contract area. (3-1-88)

TABLE II	
HAZARD CHARACTERISTICS AND OFFSET SLASH LOAD MAXIMUM 20 POINTS	
RATING (Points)	ADJECTIVE DESCRIPTION
LOW (0-5)	Associated with low harvest volumes per acre such as; selection cutting, light commercial thinning, sanitation/salvage operations, tree length skidding with tops and limbs and little or no breakage. Slash is broken up; slash is in many islands over the operating area.
MODERATE (6-10)	Operation types similar to those listed above except that harvest volume per acre is higher or utilization standards are lower, or timber has higher proportion of unusable top and crown (commonly associated with partial cutting in second growth stands of mixed timber). Most diameter limit cutting falls in this category. Slash is distributed with some clear or very light areas intermingled with heavy islands of slash over the operating area, slash is not continuous.
HIGH (11-15)	Usually associated with regeneration harvest methods such as shelterwood, seed tree and most clearcuts, or any partial cut with a high harvest volume per acre. Slash is nearly continuous through the operating area frequently with heavier islands intermingled with light continuous slash.
EXTREME (16-20)	Any operation with very high cut volume, and/or low utilization standards, and/or many slashed or broken stems. Slash is continuous over the operating area with few light areas.
TECHNICAL SPECIFICATIONS	
LOW (0-5)	Slash load less than or equal to 3 inch diameter materials not to exceed 3.0 tons/acre.

TABLE II	
HAZARD CHARACTERISTICS AND OFFSET SLASH LOAD MAXIMUM 20 POINTS	
RATING (Points)	ADJECTIVE DESCRIPTION
MODERATE (6-10)	Slash load less than or equal to 3 inch diameter materials greater than 3.0 tons/acre but less than 6.0 tons/acre.
HIGH (11-15)	Slash load less than or equal to 3 inch diameter materials greater than 6.0 tons/acre but less than 12.0 tons/acre.
EXTREME (16-20)	Slash load less than or equal to 3 inch diameter materials exceeds 12.0 tons/acre.

Slash loads can be determined by using any standard photo series appropriate for the habitat type represented by the contract area, or by using USDA Forest Service General Technical Report INT-16, 1974 (HANDBOOK FOR INVENTORYING DOWNED WOODY MATERIAL). If the contractor insists upon the latter, sampling intensity will be one point per two acres through the area in question. The inventory cost shall be paid by the contractor. All slash made available as a result of the current harvest will be included in the inventory except that slash which has been piled and will be burned by the contractor before the expiration date on the Agreement or such extensions granted by the fire warden.

SITE FACTORS MAXIMUM 10 POINTS						
ASPECT	PERCENT SLOPE					
	0-10	11-20	21-30	31-40	41-50	<50
N-NE	0	0	1	2	4	5
E,NW	0	0	1	3	6	7
W,SE	0	1	2	5	8	9
S-SW	1	2	4	7	9	10

UNIT SIZE MAXIMUM 5 POINTS						
ACRES	<40	40-160	161-320	321-480	481-640	>640
PT VALUE	0	1	2	3	4	5

OTHER FACTORS MAXIMUM 7 POINTS	
Pre-existing slash from operations in the past five years	0-2
Proximity to structures, highways and recreational areas (e.g., parks, established campgrounds, etc).	Add Points
330 feet	5
660 feet	4
990 feet	3
1320 feet	2
2640 feet	1

In applying offset points to large, complex contract areas, or contract areas with highly variable hazard characteristics, hazard offset techniques must first be applied toward that portion of the contract area which will do the most to reduce the hazard by optimizing fire control effects.

HAZARD OFFSETS		
ALL POINTS ARE DEDUCTIONS		
DISPOSAL	Piling and Burning, Broadcast Burning, etc.	0-42

HAZARD OFFSETS		
ALL POINTS ARE DEDUCTIONS		
<p>If disposal reduces slash load in the contract area to <3 tons, deduct hazard points to 5 or less. If disposal does not reduce slash load to that level, points should be assigned as a proportion of the area treated. For example, if 25 percent of the area is dozer piled and the piles burned, but the slash load in the contract area still exceeds 3 tons, 25 percent of the total points charged against the job should be deducted. However, if the disposal effectively isolates the untreated portion of the slash, or is otherwise placed to optimize fire control effects the proportion of points deducted may be increased to an amount to be determined by the district fire warden.</p>		
MODIFICATION:	Chipping	0- 20 <u>42</u>
	Crushing	0- 10 <u>20</u>
	Lopping	0-5 <u>10</u>
<p><u>Lopping standards: All material less than three (3) inches in diameter will be cut so that it does not extend more than twenty (20) inches of the mean height above the ground. In addition, all boles greater than three (3) inches in diameter intersecting another bole will be completely severed.</u></p>		
<p>Assign points as a proportion of the contract area treated.</p>		
ISOLATION	Fuel Breaks	0-20
<p>To qualify as a fuel break, all slash and available fuels (Ref. Rule 010.10) must be removed, or piled and burned, or treated sufficiently to prevent a fire from carrying through the area, for a <u>minimum</u> width of one chain (66 feet). In addition, the breaks must be placed to take advantage of terrain, manmade or natural barriers and to provide for optimum fire control effect.</p>		
	Fire Lines	0-5
<p>All vegetative material must be removed to expose mineral soil. Minimum width of dozer line must be the width of the dozer blade with all dirt pushed in one direction and all vegetative debris to the other. Handlines must be 18 inches wide; additionally all fuels must be cleared for eight (8) feet. Lines must be tied to an anchor point except that they shall not be required to be built through a riparian management zone. <u>In addition, the lines must be placed to take advantage of terrain, manmade or natural barriers, and to provide for optimum fire control effect.</u> Maximum points allowed only if combined with an approved fuel break.</p>		

ASSIGNING POINTS FOR ISOLATION			
Isolation techniques will usually be used to break the area into subunits or isolate the area from adjacent stands. Hazard offsets can be deducted for both if, in the opinion of the fire warden, both objectives are met and the total isolation points do not exceed 25 offset points.			
ACTIVITY	FUEL BREAK ONLY	FIRE LINE ONLY	BOTH
Isolates contract area into subunits:			
A. Partial isolation or incomplete units	1-5	1	1-6
B. Complete isolation of area into 1 to 2 subunits	6-10	2	6-12
C. Complete isolation of area into 3 to 5 subunits	11-15	3	11-18
D. Complete isolation of area into 6 or more subunits	16-20	4	16-25
OR			
Isolates contract area from adjacent stands:			
A. One third of the contract area boundary isolated	1-5	1	1-6
B. Two thirds of the contract area boundary isolated	6-10	2	6-12
C. Entire contract area boundary isolated	11-15	3	11-18
ACCESS CONTROL	0-2		
Locked gate system controls access on all secondary roads with slash treated on main road	1		
Locked gate system controls all road access into unit	2		
AVAILABILITY OF WATER	0-3		

ASSIGNING POINTS FOR ISOLATION			
Isolation techniques will usually be used to break the area into subunits or isolate the area from adjacent stands. Hazard offsets can be deducted for both if, in the opinion of the fire warden, both objectives are met and the total isolation points do not exceed 25 offset points.			
ACTIVITY	FUEL BREAK ONLY	FIRE LINE ONLY	BOTH
The water supply must provide water availability for engines within one road mile of operating area or within three air miles for helicopter bucket use. The water supply must be sufficient to supply 10,000 gallons in an operational period during the fire season.			
Water supply for engine only or helicopter only (capacity 10,000 gallons during fire season).			1
Water supply for engine and helicopter (capacity 10,000 gallons) or; for engine or helicopter and which replenishes itself every operational period.			2
Water supply for engine and helicopter which replenishes itself every operational period.			3

(3-01-88)

~~SLASH HAZARD POINT WORKSHEET~~

~~CONTRACTOR~~

~~AGREEMENT NO~~

~~SUBDIVISION SEC. TWP. RGE.~~

~~HAZARD CHARACTERISTICS HAZARD POINTS~~

~~Fuel Quantity
(Must Exceed 5 Points to Continue)~~

~~+
Site Factor~~

~~Unit Size~~

~~Other Factors~~

~~TOTAL HAZARD POINTS~~

~~HAZARD OFFSETS — HAZARD POINT DEDUCTION~~

~~Disposal~~

~~Modification~~

~~Fuel Breaks~~

~~Fire Lines~~

~~Access Control~~

~~Availability of Water~~

~~—Total Hazard Point Deductions~~

~~TOTAL HAZARD POINTS
Must Be 5 Or Less To Obtain A Clearance~~

~~ALL POINT VALUES AND DESCRIPTIONS ON SHEETS ATTACHED~~

~~(3-1-88)~~

(BREAK IN CONTINUITY OF SECTIONS)

150. FIRE SUPPRESSION AND FOREST PRACTICES ASSESSMENT.

01. Withholding. An amount of three (3) percent of the slash management rate (\$0.12 /MBF) shall be withheld from all slash management monies received and shall be dedicated to suppression of wildfires on forest lands. For harvest from private land, an additional amount not to exceed three (3) percent of the slash management rate (\$0.12/MBF) can be withheld from slash management monies received and shall be dedicated to Forest Practices support on forest lands. ~~(3-01-88)()~~

02. Assessment Costs. Fire suppression assessment costs on operations covered by surety bond or irrevocable letter of credit or other form of bond shall be paid at the rate specified in Subsection (150.01) above. ~~(3-01-88)()~~

IDAPA 23 - BOARD OF NURSING
23.01.01 - RULES OF THE BOARD OF NURSING
DOCKET NO. 23-0101-9501
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 greater.

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 54-1404, Idaho Code.

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

The Disciplinary Rules revision updates requirements for the alternative disciplinary program for impaired nurses for consistency with national standards. The revision of Nursing Practice Rules includes additions, deletions, reorganization and renumbering. The rules include the addition of guidelines from models for decision-making for scope of practice and for delegation, clarification of exemptions for technicians/technologists, retitling of auxiliary worker to "unlicensed assistive personnel" and authorization for delegation of additional functions as approved by the Board, inclusion of guidelines for assistance with medications from Definitions Rules, and revisions to licensed practical nurse and licensed professional nurse sections to incorporate major Board of Nursing decisions, interpretations and position statements.

Following review of testimony received at hearings and in writing the following changes were made:

- 400.03.d. - functions was changed to "provides nursing care."
- 400.04 - line 4 - "as" was changed to "when"; "under" was changed to "at"
- 400.04. - The last sentence was renumbered as a. and the rest of that section renumbered accordingly.
- 400.04.a.(new b.) - "client" was changed to "nursing"
- 400.06. - renumbered as "f" with the rest of the section renumbered accordingly.
- 460.07.d. "as necessary" was removed
- 460.09.a. "progress toward achievement of" was added after "evaluate"

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning these final rules, contact Leola Daniels, Executive Director, at (208) 334-3110.

DATED this 2nd day of November, 1995

Leola Daniels
POB 83720
Boise, Idaho 83720
(208) 334-3110

TEXT OF DOCKET 23-0101-9501

400. STANDARDS FOR THE PRACTICE OF NURSING - PURPOSE.

To identify the roles and responsibilities of the licensed professional nurse and the licensed practical nurse working in hospitals, nursing homes, home health, physicians' offices, and other settings ~~where health care services are provided.~~ (7-1-94)()

01. Decision-Making for Scope of Practice. To determine if a specific act is within the legal scope of nursing practice, a licensed nurse shall determine whether: ()

a. The act is expressly permitted or prohibited by the Nursing Practice Act, Board of Nursing Rules or Board of Nursing interpretations or position statements; and ()

b. The act is something that was taught in the basic nursing education program and the nurse possesses current clinical skills; or ()

c. The act is limited to advanced practice or to licensed professional nurse practice; and ()

d. The act is consistent with standards of practice published by a national specialty nursing organization or supported by recognized nursing literature or reputable published research and the nurse can document successful completion of additional education through formal classroom instruction and supervised clinical practice; and ()

e. The employment setting/agency has established policies and procedures or job descriptions authorizing performance of the act; and ()

f. Performance of the act is within the accepted standard of care that would be provided in a similar situation by a reasonable and prudent nurse with similar education and experience and the nurse is prepared to accept the consequences of the act. ()

02. Delegation Responsibilities. When delegating nursing care acts, the licensed nurse retains responsibility for the delegated acts and the consequences of delegation and shall: ()

a. Exercise professional judgment to decide which activities may be delegated and to whom the acts may be delegated; and ()

b. Determine that the acts to be delegated are not expressly prohibited by the Nursing Practice Act or Board Rules and that the activities are consistent with job descriptions or policies of the practice setting; and ()

c. Determine that the act is one that, in the opinion of the delegating nurse, can be performed without jeopardizing the client's safety and welfare, and ()

d. Determine that the person to whom the act is being delegated has documented education or training to perform the activity and is currently competent to perform the act; and ()

e. Consider the nature of the act, the complexity of the care needed; the degree of critical thinking required and the predictability of the outcome of the act to be performed; and ()

f. Consider the impact of timeliness of care/continuity of care; and the potential for harm and the level of interaction required with the client/family; and ()

g. Consider the type of technology employed in providing care and the knowledge and skills required to effectively use the technology, including relevant infection control and safety issues; and ()

h. Assess the client's status and health care needs prior to delegation, taking into consideration the complexity of assessments, monitoring required and the degree of physiological or psychological instability; and ()

i. Provide instruction for performance of the act, to include reporting of any observation of a change in client status, any relevant emergency procedures, and assist directly in the performance of the act as necessary; and ()

j. Evaluate the client's response and the outcome of the delegated act. ()

03. Technicians/Technologists. These individuals are not credentialed by regulatory bodies in Idaho and may include but are not limited to, surgical, dialysis and radiology technicians/technologists and medical assistants who may perform limited nursing functions within the ordinary, customary, and usual roles in their field and are exempted from licensure by the Board of Nursing under Section 54-1411, Idaho Code, (Nursing Practice Act), provided they are: ()

a. Enrolled in or completed a Board-recognized formal training program;
or ()

b. Registered or certified by appropriate Board-recognized national bodies;
and ()

c. Employed in a state-licensed or certified health care facility or physician's office. ()

d. Technicians/technologists providing basic nursing care services on an organized nursing unit in an institutional setting must function under the supervision of a licensed professional nurse. A licensed professional nurse shall be responsible for the development of the job description, guidelines/protocols under which the technician/technologist provides nursing care. ()

e. Monitor Technicians. Monitor technicians may provide continuous observation of monitors provided the individual has: ()

- i. Completed a Board-approved training program, and ()
- ii. Direct supervision of a licensed professional nurse at all times, and ()
- iii. No nursing responsibilities concerning a client's cardiac rhythm or status. ()

04. Unlicensed Assistive Personnel. The term unlicensed assistive personnel is used to designate unlicensed personnel employed to perform nursing care services for the ill, injured, handicapped or disabled when authorized/delegated at the direction and supervision of licensed nurses in hospitals, nursing homes, private homes and other health care agencies and settings where health care is needed or performed. In the public or private school setting, unlicensed assistive personnel may also include, but are not limited to, teachers, secretaries, administrators and teacher aides. The term unlicensed assistive personnel additionally includes other licensed or credentialed health care workers whose job responsibilities extend to client health care services beyond their usual and customary roles and which activities are provided under the direction and supervision of licensed nurses. ()

a. Unlicensed assistive personnel may compliment the licensed nurse in the performance of nursing functions, but may not substitute for the licensed nurse; unlicensed assistive personnel may not redelegate a delegated act. ()

b. The nursing care tasks that may be authorized/delegated to unlicensed assistive personnel shall be stated in writing in the practice setting and shall not exceed the functions authorized by the Board. The employing agency shall verify completion of training. Unlicensed assistive personnel shall be personally accountable and responsible for all actions taken in carrying out the activities delegated to them. ()

c. The following functions may be performed: ()

i. Unlicensed assistive personnel may be delegated normal activities of daily living, such as bathing, dressing, grooming, oral hygiene, hair and skin care, preparation of food, oral feeding, ambulation and body movement, elimination and maintenance of a safe environment after on-the-job orientation and prior to completion of Board-approved training. ()

ii. Unlicensed assistive personnel who have completed a Board-approved formal training program, or who are exempted from training, may be delegated such other functions included in the Board-approved curriculum for unlicensed assistive personnel. ()

d. Unlicensed assistive personnel may be delegated additional functions as approved by the Board, provided classroom instruction and supervised clinical practice have been obtained in a training program approved by the Board. ()

e. Unlicensed assistive personnel are prohibited from performing any licensed nurse functions that are specifically defined in Section 54-1402 (b), Idaho Code. Additionally, unlicensed assistive personnel may not be delegated procedures involving acts that require nursing assessment, establishment of a plan of care or teaching, the

exercise of nursing judgment or procedures requiring specialized nursing knowledge, skills or techniques. ()

f. Assistance with Medications. After completion of a Board-approved training program, unlicensed assistive personnel in a non-institutional care setting may assist the client who cannot independently self-administer medications, provided that:()

i. A plan of care has been developed by a licensed professional nurse, and ()

ii. The act has been delegated by a licensed nurse, and ()

iii. Written and oral instructions have been given to the unlicensed assistive personnel by a licensed nurse concerning the reason(s) for the medication, the dosage, expected effects, adverse reactions or side effects, and action to take in an emergency, and ()

iv. The medication is in the original pharmacy-dispensed container with proper label and directions or in an original over-the-counter container or the medication has been removed from the original container and placed in a unit container by a licensed nurse. Proper measuring devices must be available for liquid medication that is poured from a pharmacy-dispensed container. Inventories of narcotic medications must be maintained, and ()

v. Any medication dosages not taken and the reasons thereof are recorded and reported to appropriate supervisory persons. ()

vi. Assistance with medication may include: breaking a scored tablet, crushing a tablet, instilling eye, ear or nose drops, giving medication through a pre-mixed nebulizer inhaler or gastric (non nasogastric) tube, assisting with oral or topical medications and insertion of suppositories. ()

vii. Assistance with medication does not include mixing or compounding of a medication or administration of medication by injection or intravenously or through intermittent positive pressure breathing machines. ()

05. Supervision Responsibilities. When nursing care activities are delegated, the licensed nurse shall determine the degree of supervision required and shall evaluate whether the activity is completed in a manner that meets acceptable outcomes. The degree of supervision shall be based upon the health status and stability of the client, the complexity of the care and the knowledge and competence of the individual to whom the activity is delegated. ()

460-401. LICENSED PRACTICAL NURSE.

The licensed practical nurse provides nursing care at the direction of a licensed professional nurse, licensed physician or licensed dentist and under guidelines established by the Board of Nursing and the employing agency. The stability of the environment and clinical state of the ~~patient~~ client determine the degree of direction and direct supervision that must be provided to the licensed practical nurse. ~~The nursing activities encompass situations ranging from simple to complex. A simple situation requires nursing care based~~

~~on a comparatively fixed and limited body of scientific facts and can be performed by following a defined procedure, step by step. Complex situations require a corresponding depth of nursing knowledge, and a higher level of judgment, and therefore require a greater degree of direction and direct supervision.~~ The licensed practical nurse shall be personally accountable and responsible for all actions taken in carrying out nursing activities. The interpretation of functions as set forth in the legal definition of licensed practical nurse, Section 54-1402 (b),(2), Idaho Code, (Nursing Practice Act) ~~are:~~ is as follows: (7-1-93)()

01. Contributing to the Assessment of Health Status. The licensed practical nurse contributes to the assessment of health status by: ~~collecting, reporting and recording objective and subjective data, in an accurate and timely manner.~~ Data collection includes: (7-1-93)()

- a. Obtaining a health history. (7-1-91)
- b. Making systematic observations to identify deviations from normal. (7-1-91)
- c. Identifying signs and symptoms of change in behavior or condition. (7-1-91)
- d. Identifying need for immediate nursing intervention based upon data collected. (7-1-91)

02. Participating in the Development and Modification of Care. The licensed practical nurse participates in the development and modification of the strategy of care by: (7-1-93)

- a. Recognizing, understanding, and respecting the ~~patient's~~ patient/client's cultural backgrounds, spiritual needs, ~~religious beliefs~~ values and beliefs, and right ~~to~~ of choice. (11-28-84)()
- b. Identifying common, recurrent health problems. (7-1-91)
- c. Identifying priority needs. (7-1-91)
- d. Identifying major short and long term goals or outcomes. (7-1-91)()
- e. Identifying measures to maintain hygiene and comfort, to support human functions, to maintain an environment conducive to safety and well-being, and to provide health instruction. (7-1-91)
- f. Utilizing data collected to assist in the development of the plan of nursing care. (7-1-91)

03. Implementing Aspects of the Strategy of Care. The licensed practical nurse implements aspects of the strategy of care by: (7-1-93)

- a. Providing direct physical care and comfort measures and emotional

support for ~~patients~~/clients whose conditions are stabilized or predictable. ~~(11-28-84)~~()

b. Providing care under the direct supervision of the licensed professional nurse, licensed physician or licensed dentist, for ~~patients~~/clients whose conditions are complex or unstable. ~~(7-1-93)~~()

c. Assisting the ~~patient~~/client in activities of daily living and assisting the ~~patient~~/client in assuming responsibility for self-care. ~~(7-1-91)~~()

d. Assisting with the rehabilitation of ~~patients~~/clients through knowledge and application of principles of supportive therapy and of prevention of deformities, such as the normal range of motion exercises, body mechanics and body alignment. ~~(11-28-84)~~()

e. Providing an environment conducive to safety and health. (11-28-84)

f. Assisting with ~~patient~~/client teaching. ~~(11-28-84)~~()

~~g. Carrying out such other functions and procedures as are taught in a Board approved curriculum for practical nurses. (11-28-84)~~

g. Administering prescribed medications through a variety of routes (except by intravenous push), including but not limited to allergy injections and continuous subcutaneous administration of narcotics after client stabilization. ()

h. Providing prescribed treatments and procedures as are taught in Board-approved curriculum for practical nurses, including but not limited to: ()

i. Inserting, monitoring and caring for various lines and tubes including but not limited to: gavage feeding (including infants), nasogastric tubes, reinsertion of gastrostomy and suprapubic catheters with established tracts and nasotracheal or tracheal tube suctioning. ()

ii. Removing drains and packing, sutures/clips/staples, casts, and Gomco clamps in circumcisions. ()

iii. Performing a variety of procedures including but not limited to: application of monitoring equipment, recording of readings and hemodialysis or peritoneal dialysis. ()

i. Monitoring responses to medication, intravenous therapy and treatments. ()

j. Performing peripheral intravenous therapy functions as follows: ()

i. Observing, monitoring, reporting and documenting the status of intravenous sites and taking appropriate action to minimize or prevent intravenous complications. ()

ii. Hanging containers of medicated or unmedicated intravenous solutions which are commercially prepared or pre-mixed by pharmacy, hanging blood or blood derivatives, inserting analgesic cartridges and programming and monitoring patient controlled analgesia pumps and performing autoinfusion. ()

iii. Calculating and maintaining flow rates, adjusting the drip rates on intravenous infusions and pumps, filling solusets and volume controls, changing intravenous tubing, converting an intravenous infusion to a heparin/saline lock, flushing lines and setting up and managing syringe pump infusions. ()

iv. Performing venipunctures to draw blood. ()

v. Discontinuing intravenous infusions. ()

~~h.k.~~ Documenting nursing interventions and responses to care. (11-28-84)

~~i.l.~~ Communicating nursing interventions and responses to care to appropriate members of the health team. (11-28-84)

~~k.m.~~ Executing the legal orders of a health care provider authorized to prescribe medications based on requisite knowledge of the cause and effect of the order. This includes verifying that the order is accurate, and that there are no documented contraindications to carrying out the order. (7-1-93)

~~l.~~ ~~Administering prescribed treatments and medications (except by intravenous push), based on knowledge of the drugs and treatments and their effects.~~ (7-1-93)

~~j.n.~~ Carrying out those duties that may be performed by ~~auxiliary workers unlicensed assistive personnel.~~ (11-28-84)()

~~05.04.~~ ~~Intravenous Functions That May ~~not~~ NOT be Performed.~~ The licensed practical nurse may ~~not~~ NOT: (7-1-93)()

~~a. Hang or adjust drip rates on chemotherapy or oxytocic solutions or titrated or continuously monitored medicated intravenous solutions.~~ (11-28-84)()

~~b. Administer any medication by intravenous push.~~ (7-1-91)

~~c. Perform physical examinations for screening purposes.~~ ()

~~d. Function routinely with organized pre-hospital emergency services if not certified as an emergency medical technician.~~ ()

~~e. Serve as circulating nurse in the operating room.~~ ()

~~04. Performing Intravenous Therapy Functions.~~ The licensed practical nurse may perform intravenous therapy functions as delegated and supervised by a licensed professional nurse, as follows: (7-1-93)

- a. ~~Observe and monitor intravenous infusions.~~ (11-28-84)
- b. ~~Hang containers of medicated or unmedicated intravenous solutions which are commercially prepared or pre-mixed by the pharmacy.~~ (11-28-84)
- e. ~~Hang blood or blood derivatives.~~ (11-28-84)
- d. ~~Adjust the drip rates on intravenous infusions, including intravenous pumps.~~ (11-28-84)
- e. ~~Fill solusets and volume controls.~~ (11-28-84)
- f. ~~Change intravenous tubing.~~ (11-28-84)
- g. ~~Flush heparin/saline locks.~~ (7-1-91)
- h. ~~Discontinue intravenous infusions.~~ (11-28-84)
- i. ~~Perform venipunctures to draw blood for laboratory testing.~~ (7-1-91)
- j. ~~Convert an intravenous infusion to a heparin/saline lock.~~ (7-1-91)
- k. ~~Attach a medication vial with screw on top to a container of diluent solution then hang the solution if pharmacy dispenses the medication vial and diluent solution as a unit or if pharmacy attaches to the medication vial a label specifying the name and amount of diluent solution.~~ (7-1-91)

06.05. Maintaining Safe and Effective Nursing Care. The licensed practical nurse maintains safe and effective nursing care by: (7-1-93)

- a. Consulting with a licensed professional nurse or other appropriate sources and seeking guidance as necessary. (7-1-93)
- b. ~~Initiating appropriate standard emergency procedures established by the agency or institution until a licensed professional nurse, licensed physician or licensed dentist is available, including but not limited to defibrillation and use of a bag valve mask in an emergency.~~ (11-28-84)()
- c. ~~Applying principles of asepsis, and infection control and universal precautions as necessary when performing nursing care measures.~~ (6-11-93)()
- d. ~~Serving as a scrub nurse/technician in the operating room with proper training. Only a registered nurse may serve as the circulating nurse.~~ (11-28-84)()
- e. Participating in the development, revision, and implementation of policies and procedures. (11-28-84)
- f.g. Maintaining a safe environment. (6-11-93)
- f. ~~Only a nurse practitioner, certified as a nurse midwife, may perform~~

~~uncomplicated deliveries of babies, with physician direction. (11-28-84)~~

~~g. Accepting orders for medications and treatments initiated by an authorized prescriber. ()~~

~~h. Providing home, school or community nursing care services only under the direction and supervision of a licensed professional nurse. ()~~

~~i. Providing surgical recovery room care with licensed professional nurse assessment of the client on admission and prior to discharge from the recovery area.()~~

~~07-06. Participating in the Evaluation of Responses to Interventions. The licensed practical nurse participates in the evaluation of responses to interventions by: (7-1-93)~~

~~a. Documenting and communicating to appropriate members of the health team outcomes of care given to individuals or groups. (11-28-84)~~

~~b. Assisting with collection of evaluation data. (11-28-84)~~

~~c. Collaborating with the health team in revision of the plan of nursing care. (7-1-91)~~

~~08. Delegating Nursing Interventions. The licensed practical nurse delegates nursing interventions by: (7-1-93)~~

~~a. Assigning specific duties to auxiliary workers as set forth in the rules. (7-1-93)~~

~~b. Assisting auxiliary workers to carry out assigned care. (11-28-84)~~

~~e. Supervising auxiliary workers to whom care is delegated. (11-28-84)~~

~~461. — 489. (RESERVED).~~

~~402. -- 449. (RESERVED).~~

490. 450. ADDITIONAL LICENSED PRACTICAL NURSE FUNCTIONS BEYOND BASIC EDUCATIONAL PREPARATION.

Licensed Practical Nurses may perform additional functions ~~beyond basic educational preparation provided:~~ (11-28-84)()

~~01. Educational Program. The licensed practical nurse has a certificate of completion of an organized received classroom instruction and supervised clinical practice in the basic education program or through a program of study and supervised clinical practice utilizing a standard curriculum approved by the Board of Nursing and administered through the State Board for Vocational Education; and. (7-1-91)()~~

~~02. Additional Functions Approved. The additional functions are approved by the Board as being within the legal scope of practice. Such functions may include:~~

(7-1-91)()

a. Charge nurse responsibilities in a nursing home facility in accordance with state facility licensure requirements. (7-1-91)

b. Performing venipunctures to start an intravenous infusion on upper extremities by needle or catheter no longer than one and one-half (1 1/2) inches in length. (7-1-91)()

c. Performing the following for a stable stabilized patient/client with a long-term central venous access catheter: hang containers of unmedicated solutions or medicated solutions premixed by a pharmacy, obtain blood samples, hang blood products, change dressings, change intravenous tubing, and adjust drip rates: and flush lines. (7-1-93)()

~~03. Approved Procedures and Policies. The licensed practical nurse follows written procedures or policies established by the employing agency; and~~ (7-1-93)

~~04. Direction or Supervision. The licensed practical nurse carries out functions at the direction of or under the supervision of a licensed professional nurse, licensed physician, or licensed dentist.~~ (11-28-84)

451. -- 459. (RESERVED).

401 460. LICENSED PROFESSIONAL NURSE.

A licensed professional nurse may perform independent, dependent, and interdependent functions as defined in these rules. The licensed professional nurse is expected to demonstrate competency in judgment, decision making, implementation of nursing interventions, delegation of functions or responsibilities ~~to others~~, and administration of medications and treatments prescribed by legally authorized persons. The interpretation of functions as set forth in the legal definition of licensed professional nurse, Section 54-1402(b)(1), Idaho Code, (Nursing Practice Act) ~~and Sections 401. through 451.~~ is as follows: (7-1-93)()

01. Assessing the Health Status. The licensed professional nurse is accountable and responsible for assessing and evaluating the health status of individuals and groups by: (11-28-84)

a. Collecting objective and subjective data from observations, examinations, interviews, and written records in an accurate and timely manner. The data includes, but is not limited to: (7-1-93)

i. Biophysical and emotional status; (11-28-84)

ii. Growth and development, including early periodic screening; (11-28-84)()

iii. Cultural, religious and socio-economic background; (11-28-84)

iv. Family health history; (11-28-84)

- v. Information collected by other health team members; (11-28-84)
 - vi. ~~Patient/client's~~ Knowledge and perception about health status and potential, or maintaining health status gathered from client, family and others; (11-28-84)()
 - vii. Ability to perform activities of daily living; (11-28-84)
 - viii. Patterns of coping and interacting; (11-28-84)
 - ix. Consideration of ~~patient/client's~~ health goals and discharge needs; (11-28-84)()
 - x. Environmental factors (e.g., physical, social, emotional and ecological); (11-28-84)
- and
- xi. Available and accessible human and material resources. (11-28-84)
 - b. Interpreting the data, determining the interrelationships and the significance of the data to the ~~patient's~~ client's health status and treatment regimen. (7-1-91)()
 - c. Recording and reporting the data. (7-1-91)
 - d. Validating, refining and modifying the data by ~~utilizing~~ using available resources including interactions with the ~~patient/client, family, health team members, and significant others, and.~~ (7-1-91)()
02. Identifying Health Care Problems that Are Amenable to Nursing Intervention. The licensed professional nurse is accountable and responsible for utilizing data obtained by assessment to identify and document nursing diagnoses which serve as a basis for the strategy of nursing care. (7-1-91)
03. Establishing Goals and Client Outcomes. The licensed professional nurse is accountable and responsible for collaborating with the ~~patient/client, family, and health team members, and significant others~~ in: (11-28-84)()
- a. Identifying present and predicted needs of the ~~patient/client.~~ (11-28-84)()
 - b. Establishing realistic and measurable short and long term goals or outcomes to meet identified health care needs. (11-28-84)()
 - e. ~~Setting realistic and measurable goals for the patient/client.~~ (11-28-84)
04. Planning a Strategy of Care and Prescribing Nursing Interventions. The licensed professional nurse is accountable and responsible for: (11-28-84)
- a. Prescribing nursing care by ~~d~~Developing and documenting a plan for

nursing intervention based on assessment, analysis of data, ~~and~~ identified nursing diagnoses and client outcomes. This includes: (7-1-91)()

i. Recognizing, understanding, respecting and incorporating into the plan of care, the ~~patient~~/client's cultural and ethnic backgrounds, spiritual needs, values and beliefs, religious beliefs and the patient's/client's right to determine treatment of choice. (7-1-91)()

ii. Identifying measures to maintain hygiene and comfort, to support human functions and responses, and to maintain an environment conducive to safety and health. (11-28-84)

iii. Determining ~~patient~~/client's educational and counseling needs to promote, maintain and restore health. (11-28-84)()

iv. Identifying community resources as appropriate for referral and continued care. (7-1-91)

v. Determining priority needs in collaboration with the ~~patient~~/client. (7-1-91)()

b. Reviewing and revising the plan of nursing care as necessary. (7-1-91)

05. Implementing the Strategy of Care. The licensed professional nurse is accountable and responsible for the implementation of the plan of nursing care by: (7-1-93)

a. Initiating care, giving direct care, assisting with care, coordinating care, or delegating care to qualified persons who may include family members and others. (11-28-84)()

b. Exercising judgment when executing nursing and medical regimen to assure that the medical orders and nursing orders are accurate, that there are no documented contraindications to carrying out the orders and that the medical orders are properly authorized. Medication and treatment orders received from physicians in bordering states are legally authorized orders. (7-1-91)()

c. Administering prescribed medications, ~~treatments and intravenous therapy~~ through a variety of routes, based on knowledge, rationale, purpose and their effects. (7-1-91)()

i. Administration of medication may include but is not limited to: intravenous diagnostic agents, intravenous chemotherapy, epidural/intrathecal analgesia, continuous subcutaneous narcotics; medication through chest tubes, ventricular shunts, tumor catheters, intercostal catheters; topical cervical gels, injection of wounds with local anesthetics for cleansing, and programming pumps. ()

ii. Provision of medication includes but is not limited to: providing medications according to Board-approved protocols. ()

iii. Medication orders must be obtained from legally authorized prescribers; labels on prescription containers do NOT constitute authorized orders. ()

d. Administering prescribed treatments and performing procedures based on documented knowledge, rationale, purpose and their effects: ()

i. Insertion of various lines and tubes including but not limited to: enteral feeding tubes, weighted gastric tubes, infant/pediatric intraosseous lines, peripherally inserted central or midline catheters, umbilical catheters, fetal monitoring electrodes with amniotomy, radial arterial catheters, and reinsertion of catheters and tubes with established tracts. ()

ii. Removal of various lines and tubes including but not limited to: epidural catheters, fetal scalp electrodes, and arterial sheath. ()

iii. Ordering tests including but not limited to: radiographic confirmation of placement of nasogastric tubes, and laboratory tests based on protocols. ()

iv. Obtaining PAP smears and cervical cultures, applying casts, performing flexible sigmoidoscopy for colon cancer screening, performing instrument debridement of non-viable tissue; performing bi-manual pelvic examinations and male rectal examinations for screening, obtaining amniotic fluid volume index measurements and providing specialized foot care. ()

de. Providing education and counseling to ~~patients~~/clients and their significant others to facilitate accomplishment of immediate and long term goals and outcomes: (7-1-91)()

i. Assess ability of the client to comprehend instruction. ()

ii. Provide instruction to include return demonstration and action to take in an emergency. ()

f. Monitoring health status parameters including hemodynamic, cardiac and electroencephalogram, and progression toward established outcomes to include on-going responses to treatments, medication, and intravenous therapy. ()

g. Determining necessary care through triage and ~~m~~Making other clinical judgments and decisions regarding ~~patient~~client's status ~~and~~ for the purpose of modifying care as indicated. (7-1-91)()

eh. Documenting nursing interventions, ~~and~~ responses to care, modification of care, education and counseling. (7-1-91)()

fi. Communicating nursing interventions and responses to care to other members of the health team. (7-1-91)

06. Authorizing Nursing Interventions. The licensed professional nurse is accountable and responsible for: (11-28-84)

a. ~~Assisting personnel to implement~~ Assuring implementation of planned and prescribed care. (11-28-84)()

b. Assigning specific duties to licensed practical nurses, ~~surgical technicians, and auxiliary workers~~ unlicensed assistive personnel as set forth in accordance with these Board rules. The licensed professional nurse may perform all functions of the licensed practical nurse, ~~auxiliary worker~~ unlicensed assistive personnel and ~~surgical technicians.~~ (11-28-84)()

e- ~~Considering the following factors when delegating care:~~ (11-28-84)

i- ~~Complexity of the care needed:~~ (11-28-84)

ii- ~~The educational preparation and documented competency of the staff.~~ (11-28-84)

iii- ~~The established policies in the health care setting.~~ (11-28-84)

07. Maintaining Safe and Effective Nursing Care. The licensed professional nurse is accountable and responsible for: (11-28-84)

a. Maintaining a safe environment. (7-1-91)

b. Evaluating a ~~patient/client's~~ status and instituting appropriate therapy or procedures which might be required in emergency situations to stabilize a ~~patient's~~ client's condition or prevent serious complications in accordance with standard procedures established by the policy-making body in the health care setting, including but not limited to administration of intravenous drugs and starting intravenous therapy if medical orders cannot be obtained and the client has been assessed and determined to be in peril. (11-28-84)()

c. Acting as a ~~patient/client~~ advocate. (11-28-84)()

d. Applying principles of asepsis and infection control and universal precautions ~~as necessary~~ when providing nursing care. (6-11-93)()

e- ~~Only a nurse practitioner, certified as a nurse midwife, may perform uncomplicated deliveries of babies, with physician direction.~~ (11-28-84)

e.f. Functioning as the circulating nurse in the operating room. (7-1-91)

f. Accepting orders for medications and treatments initiated by an authorized prescriber. ()

g. Providing advice to clients via telecommunication in accordance with agency policies and utilizing agency approved documents for first aid or self-care and recognized community resources. ()

08. Functions That May NOT be Performed. The licensed professional nurse may NOT: ()

- a. Perform deliveries of babies if not certified as a nurse midwife. ()
- b. Perform anesthesia care services if not registered as a nurse anesthetist. ()
- c. Function routinely with organized pre-hospital emergency services if not certified as an emergency medical technician. ()

~~09.08.~~ Evaluating Responses to Interventions. Utilizing identified goals and outcomes, the licensed professional nurse is accountable and responsible for: (11-28-84)()

- a. Determining the data to be collected to evaluate progress toward achievement of outcomes of care. (11-28-84)()
- b. Documenting and communicating evaluation data appropriately. (11-28-84)

c. Evaluating the responses of individuals or groups to nursing interventions and involving the patient/client, significant others, and appropriate health team members and others in the evaluation process. (11-28-84)()

d. ~~Using evaluation data as a basis for reassessing patient/ client's health status, modifying identified problems, prescribing changes in nursing interventions and~~ Revising care the plan of care and prescribing changes in interventions. (11-28-84)()

~~10.09.~~ Teaching the Theory and Practice of Nursing. The licensed professional nurse is accountable and responsible for: (11-28-84)()

- a. Teaching nursing theory and its application in organized educational programs ~~when qualified to do so by education and experience.~~ (11-28-84)()
- b. ~~Assisting personnel and students under his supervision to develop and maintain competence in providing nursing care.~~ (7-1-93)

b. Facilitating, mentoring and guiding the practice of nursing formally and informally in practice settings. ()

e. ~~Teaching and exemplifying nursing practice based upon knowledge and skills obtained through education and appropriate experience.~~ (11-28-84)

~~11.10.~~ Managing the Practice of Nursing. ~~The licensed professional nurse is accountable and responsible for:~~ (11-28-84)()

- a. ~~The quality and quantity of nursing care given to patients/clients by nursing personnel under his supervision.~~ (7-1-93)
- b. ~~Giving direct, individualized nursing care to a patient/client or assigning~~

~~functions in accordance with the education and demonstrated competence of available staff.~~ (11-28-84)

~~e. Supervising others to whom nursing functions are delegated.~~ (11-28-84)

~~d. Providing leadership in formulation, interpretation, implementation and evaluation of the objectives and policies of nursing service.~~ (11-28-84)

~~e. A licensed professional nurse shall be responsible for:~~ (11-28-84)

~~i. Directing and evaluating the quality of nursing services.~~ (11-28-84)

~~ii. Identifying and evaluating the abilities of nursing personnel to perform nursing functions.~~ (11-28-84)

a. A licensed professional nurse functioning as chief administrative nurse is accountable and responsible for: ()

i. Prescribing, directing and evaluating the quality of nursing services including but not limited to staff development and quality improvement; and ()

ii. Assuring that organizational policies and procedures, job descriptions and standards of nursing practice conform to the Nursing Practice Act and Nursing Practice Rules; and ()

iii. Assuring that the knowledge, skills and abilities of nursing care staff are assessed and that nursing care activities do not exceed the legally defined boundaries of practice; and ()

iv. Assuring that documentation of all aspects of the nursing organization is maintained. ()

b. A licensed professional nurse functioning in a management role shall be accountable and responsible for: ()

i. The quality and quantity of nursing care provided by nursing personnel under his supervision. ()

ii. Managing and coordinating nursing care in accordance with established guidelines for delegation. ()

iii. Providing leadership in formulating, interpreting, implementing, and evaluating the objectives and policies of nursing practice. ()

11.12. Collaborating with Other Health Professionals. The licensed professional nurse is accountable and responsible for: (11-28-84)

a. Communicating significant changes in a patient/client's status or responses to therapy and nursing intervention to appropriate health team professionals. (11-28-84)()

b. Coordinating the plan of care as appropriate with other health team professionals in order to provide optimum ~~patient~~ client care. (7-1-91)()

c. Consulting with nurses and other health team members as necessary to meet the ~~patient~~ client's identified health care needs. (11-28-84)()

461. -- 489. (RESERVED).

~~402. -- 449. (RESERVED).~~

450-490. LICENSED PROFESSIONAL NURSES FUNCTIONING IN SPECIALTY AREAS.

A licensed professional nurse may carry out functions beyond the basic educational preparation ~~provided~~ under certain conditions. (8-31-87)()

~~01. Recognized Functions. The functions are recognized within the legal scope of practice for the licensed professional nurse, and (8-31-87)~~

01. Conditions for Nurses Functioning in Speciality Areas. The licensed professional nurse functioning beyond basic educational preparation shall: ()

a. Complete an organized program of study and supervised clinical practice which prepares him to carry out those functions; and ()

b. Conform to recognized standards for practice of the speciality; and ()

c. Follow written protocols approved by medical staff, nursing administration, and the employing agency administration. ()

~~02. Completion of Organized Program. The licensed professional nurse has documentation of completion of an organized program of study and supervised clinical practice which prepared him to carry out those functions; and (7-1-93)~~

~~03. Approved Protocols. The licensed professional nurse follows written protocols approved by medical staff, nursing administration, and employing agency administration. (8-31-87)~~

02. Flight/Transport Nurse. ()

a. A flight/transport nurse is a licensed professional nurse who provides critical care services with an organized transporting agency. Critical care services include intensive care, cardiac care, pre-hospital, maternal high risk, neonatal and pediatric populations. The flight/transport nurse must be able to evaluate rapidly changing physiological conditions and act immediately and appropriately in an independent, unsupervised setting. ()

b. Basic qualifications include at least two (2) years (four thousand (4,000) hours) of critical care nursing experience in the specialty area pertinent to the type of

service being provided. Licensed professional nurses who regularly provide care in the pre-hospital setting must maintain emergency medical technician credentialing. Individual educational requirements commensurate with the specialty care being provided may include, but are not limited to: Advanced Cardiac Life Support (ACLS), Pediatric Advanced Life Support (PALS), Trauma Nurse Core Curriculum (TNCC) or Flight Nurse Advanced Trauma Course (FNATC) and radio communications. Flight nurses must also have course work in flight physiology, aircraft safety and survival. A flight/transport nurse must have received a minimum of forty (40) hours of supervised clinical experience before functioning independently. ()

c. In addition to functions authorized for a licensed professional nurse, the flight/transport nurse may perform acts including but not limited to: endotracheal intubation; insertion of arterial, central and intraosseous lines; cricothyrotomy; chest tube insertion and escharotomy. Maternal transport nurses may perform midline episiotomies with repairs to be done by a physician. Neonatal transport nurses may insert umbilical arterial and venous catheters. ()

03. Surgical First Assistants. ()

a. A surgical first assistant is a licensed professional nurse who, under direct supervision, assists the operating surgeon. ()

b. In addition to professional nurse licensure, the surgical first assistant in the operating room must have demonstrated proficiency in scrub and circulator functions as well as knowledge of surgical anatomy and operative techniques and safety hazards in the operative field. Formal course work and clinical experience must also be commensurate with the standards specified by a national specialty organization recognized by the Board of Nursing. First assistant functions should be delineated by the employing agency. ()

c. Under the direct supervision of the operating surgeon, the licensed professional nurse first assistant in the operating room may perform acts including but not limited to: tissue handling (maneuvering tissue with instruments), providing exposure (retracting, keeping the field clear), using instruments, suturing skin and subcutaneous tissue and providing hemostasis. First assistants may not concurrently serve as a scrub or instrument nurse. The licensed professional nurse first surgical assistant in cardiovascular surgery may harvest saphenous veins after completing additional Board-approved educational instruction and supervised practice, and under direct supervision of the operating surgeon. ()

~~451. — 459. (RESERVED)~~

~~491. -- 499-519. (RESERVED).~~

~~500. NON LICENSED PERSONNEL.~~

~~01. Technicians. Technicians may perform limited nursing functions within the ordinary, customary, and usual roles in their field and are exempted from licensure by the Board of Nursing under Section 54-1411, Idaho Code, (Nursing Practice Act), provided they are: (5-21-89)~~

- a. Enrolled in a Board-recognized training program; or (7-1-93)
- and b. Registered or certified by appropriate Board-recognized national bodies; (7-1-93)
- e. Employed in state-licensed or certified health care facilities. (7-1-93)

02. ~~Surgical Technicians. Surgical technicians who are enrolled in a Board-recognized training program, or who have successfully completed a one (1) year education program accredited by a national body recognized by the Board, or who meet the requirements for certification by a national body recognized by the Board may be permitted to serve as scrub technicians under the direct supervision of a licensed professional nurse. Only a licensed professional nurse may function as the circulating nurse in the operating room.~~ (5-21-89)

~~501.—519. (RESERVED)~~

~~520. AUXILIARY WORKER.~~

01. ~~Definition. The term 'auxiliary worker' is used to designate unlicensed personnel employed to perform basic nursing care services for the ill, injured, handicapped or disabled under the direction and supervision of licensed nurses in hospitals, nursing homes, private homes and other health care agencies and settings where health care is needed or performed. Personnel titles include, but are not limited to, nursing assistants, nursing aides, nursing attendants, orderlies, home health aides, personal care attendants, and patient care technicians.~~ (7-1-91)

02. ~~Delegated Functions. Auxiliary workers may perform only basic nursing care services as delegated and supervised by a licensed nurse and directed at providing personal hygiene, comfort, rehabilitation, safety, and protection. Auxiliary workers in the home care setting may assist with medications as defined by the Board of Nursing. The auxiliary worker must report any observations of change in patient status directly to a licensed nurse. Auxiliary workers are prohibited from performing any licensed nurse functions that are specifically defined in Section 54-1402 (b), Idaho Code, or nursing practice rules.~~ (7-1-93)

~~521. CONDITIONS FOR CARRYING OUT DELEGATED FUNCTIONS.~~

01. ~~Delegation of Tasks. Auxiliary workers who have not completed a Board approved training program may be delegated only tasks pertaining to personal hygiene, ambulation and body movement, nutrition, elimination, and maintenance of a safe environment. Vital signs, enemas, assistance with medications in the home care setting, and other basic nursing care services may not be delegated to auxiliary workers who have not completed formal training programs.~~ (7-1-93)

02. ~~Delegated Other Basic Nursing Services. Auxiliary workers who have completed formal training programs or who are exempted from training may be delegated other basic nursing care services as authorized by the Board of Nursing through the standard approved curriculum for auxiliary workers.~~ (7-1-93)

~~03. Licensed Nurse Determination. The licensed nurse who delegates and supervises auxiliary workers must determine that the auxiliary worker: (7-1-93)~~

- ~~a. Has been adequately trained to perform the task, and (7-1-93)~~
- ~~b. Has demonstrated that the task has been learned, and (7-1-93)~~
- ~~c. Can safely perform the task in the given patient care situation, and (7-1-93)~~
- ~~d. Is appropriately supervised during the performance of the task, and (7-1-93)~~
- ~~e. Is carrying out delegated tasks authorized by the Board of Nursing. (7-1-93)~~

~~04. Tasks Stated in Writing. The patient care tasks that a licensed nurse may delegate to auxiliary workers shall be stated in writing in the practice setting and shall not exceed the functions authorized by the Board of Nursing. The employing agency shall verify the completion of an approved training program. (5-21-89)~~

~~05. Accountability and Responsibility. The auxiliary worker shall be personally accountable and responsible for all actions taken in carrying out the activities delegated to him. (7-1-93)~~

~~522. AUXILIARY WORKER EXEMPTION FROM TRAINING REQUIREMENTS.~~

~~01. Qualifying Without Training. An individual may qualify for auxiliary worker functions without fulfilling training requirements if documents confirm that the individual is: (7-1-93)~~

~~a. A currently enrolled nursing student who has had a minimum of three months of basic nursing education in an approved nursing education program. (5-21-89)~~

~~b. A person who withdraws from an approved nursing education program after satisfactorily completing at least three months of basic nursing education within two years prior to employment. (5-21-89)~~

~~c. A graduate of an approved nursing education program who has not passed the licensing examination. (5-21-89)~~

~~d. A person who has had comparable training in the military. (5-21-89)~~

~~e. A foreign-trained nurse when there is documentation of completion of a nursing education program that included content and practice covered in an approved auxiliary worker training program. (7-1-91)~~

~~02. Date Required for Competency Evaluation. After January 1, 1990, all~~

~~persons who are exempted from the training requirements must pass competency evaluation before auxiliary worker functions may be delegated in a long term care setting.~~
(7-1-93)

~~523. 529. (RESERVED)~~

~~**530. REQUIREMENTS FOR PROGRAMS PREPARING AUXILIARY WORKERS FOR DELEGATED FUNCTIONS.**~~

~~01. Approval. Training programs to prepare auxiliary workers shall be approved by the Board of Nursing.~~ (5-21-89)

~~02. Standards for Approval. Training programs for auxiliary workers approved by the Board of Nursing shall meet standards as specified in Federal requirements and such additional standards as defined by the Board of Nursing.~~ (5-21-89)

~~03. Agencies Conducting Programs. Agencies conducting auxiliary worker training programs shall utilize a standard curriculum approved by the Board of Nursing and administered through the State Board for Vocational Education.~~ (5-21-89)

~~04. Faculty. Faculty for auxiliary worker training programs shall have a minimum of three years of work experience as a registered nurse, one year of recent experience in a health care facility and shall meet requirements for Vocational Education instructor certification.~~ (5-21-89)

~~05. Certificate of Completion. A certificate of completion of the course shall be issued to persons who successfully complete classroom instruction and supervised clinical practice and skills competency evaluation.~~ (5-21-89)

~~06. Registry. The Board of Nursing shall maintain a listing of all persons who satisfactorily complete an approved auxiliary worker training program and competency evaluation, both written and skills. The Board of Nursing shall be notified within thirty (30) days of the date of completion of all persons who successfully complete the training program and competency evaluation. The registry shall include information as specified in Federal requirements. The registry shall also include documented investigative findings submitted by the Department of Health and Welfare.~~ (7-1-91)

~~**531. DELEGATION OF SELECTED NURSING TASKS IN A PUBLIC OR PRIVATE SCHOOL SETTING.**~~

~~Each licensed professional nurse in the public or private school setting shall be responsible for the nature and quality of all nursing care the pupil is given under the direction of the nurse in the school setting. Assessment of the nursing needs of a pupil, the plan of nursing action, implementation of the plan, and evaluation are essential components of professional nursing practice and are the responsibility of the licensed professional nurse. It is the responsibility and duty of the licensed professional nurse to keep updated in new techniques and maintain competence in the practice of nursing.~~ (7-1-91)

~~01. School Nursing. The following definitions shall apply to this section:~~ (7-1-91)

~~a. Unlicensed person includes but is not limited to school personnel (teachers, secretaries, administrators, teacher aides) and to personal care attendants. (7-1-93)~~

~~b. Delegation means authorizing an unlicensed person to perform selected nursing tasks in the school setting under the direction and supervision of a licensed professional nurse. (7-1-93)~~

~~e. Activities of daily living means bathing, dressing, grooming, dental hygiene, hair and skin care, preparation of food for oral feeding, exercise including occupational therapy. (7-1-93)~~

~~d. Non-complex tasks means tasks done step-by-step each time and with a predictable outcome. (7-1-93)~~

~~e. Complex tasks means tasks that require professional nursing judgment and that may not always have a predictable outcome. (7-1-93)~~

~~f. Licensed nurse means a licensed professional nurse (RN) licensed by the Board of Nursing. (7-1-93)~~

~~g. Pupil specific means taking nursing care tasks which are in accordance with recognized standards of care and including each pupil's individual characteristics and needs. (7-1-93)~~

~~02. Delegation. Activities of daily living may be performed by unlicensed persons without delegation from a licensed professional nurse. When delegating any nursing tasks to unlicensed persons in the school setting, the licensed professional nurse shall: (7-1-93)~~

~~a. Adhere to conditions of delegation as specified in Board of Nursing Rules Section 520. The nursing tasks shall not require the unlicensed person to exercise licensed nursing judgment or intervention. (7-1-93)~~

~~b. Assess the pupil's nursing care needs, formulate an individualized written nursing care plan and prepare written child specific nursing care procedures in accordance with recognized standards. The delegated nursing tasks shall be tasks that a reasonable and prudent licensed professional nurse determines to be within the scope of sound professional judgment and which are non-complex and can be performed safely by unlicensed persons. The care plan and the procedures should be prepared in consultation with the pupil's parent or legally responsible person and physician before any nursing tasks are delegated to unlicensed persons. (7-1-91)~~

~~e. Identify by name and in writing individuals to whom tasks are delegated. (7-1-91)~~

~~d. Orient and instruct the unlicensed person in the performance of the task and any relevant emergency procedures. Return demonstration and strengths and weaknesses in the performance of the task shall be documented in writing. The documentation shall be co-signed by the unlicensed person. (7-1-91)~~

e. Monitor the nursing care plan and participate in periodic evaluations of the services rendered. Evaluation of delegated tasks should be done in writing at least monthly. (7-1-91)

03. ~~Supervision. All nursing tasks delegated to designated unlicensed persons shall be supervised by a licensed professional nurse. The supervising nurse or a designated alternate shall be readily available either in person or by telecommunication. The degree of supervision required shall be determined after an assessment of appropriate factors including:~~ (7-1-91)

a. ~~The health status and stability of the child.~~ (7-1-91)

b. ~~The complexity of the task to be delegated.~~ (7-1-91)

e. ~~The training and competency of the designated unlicensed person to whom the task is delegated.~~ (7-1-91)

d. ~~The proximity and availability of the licensed professional nurse when the delegated task will be performed.~~ (7-1-91)

04. ~~Medications. The licensed professional nurse may delegate to unlicensed persons assistance with medications in accordance with the medication policy recommended by the Idaho Department of Education and the Department of Health and Welfare after instruction of expected effects, side effects, adverse reactions and proper dosages if:~~ (7-1-91)

a. ~~The pupil has previously received the medication.~~ (7-1-91)

b. ~~Calculation of a dosage is not required. Measuring a prescribed amount of liquid medication or breaking a scored tablet is not calculation of a dosage.~~ (7-1-91)

05. ~~Tasks Not To Be Delegated. The following tasks are not to be delegated to unlicensed persons:~~ (7-1-91)

a. ~~Medication administration by injection (except for emergency allergy kit), intravenous or rectal route, through central intravenous lines or through intermittent positive pressure breathing machines.~~ (7-1-91)

b. ~~Medication administered through a tube inserted into a cavity of the body with the exception of medication administered through non nasogastric gastrostomy feeding tubes.~~ (7-1-91)

e. ~~Nasogastric feedings, tracheostomy care except in an emergency, and peritoneal dialysis.~~ (7-1-91)

520. -- 599.

(RESERVED)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.10.01 - RULES GOVERNING THE BOARD OF OPTOMETRY
DOCKET NO. 24-1001-9501
NOTICE OF TEMPORARY AND PROPOSED RULES

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

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho State Board of Optometry has adopted a temporary rule and has proposed rule-making. The action is authorized pursuant to 54-1509, 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 the required finding and a concise statement of the supporting reasons for temporary rule making: Wherein it is the interpretation of the Board of Optometry that it is within the scope of practice of an optometrist with therapeutic credentials to perform refractive and therapeutic laser procedures, it is necessary to adopt by temporary rule a change in the therapeutic pharmaceutical agents that an optometrist may use; therefore, Rule 600.01.a.i. is changed to read: "All medications for use in the treatment of the human eye and/or eyelid." The purpose of the proposed rule is to continue into affect the temporary rule.

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 December 27, 1995.

DATED this 24th day of October, 1995.

Dee Ann Randall
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

TEXT OF DOCKET NO. 24-1001-9501

600. BOARD CERTIFICATION OF OPTOMETRIST AUTHORIZED TO OBTAIN AND USE ~~TOPICALLY APPLIED~~ PHARMACEUTICAL AGENTS (Rule 600).

01. The Right to Obtain and Use Topically Applied Diagnostic Pharmaceutical Agents. The right to obtain and use topically applied diagnostic pharmaceutical agents for use in diagnosis of another in the practice of optometry as defined by Section 54-1501, Idaho Code, is subject to the following conditions set out below: (7-1-93)

a. Optometrists who have obtained a certificate from the Board of Optometry authorizing them to obtain and use topically applied diagnostic pharmaceutical agents shall obtain, from pharmacists licensed by the state of Idaho, or from any other source, and use only those agents listed below: (7-1-93)

i. Anesthetics (7-1-93)

(a) Proparacaine 0.5% (7-1-93)

(b) Tetracaine 0.5%. (7-1-93)

(c) Benoxinate 0.4% c fluorescein. (7-1-93)

ii. Cycloplegics. (7-1-93)

(a) Tropicamide 0.5%. (7-1-93)

(b) Cyclopentolate 0.5%. (7-1-93)

(c) Atropine 0.5%. (7-1-93)

iii. Mydriasis Reversal Agents. (7-1-93)

(a) Dapiprazole HCl 0.5%. (7-1-93)

b. The Board of Optometry shall issue a certificate to obtain and use the diagnostic drugs specifically identified and listed in this rule to any optometrist licensed to practice in Idaho who complies with both the minimum educational requirements in the subject of general and ocular pharmacology and the minimum continuing educational requirements set out below: (7-1-93)

i. Each optometrist certified to obtain and use topically applied pharmaceutical agents shall have completed courses totaling 55 hours of actual classroom instruction in general and ocular pharmacology and emergency medical care given by an institution approved by the Council on Post Secondary Accreditation of the U.S.

Department of Education or an instructor accredited and employed by such institution and which have been approved by the Board of Optometry. (7-1-93)

ii. Each optometrist certified to obtain and use topically applied pharmaceutical agents shall also have completed a refresher course in cardiopulmonary resuscitation (CPR), emergency medical care provided by the Emergency Medical Services Bureau, or equivalent program either approved or provided by the Board of Optometry, within a two-year period preceding issuance of the certificate by the Board of Optometry. (7-1-93)

iii. In order to maintain the certificate issued by the Board, each certified optometrist must complete a refresher course in emergency medical care described in Subsection 600.01.b.ii. above once during each two-year period following certification and shall list and describe the course attended and the dates of attendance upon a license renewal application form filed pursuant to Section 300. (7-1-93)

iv. Prior to July 1, 1982, the Board may issue temporary certificates to those optometrists who have completed the 1976 Pacific University Pharmacology course previously sponsored by the Board of Optometry and who certify that they are obtaining the additional equivalent hours of instruction in general and ocular pharmacology and emergency medical care approved by the Board of Optometry. (7-1-93)

c. In order to implement this rule, the Board of Optometry may designate and approve courses of instruction given by those institutions or instructors described in Subsection 600.01.b.i. above which may be necessary to provide practicing optometrists who have received less than fifty-five (55) hours of actual classroom instruction in general and ocular pharmacology in optometry school with the opportunity to meet the requirements of this rule. (7-1-93)

02. The Right To Prescribe, Administer And Dispense Therapeutic Pharmaceutical Agents. The right to prescribe, administer and dispense therapeutic pharmaceutical agents in the practice of optometry as defined by Section 54-1501, Idaho Code, is subject to the following conditions set out below: (11-6-93)

a. Optometrists who have obtained a certificate from the Board of Optometry authorizing them to prescribe, administer and dispense therapeutic pharmaceutical agents shall obtain, from pharmacists licensed by the State of Idaho, or from any other source, and use only those agents listed below: (11-6-93)

i. ~~All topical ophthalmic products having documented optometric use in the human eye or eye lid. All oral medications having documented use in the treatment of the human eye and/or eye lid excluding Schedule I and II narcotics.~~ All medications for use in the treatment of the human eye and/or eyelid. (8-24-94)(11-1-95)T

ii. All over-the-counter agents. (11-6-93)

iii. Such other therapeutic pharmaceutical agents as may be approved by the Board of Optometry. (11-6-93)

b. The Board of Optometry shall issue a certificate to prescribe, administer

and dispense the therapeutic medications ~~specifically identified and listed in Subsection 600.02.a.~~ to any optometrist licensed to practice in Idaho who complies with Section 600.01. and both the minimum educational and clinical experience requirements in the subject of ocular pharmacology and therapeutics and the minimum continuing educational requirements set out below: ~~(7-1-93)~~(11-1-95)T

i. Completion of a minimum of one hundred hours of actual classroom and clinical instruction in ocular pharmacology and therapeutics courses given by an institution or organization approved by the Council on Post-Secondary Accreditation of the U.S. Department of Education, or an Instructor employed by such institution, which have been approved by the Board of Optometry. (7-1-93)

ii. Successful passage of the "Treatment and Management of Ocular Diseases" section of the optometrist examination approved by the International Association of Boards of Examiners in Optometry, Inc. (IAB). (11-6-93)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.18.01 - RULES GOVERNING THE REAL ESTATE APPRAISER BOARD
DOCKET NO. 24-1801-9501
NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective October 23, 1995.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Real Estate Appraiser Board has adopted a temporary rule and has proposed rule-making. The action is authorized pursuant to 54-4106, 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 the required finding and a concise statement of the supporting reasons for temporary rule making: To comply with changes in educational criteria under the federal mandate for licensure/certification. The purpose of the proposed rules is to continue into affect temporary rules.

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 December 27, 1995.

DATED this 25th day of October, 1995.

Dee Ann Randall
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

TEXT OF DOCKET NO. 24-1801-9501

001. TITLE AND SCOPE (Rule 1).

These rules shall be cited as IDAPA 24, Title 18, Chapter 01, "Rules of the Real Estate Appraiser Board". ~~(7-1-93)~~(10-23-95)T

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS (Rule 10).

The definitions numbered 1-12, appearing at Section 54-4104 of the Idaho Code are incorporated herein by reference as if set forth in full. (7-1-93)

01. Advisory Committee. A committee of state certified or licensed real estate appraisers appointed by the board to provide technical assistance relating to real estate appraisal standards and real estate appraiser experience, education and examination requirements that are appropriate for each classification of state certified or licensed real estate appraiser. (7-1-93)

02. Appraisal Foundation. The Appraisal Foundation means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois. (10-23-95)T

03. ~~AOB~~ Appraiser Qualifications Board. Appraiser Qualifications Board of The Appraisal Foundation establishes the qualifications criteria for licensing, certification and recertification of appraisers. ~~(7-1-93)~~(10-23-95)T

04. Appraisal Standards Board. The Appraisal Standards Board of the Appraisal Foundation develops, publishes, interprets and amends the Uniform Standards of Professional Appraisal Practice (USPAP) on behalf of appraisers and users of appraisal services. (10-23-95)T

05. Associate College Degree. A degree awarded by a college or university which has been accredited by the Council on Post-Secondary Accreditation or an accrediting body approved by the United States Department of Education. The associate degree must be based upon a minimum two-year program. (7-1-93)

06. Bureau. The Bureau of Occupational Licenses, Department of Self-Governing Agencies as established by Section 67-2601, Idaho Code. (7-1-93)

07. Chief. The Bureau Chief of the Bureau of Occupational Licenses as established by Section 67-2602, Idaho Code. (7-1-93)

08. Classroom Hour. Fifty minutes out of each sixty minute hour. (7-1-93)

09. College Degree. A degree awarded by a college or university which has

been accredited by the Council on Post-Secondary Accreditation or an accrediting body approved by the United States Department of Education. The college degree must be based upon a minimum four-year program. (7-1-93)

~~08~~10. Field Real Estate Appraisal Experience. Personal inspections of real property, assembly and analysis of relevant facts, and, by the use of reason and the exercise of judgement, formation of objective opinions as to the market or other value of such properties or interests therein and preparation of written appraisal reports or other memoranda showing data, reasoning, and conclusion. Professional responsibility for the valuation function is essential. (7-1-93)

~~09~~11. FIRREA. Title XI, Financial Institutions Reform, Recovery and Enforcement Act of 1989 was designed to ensure that more reliable appraisals are rendered in connection with federally related transactions. (7-1-93)

~~10~~. ~~Full Time. Any twelve month period in which an applicant works at least one thousand (1000) hours in real estate appraisal.~~ (7-1-93)

~~12~~. Nationally Recognized Appraisal Organization. An appraisal organization which is a member of The Appraisal Foundation. (7-1-93)

~~13~~. Real Estate. In addition to the previous definition in Section 54-4104(7), Idaho Code will also mean an identified parcel or tract of land, including improvements, if any. (7-1-93)

~~13~~4. Real Property. In addition to the previous definition in Section 54-4104(8), Idaho Code will also mean one or more defined interests, benefits, or rights inherent in the ownership of real estate. (7-1-93)

~~14~~5. Residential Unit. Real estate with a current highest and best use of a residential nature. (7-1-93)

~~15~~6. Specialized Appraisal Services. ~~Services W~~which include situations in which an appraiser is employed or retained to provide appraisal services that do not fall within the defined term "appraisal ~~services~~ assignments". Specialized appraisal services relate to the employer's or client's individual needs or investment objectives and commonly include specialized marketing and financing studies as well as analysis, opinions, and conclusions rendered in connection with activities such as real estate brokerage, mortgage banking, and real estate counseling, including real estate tax counseling. (~~7-1-93~~)(10-23-95)T

~~16~~7. Uniform Standards of Professional Appraisal Practice. Those uniform standards adopted by The Appraisal Foundation's Appraisal Standards Board. These standards may be altered, amended, interpreted, supplemented or repealed by The Appraisal ~~Foundation~~ Standards Board (ASB) from time to time. (~~7-1-93~~)(10-23-95)T

(BREAK IN CONTINUITY OF SECTIONS)

100. ORGANIZATION (Rule 100).

01. Board Name. In accordance with Idaho Statutes, the name of this Board shall be the Idaho Real Estate Appraiser Board, 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 members of this Board shall be five (5) members who have been duly appointed by the Governor. (7-1-93)~~

~~03.~~ 02. Organization Of Board. At the first 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)

~~04.~~ 03. 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/she 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/she shall receive correspondence directed to the Board, and he/she 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/She shall be an advisor to the Board, without membership status. ~~(7-1-93)~~(10-23-95)T

(BREAK IN CONTINUITY OF SECTIONS)

150. PROCEDURES AND DUTIES (Rule 150).

01. Meetings. The Board shall meet at least four (4) times annually and at such other times as requested by the Board or its chairman. (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 applications for certification. (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 Three (3) 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)(10-23-95)T

03. ~~Duties Of The Board. The duties of the Board shall be to administer the laws governing the practice of State Certified/Licensed Real Estate Appraisers in 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 certification/licensure and establish changes in fees as necessary.~~ (7-1-93)
- b. ~~Establish application procedures for examinations and certification/licensure.~~ (7-1-93)
- e. ~~Ascertain the qualifications of applicants to take the examination or examinations leading to the practice of a State Certified/Licensed Real Estate Appraiser.~~ (7-1-93)
- d. ~~Conduct examinations to ascertain the qualifications of applicants to practice.~~ (7-1-93)
- e. ~~Prescribe rules for a fair and impartial method of examination.~~ (7-1-93)
- f. ~~Recommend issuance of certificates or licenses to practice 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 Idaho Real Estate Appraisal Act and rules and take action as is necessary.~~ (7-1-93)
- h. ~~Conduct investigations and hearings into alleged violations of the provisions of this chapter for the purpose of determining if the alleged violator should be~~

~~ensored, his/her certification/license suspended or revoked or no action be taken. (7-1-93)~~

~~i. Formulate rules and regulations in conformance with The Appraisal Foundation and Title XI of "FIRREA". (7-1-93)~~

~~j. Formulate State Board Policy. (7-1-93)~~

(BREAK IN CONTINUITY OF SECTIONS)

200. FEES (Rule 200).

Fees are established in accord with Section 54-4113, Idaho Code as follows: (7-1-93)

~~01. Application. Application for qualification - \$200 (7-1-93)~~

~~02. Examination. Examination not to exceed \$200.00 (7-1-93)~~

~~03. Reexamination. Reexamination not to exceed \$200.00 (7-1-93)~~

~~04. Original Certification/License. Original Certification/License - \$100* (7-1-93)~~

~~05. Certification/License Renewal. Certification/License renewal - \$275.00 (7-1-93)(10-23-95)T~~

~~06. Reinstatement. Reinstatement fees are as provided in Section 67-2614, Idaho Code - \$25 (7-1-93)~~

~~07. Duplicate Certificate/License. Duplicate Certificate/License - \$25 (7-1-93)~~

~~08. History Record. History record - \$25 (7-1-93)~~

~~09. Application For Reciprocity. Application for reciprocity \$200 (7-1-93)~~

~~10. Original Certification/License Via Reciprocity. Original Certification/License via reciprocity - \$100 (7-1-93)~~

~~11. Temporary Permit. Temporary permit - \$100 (7-1-93)~~

~~12. Examination and Reexamination Fees. Examination and Reexamination fees will be calculated based on the actual cost of the examination. (7-1-93)~~

~~a. Successful applicants will be notified of the fees at the time they are scheduled for examination. (7-1-93)(10-23-95)T~~

~~b. These fees must be received ten (10) days prior to the examination date in the form of a money order or cashier's check. (7-1-93)~~

~~13. Board Shall Annually Review Examination, Administrative Cost and Other Costs. The Board shall annually review the cost of examination, administrative cost, and other costs to ascertain the financial sufficiency of the Board and take action relevant to changes in cost. (7-1-93)~~

~~141. Fees Are Non-Refundable. Fees are non-refundable. (7-1-93)~~

~~152. Fees Followed By * Means. Proposed fees for these categories marked with an asterisk include an estimated twenty five dollars (\$25) to be submitted by the state to federal government. Title XI, Section 1109 requires each state to submit a roster listing of state certified/licensed appraisers to the Appraiser Subcommittee "no less than annually". The state is also required to collect from such individuals who perform appraisals in federally related transactions an annual registry fee of "not more than twenty five dollars (\$25)," such fees to be transmitted by the state to the federal government on an annual basis. (7-1-93)~~

(BREAK IN CONTINUITY OF SECTIONS)

250. APPLICATION (Rule 250).

~~01. Filing Application With Supporting Documents And Fees. Any person desiring to apply for certification/licensure must submit a completed application with required supporting documents and appropriate fees to the Bureau of Occupational Licenses at its official address. After the qualifications have been reviewed/verified and approved by the Board, the applicant will receive shall submit the pre-approved examination application and must submit the appropriate fees to the Bureau of Occupational Licenses-examining entity. (7-1-93)(10-23-95)T~~

~~02. Application Deadline Date. Completed applications must be received by the Executive Secretary at least thirty (30) days prior to the next scheduled board meeting in order to be reviewed by the Board. Applications received less than thirty (30) days in advance will be held until a subsequent meeting. (10-23-95)T~~

~~023. Assignment To Eligibility For Examination; Application Deadline Date. The qualified applicant will be assigned to the first available examination subsequent to determination of eligibility. All properly completed applications 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)(10-23-95)T~~

~~03. Forfeiture Of Fees. An applicant shall forfeit all examination fees for any examination or examinations for which the applicant has applied and does not take for any un-excused reason. (7-1-93)~~

251. -- 2998. (RESERVED).

299. REQUIREMENTS FOR LICENSURE/CERTIFICATION (Rule 299).

All applicants for licensure/certification in any real estate appraiser classification must meet the following requirements in addition to those requirements set forth in Sections

- 300, 350 and 400 below. (10-23-95)T
01. Examination. Successful completion of an examination approved by the Board pursuant to the guidelines of The Appraisal Foundation. (10-23-95)T
02. Education. (10-23-95)T
- a. Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen (15) hours, and the individual successfully completes an examination pertinent to the educational offering. (10-23-95)T
- b. Credit for the classroom hour requirement may be obtained from the following: (10-23-95)T
- i. Colleges or Universities. (10-23-95)T
- ii. Community or Junior Colleges. (10-23-95)T
- iii. Any member of the Appraisal Foundation. (10-23-95)T
- iv. State or Federal Agencies or Commissions. (10-23-95)T
- v. Other providers approved by the Board. (10-23-95)T
- c. Only those courses completed within the ten (10) years immediately preceding the date of application will be accepted for meeting educational requirements, except for the Uniform Standards of Professional Appraisal Practice, and Code of Ethics as noted in Sections 300.02.a.; 350.02.a.; 400.02.a. (10-23-95)T
- d. The Board may grant credit for courses where the applicant obtained credit from the course provider by challenge examination without attending the courses, provided the Board is satisfied with the quality of the challenge examination that was administered by the course provider. (10-23-95)T
- e. Various appraisal courses may be credited toward the classroom hour education requirement. Applicants must demonstrate that their education involved coverage of all topics listed below. Licensed Residential and Certified Residential must include emphasis in one (1) to four (4) unit residential properties; Certified General must include emphasis in nonresidential properties. (10-23-95)T
- i. Influences on Real Estate Value. (10-23-95)T
- ii. Legal Considerations in Appraisal. (10-23-95)T
- iii. Types of Value. (10-23-95)T
- iv. Economic Principles. (10-23-95)T
- v. Real Estate Markets and Analysis. (10-23-95)T

- vi. Valuation Process. (10-23-95)T
- vii. Property Description. (10-23-95)T
- viii. Highest and Best Use Analysis (10-23-95)T
- ix. Appraisal Statistical Concepts. (10-23-95)T
- x. Sales Comparison Approach. (10-23-95)T
- xii. Site Value. (10-23-95)T
- xiii. Cost Approach. (10-23-95)T
- xiv. Income Approach. (10-23-95)T
- xv. Valuation of Partial Interests. (10-23-95)T
- xvi. Appraisal Standards and Ethics. (10-23-95)T
- f. Advanced courses will be those courses for which an introductory or basic course is required. Typically classes titled "Introductory", "Basic", or "Principles" will not be accepted for advanced requirements. (10-23-95)T
- 03. Experience. (10-23-95)T
 - a. The work product claimed for experience credit must be in conformity with the Uniform Standards of Professional Appraisal Practice or shall be in compliance with generally accepted standards which were in effect at the time those appraisals were prepared. (10-23-95)T
 - b. A year of experience is equal to a minimum of one thousand (1,000) hours worked during a consecutive twelve (12) month period. Regardless of the number of experience hours submitted or obtained during any twelve (12) month period, no more than one thousand (1,000) of those hours may be credited to meet this requirement. Hours obtained in excess of one thousand (1,000) hours during any consecutive twelve (12) month period may not be credited or carried over into the next twelve (12) month period. (10-23-95)T
 - c. Acceptable non field appraisal experience includes, but is not limited to the following: Fee and Staff appraisal analysis, tax appraisal, appraisal analysis, review appraisal, real estate counseling, highest and best use analysis, feasibility analysis/study and teaching of appraisal courses. (10-23-95)T
 - d. An appraiser applying for certification/licensure must verify his completion of the required experience via affidavit, under oath subject to penalty of perjury, and notarized on a form provided by the Board. (10-23-95)T
 - i. To demonstrate experience the Board requires submission of a log

which details hours claimed for experience credit. (10-23-95)T

ii. The Board reserves the right to contact an employer for confirmation of length and extent of experience claimed. This may require an employer to submit appraisal reports and/or an affidavit. (10-23-95)T

iii. The Board may request submission of written reports or file memoranda which substantiate an applicant's claim for experience credit. (10-23-95)T

e. Ad valorem tax appraisers who demonstrate that they use techniques to value properties similar to those used by appraisers and effectively use the process as defined in Subsection 010.10, Field Real Estate Appraisal Experience will receive experience credit. (10-23-95)T

300. LICENSED RESIDENTIAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA (Rule 300).

The state licensed residential real estate appraiser classification applies to the appraisal of residential real property consisting of one (1) to four (4) noncomplex residential units having a transaction value less than one million dollars (\$1,000,000) and complex one (1) to four (4) residential units having a transaction value less than two hundred fifty thousand dollars (\$250,000). Applicants must meet the following examination, education, and experience requirements in addition to complying with Section 299. Subsequent to being licensed, an individual must meet the continuing education requirement.

~~(7-1-93)~~(10-23-95)T

01. Examination. Successful completion of an examination approved by the Board pursuant to the guidelines of The Appraisal Foundation. (7-1-93)

02. Education. Prerequisite to sit for the examination: (7-1-93)(10-23-95)T

a. As a prerequisite to taking the examination for licensure as an Idaho Licensed Real Estate Appraiser, an applicant shall present evidence satisfactory to the board that he/she has successfully completed not less than ~~seventy-five (75)~~ ninety (90) classroom hours of courses in subjects related specifically to real estate appraisal approved by the board. Each applicant must have successfully completed not less than ~~fifty (50)~~ seventy (70) classroom hours of study related to those topics outlined under Section 299.02.e., the basic principles of real estate appraising, and not less than fifteen classroom hours of studies within the last five (5) years specifically relating to Uniform Standards of Professional Appraisal Practice, and Code of Ethics and provisions of the State Act. Not more less than twenty (20) fifteen (15) and no more than twenty (20) classroom hours of studies within the last five (5) years specifically relating to the Uniform Standards of Professional Appraisal Practice, and Code of Ethics and provisions of the State Act will be credited to the ~~seventy-five (75)~~ classroom hour requirement. (7-1-93)(10-23-95)T

i. A classroom hour is defined as fifty minutes out of each sixty minute segment. (7-1-93)

ii. Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen hours, and the individual successfully completes an examination pertinent to the educational offering. (7-1-93)

- iii. ~~Credit for the classroom hour requirement may be obtained from the following:~~ (7-1-93)
- ~~(a) Colleges or Universities (7-1-93)~~
 - ~~(b) Community or Junior Colleges (7-1-93)~~
 - ~~(c) Nationally recognized Real Estate Appraisal organizations (7-1-93)~~
 - ~~(d) State or Federal Agencies or Commissions (7-1-93)~~
 - ~~(e) Proprietary Schools (7-1-93)~~
 - ~~(f) Other providers approved by the Board (7-1-93)~~
- iv. ~~Prior to July 1, 1993, there will be no time limit on when credit may have been obtained for classroom hours.~~ (7-1-93)
- v. ~~After July 1, 1993, only those courses completed within the ten (10) years immediately preceding the date of application will be accepted for meeting educational requirements, except for the Uniform Standards of Professional Appraisal Practice, and Code of Ethics as noted in Section 300.02.a. above.~~ (7-1-93)
- vi. ~~The Board may grant credit for courses where the applicant obtained credit from the course provider by challenge examination without attending the courses, provided the Board is satisfied with the quality of the challenge examination that was administered by the course provider.~~ (7-1-93)
- vii. ~~Various appraisal courses may be credited toward the seventy five classroom hour education requirement. Applicants must demonstrate that their education involved coverage of all topics listed below with particular emphasis on the appraisal of one (1) to four (4) unit residential properties.~~ (7-1-93)
- ~~(a) Influences on Real Estate Value (7-1-93)~~
 - ~~(b) Legal Considerations in Appraisal (7-1-93)~~
 - ~~(c) Types of Value (7-1-93)~~
 - ~~(d) Economic Principles (7-1-93)~~
 - ~~(e) Real Estate Markets and Analysis (7-1-93)~~
 - ~~(f) Valuation Process (7-1-93)~~
 - ~~(g) Property Description (7-1-93)~~
 - ~~(h) Highest and Best Use Analysis (7-1-93)~~

(i)	Appraisal Statistical Concepts	(7-1-93)
(j)	Sales Comparison Approach	(7-1-93)
(k)	Site Value	(7-1-93)
(l)	Cost Approach	(7-1-93)
(m)	Income Approach	(7-1-93)
(n)	Valuation of Partial Interests	(7-1-93)
(o)	Appraisal Standards and Ethics	(7-1-93)

b. After July 1, 1998, an applicant shall present evidence satisfactory to the board that he/she has an Associate College Degree, or its equivalent to be determined by the Board, in addition to the other required prerequisites in Sections 299 and 300. ~~The seventy-five eClassroom hours of successfully completed courses specifically in subjects related to real estate appraisal may be included in the hours required for the associate degree or college degree.~~ (7-1-93)(10-23-95)T

032. Experience. Prerequisite to sit for the examination: Equivalent of two (2) years appraisal experience (See Subsection 299.03.b.). ~~When requested, eExperience documentation in the form of reports or file memoranda should be available to support the claim for experience.~~ (7-1-93)(10-23-95)T

a. ~~The work product claimed for experience credit must be in conformity with the Uniform Standards of Professional Appraisal Practice or shall be in compliance with generally accepted standards which were in effect at the time those appraisals were prepared.~~ (7-1-93)

b. ~~A year is defined in terms of hours within a calendar year. One thousand (1,000) hours constitutes a year of appraisal experience. A minimum of two (2) calendar years is required. Prior to July 1, 1993, hours may be treated as cumulative in order to achieve the necessary two thousand (2,000) hours of appraisal experience. After July 1, 1993, only the preceding five (5) years experience will be considered for evaluation.~~ (7-1-93)

ea. ~~Of the required two thousand (2,000) hours, Tthe applicant must accumulate a minimum of one thousand five hundred (1,500) hours from field real estate appraisal experience. The balance of five hundred (500) hours may include non field experience, refer to Subsection 299.03.c.~~ (7-1-93)(10-23-95)T

d. ~~Acceptable non field appraisal experience includes, but is not limited to the following: Fee and Staff appraisal analysis, tax appraisal, appraisal analysis, review appraisal, real estate counseling, highest and best use analysis, feasibility analysis/study and teaching of appraisal courses.~~ (7-1-93)

e. ~~An appraiser applying for certification must verify his/her completion of the required experience via affidavit, under oath subject to penalty of perjury, and~~

~~notarized on a form provided by the Board. (7-1-93)~~

~~i. To demonstrate experience the Board may require submission of a log which details hours claimed for experience credit. The Board may also require an affidavit from an employer concerning the applicant's length of experience. (7-1-93)~~

~~ii. The Board reserves the right to contact an employer for confirmation of experience claimed. This will require an employer to confirm via affidavit the experience of an applicant. (7-1-93)~~

~~iii. The Board may request submission of written reports or file memoranda claimed by the applicant in the applicant's application for experience credit. (7-1-93)~~

~~04. Continuing Education. (7-1-93)~~

~~a. The equivalent of fifteen (15) classroom hours of instruction in courses or seminars for each year during the three (3) years during the period preceding the renewal is required. (For example, a three (3) year certification term would require forty-five (45) hours. These hours may be obtained any time during the three (3) year term.) (7-1-93)~~

~~i. A classroom hour is defined as fifty minutes out of each sixty minute segment. (7-1-93)~~

~~ii. Credit toward the classroom hour requirement may be granted only where the length of the educational offering is a least two (2) hours. (7-1-93)~~

~~iii. Credit for the classroom hour requirement may be obtained by accredited courses which have been approved by the appraisal members of The Appraisal Foundation. All other courses must have approval of the Board. (7-1-93)~~

~~iv. Once every five (5) years an Idaho State Certified Real Estate Appraiser will be required to attend fifteen (15) hours of a Uniform Standards of Professional Appraisal Practice course and receive a passing grade on a course examination. (7-1-93)~~

~~b. Continuing education credit may also be granted for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities which are determined to be equivalent to obtaining continuing education. (7-1-93)~~

~~e. The purpose of continuing education is to ensure that the appraiser participates in a program that maintains and increases his/her skill, knowledge and competency in real estate appraising. (7-1-93)~~

(BREAK IN CONTINUITY OF SECTIONS)

350. CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA (Rule 350).

The State Certified Residential Real Estate Appraiser classification applies to the appraisal of residential properties of four (4) or less units without regard to transaction value or complexity. Applicants must meet the following examination, education, and experience requirements in addition to complying with Section 299. Subsequent to being certified an individual must meet the continuing education requirement. (7-1-93)(10-23-95)T

~~01. Examination. Successful completion of an examination approved by the Board pursuant to the guidelines of The Appraisal Foundation. (7-1-93)~~

~~021. Education. Prerequisite to sit for the examination. (7-1-93)(10-23-95)T~~

a. As a prerequisite to taking the examination for certification as an Idaho Certified Residential Real Estate Appraiser, an applicant shall present evidence satisfactory to the board that he/she has successfully completed not less than one hundred ~~five (105)~~ twenty (120) classroom hours of courses in subjects related to real estate appraisal approved by the board. Each applicant must have successfully completed not less than ~~fifty (50)~~ one hundred (100) classroom hours of study ~~related to those topics outlined under Section 299.02.e., the basic principles of real estate appraising and thirty (30) classroom hours of advanced residential or non-residential specialized courses relating to the topics specified at Subsection 299.02.e. and not less than fifteen classroom hours of studies within the last five (5) years specifically relating to Uniform Standards of Professional Appraisal Practice, and Code of Ethics and provisions of the State Act. Not more less than twenty (20) fifteen (15) and no more than twenty (20) classroom hours of studies within the last five (5) years specifically relating to the Uniform Standards of Professional Appraisal Practice, and Code of Ethics; and provisions of the State Act will be credited to the one hundred five (105) classroom hour requirement.~~ (7-1-93)(10-23-95)T

~~i. A classroom hour is defined as fifty minutes out of each sixty minute segment. (7-1-93)~~

~~ii. Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen hours, and the individual successfully completes an examination pertinent to the educational offering. (7-1-93)~~

~~iii. Credit for the classroom hour requirement may be obtained from the following: (7-1-93)~~

~~(a) Colleges or Universities (7-1-93)~~

~~(b) Community or Junior Colleges (7-1-93)~~

~~(c) Nationally recognized Real Estate Appraisal organizations (7-1-93)~~

~~(d) State or Federal Agencies or Commissions (7-1-93)~~

~~(e) Proprietary Schools (7-1-93)~~

- (f) Other providers approved by the Board (7-1-93)
- iv. Prior to July 1, 1993, there will be no time limit on when credit may have been obtained for classroom hours. (7-1-93)
- iv. After July 1, 1993, only those courses completed within the ten (10) years immediately preceding the date of application will be accepted for meeting educational requirements, except for the Uniform Standards of Professional Appraisal Practice, and Code of Ethics as noted in Section 350.02.a. above. Educational courses used in qualifying for licensure as an Idaho Licensed Real Estate Appraiser will also apply when securing certification as an Idaho State Certified Residential Real Estate Appraiser. (7-1-93)
- vi. The Board may grant credit for courses where the applicant obtained credit from the course provider by challenge examination without attending the courses, provided the Board is satisfied with the quality of the challenge examination that was administered by the course provider. (7-1-93)
- vii. Various appraisal courses may be credited toward the one hundred five classroom hour education requirement. Applicants must demonstrate that their education involved coverage of all topics listed below with particular emphasis on the appraisal of one (1) to four (4) unit residential properties. (7-1-93)
- (a) Influences on Real Estate Value (7-1-93)
- (b) Legal Considerations in Appraisal (7-1-93)
- (c) Types of Value (7-1-93)
- (d) Economic Principles (7-1-93)
- (e) Real Estate Markets and Analysis (7-1-93)
- (f) Valuation Process (7-1-93)
- (g) Property Description (7-1-93)
- (h) Highest and Best Use Analysis (7-1-93)
- (i) Appraisal Statistical Concepts (7-1-93)
- (j) Sales Comparison Approach (7-1-93)
- (k) Site Value (7-1-93)
- (l) Cost Approach (7-1-93)
- (m) Income Approach (7-1-93)
- (n) Valuation of Partial Interests (7-1-93)

(6) Appraisal Standards and Ethics (7-1-93)

b. After July 1, 1998, an applicant shall present evidence satisfactory to the board that he/she has an Associate College Degree, or its equivalent to be determined by the Board, in addition to the other required prerequisites in ~~Rule F Sections 299 and 350.~~ The one hundred five eClassroom hours of courses successfully completed in subjects specifically related to real estate appraisal may be included in the hours required for the associate degree or college degree. (7-1-93)(10-23-95)T

032. Experience. Prerequisite to sit for the examination: Equivalent of three (3) years appraisal experience (See Subsection 299.03.b.). ~~When requested, eExperience documentation in the form of reports or file memoranda should be available to support the claim for experience.~~ (7-1-93)(10-23-95)T

a. ~~The work product claimed for experience credit must be in conformity with the Uniform Standards of Professional Appraisal Practice or shall be in compliance with generally accepted standards which were in effect at the time those appraisals were prepared.~~ (7-1-93)

b. ~~A year is defined in terms of hours within a calendar year. One thousand (1,000) hours constitutes a year of appraisal experience. A minimum of three (3) calendar years is required. Prior to July 1, 1993, hours may be treated as cumulative in order to achieve the necessary three thousand (3,000) hours of appraisal experience. After July 1, 1993, only the preceding five (5) years experience will be considered for evaluation.~~ (7-1-93)

ea. ~~Of the required three thousand (3,000) hours, Tthe applicant must accumulate a minimum of twenty-five hundred (2,500) hours from residential field real estate appraisal experience. The balance of five hundred (500) hours may include non field experience, refer to Subsection 299.03.c.~~ (7-1-93)(10-23-95)T

d. ~~Acceptable non-field appraisal experience includes, but is not limited to the following: Fee and Staff appraisal analysis, tax appraisal, appraisal analysis, review appraisal, real estate counseling, highest and best use analysis, feasibility analysis/study and teaching of appraisal courses.~~ (7-1-93)

e. ~~An appraiser applying for certification must verify his/her completion of the required experience via affidavit, under oath subject to penalty of perjury, and notarized on a form provided by the Board.~~ (7-1-93)

i. ~~To demonstrate experience the Board may require submission of a log which details hours claimed for experience credit. The Board may also require an affidavit from an employer concerning the applicant's length of experience.~~ (7-1-93)

ii. ~~The Board reserves the right to contact an employer for confirmation of experience claimed. This will require an employer to confirm via affidavit the experience of an applicant.~~ (7-1-93)

iii. The Board may request submission of written reports or file memoranda

claimed by the applicant in the applicant's application for experience credit. (7-1-93)

04. Continuing Education. (7-1-93)

a. The equivalent of fifteen (15) classroom hours of instruction in courses or seminars for each year during the three (3) years during the period preceding the renewal is required. (For example, a three (3) year certification term would require forty-five (45) hours. These hours may be obtained any time during the three (3) year term.) (7-1-93)

i. A classroom hour is defined as fifty minutes out of each sixty minute segment. (7-1-93)

ii. Credit toward the classroom hour requirement may be granted only where the length of the educational offering is a least two (2) hours. (7-1-93)

iii. Credit for the classroom hour requirement may be obtained by accredited courses which have been approved by the appraisal members of The Appraisal Foundation. All other courses must have approval of the Board. (7-1-93)

iv. Once every five (5) years an Idaho State Certified Real Estate Appraiser will be required to attend fifteen (15) hours of a Uniform Standards of Professional Appraisal Practice course and receive a passing grade on a course examination. (7-1-93)

b. Continuing education credit may also be granted for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities which are determined to be equivalent to obtaining continuing education. (7-1-93)

e. The purpose of continuing education is to ensure that the appraiser participates in a program that maintains and increases his/her skill, knowledge and competency in real estate appraising. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

400. CERTIFIED GENERAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA (RULE 400).

The State Certified General Real Estate Appraiser classification applies to the appraisal of all types of real property. Applicants must meet the following examination, education, and experience requirements in addition to complying with Section 299. Subsequent to being certified, an individual must meet the continuing education requirement.

(7-1-93)(10-23-95)T

01. Examination. Successful completion of an examination approved by the Board pursuant to the guidelines of The Appraisal Foundation. (7-1-93)

02~~1~~. Education. Prerequisite to sit for the examination. (7-1-93)(10-23-95)T

a. As a prerequisite to taking the examination for certification as an Idaho State Certified General Real Estate Appraiser, an applicant shall present evidence satisfactory to the board that he/she has successfully completed not less than one hundred ~~sixty five (165)~~ eighty (180) classroom hours of courses in subjects related specifically to real estate appraisal approved by the board. Each applicant must have successfully completed not less than ~~fifty (50)~~ one hundred sixty (160) classroom hours of study relating to those topics outlined under Section 299.02.e. the basic principles of real estate appraising and not less than fifteen classroom hours of studies within the last five (5) years specifically relating to Uniform Standards of Professional Appraisal Practice, and Code of Ethics and provisions of the State Act. Not more less than twenty (20) fifteen (15) and no more than twenty (20) classroom hours of studies within the last five (5) years specifically relating to the Uniform Standards of Professional Appraisal Practice, and Code of Ethics and provisions of the State Act; and one hundred (100) classroom hours of advanced non residential specialized courses study relating to the topics specified at Section 400.02.vii. below 299.02.e. ~~(7-1-93)(10-23-95)T~~

i. ~~A classroom hour is defined as fifty minutes out of each sixty minute segment.~~ ~~(7-1-93)~~

ii. ~~Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen hours, and the individual successfully completes an examination pertinent to the educational offering.~~ ~~(7-1-93)~~

iii. ~~Credit for the classroom hour requirement may be obtained from the following:~~ ~~(7-1-93)~~

(a) ~~Colleges or Universities~~ ~~(7-1-93)~~

(b) ~~Community or Junior Colleges~~ ~~(7-1-93)~~

(c) ~~Nationally recognized Real Estate Appraisal organizations~~ ~~(7-1-93)~~

(d) ~~State or Federal Agencies or Commissions~~ ~~(7-1-93)~~

(e) ~~Proprietary Schools~~ ~~(7-1-93)~~

(f) ~~Other providers approved by the Board~~ ~~(7-1-93)~~

iv. ~~Prior to July 1, 1993, there will be no time limit on when credit may have been obtained for classroom hours.~~ ~~(7-1-93)~~

v. ~~After July 1, 1993, only those courses completed within the ten (10) years immediately preceding the date of application will be accepted for meeting educational requirements, except for the Uniform Standards of Professional Appraisal Practice, and Code of Ethics as noted in Section 400.02.a. above. Educational courses used in qualifying for licensure as an Idaho Licensed Real Estate Appraiser or Idaho Certified Residential Real Estate Appraiser will also apply when securing certification as an Idaho State Certified General Real Estate Appraiser.~~ ~~(7-1-93)~~

vi. ~~The Board may grant credit for courses where the applicant obtained credit from the course provider by challenge examination without attending the courses, provided the Board is satisfied with the quality of the challenge examination that was administered by the course provider.~~ (7-1-93)

vii. ~~Various appraisal courses may be credited toward the one hundred sixty-five (165) classroom hour education requirement. Applicants must demonstrate that their education involved coverage of all topics listed below with particular emphasis on the appraisal of nonresidential properties. Residential is defined as one (1) to four (4) residential units.~~ (7-1-93)

- ~~(a) Influences on Real Estate Value (7-1-93)~~
- ~~(b) Legal Considerations in Appraisal (7-1-93)~~
- ~~(c) Types of Value (7-1-93)~~
- ~~(d) Economic Principles (7-1-93)~~
- ~~(e) Real Estate Markets and Analysis (7-1-93)~~
- ~~(f) Valuation Process (7-1-93)~~
- ~~(g) Property Description (7-1-93)~~
- ~~(h) Highest and Best Use Analysis (7-1-93)~~
- ~~(i) Appraisal Statistical Concepts (7-1-93)~~
- ~~(j) Sales Comparison Approach (7-1-93)~~
- ~~(k) Site Value (7-1-93)~~
- ~~(l) Cost Approach (7-1-93)~~
- ~~(m) Income Approach (7-1-93)~~
- ~~(n) Valuation of Partial Interests (7-1-93)~~
- ~~(o) Appraisal Standards and Ethics (7-1-93)~~

b. ~~After July 1, 1998, an applicant shall present evidence satisfactory to the board that he/she has a college degree, or its equivalent to be determined by the Board, in addition to the other required prerequisites in Sections 299 and 400. The one hundred sixty-five (165) classroom hours of courses successfully completed in subjects specifically related to real estate appraisal may be included in the hours required for the College Degree.~~ (7-1-93)(10-23-95)T

032. ~~Experience. Prerequisite to sit for the examination. Equivalent of three (3) years appraisal experience (See Subsection 299.03.b.). If requested, e~~Experience

documentation in the form of reports or file memoranda should be available to support the claim for experience. (7-1-93)(10-23-95)T

~~a. The work product claimed for experience credit must be in conformity with the Uniform Standards of Professional Appraisal Practice or shall be in compliance with generally accepted standards which were in effect at the time those appraisals were prepared. (7-1-93)~~

~~b. A year is defined in terms of hours within a calendar year. One thousand (1,000) hours constitutes a year of appraisal experience. A minimum of three (3) calendar years is required. Prior to July 1, 1993, hours may be treated as cumulative in order to achieve the necessary three thousand (3,000) hours of appraisal experience. After July 1, 1993, only the preceding five (5) years experience will be considered for evaluation. (7-1-93)~~

~~ea. Of the three thousand (3,000) hours required, the applicant must accumulate a minimum of two thousand (2,000) hours from nonresidential field real estate appraisal experience. The balance of one thousand (1,000) hours may be solely residential experience or can include up to five hundred (500) hours of nonfield experience as outlined in Subsection 299.03.c. (7-1-93)(10-23-95)T~~

~~d. Acceptable non-field appraisal experience includes, but is not limited to the following: Fee and Staff appraisal analysis, tax appraisal, appraisal analysis, review appraisal, real estate counseling, highest and best use analysis, feasibility analysis/study and teaching of appraisal courses. (7-1-93)~~

~~e. An appraiser applying for certification must verify his/her completion of the required experience via affidavit, under oath subject to penalty of perjury, and notarized on a form provided by the Board. (7-1-93)~~

~~i. To demonstrate experience the Board may require submission of a log which details hours claimed for experience credit. The Board may also require an affidavit from an employer concerning the applicant's length of experience. (7-1-93)~~

~~ii. The Board reserves the right to contact an employer for confirmation of experience claimed. This will require an employer to confirm via affidavit the experience of an applicant. (7-1-93)~~

~~iii. The Board may request submission of written reports or file memoranda claimed by the applicant in the applicant's application for experience credit. (7-1-93)~~

~~**04401. Continuing Education CONTINUING EDUCATION (Rule 401).**
All certified/licensed appraisers must comply with the following continuing education requirements: (7-1-93)(10-23-95)T~~

~~e01. Purpose of Continuing Education. The purpose of continuing education is to ensure that the appraiser participates in a program that maintains and increases his/her skill, knowledge and competency in real estate appraising. (7-1-93)(10-23-95)T~~

~~a02. Hours Required. The equivalent of fifteen (15) classroom hours of~~

instruction in courses or seminars for each year during the three (3) years during the period preceding the renewal is required. (For example, a three (3) year certification term would require forty-five (45) hours. These hours may be obtained any time during the three (3) year term. ~~(7-1-93)~~(10-23-95)T

~~ii~~a. A classroom hour is defined as fifty minutes out of each sixty minute segment. (7-1-93)

~~iii~~b. Credit toward the classroom hour requirement may be granted only where the length of the educational offering is at least two (2) hours. ~~(7-1-93)~~(10-23-95)T

~~iiii~~c. Credit for the classroom hour requirement may be obtained by accredited courses which have been approved by the appraisal members of The Appraisal Foundation. All other courses must have approval of the Board. (7-1-93)

~~v~~d. Once every five (5) years an Idaho State Certified/Licensed Real Estate Appraiser will be required to attend fifteen (15) hours of a Uniform Standards of Professional Appraisal Practice course and receive a passing grade on a course examination. ~~(7-1-93)~~(10-23-95)T

~~b03~~. Credit for Appraisal Educational Processes and Programs. Continuing education credit may also be granted for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities which are determined to be equivalent to obtaining continuing education. ~~(7-1-93)~~(10-23-95)T

04. Requirement When a Certificate/License is Cancelled. For any year (less than five (5)) in which a license is lapsed, cancelled or otherwise non-renewed, fifteen (15) hours of continuing education must be obtained prior to reinstatement. (10-23-95)T

~~4042~~. -- 449. (RESERVED).

450. RECIPROCITY (Rule 450).

Applicant must comply with Section 54-4115, Idaho Code. (7-1-93)

01. File Application. File applications on forms provided by the Board. (7-1-93)

02. Submit Statement Verifying Certification/Licensure. Submit current notarized statement verifying certification/licensure in good standing in another state. (7-1-93)

03. Reciprocal License Issued. No reciprocal license will be issued where the applicant was originally licensed in a state other than that upon which the reciprocity application is based. (10-23-95)T

(BREAK IN CONTINUITY OF SECTIONS)

500. TEMPORARY PRACTICE (Rule 500).

01. Requirements For Issuance. A permit to temporarily practice may be issued to individuals coming to Idaho who are certified/licensed in another state and are either transferring to Idaho or have a temporary assignment in Idaho. (7-1-93)

02. Provide Proof of Current Certification or Licensure. Must provide proof of current certification or licensure in good standing in another state or meet the requirements as set forth in these rules, and comply with Section 54-4115(3), Idaho Code, regarding irrevocable consent. (7-1-93)

03. Assignments And Length Of Time Permit Will Be Issued. Permit to temporarily practice will be issued on a per appraisal assignment basis for a period not to exceed four (4) months ~~or until the next qualifying examination.~~ (7-1-93)(10-23-95)T

(BREAK IN CONTINUITY OF SECTIONS)

701. -- 7499. (RESERVED).

~~750. APPRAISAL REPORTS TO BE IN WRITING (Rule 750). Title XI specifically requires that all appraisals performed for federally related transactions be in writing; accordingly, this requirement is hereby adopted as a rule of conduct for all Idaho State Certified and/or Licensed Real Estate Appraisers. (7-1-93)~~

~~**751. -- 799. (RESERVED).**~~

IDAPA 33 - IDAHO REAL ESTATE COMMISSION
33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION
DOCKET NO. 33-0101-9501
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 Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a final rule. The action is authorized pursuant to Section 54-2027, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the final rules. There were no changes between the text of the proposed rules and text of the final rule.

1. Amendments were adopted to all rules dealing with licensed "partnerships" and "corporations" to include licensed "limited liability companies," to accommodate a change in statute. Affected are Sections 109, 113, 414, and 616 and in Subsection 010.05.

2. Amendments were adopted to Subsections 010.12 and 010.19, to add definitions of "primary license" and "designated broker," for consistency with law change.

3. Amendments were adopted to Subsection 603.18, to change the term "Brokerage Administration" to the current, correct term "Brokerage Management."

4. Amendments were adopted to Section 119, dealing with acceptable limits of liability for "firm" types of real estate errors and omissions policies, to allow for different and fair treatment of "firm" versus "individual" types of policies. Minimums for independently obtained insurance with a "firm" type of policy would be \$500,000 per occurrence and \$2 million annual aggregate, versus the former requirement of \$100,000 per occurrence **per licensee** and \$300,000 annual aggregate **per licensee**. Would not affect state-offered policy limits.

5. Technical amendments were adopted to Subsections 610.04 and 612.01 and Section 613, for clarification.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Jeri Pyeatt, Executive Director, at (208) 334-3285, TRS 1 800 377-3529.

DATED this 25th day of October, 1995.

Jeri Pyeatt, Executive Director
Idaho Real Estate Commission
PO Box 83720
Boise ID 83720-0077
(208)334-3285 FAX (208)334-2050
TRS (800)377-3529

IDAPA 33
TITLE 01
Chapter 01

RULES GOVERNING THE IDAHO REAL ESTATE COMMISSION

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 95-10, October 4, 1995
Pages 251 through 270**

**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 33 - IDAHO REAL ESTATE COMMISSION
33.01.02 - RULES OF THE IDAHO REAL ESTATE COMMISSION
DOCKET NO. 33-0102-9501
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 Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a final rule. The action is authorized pursuant to Section 54-2027, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the final rules. There were no changes between the text of the proposed rules and text of the final rule.

1. Amendments were adopted to all rules dealing with licensed "partnerships" and "corporations" to include licensed "limited liability companies," to accommodate a change in statute. Affected are Subsections 050.09, 050.12, and 026.01.
2. Amendment to correct agency mailing address required to Section 007, due to change in state mailing system.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Jeri Pyeatt, Executive Director, at (208) 334-3285, TRS 1 800 377-3529.

DATED this 25th day of October, 1995.

Jeri Pyeatt, Executive Director
Idaho Real Estate Commission
PO Box 83720
Boise ID 83720-0077
(208)334-3285 FAX (208)334-2050
TRS (800)377-3529

There are no substantive changes from the proposed rule text

**The original text was published in the Idaho Administrative Bulletin,
Volume 95-10, October 4, 1995 Pages 271 through 274**

**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 35 - STATE TAX COMMISSION
35.01.01 - RULES GOVERNING INCOME TAXATION
DOCKET NO. 35-0101-9502
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 Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a final rule. The action is authorized pursuant to Section 63-513, Idaho Code.

DESCRIPTIVE SUMMARY: There were no amendments to the initial proposed text.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this proposed rule, contact Janice Boyd, at (208) 334-7530.

DATED this 11th day of October, 1995.

Janice Boyd, Tax Policy Specialist
State Tax Commission
800 Park, Plaza IV
P. O. Box 36
Boise, ID 83722
(208) 334-7530
FAX (208) 334-7844

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 95-9,
September 6, 1995 Pages 56 through 57**

**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 35 - STATE TAX COMMISSION
35.01.01 - RULES GOVERNING INCOME TAXATION
DOCKET NO. 35-0101-9503
NOTICE OF PROPOSED AND TEMPORARY RULE

EFFECTIVE DATE: These rules are effective January 1, 1996.

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 rule-making has been initiated. The action is authorized pursuant to Sections 63-3039 and 63-3045, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing 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 any 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 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.

DESCRIPTIVE SUMMARY: Rule 132. Idaho Code Section 63-3045 provides that by November 1 of each year, the tax commission shall fix the rate of interest due for the succeeding calendar year, or portion thereof, upon any deficiency, or payable upon an overpayment or refund. The rate of interest, rounded to the nearest whole number, shall be two percent (2%) plus the rate determined under Section 1274(d), Internal Revenue Code, by the Secretary of the Treasury of the United States as the mid-term federal rate as it applies on October 15 of that year. For calendar year 1996 the annual rate of interest applicable to delinquent state taxes accruing or unpaid during all or any part of calendar year 1996 subject to assessment of interest under Section 63-3045, Idaho Code, is eight percent (8%) simple interest.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Janice Boyd, at (208) 334-7530.

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 December 28, 1995.

DATED this 20th day of October, 1995.

Janice Boyd, Tax Policy Specialist
State Tax Commission
800 Park, Plaza IV
P.O. Box 36
Boise, ID 83722
(208) 334-7530
FAX (208) 334-7844

TEXT OF DOCKET NO. 35-0101-9503

132. INTEREST ON AMOUNTS OF TAX ACCRUING OR UNPAID. (Rule 132.)

01. Calendar Year 1994. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1994 subject to assessment of interest under Section 63-3045, Idaho Code, is seven percent (7%) simple interest. See Revenue Ruling 93-64. (1-1-95)

02. Calendar Year 1995. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1995 subject to assessment of interest under Section 63-3045, Idaho Code, is nine percent (9%) simple interest. See Revenue Ruling 94-61. (1-1-95)

03. Calendar Year 1996. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1996 subject to assessment of interest under Section 63-3045, Idaho Code, is eight percent (8%) simple interest. See Revenue Ruling 95-67. (1-1-96)T

IDAPA 35 - STATE TAX COMMISSION
35.01.02 - RULES GOVERNING SALES TAXATION
DOCKET NO. 35-0102-9503
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 greater.

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 Section 63-513, Idaho Code.

DESCRIPTIVE SUMMARY: There were no amendments to the initial proposed text.

:ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this proposed rule, contact Jim Husted, at (208) 334-7530.

DATED this 11th day of October, 1995.

Jim Husted, Tax Policy Specialist
State Tax Commission
800 Park, Plaza IV
P. O. Box 36
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FAX (208) 334-7844

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 95-9, September 6, 1995
Pages 58 through 61**

**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 35 - STATE TAX COMMISSION
35.01.02 - RULES GOVERNING SALES TAXATION
DOCKET NO. 35-0102-9504
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 greater.

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 Section 63-513, Idaho Code.

DESCRIPTIVE SUMMARY: There were no amendments to the initial proposed text.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this proposed rule, contact Jim Husted, at (208) 334-7530.

DATED this 11th day of October, 1995.

Jim Husted, Tax Policy Specialist
State Tax Commission
800 Park, Plaza IV
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Boise, ID 83722
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FAX (208) 334-7844

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 95-9, September 6, 1995
Pages 62 through 65**

**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 35 - STATE TAX COMMISSION
35.01.02 - RULES GOVERNING SALES TAXATION
DOCKET NO. 35-0102-9505
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 greater.

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 Section 63-513, Idaho Code.

DESCRIPTIVE SUMMARY: There were no amendments to the initial proposed text.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this proposed rule, contact Jim Husted, at (208) 334-7530.

DATED this 11th day of October, 1995.

Jim Husted, Tax Policy Specialist
State Tax Commission
800 Park, Plaza IV
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Boise, ID 83722
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FAX (208) 334-7844

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 95-9, September 6, 1995
Pages 66 through 68**

**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 35 - STATE TAX COMMISSION
35.01.02 - RULES GOVERNING SALES TAXATION
DOCKET NO. 35-0102-9506
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 greater.

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 Section 63-513, Idaho Code.

DESCRIPTIVE SUMMARY: There were no amendments to the initial proposed text.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this proposed rule, contact Jim Husted, at (208) 334-7530.

DATED this 11th day of October, 1995.

Jim Husted, Tax Policy Specialist
State Tax Commission
800 Park, Plaza IV
P. O. Box 36
Boise, ID 83722
(208) 334-7530
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**There are no substantive changes
from the proposed rule text**

**The original text was published in the Idaho
Administrative Bulletin, Volume 95-9, September 6, 1995
Pages 69 through 72**

**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 35 - STATE TAX COMMISSION
35.01.02 - RULES GOVERNING SALES TAXATION
DOCKET NO. 35-0102-9507
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 greater.

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 Section 63-513, Idaho Code.

DESCRIPTIVE SUMMARY: There were no amendments to the initial proposed text.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this proposed rule, contact Jim Husted, at (208) 334-7530.

DATED this 11th day of October, 1995.

Jim Husted, Tax Policy Specialist
State Tax Commission
800 Park, Plaza IV
P. O. Box 36
Boise, ID 83722
(208) 334-7530
FAX (208) 334-7844

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 95-9, September 6, 1995
Pages 73 through 74**

**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 35 - STATE TAX COMMISSION
35.01.03 - RULES GOVERNING AD VALOREM PROPERTY TAX
DOCKET NO. 35-0103-9503
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 greater.

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 Section 63-513, 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:

Rule 180 would apply the 1995 social security cost of living adjustment to the property tax reduction program income brackets as required by Idaho law.

EFFECTIVE DATE: The effective date shall be determined by the Idaho Legislature concerning this proposed rule, contact Alan Dornfest, at (208) 334-7530.

DATED this 11th day of October, 1995.

Alan Dornfest, Tax Policy Specialist
State Tax Commission
800 Park, Plaza IV
P. O. Box 36
Boise, ID 83722
(208) 334-7530
FAX (208) 334-7844

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 95-9, September 6, 1995
Pages 75 through 79**

**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 35 - STATE TAX COMMISSION
35.01.05 - RULES GOVERNING MOTOR FUELS TAXATION
DOCKET NO. 35-0105-9501
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 greater.

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 Section 63-513, Idaho Code.

DESCRIPTIVE SUMMARY: There were no amendments to the initial proposed text.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this proposed rule, contact Randy Nilson, at (208) 334-7530.

DATED this 11th day of October, 1995.

Randy Nilson, Tax Policy Specialist
State Tax Commission
800 Park, Plaza IV
P. O. Box 36
Boise, ID 83722
(208) 334-7530
FAX (208) 334-7844

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 95-9, September 6, 1995
Pages 80 through 90**

**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 35 - STATE TAX COMMISSION
35.01.05 - RULES GOVERNING MOTOR FUELS TAXATION
DOCKET NO. 35-0105-9502
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 greater.

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 Section 63-513, Idaho Code.

DESCRIPTIVE SUMMARY: There were no amendments to the initial proposed text.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this proposed rule, contact Randy Nilson, at (208) 334-7530.

DATED this 11th day of October, 1995.

Randy Nilson, Tax Policy Specialist
State Tax Commission
800 Park, Plaza IV
P. O. Box 36
Boise, ID 83722
(208) 334-7530
FAX (208) 334-7844

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 95-9, September 6, 1995
Pages 91 through 94**

**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 35 - STATE TAX COMMISSION
35.01.05 - RULES GOVERNING MOTOR FUELS TAXATION
DOCKET NO. 35-0105-9503
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 greater.

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 Section 63-513, Idaho Code.

DESCRIPTIVE SUMMARY: There were no amendments to the initial proposed text.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this proposed rule, contact Randy Nilson, at (208) 334-7530.

DATED this 11th day of October, 1995.

Randy Nilson, Tax Policy Specialist
State Tax Commission
800 Park, Plaza IV
P. O. Box 36
Boise, ID 83722
(208) 334-7530
FAX (208) 334-7844

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 95-9, September 6, 1995
Pages 95 through 100**

**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 35 - STATE TAX COMMISSION
35.01.06 - RULES GOVERNING HOTEL/MOTEL TAXATION
DOCKET NO. 35-0106-9501
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 greater.

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 Section 63-513, Idaho Code.

DESCRIPTIVE SUMMARY: There were no amendments to the initial proposed text.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this proposed rule, contact Jim Husted, at (208) 334-7530.

DATED this 11th day of October, 1995.

Jim Husted, Tax Policy Specialist
State Tax Commission
800 Park, Plaza IV
P. O. Box 36
Boise, ID 83722
(208) 334-7530
FAX (208) 334-7844

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 95-9, September 6, 1995
Pages 101 through 105.**

**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 37 - DEPARTMENT OF WATER RESOURCES
37.03.13 - WATER USE, MEASUREMENT AND ENFORCEMENT

DOCKET NO. 37-0313-9501

NOTICE OF NEGOTIATED RULE MAKING

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 rule-making procedures. This action is authorized pursuant to section 42-1805(8), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the purpose and substance of the negotiated rule making and the principal issues involved:

The Department of Water Resources (IDWR) plans to develop and establish rules to enforce laws prohibiting unauthorized use of water; governing the use of supplemental water rights; and requiring the measurement and reporting of water diversions and use. The rule making is responsive to an agreement which arose from efforts initiated by the A & B Irrigation District seeking conjunctive management of surface and ground water supplies used in the Eastern Snake Plain Aquifer area. Included may be rules to implement 1995 legislation providing for establishment of ground water districts and water measurement districts.

IDWR expects to develop rules through negotiation with and among the parties to the A & B Irrigation District proceedings. Others having an interest in participation should contact IDWR.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the negotiated rule making, contact Norman C. Young at (208) 327-7900.

Anyone may submit written comment regarding this negotiated rulemaking.

DATED this 6th day of December, 1995.

KARL J. DREHER, Director
Department of Water Resources
1301 N. Orchard St.
Boise, ID 83706
Fax No. (208) 327-7866

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
39.02.07 - RULES GOVERNING TITLING OF SALVAGE, SPECIALLY
CONSTRUCTED AND RECONSTRUCTED VEHICLES

DOCKET NO. 39-0207-9501

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 greater.

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 Sections 49-201, 49-507 and 49-525, 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: Reasons for adopting the final rule are 1) Redefine provisions for branding of vehicles, 2) Unifying definition of Known Market Value/Fair Market Value/Retail Market Value/Market Valued, 3) Pre-damaged value of vehicle will determine salvage value; 4) Change name to Division of Motor Vehicles.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Morris Detmar, at (208) 334-8660.

DATED this 25 day of October, 1995.

Mary F. Detmar
P.O. Box 7129
Boise, Idaho 83707
Phone: (208)334-8804
Fax Number: (208)334-8195

**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 194 through 201**

**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 39 - IDAHO TRANSPORTATION DEPARTMENT
39.02.75 - RULES GOVERNING NAMES ON DRIVERS' LICENSES
AND IDENTIFICATION CARDS**

DOCKET NO. 39-0275-9501

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 greater.

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 Sections 49-201, 49-306, 49-314, 49-315, 49-318, 49-319, 49-336 and 49-2443, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for adopting the final rule and any amendments to the initial proposed text: Adoption of the final rule will remove wording which allowed recognition of common law marriages for driver's license and identification card purposes and allow affected sections to be renumbered; add new name-verification information; and fix a typographical error.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Jane Caviness, at (208) 334-8700.

DATED this 25 day of October, 1995.

Mary F. Detmar
P.O. Box 7129
Boise, Idaho 83707
Phone/Fax Numbers: (208)334-8804/(208)334-8195

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 95-10, October 4, 1995
Pages 275 through 279**

**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 39 - IDAHO TRANSPORTATION DEPARTMENT

**39.02.76 - RULES GOVERNING DRIVER'S LICENSE
RENEWAL BY MAIL PROCESS**

DOCKET NO. 39-0276-9501

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 greater.

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 Section 49-319(5), 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 reason for adopting this rule is to implement the driver's license renewal-by-mail program in all 44 counties.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Jane Caviness, at (208) 334-8700.

DATED this 25 day of October, 1995.

Mary F. Detmar
P.O. Box 7129
Boise, Idaho 83707
Phone/Fax Numbers: (208)334-8804/(208)334-8195

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 95-10, October 4, 1995
Pages 280 through 284**

**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 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.46 - RULES GOVERNING STUDED TIRES

DOCKET NO. 39-0346-9501

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 greater.

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 Sections 49-201 and 49-948, 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 reason for adopting this rule is to delegate responsibility and authority for approving special exemptions for studded tire prohibition to ITD staff through the Director.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Clayton Sullivan, at (208) 334-8405.

DATED this 25 day of October, 1995.

Mary F. Detmar
P.O. Box 7129
Boise, Idaho 83707
Phone/Fax Numbers: (208)334-8804/(208)334-8195

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 95-8, August 2, 1995
Pages 130 through 132**

**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 41 - PUBLIC HEALTH DISTRICT NO. 1

**41.01.01 - RULES GOVERNING THE PANHANDLE HEALTH DISTRICT 1
(CONTAMINANT MANAGEMENT - BUNKER HILL SUPERFUND SITE)**

DOCKET NO. 41-0101-9501

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 greater.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a final rule concerning contaminant management at the Bunker Hill Superfund Site. The action is authorized pursuant to Section 39-416, Idaho Code, and the Consent Decree entered in Federal Court to provide for remediation of the Bunker Hill Superfund Site.

DESCRIPTIVE SUMMARY: The following is the required finding and a concise statement of the supporting reasons for adopting the text of the final rule and a statement of any change between the text of the proposed/temporary rules and the final rules, accompanied by an explanation of the reasons therefor:

The final contaminant management rule is necessary to protect the health, safety, and welfare of the 21-square mile area affected by the presence of lead in concentrations sufficient to pose a threat to the health of children and other residents in the area. Entry of the negotiated consent decree requires continued action to enable the implementation of barrier protection measures as remediation proceeds. The rule provides standards and procedures for the maintenance of contaminant management barriers installed to maintain protection from environmental contaminants consisting of lead and other heavy metals. Barrier requirements are set forth and a procedure is established for protecting installed barriers and maintaining records of that protection. Administrative procedures concerning the application of such requirements and the licensing of contractors desiring to work in the designated site area are also addressed.

No request for public hearing has been received nor have any comments been received concerning the contents of the temporary/proposed rule. The final rule is unchanged from the temporary rule except for allowance made to construct on certain unremediated sites which are scheduled to receive barriers and providing unchallenged acceptance of state of Idaho and USEPA determinations that a site is remediated. Both changes constitute relaxation of requirements of the temporary rule. The subject matter remains the same and the final rule is a logical outgrowth of the temporary/proposed rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS. For assistance on technical questions concerning this final rule, contact Jerry Cobb, Senior Environmental Health Specialist, Panhandle Health District, 114 West Riverside Avenue, Kellogg, Idaho 83837, Phone (208) 783-0707, Fax (208) 783-4242.

DATED this 31st day of October, 1995.

Mr. Larry Belmont, Executive Director
Panhandle Health District
2195 Ironwood Court
Coeur d'Alene, Idaho 83814
Phone: (208) 667-3481 / Fax (208) 664-8736

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 95-6
June 7, 1995
Pages 382 through 405
AND
Administrative Bulletin, Volume 95-7
July 5, 1995
Pages 206 through 213**

**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 46 - IDAHO STATE BOARD OF VETERINARY MEDICINE

**46.01.01 - RULES GOVERNING THE IDAHO STATE BOARD
OF VETERINARY MEDICINE**

DOCKET NO. 46-0101-9501

NOTICE OF PUBLIC HEARING

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has scheduled a public hearing and has extended the period of public comment in response to timely public petitions for oral hearings submitted pursuant to Section 67-5222, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rule-making will be held as follows:

**On December 14, 1995,
9:00 a.m. at the Board of Veterinary Medicine Office
2270 Old Penitentiary Road
Boise, Idaho.**

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 days' notice. For arrangements contact the undersigned at (208) 334-3962.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, contact Sheila Jensen, at (208) 334-3962.

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 December 12, 1995.

Dated this 24th day of October, 1995.

Leonard E. Eldridge, President
Idaho Board of Veterinary Medicine
2270 Old Penitentiary Road
P.O. Box 7249
Boise, ID 83707
Telephone No. (208) 334-3962
Fax: (208) 334-4062

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
59.01.07 - MISCELLANEOUS RULES OF THE PUBLIC EMPLOYEE
RETIREMENT SYSTEM [PERSI]

DOCKET NO. 59-0107-9503

NOTICE OF TEMPORARY AND PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency amended a rule on September 26, 1995, as a temporary rule and is proposing regular rule-making concerning the same rule. The action is authorized pursuant to Sections 59-1301, 59-1302(26), 59-1305, 59-1314, 59-1372, 59-1383, 67-5221, and 67-5226, Idaho Code.

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

There are no public hearings currently scheduled.

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 received by the undersigned and must be postmarked or delivered 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 braille or taped information for persons with visual impairments can be provided upon five (5) days' notice. For arrangements, contact the undersigned at (208) 334-2451 ext 268.

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

The rule describes the procedure the board will use in determining the regular interest rate.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the amended and proposed rule, contact Bernadette C. Buentgen, Deputy Attorney General, PERSI, 607 North Eighth Street, Boise, Idaho 83702-5567, (208) 334-2451 ext 268.

Anyone can submit written comments regarding this rule. All written comments and date concerning the rule must be directed to the undersigned and must be postmarked on or before December 27, 1995.

DATED this 18th day of October, 1995.

Bernadette C. Buentgen,
Deputy Attorney General for PERSI
607 North Eighth Street
Boise, Idaho 83702-5567

TEXT OF DOCKET NO. 59-0107-9503

100. REGULAR INTEREST (Rule 100).

Regular interest, for the purposes of administration of funds by the retirement board, shall be six percent (6%) per annum. The Board shall review the regular interest in June and December of each year. For the month the review is performed, the Board shall determine the average interest rate credited in the Boise, Idaho, area to one (1) and two (2) year certificates of deposits with a \$5,000 minimum balance. The Board shall adopt this average rate, rounded to the nearest quarter percent (1/4%), as the regular interest rate, with an effective date starting the first of the month following the review.

Statutory References: Sections 59-1302(26), 59-1331, and 59-1335, Idaho Code, Cross References: (Amended (7-1-95, 9-26-95) ~~(7-1-95)~~(12-1-95))

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