

IDAHO ADMINISTRATIVE BULLETIN

Table of Contents

May 1, 1996

Volume 96-5

TABLE OF CONTENTS	1
<u>OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR</u> <u>OFFICE OF THE STATE CONTROLLER</u>	
RULES APPROVED AND EXTENDED BY THE FIFTY-THIRD LEGISLATURE SECOND REGULAR SESSION - 1996	
NOTICE OF LEGISLATIVE ADOPTION OF FINAL RULES AND EXTENSION OF TEMPORARY RULES OMNIBUS RULE-MAKING NOTICE	3
<u>IDAPA 07 - DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES</u>	
07.01.06 - RULES GOVERNING THE USE OF NATIONAL ELECTRICAL CODE DOCKET NO. 07-0106-9601	
NOTICE OF TEMPORARY AND PROPOSED RULES	9
<u>IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE</u>	
DOCKET NO. 16-0000-9601	
NOTICE OF LEGISLATIVE APPROVAL OF RULES	11
16.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS	
DOCKET NO. 16-0102-9502	
NOTICE OF PROPOSED RULE	13
DOCKET NO. 16-0102-9601	
NOTICE OF PROPOSED RULE	44
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE	
DOCKET NO. 16-0309-9607	
NOTICE OF TEMPORARY AND PROPOSED RULES	68
16.03.11 - RULES GOVERNING INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED (ICF/MR)	
DOCKET NO. 16-0311-9601	
NOTICE OF INTENT TO PROMULGATE RULES (NEGOTIATED RULEMAKING)	79

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.01.01 - RULES GOVERNING THE BOARD OF ARCHITECTURAL EXAMINERS
DOCKET NO. 24-0101-9501
NOTICE OF PENDING RULE..... 81

24.18.01 - RULES GOVERNING THE REAL ESTATE APPRAISER BOARD
DOCKET NO. 24-1801-9501
NOTICE OF PENDING RULE..... 82

IDAPA 35 - STATE TAX COMMISSION

35.01.03 - RULES GOVERNING AD VALOREM PROPERTY TAXATION
DOCKET NO. 35-0103-9602
NOTICE OF PROPOSED RULES..... 84

DOCKET NO. 35-0103-9603
NOTICE OF TEMPORARY AND PROPOSED RULES 86

IDAPA 37 - DEPARTMENT OF WATER RESOURCES

37.01.02 - ENVIRONMENTAL AUDIT PROTECTION RULES
DOCKET NO. 37-0102-9602
NOTICE OF TEMPORARY AND PROPOSED RULE..... 90

SUBJECT INDEX 93

**OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR
OFFICE OF THE STATE CONTROLLER**

**RULES APPROVED AND EXTENDED BY THE FIFTY-THIRD LEGISLATURE
SECOND REGULAR SESSION - 1996**

**NOTICE OF LEGISLATIVE ADOPTION OF FINAL RULES
AND EXTENSION OF TEMPORARY RULES
OMNIBUS RULE-MAKING NOTICE**

ACTION: The action concerns the legislative adoption of final rules and extension of temporary rules previously published in the Idaho Administrative Bulletin.

AUTHORITY: In compliance with Sections 67-5224(7) and 67-5226(3), Idaho Code, notice is hereby given by the Office of the Administrative Rules Coordinator that the Fifty-third Legislature in the Second Regular Session - 1996, has adopted the following final rules and extended the following temporary rules. The effective dates of the rules are included below.

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

The following list of final and temporary rules includes those rules which were approved during the 1996 second regular session of the fifty-third legislature of the state of Idaho. The final rules were adopted by the legislature and the temporary rules were extended by Senate Current Resolution 142. Included are those rules that were acted on by concurrent resolution. The list includes the docket number of the rule-making, the volume of the Idaho Administrative Bulletin in which the text was published, and the effective date of the rule.

FINAL RULES		
DOCKET NO.	BULLETIN VOL.	EFFECTIVE DATE
02-0403-9501	96-1	7-1-96
02-0606-9501	95-7	7-1-96
07-0103-9501	95-9	1-1-96
07-0311-9501	95-10	7-1-96
08-0110-9501	96-1	7-1-96
09-0135-9502	95-12	7-1-96
11-0403-9502	95-10	7-1-96
11-1002-9501	95-7	7-1-96
11-1101-9501	95-7	7-1-96
11-1101-9502	95-8	7-1-96
15-0103-9401	95-11	7-1-96
16-0105-9501	96-1	7-1-96

IDAHO ADMINISTRATIVE BULLETIN **Administrative Rules Coordinator**
Omnibus Rule-Making Notice **Rules Approved/Extended by Legislature**

FINAL RULES		
DOCKET NO.	BULLETIN VOL.	EFFECTIVE DATE
16-0107-9402	95-7	7-1-96
16-0301-9501	95-6 & 95-9	7-1-96
16-0301-9502	95-9	7-1-96
16-0305-9502	95-7	7-1-96
16-0309-9504	95-9	7-1-96
16-0309-9506	95-10	7-1-96
16-0309-9507	95-10	7-1-96
18-0109-9501	95-11	7-1-96
18-0173-9401	94-12	6-30-95
18-0175-9501	96-1	7-1-96
20-0201-9402	95-10	7-1-96
20-0210-9501	95-7	7-1-96
20-0211-9501	95-7	7-1-96
22-0103-9501	95-7	7-1-96
23-0101-9501	95-12	7-1-96 (Amended by HCR 147)
24-0201-9501	95-7	7-1-96
24-1901-9501	95-7	7-1-96
26-0120-9501	95-10	1-1-96
28-0101-9501	95-5	6-18-95
30-0101-9501	95-9	7-1-96
30-0101-9502	95-9	7-1-96
30-0102-9501	95-9	7-1-96
30-0102-9502	95-9	7-1-96
30-0103-9501	95-9	7-1-96
33-0101-9501	95-10	7-1-96
33-0102-9501	95-10	7-1-96
35-0101-9502	95-9	7-1-96
35-0102-9503	95-9	7-1-96

IDAHO ADMINISTRATIVE BULLETIN **Administrative Rules Coordinator**
Omnibus Rule-Making Notice **Rules Approved/Extended by Legislature**

FINAL RULES		
DOCKET NO.	BULLETIN VOL.	EFFECTIVE DATE
35-0102-9504	95-9	7-1-96
35-0102-9505	95-9	7-1-96
35-0102-9506	95-9	7-1-96
35-0102-9507	95-9	7-1-96
35-0103-9503	95-9	7-1-96
35-0105-9501	95-9	7-1-96
35-0105-9502	95-9	7-1-96
35-0105-9503	95-9	7-1-96 (Amended by HCR032)
35-0106-9501	95-9	7-1-96
39-0207-9501	95-7	7-1-96 (Amended by SCR135)
39-0275-9501	95-10	7-1-96
39-0276-9501	95-10	7-1-96
39-0346-9501	95-8	7-1-96
39-0349-9501	95-11	7-1-96

TEMPORARY RULES THAT WERE EXTENDED BY SENATE CONCURRENT RESOLUTION 142		
DOCKET NO.	BULLETIN VOL	EFFECTIVE DATE
02-0104-9601	96-1	(11-22-95)T
02-0403-9601	96-1	(11-22-95)T
02-0403-9602	96-1	(11-22-95)T
02-0414-9501	95-12	(11-1-95)T
02-0613-9501	95-12	(10-13-95)T
02-0633-9503	95-11	Amended by HCR036
02-0634-9501	95-12	(10-13-95)T
02-0635-9601	96-1	(11-21-95)T

TEMPORARY RULES THAT WERE EXTENDED BY SENATE CONCURRENT RESOLUTION 142		
DOCKET NO.	BULLETIN VOL	EFFECTIVE DATE
09-0135-9502	95-12	(12-27-95)T
11-0201-9501	95-12	(12-1-95)T
11-0401-9502	95-12	(12-1-95)T
11-0403-9503	95-12	(12-1-95)T
11-0403-9504	95-12	(12-1-95)T
11-0404-9501	95-12	(12-1-95)T
11-0704-9601	96-1	(1-3-96)T
11-1101-9503	95-12	(12-1-95)T
11-1101-9601	96-1	(1-1-96)T
13-0104-9505	95-5	(3-6-95)T
13-0104-9601	96-2	(12-12-95)T
13-0108-9502	95-5	(5-15-95)T
13-0108-9504	95-8	(5-15-95)T
13-0109-9502	95-10	(8-21-95)T
13-0109-9601	96-2	(12-12-95)T
13-0111-9501	95-12	(10-6-95)T
13-0111-9601	96-1	(1-1-96)T
13-0111-9602	96-1	(1-1-96)T
13-0111-9603	96-2	(12-12-95)T
13-0111-9604	96-2	(12-12-95)T
15-1001-9601	96-2	(1-1-96)T
15-1001-9602	96-2	(1-1-96)T
16-0101-9601	96-1	(11-20-95)T
16-0110-9601	96-1	(11-17-95)T
16-0301-9503	95-12	(12-1-95)T
16-0304-9503	95-11	(10-1-95)T
16-0304-9601	96-2	(12-1-95)T
16-0305-9601	96-1	(1-1-96)T

TEMPORARY RULES THAT WERE EXTENDED BY SENATE CONCURRENT RESOLUTION 142		
DOCKET NO.	BULLETIN VOL	EFFECTIVE DATE
16-0309-9502	95-7	(7-1-95)T
16-0309-9508	95-12	(10-1-95)T
16-0309-9601	96-1	(1-3-96)T
16-0309-9602	96-1	(1-3-96)T
16-0309-9603	96-1	(1-3-96)T
16-0309-9604	96-1	(1-3-96)T
16-0309-9605	96-1	(7-1-95)T
16-0309-9606	96-1	(1-3-96)T
16-0310-9502	95-12	(10-1-95)T & (7-6-95)T
16-0414-9601	96-1	(12-1-95)T
16-0601-9601	96-1	(11-16-95)T
16-0601-9602	95-10	Amended by SCR146
16-0609-9502	96-1	(8-10-95)T
16-0612-9502	95-10	(8-10-95)T
18-0172-9401	94-12	(1-1-95)T
20-0102-9601	96-2	(12-12-95)T
24-1001-9501	95-12	(11-1-95)T
24-1801-9501	95-12	(10-23-95)T
27-0101-9502	95-7	(7-5-95)T
29-0102-9601	96-1	(1-3-96)T
31-6101-9502	95-6	(7-1-95)T
35-0101-9503	95-12	(1-1-96)T
48-0101-9501	95-11	(10-3-95)T
59-0106-9503	95-9	(7-1-95)T
59-0106-9601	96-1	(1-1-96)T
59-0107-9502	95-9	(7-1-95)T
59-0107-9503	95-12	(12-1-95)T

IDAHO ADMINISTRATIVE BULLETIN Administrative Rules Coordinator
Omnibus Rule-Making Notice Rules Approved/Extended by Legislature

ASSISTANCE ON QUESTIONS: For assistance on questions concerning this notice, contact the Office of the Administrative Rules Coordinator at (208) 334-3577.

DATED this 4th day of April 1996.

D. Korey Lowder,
Administrative Rules Coordinator
P.O. Box 83720
Boise, ID 83720-0011
PHONE: (208) 334-3577 FAX: (208) 334-2398

IDAPA 07 - DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES
07.01.06 - RULES GOVERNING THE USE OF NATIONAL ELECTRICAL CODE
DOCKET NO. 07-0106-9601
NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: The temporary rule is effective April 1, 1996.

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 proposed rule-making. The action is authorized pursuant to Section 54-1001, 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 May 15, 1996.

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 substance of the temporary and proposed rule:

The current rule relating to 07.01.06.011 regarding adoption of the latest edition of the National Electrical Code will be changed to provide for the adoption of the 1996 edition of the National Electrical Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Gary L. Malmen, Bureau Chief, Division of Building Safety, 277 North 6th Street, Suite 100, P.O. Box 83720, Boise, Idaho 83720, (208) 334-2183.

Anyone may submit written comments regarding this rule. All written comments and data concerning the proposed rules must be directed to the undersigned and must be postmarked or delivered on or before May 22, 1996.

DATED this 18th day of March, 1996.

Craig G. Bledsoe
Department of Labor and Industrial Services
277 North 6th, Suite 201
PO Box 83720
Boise, ID 83720-0048
(208) 334-3950/fax (208) 334-2683

TEXT OF DOCKET 07-0106-9601

011. NATIONAL ELECTRICAL CODE, ~~1993~~ 1996 EDITION.

01. Documents. Under the provisions of Section 54-1001A, Idaho Code, the National Electrical Code, ~~1993~~ 1996 Edition, is hereby adopted for the State of Idaho and shall be in full force and effect on and after ~~January 1, 1993~~ the conclusion of the 1997 legislative session, except: Article 675-8(b) is to include the additional requirement that a disconnecting means always be provided at the point of service from the utility no matter where the disconnecting means for the machine is located. ~~(2-8-93)~~(4-1-96)T

02. Availability. This document is available at the office of the Rules Coordinator and at the State Law Library. (4-1-96)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

DOCKET NO. 16-0000-9601

NOTICE OF LEGISLATIVE APPROVAL OF RULES

SUBJECT:

- Rules for the Control of Air Pollution in Idaho, Docket No. 16-0101-9601
- Rules and Standards for Hazardous Waste, Docket No. 16-0105-9501
- Rules for Construction and Operation of Swimming Pools, Docket No. 16-0107-9402
- Environmental Audit Protection Rules, Docket No. 16-0110-9601

AUTHORITY: The Department of Health and Welfare herein incorporates by reference, as the authority for each rule docket listed in this notice, the authority provisions previously published in the Idaho Administrative Bulletin as cited in the Descriptive Summary below.

DESCRIPTIVE SUMMARY: The Idaho Legislature reviewed the subject rule dockets during the 1996 Regular Session of the Idaho Legislature. The following is a summary of rulemaking activity resulting from the legislative review:

Rules for the Control of Air Pollution in Idaho, Docket No. 16-0101-9601. Notice is hereby given that the temporary rule adopted by the Board of Health and Welfare under Docket No. 16-0101-9601 in November 1995, and published in the Idaho Administrative Bulletin, Volume 96-1, January 3, 1996, pages 118-159, has been approved by the Idaho Legislature under Senate Concurrent Resolution No. 142 in accordance with Section 67-5226, Idaho Code.

Rules and Standards for Hazardous Waste, Docket No. 16-0105-9501. Notice is hereby given that the rule adopted by the Board of Health and Welfare under Docket No. 16-0105-9501 in November 1995, and published in the Idaho Administrative Bulletin, Volume 96-1, January 3, 1996, pages 161-165, has been approved by the Idaho Legislature in accordance with Section 67-5224, Idaho Code, and is final and effective as of March 16, 1996.

Rules for Construction and Operation of Swimming Pools, Docket No. 16-0107-9402. Notice is hereby given that the rule adopted by the Board of Health and Welfare under Docket No. 16-0107-9402 in November 1995, and published in the Idaho Administrative Bulletin, Volume 96-1, January 3, 1996, pages 166-167, has been approved by the Idaho Legislature in accordance with Section 67-5224, Idaho Code, and is final and effective as of March 16, 1996.

Environmental Audit Protection Rules, Docket No. 16-0110-9601. Notice is hereby given that the temporary rule adopted by the Board of Health and Welfare under Docket No. 16-0101-9601 in November 1995, and published in the Idaho Administrative Bulletin, Volume 96-1, January 3, 1996, pages 168-176, has been approved by the Idaho Legislature under Senate Concurrent Resolution No. 142 in accordance with Section 67-5226, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this publication, contact Paula Saul at (208)373-0418.

DATED this 1st day of May, 1996.

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

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

DOCKET NO. 16-0102-9502

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-105, 39-107, and 39-3601 *et seq.*, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this proposed rulemaking will coincide with Basin Advisory Group meetings to the extent possible and will be held as follows:

Thursday, May 2, 1996, 7:00 p.m., Salmon Valley Center, 200 Main St., Salmon, Idaho.
Thursday, May 16, 1996, 7:00 p.m., Division of Environmental Quality Conference Center, 1410 N. Hilton, Boise, Idaho.
Tuesday, June 4, 1996, 7:00 p.m., Shilo Inn, Coeur d'Alene Room, 702 W. Apple Way, Coeur d'Alene, Idaho.
Thursday, June 6, 1996, 7:00 p.m., Sacajawea Motor Inn, Sacajawea Center, Lochsa Room, 1824 Main Street., Lewiston, Idaho
Tuesday, June 11, 1996, 7:00 p.m., Quality Inn, Teton Room, 1555 Pocatello Creek Rd., Pocatello, Idaho.
Wednesday, June 12, 1996, 7:00 p.m., Best Western Canyon Springs Inn, Aspen Room, 1357 Blue Lakes Blvd. North, Twin Falls, Idaho.

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

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

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

The Legislature passed water quality legislation in 1995, Sections 39-3601 *et seq.*, Idaho Code (Senate Bill 1284), requiring the Department of Health and Welfare (Department) to develop a process for determining the beneficial uses and status of those uses for all surface waters, to identify water quality limited water bodies, and establish TMDLs for water quality limited bodies on a priority basis in consultation with Basin Advisory Groups and Watershed Advisory Groups. The proposed rule will revise the Water Quality

Standards and Wastewater Treatment Requirements to: 1) describe the water quality-limited (303d) listing process; 2) identify conditions or reference streams to determine whether a water body is fully supporting beneficial uses; 3) identify a process to identify water quality limited water bodies requiring the development of TMDLs; 4) identify TMDL requirements; and 5) make modifications to the water quality standards consistent with Sections 39-3601 et seq., Idaho Code, including new and modified definitions, legal authority, and antidegradation requirements.

Negotiated rulemaking has been conducted. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Volume 95-11, November 1, 1995, pp. 23 through 24.

The Department intends to take the necessary steps to effect temporary and final adoption of the rule prepared by the Department after consideration of public comments.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule-making, contact Mark Shumar 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 June 17, 1996.

DATED this 1st day of May, 1996.

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

TEXT OF DOCKET NO. 16-0102-9502

001. LEGAL AUTHORITY.

Pursuant to Sections 39-105 and 39-3601 *et seq.*, Idaho Code, the Director is directed to formulate and recommend to the Board, such rules and regulations and standards as may be necessary to deal with the problems related to personal health and water pollution. The Director is further charged with the supervision and administration of a system to safeguard the quality of the waters of the state including the enforcement of standards relating to the discharge of effluent into the waters of the state. Authority to adopt rules, regulations and standards as are necessary and feasible to protect the environment and health of the citizens of the state is vested in the Board pursuant to Section 39-107, Idaho Code. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

003. DEFINITIONS AND ABBREVIATIONS.

For the purpose of the rules contained in Title 01, Chapter 02, the following definitions and abbreviations apply: (7-1-93)

01. Acute. Involving a stimulus severe enough to rapidly induce a response; in aquatic toxicity tests, a response measuring lethality observed in ninety-six (96) hours or less is typically considered acute. When referring to human health, an acute effect is not always measured in terms of lethality. (8-24-94)(____)

02. Acute Criteria. The maximum instantaneous or 1-hour average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from acute toxicity resulting from exposure to the toxic substance or effluent. Acute criteria will adequately protect the designated aquatic life use if not exceeded more than once every three years. (8-24-94)

03. Acute Toxicity. The existence of mortality or injury to aquatic organisms resulting from a single or short-term (i.e., 96 hours or less) exposure to a substance. As applied to toxicity tests, acute toxicity refers to the response of aquatic test organisms to a concentration of a toxic substance or effluent which results in a LC-50. (8-24-94)

04. Beneficial Use. Any of the various uses which may be made of the water of Idaho, including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. The beneficial use is dependent upon actual use, the ability of the water to support a non-existing use either now or in the future, and its likelihood of being used in a given manner. The use of water for the purpose of wastewater dilution or as a receiving water for a waste treatment facility effluent is not a beneficial use. (8-24-94)

05. Appropriate Reference Condition. The condition existing at a site on the same water body, or within the same basin or ecoregion that has similar habitat conditions, and represents the water quality and biological community attainable under minimally impacted conditions. (8-24-94)

06. Aquatic Species. Any plant or animal that lives at least part of its life in the water column or benthic portion of waters of the state. (8-24-94)

07. Background. The biological, chemical or physical condition of waters measured at a point immediately upstream (up-gradient) of the influence of an individual point or nonpoint source discharge. If several discharges to the water exist or if an adequate upstream point of measurement is absent, the department will determine where background conditions should be measured. (8-24-94)

08. Basin Advisory Group. A citizen advisory group named by the Director, in consultation with the designated agencies, for the state's major river basins which shall generally advise the Director on water quality objectives for each basin, work in a cooperative manner with the Director to achieve these objectives, and provide general

coordination of the water quality programs of all public agencies pertinent to each basin.
()

~~089.~~ Best Management Practice. A practice or combination of practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan which are determined by the Department to be the most cost and technically effective and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.
(7-1-93)()

~~0910.~~ Bioaccumulation. The process by which a compound is taken up by, and accumulated in the tissues of an aquatic organism from the environment, both from water and through food. (8-24-94)

~~4011.~~ Biochemical Oxygen Demand (BOD). The measure of the amount of oxygen necessary to satisfy the biochemical oxidation requirements of organic materials at the time the sample is collected; unless otherwise specified, this term will mean the five (5) day BOD incubated at 20 degrees C. (8-24-94)

~~412.~~ Biological Monitoring or Biomonitoring. The use of a biological entity as a detector and its response as a measure to determine environmental conditions. Toxicity tests and biological surveys, including habitat monitoring, are common biomonitoring methods. (8-24-94)

~~4213.~~ Biota. The plants and animals of a specified area. (7-1-93)

~~4314.~~ Board. The Idaho Board of Health and Welfare. (7-1-93)

~~4415.~~ Chronic. Involving a stimulus that lingers or continues for a relatively long period of time, often one-tenth of the life span or more. Chronic should be considered a relative term depending on the life span of an organism. The measurement of a chronic effect can be reduced growth, reduced reproduction, etc., in addition to lethality. (8-24-94)

~~4516.~~ Chronic Criteria. The four-day average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from chronic toxicity resulting from exposure to the toxic substance or effluent. Chronic criteria will adequately protect the designated aquatic life use if not exceeded more than once every three years. (8-24-94)

~~4617.~~ Chronic Toxicity. The existence of mortality, injury, reduced growth, impaired reproduction, or any other adverse effect on aquatic organisms resulting from a long-term (i.e., one-tenth or more of the organism's life span) exposure to a substance. As applied to toxicity tests, chronic toxicity refers to the response of aquatic organisms to a concentration of a toxic substance or effluent which results in an IC-25. (8-24-94)

~~4718.~~ Compliance Schedule or Schedule of Compliance. A schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard. (8-24-94)

~~4819.~~ Daily Mean. The average of at least two (2) appropriately spaced

measurements, acceptable to the department, calculated over a period of one day:
(8-24-94)()

a. Confidence bounds around the point estimate of the mean may be required to determine the sample size necessary to calculate a daily mean; (8-24-94)

b. If any measurement is greater or less than five-tenths (0.5) times the average, additional measurements over the one-day period may be needed to obtain a more representative average; (8-24-94)()

c. In calculating the daily mean for dissolved oxygen, values used in the calculation shall not exceed the dissolved oxygen saturation value. If a measured value exceeds the dissolved oxygen saturation value, then the dissolved oxygen saturation value will be used in calculating the daily mean. (8-24-94)

~~19~~20. Deleterious Material. Any nontoxic substance which may cause the tainting of edible species of fish, taste and odors in drinking water supplies, or the reduction of the usability of water without causing physical injury to water users or aquatic and terrestrial organisms. (8-24-94)

~~20~~21. Department. The Idaho Department of Health and Welfare. (7-1-93)

~~24~~22. Design Flow. The critical flow used for steady-state wasteload allocation modeling. (8-24-94)

23. Designated Agency. The department of lands for timber harvest activities, oil and gas exploration and development, and mining activities; the soil conservation commission for grazing and agricultural activities; the transportation department for public road construction; the department of agriculture for aquaculture; and the Department's division of environmental quality for all other activities. ()

~~22~~24. Designated Beneficial Use or Designated Use. Those beneficial uses assigned to identified waters in Idaho Department of Health and Welfare Rules, Title 01, Chapter 02, "Water Quality Standards and Wastewater Treatment Requirements", Sections 110 through 160 and 299, whether or not the uses are being attained. (8-24-94)

~~23~~25. Desirable Species. Species indigenous to the area or those introduced by the Idaho Department of Fish and Game. (7-1-93)

~~24~~26. Director. The Director of the Idaho Department of Health and Welfare or his authorized agent. (7-1-93)

~~25~~27. Discharge. When used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. (8-24-94)

~~26~~28. Disinfection. A method of reducing the pathogenic or objectionable organisms by means of chemicals or other acceptable means. (7-1-93)

~~27~~29. Dissolved Oxygen (DO). The measure of the amount of oxygen

dissolved in the water, usually expressed in mg/l. (7-1-93)

~~2830.~~ Dissolved Product. Petroleum product constituents found in solution with water. (8-24-94)

~~2931.~~ Dynamic Model. A computer simulation model that uses real or derived time series data to predict a time series of observed or derived receiving water concentrations. Dynamic modeling methods include continuous simulation, Monte Carlo simulations, lognormal probability modeling, or other similar statistical or deterministic techniques. (8-24-94)

~~3032.~~ Effluent. Any wastewater discharged from a treatment facility. (7-1-93)

~~3433.~~ Effluent Biomonitoring. The measurement of the biological effects of effluents (e.g., toxicity, biostimulation, bioaccumulation, etc.). (8-24-94)

~~3234.~~ EPA. The United States Environmental Protection Agency. (7-1-93)

~~3335.~~ Existing Beneficial Use or Existing Use. Those beneficial uses actually attained in waters on or after November 28, 1975, whether or not they are designated for those waters in Idaho Department of Health and Welfare Rules, Title 01, Chapter 02, "Water Quality Standards and Wastewater Treatment Requirements." (8-24-94)

~~3436.~~ Facility. As used in Section 850 only, any building, structure, installation, equipment, pipe or pipeline, well pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock or aircraft, area, place or property from which an unauthorized release of hazardous materials has occurred. (8-24-94)

~~3537.~~ Fecal Coliform. The portion of the coliform group of bacteria present in the gut and feces of warm-blooded animals, usually expressed as number of organisms/100 ml of sample. (7-1-93)

~~3638.~~ Four-Day Average. The mean of the twenty-four hour average values calculated over a period of ~~ninety-six (96)~~ consecutive hours. ~~(8-24-94)()~~

~~3739.~~ Free Product. A petroleum product that is present as a nonaqueous phase liquid. Free product includes the presence of petroleum greater than one-tenth (0.1) inch as measured on the water surface for surface water or the water table for ground water. (7-1-93)

~~3840.~~ Full Protection, Full Support, or Full Maintenance of Designated Beneficial Uses of Water. Compliance with ~~those levels of water quality criteria listed in Sections 200., 250., 275. (if applicable), and 299 reference streams or conditions as set forth in these rules, or with any site-specific criteria developed pursuant to these rules.~~ ~~(8-24-94)()~~

~~3941.~~ Geometric Mean. The geometric mean of "n" quantities is the "nth" root of the product of the quantities. (7-1-93)

~~4042.~~ Ground water. Subsurface water comprising the zone of saturation.

(8-24-94)

~~4143.~~ Harmonic Mean Flow. The number of daily flow measurements divided by the sum of the reciprocals of the flows (i.e., the reciprocal of the mean of reciprocals).
(8-24-94)

~~4244.~~ Hazardous Material. A material or combination of materials which, when discharged in any quantity into state waters, presents a substantial present or potential hazard to human health, the public health, or the environment. Unless otherwise specified, published guides such as Quality Criteria for Water (1976) by EPA, Water Quality Criteria (Second Edition, 1963) by the state of California Water Quality Control Board, their subsequent revisions, and more recent research papers, regulations and guidelines will be used in identifying individual and specific materials and in evaluating the tolerances of the identified materials for the beneficial uses indicated.
(7-1-93)

~~4345.~~ Hydrologically-Based Design Flow. A statistically derived receiving water design flow based on the selection and identification of an extreme value (e.g., 1Q10, 7Q10). The underlying assumption is that the design flow will occur X number of times in Y years, and limits the number of years in which one or more excursions below the design flow can occur.
(8-24-94)

~~4446.~~ Hypolimnion. The deepest zone in a thermally-stratified body of water. It is fairly uniform in temperature and lies beneath a zone of water which exhibits a rapid temperature drop with depth of at least one (1) degree C per meter. ~~(8-24-94)~~(____)

~~4547.~~ Inhibition Concentration-25 (IC-25). A point estimate of the toxicant concentration that would cause a twenty-five percent reduction in a non-lethal biological measurement of the test organisms, such as reproduction or growth. Determined using curve fitting with an assumption of a continuous dose-response relationship. An IC-25 is approximately the analogue of NOEC.
(8-24-94)

~~4648.~~ Instantaneous Concentration. A concentration of a substance measured at any moment (instant) in time.
(8-24-94)

~~4749.~~ Inter-Departmental Coordination. Consultation with those agencies responsible for enforcing or administering the practices listed as approved best management practices in Subsection 350.03.
(7-1-93)

~~4850.~~ Intermittent Stream. A stream which has a period of zero flow for at least one week during most years. Where flow records are available, a stream with a 7Q2 hydrologically-based design flow of less than one-tenth (0.1) cfs is considered intermittent. Streams with perennial pools which create significant aquatic life uses are not intermittent.
(8-24-94)(____)

~~4951.~~ Land Application. A process or activity involving application of wastewater, surface water, or semi-liquid material to the land surface for the purpose of disposal, pollutant removal, or ground water recharge.
(8-24-94)

~~5052.~~ LC-50. The toxicant concentration killing fifty percent (50%) of exposed organisms at a specific time of observation (e.g., 96 hours). ~~(8-24-94)~~(____)

~~5453~~. Load Allocation (LA). The portion of a receiving water's loading capacity that is attributed either to one of its existing or future nonpoint sources of pollution or to natural background sources. (8-24-94)

~~5254~~. Loading Capacity. The greatest amount of pollutant loading that a water can receive without violating water quality standards. (8-24-94)

~~5355~~. Lower Water Quality. A measurable adverse change in a chemical, physical, or biological parameter of water relevant to a beneficial use, and which can be expressed numerically. Measurable change is determined by a statistically significant difference between sample means using standard methods for analysis and statistical interpretation appropriate to the parameter. Statistical significance is defined as the ninety-five percent (95%) confidence limit when significance is not otherwise defined for the parameter in standard methods or practices. (7-1-93)()

~~5456~~. Lowest Observed Effect Concentration (LOEC). The lowest concentration of a toxicant or an effluent that results in observable adverse effects in the aquatic test population. (8-24-94)

~~5557~~. Man-made Waterways. Canals, flumes, ditches, and similar features, constructed for the purpose of water conveyance. (7-1-93)

~~5658~~. Milligrams Per Liter (mg/l). Milligrams of solute per liter of solution, equivalent to parts per million, assuming unit density. (7-1-93)

~~5759~~. Mixing Zone. A defined area or volume of the receiving water surrounding or adjacent to a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable water quality criteria or standards. It is considered a place where wastewater mixes with receiving water and not as a place where effluents are treated. (7-1-93)

~~5860~~. National Pollutant Discharge Elimination System (NPDES). Point source permitting program established pursuant to Section 402 of the federal Clean Water Act. (8-24-94)

~~5961~~. Nephelometric Turbidity Units (NTU). A measure of turbidity based on a comparison of the intensity of the light scattered by the sample under defined conditions with the intensity of the light scattered by a standard reference suspension under the same conditions. (8-24-94)

~~6062~~. Nonpoint Source Activities. Activities on a geographical area on which pollutants are deposited or dissolved or suspended in water applied to or incident on that area, the resultant mixture being discharged into the waters of the state. Nonpoint sources activities include, but are not limited to: (7-1-93)()

a. Irrigated and nonirrigated lands used for: (7-1-93)

i. Grazing; (7-1-93)

- ii. Crop production; (7-1-93)
- iii. Silviculture; (7-1-93)
- b. Log storage or rafting; (7-1-93)
- c. Construction sites; (7-1-93)
- d. Recreation sites; ~~and~~ (~~8-24-94~~)()
- e. Septic tank disposal fields; (~~8-24-94~~)()
- f. Mining; ()
- g. Runoff from storms or other weather related events; and ()
- h. Other activities not subject to regulation under the federal national pollutant discharge elimination system. ()

~~6463~~. No Observed Adverse Effect Level (NOAEL). A threshold dose of a toxic substance or an effluent below which no adverse biological effects are observed, as identified from chronic or subchronic human epidemiology studies or animal exposure studies. (8-24-94)

~~6264~~. No Observed Effect Concentration (NOEC). The highest concentration of a toxic substance or an effluent at which no adverse effects are observed on the aquatic test organisms. Determined using hypothesis testing with the assumption of a noncontinuous threshold model of the dose-response relationship. (8-24-94)

~~6365~~. Nuisance. Anything which is injurious to the public health or an obstruction to the free use, in the customary manner, of any waters of the state. (7-1-93)

~~6466~~. Nutrients. The major substances necessary for the growth and reproduction of aquatic plant life, consisting of nitrogen, phosphorus, and carbon compounds. (7-1-93)

~~6567~~. One (1) day Minimum. The lowest daily instantaneous value measured. (~~8-24-94~~)()

~~6668~~. One (1) Hour Average. The mean of at least two appropriately spaced measurements, as determined by the Department, calculated over a period of one hour. When three or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the one-hour period may be needed to obtain a more representative mean. (~~8-24-94~~)()

~~6769~~. Operator. Any person presently or who was at any time during a release in control of, or having responsibility for, the daily operation of the PST system. (7-1-93)

~~6870~~. Outstanding Resource Water (ORW). A high quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational

or ecological significance, which has been designated by the legislature and subsequently listed in this chapter. ORW constitutes an outstanding national or state resource that requires protection from point and nonpoint source activities that may lower water quality. Nonpoint source activities on ORWs do not include issuance of water rights permits or licenses, allocation of water rights, operation of diversions, or impoundments.

(7-1-93)()

~~69~~71. Outstanding Resource Water Mixing Zone. An area or volume of an ORW where pollutants are allowed to mix with the ORW receiving water at a location distinct from the sampling point where compliance with ORW quality standards is measured. An ORW mixing zone will be downstream from the discharge of a tributary or a segment immediately upstream which contains man caused pollutants as a result of nonpoint source activities occurring on that tributary or segment. As a result of the discharge, the mixing zone may not meet all water quality standards applicable to the ORW, but shall still be protected for existing beneficial uses. The Department, after consideration of input from interested parties, will determine the size, configuration and location of mixing zones which are necessary to meet the requirements of this chapter.

(7-1-93)

~~70~~72. Owner. Any person who owns or owned a PST system any time during a release and the current owner of the property where the PST system is or was located.

(7-1-93)

~~74~~73. Person. An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state ~~agency,~~ or federal agency, department or instrumentality, special district, ~~or~~ interstate body or any legal entity, which is recognized by law as the subject of rights and duties.

(7-1-93)()

~~72~~74. Petroleum Products. Products derived from petroleum through various refining processes.

(7-1-93)

~~73~~75. Petroleum Storage Tank (PST) System. Any one or combination of storage tanks or other containers, including pipes connected thereto, dispensing equipment, and other connected ancillary equipment, and stationary or mobile equipment, that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances.

(7-1-93)

~~74~~76. Point Source. Any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition.

(7-1-93)

~~75~~77. Pollutant. Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt; and industrial, municipal and agricultural waste, gases entrained in water; or other materials which, when

discharged to water in excessive quantities, cause or contribute to water pollution. Provided however, biological materials shall not include live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities.

(7-1-93)()

~~7678.~~ Potable Water. A water which is free from impurities in such amounts that it is safe for human consumption without treatment. (7-1-93)

~~7779.~~ Primary Treatment. Processes or methods that serve as the first stage treatment of wastewater, intended for removal of suspended and settleable solids by gravity sedimentation; provides no changes in dissolved and colloidal matter in the sewage or wastes flow. (7-1-93)

~~7880.~~ Project Plans. Documents which describe actions to be taken under a proposed activity. These documents include environmental impact statements, environmental assessments, and other land use or resource management plans. (7-1-93)

~~7981.~~ Receiving Waters. Those waters which receive pollutants from point or nonpoint sources. (7-1-93)

~~8082.~~ Recharge. The process of adding water to the zone of saturation. (7-1-93)

~~8183.~~ Recharge Water. Water that is specifically utilized for the purpose of adding water to the zone of saturation. (7-1-93)

~~84.~~ Reference Stream or Condition. A water body which represents the following: ()

a. The minimum conditions necessary to fully support the applicable designated beneficial uses as further specified in these rules; or ()

b. Natural conditions with few impacts from human activities and which are representative of the highest level of support attainable in the basin. ()

~~8285.~~ Release. Any unauthorized spilling, leaking, emitting, discharging, escaping, leaching, or disposing into soil, ground water, or surface water. (8-24-94)

~~8386.~~ Resident Species. Those species that commonly occur in a site including those that occur only seasonally or intermittently. This includes the species, genera, families, orders, classes, and phyla that: (8-24-94)

a. Are usually present at the site; (8-24-94)

b. Are present only seasonally due to migration; (8-24-94)

c. Are present intermittently because they periodically return or extend their ranges into the site; (8-24-94)

d. Were present at the site in the past but are not currently due to degraded

conditions, and are expected to be present at the site when conditions improve; and (8-24-94)

e. Are present in nearby bodies of water but are not currently present at the site due to degraded conditions, and are expected to be present at the site when conditions improve. (8-24-94)

~~8487~~. **Responsible Persons in Charge.** Any person who: (a) by any acts or omissions, caused, contributed to or exacerbated an unauthorized release of hazardous materials; (b) owns or owned the facility from which the unauthorized release occurred and the current owner of the property where the facility is or was located; or (c) presently or who was at any time during an unauthorized release in control of, or had responsibility for, the daily operation of the facility from which an unauthorized release occurred. (8-24-94)

~~8588~~. **Saturated Zone.** Zone or layer beneath the earth's surface in which all of the pore spaces of rock or soil are filled with water. (7-1-93)

~~8689~~. **Secondary Treatment.** Processes or methods for the supplemental treatment of wastewater, usually following primary treatment, to affect additional improvement in the quality of the treated wastes by biological means of various types which are designed to remove or modify organic matter. (7-1-93)

~~8790~~. **Seven (7) day Mean.** The average of the daily mean values calculated over a period of seven consecutive days. (~~8-24-94~~)()

~~8891~~. **Sewage.** The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. (8-24-94)

~~92~~. **Short-term or Temporary Activity.** An activity which is limited in scope and is expected to have only minimal impact on water quality as determined by the Director. Short-term or temporary activities include, but are not limited to, those activities described in Subsection 080.02. ()

~~93~~. **Silviculture.** Those activities associated with the regeneration, growing and harvesting of trees and timber including, but not limited to, disposal of logging slash, preparing sites for new stands of trees to be either planted or allowed to regenerate through natural means, road construction and road maintenance, drainage of surface water which inhibits tree growth or logging operations, fertilization, application of herbicides or pesticides, all logging operations, and all forest management techniques employed to enhance the growth of stands of trees or timber. ()

~~8994~~. **Sludge.** The semi-liquid mass produced by partial dewatering of potable or spent process waters or wastewater. (7-1-93)

~~9095~~. **Special Resource Water.** Those specific segments or bodies of water which are recognized as needing intensive protection: (7-1-93)

a. To preserve outstanding or unique characteristics; or (7-1-93)

- b. To maintain current beneficial use. (7-1-93)
- ~~9496.~~ Specialized Best Management Practices. Those practices designed with consideration of geology, land type, soil type, erosion hazard, climate and cumulative effects in order to fully protect the beneficial uses of water, and to prevent or reduce the pollution generated by nonpoint sources. (3-3-87)
- ~~92~~ ~~Sponsoring Groups. Those entities including, but not limited to, state and federal agencies, Indian tribes, private industries, user groups and public interest groups that are appointed by the Governor and sponsor each basin area meeting. (7-1-93)~~
- ~~9397.~~ State. The state of Idaho. (7-1-93)
- ~~98.~~ State Water Quality Management Plan. The state management plan developed and updated by the Department in accordance with sections 205, 208, and 303 of the Clean Water Act. ()
- ~~9499.~~ Steady-State Model. A fate and transport model that uses constant values of input variables to predict constant values of receiving water quality concentrations. (8-24-94)
- ~~95.~~ ~~Stream Segment of Concern. A specific stream segment or body of water that has been designated by the Water Quality Advisory Working Committee or the Governor and published in the most current final basin area report, which is developed every three (3) years for each of the six (6) basins. (8-24-94)~~
- ~~96100.~~ Subsurface Disposal. Disposal of effluent below ground surface, including, but not limited to, drainfields or sewage beds. (7-1-93)
- ~~97101.~~ Suspended Sediment. Organic and inorganic particulate matter which has been removed from its site of origin and measured while suspended in surface water. (7-1-93)
- ~~98102.~~ Technology-based Effluent Limitation. Treatment requirements under Section 301(b) of the Clean Water Act that represent the minimum level of control that must be imposed in a permit issued under Section 402 of the Clean Water Act. (8-24-94)
- ~~99103.~~ Total Maximum Daily Load (TMDL). The sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for nonpoint sources, and natural background. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality. (8-24-94)
- ~~400104.~~ Toxicity Test. A procedure used to determine the toxicity of a chemical or an effluent using living organisms. A toxicity test measures the degree of response of an exposed test organism to a specific chemical or effluent. (8-24-94)
- ~~401105.~~ Toxic Substance. Any substance, material or disease-causing agent, or a

combination thereof, which after discharge to waters of the State and upon exposure, ingestion, inhalation or assimilation into any organism (including humans), either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, malignancy, genetic mutation, physiological abnormalities (including malfunctions in reproduction) or physical deformations in affected organisms or their offspring. Toxic substances include, but are not limited to, the 126 priority pollutants identified by EPA pursuant to Section 307(a) of the federal Clean Water Act. (8-24-94)

~~402~~106. Treatment. A process or activity conducted for the purpose of removing pollutants from wastewater. (7-1-93)

~~403~~107. Treatment System. Any physical facility or land area for the purpose of collecting, treating, neutralizing or stabilizing pollutants including treatment by disposal plants, the necessary intercepting, outfall and outlet sewers, pumping stations integral to such plants or sewers, equipment and furnishing thereof and their appurtenances. (7-1-93)

~~404~~108. Trihalomethane (THM). THM means one of the family of organic compounds named as derivatives of methane, wherein three (3) of the four (4) hydrogen atoms in the molecular structure of methane are substituted by one (1) of the chemical elements chlorine, bromine or iodine. (7-1-93)

~~405~~109. Twenty-Four (~~24~~) Hour Average. The mean of at least two appropriately spaced measurements, as determined by the Department, calculated over a period of 24 consecutive hours. When three or more measurements have been taken, and if any measurement is greater or less than 0.5 times the mean, additional measurements over the 24-hour period may be needed to obtain a more representative mean. (~~8-24-94~~)()

~~406~~110. Unique Ecological Significance. The attribute of any stream or water body which is inhabited or supports an endangered or threatened species of plant or animal or a species of special concern identified by the Idaho Department of Fish and Game, which provides anadromous fish passage, or which provides spawning or rearing habitat for anadromous or desirable species of lake dwelling fishes. (7-1-93)

~~407~~111. Wasteload Allocation (WLA). The portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution. (8-24-94)

~~408~~112. Wastewater. Unless otherwise specified, sewage, industrial waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present. (7-1-93)

~~409~~113. Water Pollution. Any alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the state, or the discharge of any pollutant into the waters of the state, which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to fish and wildlife, or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses. (8-24-94)

~~110. Water Quality Advisory (WQA) Working Committee. A group of~~

~~people appointed by the Governor and comprised of representatives from the following groups including, but not limited to, the sponsoring agencies, Indian tribes, industries, interest groups and user groups of the state. The working committee develops the final basin area reports which list the stream segments of concern. (7-1-93)~~

~~114. Water Quality-based Effluent Limitation. An effluent limitation that refers to specific levels of water quality that are expected to render a body of water suitable for its designated or existing beneficial uses. (8-24-94)~~

~~115. Water Quality Limited Water Body. A water body identified by the Department, after monitoring, evaluation of required pollution controls, and consultation with the appropriate citizen advisory groups, which is not fully supporting designated or existing beneficial uses and is not expected to fully support designated or existing beneficial uses after the application of required pollution controls. A water body identified as water quality limited shall require the development of a TMDL or other equivalent process in accordance with Section 303 of the Clean Water Act and Sections 39-3601, et seq., Idaho Code. ()~~

~~116. Waters and Waters of the State. All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (7-1-93)~~

~~117. Watershed. The land area from which water flows into a stream or other body of water which drains the area. ()~~

~~118. Watershed Advisory Group. A citizen advisory group appointed by the Director, with the advice of the appropriate Basin Advisory Group, which will recommend to the Department those specific actions needed to control point and nonpoint sources of pollution affecting water quality limited water bodies within the watershed. ()~~

~~119. Whole-Effluent Toxicity. The aggregate toxic effect of an effluent measured directly with a toxicity test. (8-24-94)~~

(BREAK IN CONTINUITY OF SECTIONS)

051. ANTIDEGRADATION POLICY.

01. Maintenance of Existing Uses for All Waters. The existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected. (7-1-93)

02. High Quality Waters. Where the quality of the waters exceeds levels necessary to support propagation of fish, shellfish and wildlife and recreation in and on the water, that quality shall be maintained and protected unless the Department finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the Department's continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the

Department shall assure water quality adequate to protect existing uses fully. Further, the Department shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and cost-effective and reasonable best management practices for nonpoint source control. In providing such assurance, the Department may enter together into an agreement with other state of Idaho or federal agencies in accordance with Sections 67-2326 through 67-2333, Idaho Code. (7-1-93)

03. Outstanding Resource Waters. Where high quality waters constitute an outstanding national resource, such as waters of national and state parks and wildlife refuges and waters of exceptional recreational or ecological significance, that water quality shall be maintained and protected from the impacts of point and nonpoint source activities. (7-1-93)(____)

052. PUBLIC PARTICIPATION.

In providing general coordination of water quality programs within each basin, in carrying out the duties of the Basin Advisory Groups as assigned, and in carrying out the provisions of Sections 39-3601, et seq., Idaho Code, the Director and the Basin Advisory Groups shall employ all means of public involvement deemed necessary, including the public involvement required under §67-2340 through §67-2347, Idaho Code, Section 051 of this rule or required in Chapter 52, Title 67, Idaho Code, and shall cooperate fully with the public involvement or planning processes of other appropriate public agencies. The following procedures shall be followed for obtaining public input on water quality management and for designation of stream segments of concern. (7-1-93)(____)

~~01. Basin Area Meetings (BAM). The principal process for facilitating public discussion of nonpoint sources and water quality is a series of basin area meetings open to the public and chaired by the Governor or his designee. Starting in 1994, a total of twelve (12) meetings shall be held every three (3) years with at least one (1) meeting in each of the six (6) hydrologic basins of the state: the Panhandle; Clearwater; Salmon; Upper Snake; Southwest Idaho; and Bear River basins. Any party may petition the Board to change the rules concerning the number of meetings to be held. Each BAM shall be sponsored jointly by the appropriate sponsoring groups such as state and federal agencies, Indian tribes and private industries including, but not limited to, the agricultural, timber and mining industry user groups and interest groups which are appointed by the Governor or his designee for each basin. Each BAM shall focus on water quality and any activity that may affect water quality in that area. The purposes of each BAM are to:~~ (8-24-94)

~~a. Facilitate discussion of the current status of water quality, and fish habitat, and trends in their condition;~~ (7-1-93)

~~b. Identify and discuss current and future activities (i.e. timber, mining, agriculture, recreational or other) in the area and water quality impacts likely to result;~~ (7-1-93)

~~c. Consider the propriety and efficacy of water quality monitoring in the area;~~ (7-1-93)

~~d. Discuss social and economic considerations associated with commercial activities in the area; and~~ (7-1-93)

e. ~~Propose stream segments of concern, that is, stream segments where the public has expressed a significant interest in that specific body of water and its management.~~ (7-1-93)

02. ~~Serving the Public Notice. The Department shall notify the public, affected industry and other agencies of each of the basin area meetings by the following methods:~~ (7-1-93)

a. ~~Publication in at least one (1) daily or weekly major newspaper in each of the six (6) basin areas once a week for three (3) consecutive weeks prior to the scheduled meeting;~~ (7-1-93)

b. ~~Direct mail of the notice to the sponsoring agencies, tribes, industries, user groups and interest groups;~~ (7-1-93)

e. ~~Any other method that provides actual notice of the meetings to the persons potentially affected.~~ (7-1-93)

03. ~~Basin Status Reports. Prior to the basin area meetings, a basin status report for each hydrologic basin shall be prepared by the Department in cooperation with the sponsoring groups. Information supplied by the cooperating groups shall be compiled by the Department for use in each report. The report shall include:~~ (7-1-93)

a. ~~A statement of the purposes of that basin area meeting; and~~ (7-1-93)

b. ~~Background information on each of the six (6) basins relating to water quality, fisheries, monitoring and commercial activity. The information presented should be in sufficient detail to facilitate an informed discussion of these issues.~~ (7-1-93)

04. ~~Basin Area Meeting Presentation. At each basin area meeting, the Department shall give a general presentation on the area with assistance from the sponsoring groups. The presentation shall highlight and, if appropriate, expand upon the basin status report.~~ (7-1-93)

05. ~~Public Comment. Oral and/or written public comment will be accepted at the meetings. Written comments may be submitted to the Department for twenty (20) days following each meeting.~~ (7-1-93)

06. ~~Basin Area Reports. After the close of the public comment period, the Department shall produce a draft report for each basin area meeting that summarizes oral and written comments received, and that provides a list of stream segments of concern based on the meeting discussions, public comments, and information contained in each basin status report. The draft basin area reports shall be distributed to the sponsoring groups for review and comment.~~ (7-1-93)

07. ~~Water Quality Advisory (WQA) Working Committee. The draft basin area reports shall be sent to members of a statewide WQA Working Committee appointed by the Governor. The WQA Working Committee shall be comprised of representatives from the sponsoring agencies, tribes, industries, interest groups and user groups of the state. The WQA Working Committee shall convene to review and approve the draft reports~~

and designate a final list of stream segments of concern that includes a statement of rationale for each stream segment. The WQA Working Committee may choose to develop working criteria as part of the designation process. Such criteria may be published in the final Basin Area Reports. On those segments where there is not a consensus of opinion for designation, the WQA Working Committee shall request a final decision by the Governor. The WQA Working Committee shall then issue the final basin area reports through the Department. (7-1-93)

08. Stream Segments of Concern. Every three (3) years, the Department shall publish the final list of the most current stream segments of concern, designated in the final basin area reports. The published list will be provided to the Idaho Department of Lands, Soil Conservation Commission, Idaho Department of Water Resources, Idaho Department of Fish & Game, members of the WQA Working Committee, sponsoring groups and to the public upon request. The most current list of stream segments of concern shall supersede all previous lists. Segments must be specifically renominated to be included as a stream segment of concern in the next and each successive three (3) year period. Stream segments of concern will be used by the Department to focus resources for monitoring; such results will be considered in implementing nonpoint source management pursuant to Subsection 350.02. Stream segments of concern are also subject to relevant provisions of the rules of the Idaho Department of Lands and the Soil Conservation Commission. (8-24-94)

053. BENEFICIAL USE SUPPORT STATUS.

In determining whether a water body fully supports designated and existing beneficial uses, the Department may utilize applicable analytical procedures set forth in Section 090 to determine whether all of the applicable water quality standards are being achieved, including any site-specific criteria developed pursuant to these rules, and whether a healthy, balanced biological community is present. In making this determination, the Department shall evaluate the following applicable biological and habitat parameters:

()

01. Habitat Parameters. These parameters may include, but are not limited to, stream width, stream depth, stream shade, measurements of sediment impacts, bank stability, water flows, and other physical characteristics of the stream that affect habitat for fish, macroinvertebrates or other aquatic life; and ()

02. Biological Parameters. These parameters may include, but are not limited to, evaluation of aquatic macroinvertebrates including Ephemeroptera, Plecoptera and Trichoptera (EPT), Hilsenhoff Biotic Index, measures of functional feeding groups, and the variety and number of fish or other aquatic life to determine biological community diversity and functionality. ()

054. WATER QUALITY LIMITED WATERS AND TMDLS.

01. After Determining That Water Body Does Not Support Use. After determining that a water body does not fully support designated or existing beneficial uses in accordance with Section 053, the Department, in consultation with the applicable citizen advisory groups, shall evaluate whether the application of required pollution controls to sources of pollution affecting the impaired water body would restore the water body to full support status. This evaluation may include the following: ()

a. Identification of significant sources of pollution affecting the water body by past and present activities; ()

b. Determination of whether the application of required or cost-effective interim pollution control strategies to the identified sources of pollution would restore the water body to full support status within a reasonable period of time; ()

c. Consultation with appropriate citizen advisory groups, designated agencies and landowners to determine the feasibility of, and assurance that required or cost-effective interim pollution control strategies can be effectively applied to the sources of pollution to achieve full support status within a reasonable period of time; ()

d. Where appropriate, the Department shall emphasize cost effective and technically feasible mitigation of past activities to expeditiously restore a water body to full support status; and ()

e. If required or interim pollution control strategies are applied as set forth in this section, the Department shall subsequently monitor the water body to determine whether application of such pollution controls were successful in restoring the water body to full support status. ()

02. Water Bodies Not Fully Supporting Beneficial Uses. Water bodies not fully supporting designated or existing beneficial uses after following the process identified in Subsection 054.01 will be identified by the Department as water quality limited water bodies, and shall require the development of TMDLs or other equivalent processes, as described under section 303(d)(1) of the Clean Water Act. A list of water quality limited water bodies shall be published periodically by the Department in accordance with section 303(d) of the Clean Water Act and be subject to public review prior to submission to EPA for approval. Additional TMDLs may be developed as described under Section 303(d)(3) of the Clean Water Act which are informational, however, they will not be subject to the provisions of this section. ()

03. Priority of TMDL Development. The priority of TMDL development for water quality limited water bodies identified in Subsection 054.02 shall be determined by the Director in consultation with the Basin Advisory Groups as described in Sections 39-3601, et seq., Idaho Code, depending upon the severity of pollution and the uses of the water body, including those of unique ecological significance. Water bodies identified as a high priority through this process will be the first to be targeted for development of a TMDL or equivalent process. ()

04. High Priority Provisions. Until a TMDL or equivalent process is completed for a water quality limited water body that has been identified as high priority, new or increased discharge of pollutants which have caused the water quality limited listing may only be allowed if included in the TMDL or equivalent process. Once the TMDL or equivalent process is completed, any new or increased discharge of causative pollutants will be allowed only if consistent with the approved TMDL. ()

05. Medium and Low Priority Provisions. Until TMDLs or equivalent processes are developed for water quality limited water bodies identified as medium or

low priority, the Department shall require interim changes in permitted discharges from point sources and best management practices for nonpoint sources deemed necessary to prohibit further impairment of the designated or existing beneficial uses. ()

a. In determining the necessity for interim changes to existing and limitations upon proposed activities, the Department, in consultation with citizen advisory groups, shall evaluate the water quality impacts caused by past regulated and unregulated activities in the affected watershed. ()

b. Consideration of interim changes shall maximize the use of cost-effective and timely measures to ensure no further impairment of designated or existing uses. ()

c. Where appropriate, the Department shall emphasize cost-effective mitigation of past activities to ensure no further impairment. ()

06. Pollutant Trading. Development of TMDLs or equivalent processes or interim changes under these rules may include pollutant trading with the goal of restoring water quality limited water bodies to compliance with water quality standards. ()

053055. OUTSTANDING RESOURCE WATERS (ORW).

01. Nominations for Outstanding Resource Water Designation. Any person may request, in writing to the Board, that a stream segment be considered for designation as an outstanding resource water. To be considered for ORW designation nominations must be received by the Board before June 1 for consideration during the next regular session of the legislature. All nominations shall be addressed to:

Idaho Department of Health and Welfare
Outstanding Resource Water Nomination
Statehouse Mail
Boise, Idaho 83720

The nomination shall include the following information: (7-1-93)

- a. The name, description and location of the stream segment; (7-1-93)
- b. The boundaries upstream and downstream of the stream segment; (7-1-93)
- c. An explanation of what makes the segment a candidate for the designation; (7-1-93)
- d. A description of the existing water quality and any technical data upon which the description is based as can be found in the most current basin status reports; (7-1-93)
- e. A discussion of the types of nonpoint source activities currently being conducted that may lower water quality, together with those activities that are anticipated during the next two (2) years, as described in the most current basin status reports; and

(7-1-93)

- f. Any additional evidence to substantiate such a designation. (7-1-93)

02. Public Notice and Public Comment. The Board will give public notice that one (1) or more stream segments are being considered for recommendation to the legislature as outstanding resource waters. Public notice will also be given if a public hearing is being held. Public comments regarding possible designation will be accepted by the Board for a period of at least forty-five (45) days. Public comments may include, but are not limited to, discussion of socio-economic considerations; fish, wildlife or recreational values; and other beneficial uses. (7-1-93)

03. Public Hearing. A public hearing(s) may be held at the Board's discretion on any stream segment nominated for ORW designation. Public notice will be given if a hearing is held. The decision to hold a hearing may be based on the following criteria: (7-1-93)

a. One (1) or more requests contain supporting documentation and valid reasons for designation; (7-1-93)

b. A stream segment is generally recognized as constituting an outstanding national resource, such as waters of national and state parks, and wildlife refuges;(7-1-93)

c. A stream segment is generally recognized as waters of exceptional recreational or ecological significance; (7-1-93)

d. The Board shall give special consideration to holding a hearing and to recommending for designation by the legislature, waters which meet criteria found in Subsection 0553.03.b. and 0553.03.c; (7-1-93)(____)

e. Requests for a hearing will be given due consideration by the Board. Public hearings may be held at the Board's discretion. (7-1-93)

04. Board Review. The Board shall review the stream segments nominated for ORW designation and based on the hearing or other written record, determine the segments to recommend as ORWs to the legislature. The Board shall submit a report for each stream segment it recommends for ORW designation. The report shall contain the information specified in Subsection 0553.01. and information from the hearing record or other written record concerning the impacts the designation would have on socio-economic conditions; fish, wildlife and recreational values; and other beneficial uses. The Department shall then prepare legislation for each segment that will be recommended to the legislature as an ORW. The legislation shall provide for the listing of designated segments in these regulations without the need for formal rule-making procedures, pursuant to Sections 67-5200, *et seq.*, Idaho Code. (7-1-93)(____)

05. Designated Waters. Those stream segments designated by the legislature as ORWs are listed in Sections 110 through 160. (7-1-93)

06. Restriction of Nonpoint Source Activities on Outstanding Resource Waters. Nonpoint source activities on ORWs shall be restricted as specified in Subsection

350.04. (7-1-93)

~~0540~~56. SPECIAL RESOURCE WATERS.

01. Designations. Waters of the state may be designated as special resource waters. Designation as a special resource water recognizes at least one (1) of the following characteristics: (7-1-93)

a. The water is of outstanding high quality, exceeding both criteria for primary contact recreation and cold water biota; (7-1-93)

b. The water is of unique ecological significance; (7-1-93)

c. The water possesses outstanding recreational or aesthetic qualities; (7-1-93)

d. Intensive protection of the quality of the water is in paramount interest of the people of Idaho; (7-1-93)

e. The water is a part of the National Wild and Scenic River System, is within a State or National Park or wildlife refuge and is of prime or major importance to that park or refuge; (7-1-93)

f. Intensive protection of the quality of the water is necessary to maintain an existing, but jeopardized beneficial use; or (7-1-93)

02. Designated Waters. Those waters of the state determined to be special resource waters are listed in Sections 110 through 160 and Subsection 299.03. (7-1-93)

03. Restrictions of Point Source Discharges to Special Resource Waters and their Tributaries. Point source discharges to special resource waters and their tributaries shall be restricted as specified in Subsection 400.01.b. (7-1-93)

~~0557~~. -- 059. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

070. APPLICATION OF STANDARDS.

01. Multiple Criteria. In the application of the use classification, the most stringent criterion of a multiple criteria applies. (7-1-93)

02. Application of Standards to Nonpoint Source Activities. The application of water quality standards to nonpoint source activities shall be in accordance with Section 350. (7-1-93)

03. Application of Standards to Point Source Discharges. The application of water quality standards to point source discharges shall be in accordance with Sections

400 through 402, 420 and 440. (7-1-93)

04. Applicability of Gas Supersaturation Standard. The application of gas supersaturation standard shall be in accordance with Section 900. (7-1-93)

05. Mixing Zones. The application of water quality standards to mixing zones shall be in accordance with Section 060. (7-1-93)

06. Natural Background for Toxic Substances. Where natural background concentrations of toxic substances exceed any water quality criteria identified in Sections 200 or 250 as determined by the Department, that background level shall become the applicable water quality criteria level. ()

071. -- 079. (RESERVED).

080. VIOLATION OF WATER QUALITY STANDARDS.

01. Discharges Which Result in Water Quality Standards Violation. No pollutant shall be discharged from a single source or in combination with pollutants discharged from other sources in concentrations or in a manner that: (7-1-93)

a. Will or can be expected to result in violation of the water quality standards applicable to the receiving water body or downstream waters; or (7-1-93)

b. Will injure designated or existing beneficial uses; or (8-24-94)

c. Is not authorized by the appropriate authorizing agency for those discharges that require authorization. (8-24-94)

02. Short Term Activity Exemption. The Department or the Board can authorize, with whatever conditions deemed necessary, short term activities even though such activities can result in a violation of these rules; (8-24-94)

a. No activity can be authorized by the provisions of Subsection 080.02 unless: (7-1-93)

i. The activity is essential to the protection or promotion of public interest; (7-1-93)

ii. No permanent or long term injury of beneficial uses is likely as a result of the activity. (7-1-93)

b. Activities eligible for authorization by Subsection 080.02. include, but are not limited to: (7-1-93)

i. Wastewater treatment facility maintenance; (7-1-93)

ii. Fish eradication projects; (7-1-93)

iii. Mosquito abatement projects; (7-1-93)

- iv. Algae and weed control projects; (7-1-93)
- v. Dredge and fill activities; ~~and~~ (7-1-93)()
- vi. Maintenance of existing structures; ()
- vii. Limited road and trail reconstruction; ()
- viii. Soil stabilization measures; ()
- ix. Habitat enhancement structures; and ()
- x. Activities which result in overall enhancement or maintenance of beneficial uses. (7-1-93)

081. -- 089. (RESERVED).

090. ANALYTICAL PROCEDURES.

These procedures are available for review at the Idaho Department of Health and Welfare, Division of Environmental Quality, or may be obtained from the U.S. Environmental Protection Agency or U.S. Government Printing Office. (8-24-94)

01. Chemical and Physical Procedures. Sample collection, preservation and analytical procedures to determine compliance with these standards shall conform with the guidelines of the Environmental Protection Agency, 40 CFR, Part 136, or other methods accepted by the scientific community and deemed appropriate by the Department. (8-24-94)

02. Metals Procedures. For the purposes of NPDES permitting, sample collection, preservation and analytical procedures for metals should conform to clean or ultra-clean techniques as described in: (8-24-94)

a. "Guidance Document on Clean Analytical Techniques and Monitoring," EPA, October 1993, or, (8-24-94)

b. "Interim Guidance on Determination and Use of Water-Effect Ratios for Metals," EPA, February 1994, or, (8-24-94)

c. Other scientifically valid methods deemed appropriate by the Department. (8-24-94)

03. Biological Procedures. Biological tests to determine compliance with these standards should be based on methods as outlined in: (8-24-94)

a. "Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms," Fourth Edition, EPA, 1991. or, (8-24-94)

b. "Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms", Second Edition, EPA 1989, or, (8-24-94)

c. "Rapid Bioassessment Protocols for Use in Streams and Rivers, EPA, 1989, or, (8-24-94)

d. "Water Body Assessment Guidance," Idaho Department of Health and Welfare, Division of Environmental Quality, 1996, or, ()

e. Other scientifically valid methods deemed appropriate by the Department. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

101. USE DESIGNATIONS FOR SURFACE WATERS.

01. Unclassified Surface Waters. Surface waters not classified in Sections 110 through 160 ~~are designated as primary contact recreational waters, unless the physical characteristics of a water body prevent primary contact recreation. In those cases, the water body is designated a secondary contact recreational water shall be classified according to Section 39-3604, Idaho Code, taking into consideration the use of the surface water and such physical, geological, chemical, and biological measures as may affect the surface water. Prior to classification, unclassified waters shall be designated and protected for beneficial uses, which includes all recreational use in and on the water and the protection and propagation of fish, shellfish, and wildlife, wherever attainable.~~ (7-1-93)()

02. Man-Made Waterways. Unless designated in Sections 110 through 160, man-made waterways are to be protected for the use for which they were developed. (7-1-93)

03. Private Waters. Unless designated in Sections 110 through 160, lakes, ponds, pools, streams and springs outside public lands but located wholly and entirely upon a person's land are not protected specifically or generally for any beneficial use. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

299. GROUND WATER QUALITY STANDARDS.

Wherever attainable, ground waters of the state shall be protected for beneficial uses including potable water supplies. Ground waters existing at higher than potable water quality or ground waters which are highly vulnerable to contamination due to the geologic and hydrologic characteristics of areas overlying their occurrence, may be designated by the Department as special resource waters. (8-24-94)

01. Activity Restrictions on Spokane Valley - Rathdrum Prairie Aquifer. The waters of the Spokane Valley - Rathdrum Prairie Aquifer, in its designation as a "sole source" as defined by the EPA under Section 1424e. of the Safe Drinking Water Act, must not be lowered in quality, as it relates to beneficial uses, as a result of a point source or

nonpoint source activity unless it is demonstrated by the person proposing the activity that such change is justifiable as a result of necessary economic or social development.

(8-24-94)

02. Ground Water Use Classifications. Waters are designated according to the uses for which they are presently suitable or intended to become suitable. The designated uses for which the ground waters of the state are to be protected include, but are not limited to:

(8-24-94)

a. Agricultural water supplies: waters which are suitable or intended to be made suitable for the irrigation of crops or as drinking water for livestock;

(7-1-93)

b. Domestic water supplies: waters which are suitable or intended to be made suitable for drinking water supplies;

(7-1-93)

c. Industrial water supplies: all state ground waters are designated for the use of industrial water supply. Water quality criteria for this use will generally be satisfied by the general ground water quality criteria. Should specificity be desirable or necessary to protect the use, appropriate criteria will be adopted;

(8-24-94)

d. Potable water supplies: waters which are suitable or intended to be made suitable for potable water supplies.

(7-1-93)

03. Use Designations for Ground Water. (8-24-94)

a. Ground waters not specified in Subsection 299.03.b. are designated and protected for potable water supplies unless the existing ground water quality precludes the economic feasibility of use as a domestic source due to natural or man-made causes as determined by the Department. In those cases, the ground water will be protected for other existing beneficial uses, if any, as determined by the Department;

(8-24-94)

b. Designated beneficial uses for the Spokane Valley - Rathdrum Prairie Aquifer are domestic water supply, agricultural water supply and special resource water.

(7-1-93)

04. General Ground Water Quality Criteria. The following general water quality criteria apply to all ground waters of the state in addition to the water quality standards set forth for specifically classified waters:

(8-24-94)

a. Hazardous materials (see Subsection 003.4244) shall not occur in concentrations found to be of public health significance or to adversely affect designated beneficial uses. These materials do not include suspended sediment produced as a result of nonpoint source activities;

(8-24-94)(____)

b. Deleterious materials (see Subsection 003.4920) shall not occur in concentrations that impair designated beneficial uses without being hazardous. These materials do not include suspended sediment produced as a result of nonpoint source activities;

(8-24-94)(____)

c. Radioactive materials or radioactivity shall not exceed the values listed

in the Code of Federal Regulations Title 10, Chapter 1, Part 20, Appendix B, Table 2, Effluent Concentrations, Column 2. (8-24-94)

d. Radioactive materials or radioactivity shall not exceed concentrations required to meet the standards set forth in Title 10, Chapter 1, Part 20 of the Code of Federal Regulations for maximum exposure of critical human organs in the case of foodstuffs harvested from these waters for human consumption. (7-1-93)

05. Criteria for Water Supplies From Ground Water. (8-24-94)

a. Ground water designated and protected for domestic water supplies is to exhibit the following characteristics: (8-24-94)

TABLE. Maximum Allowable Concentrations for Selected Substances.		
Substance	Maximum Allowable Concentrations (mg/l)	Air Temperature C
Arsenic	0.050	
Barium	1.000	
Cadmium	0.010	
Chromium	0.050	
Cyanide	0.200	
Fluoride*	2.400	Up to 12.0
	2.200	12.1 - 14.6
	2.000	14.7 - 17.6
	1.800	17.7 - 21.4
	1.600	21.5 - 26.1
	1.400	26.2 - 32.6
Lead	0.050	
Mercury	0.002	
Nitrate (as N)	10.000	
Selenium	0.010	
Silver	0.050	
Endrin	0.0002	
Lindane	0.004	

TABLE. Maximum Allowable Concentrations for Selected Substances.		
Substance	Maximum Allowable Concentrations (mg/l)	Air Temperature C
Methoxychlor	0.100	
Sodium	20.000**	
Toxaphene	0.005	
Trihalomethanes	0.100	
2,4-D	0.100	
2,4,5-TP Silvex	0.010	

* As determined by the average annual maximum daily air temperature for the area when the water is to be used.

** No maximum established; twenty (20) suggested as optimum. (8-24-94)()

b. Ground water designated and protected for potable water supplies is not to exceed: (8-24-94)

i. Maximum allowable concentrations of substances specified in Subsection 299.05.a. (8-24-94)

ii. Secondary quality standards specified in Idaho Department of Health and Welfare Rules, Title 01, Chapter 08, Section 400, "Rules Governing Public Drinking Water Systems." (8-24-94)

iii. A coliform bacteria count of two (2) per hundred milliliter for any individual sample. (7-1-93)

iv. Turbidity measurements of five (5) nephelometric turbidity units (NTUs) for any individual sample. (7-1-93)

300. -- 349. (RESERVED).

350. RULES GOVERNING NONPOINT SOURCE ACTIVITIES.

01. Implementation Policy. (7-1-93)

a. Nonpoint sources defined in Subsection 003.6062 are the result of activities essential to the economic and social welfare of the state. The a real extent of most nonpoint source activities prevents the practical application of conventional wastewater treatment technologies. Nonpoint source pollution management, including best management practices, is a process for protecting the designated beneficial uses and

ambient water quality. Best management practices should be designed, implemented and maintained to provide full protection or maintenance of beneficial uses. Violations of water quality standards which occur in spite of implementation of best management practices will not be subject to enforcement action. However, if subsequent water quality monitoring and surveillance by the Department, based on the criteria listed in Sections 200 and 250, indicate water quality standards are not met due to nonpoint source impacts, even with the use of current best management practices, the practices will be evaluated and modified as necessary by the appropriate agencies in accordance with the provisions of the Administrative Procedure Act. If necessary, injunctive or other judicial relief may be initiated against the operator of a nonpoint source activity in accordance with the Director's authorities provided in Section 39-108, Idaho Code. In certain cases, revision of the water quality standards may be appropriate. (8-24-94)()

b. As provided in Subsections 350.01.a. and 350.02.a. for nonpoint source activities, failure to meet general or specific water quality criteria, or failure to fully protect a beneficial use, shall not be considered a violation of the water quality standards for the purpose of enforcement. Instead, water quality monitoring and surveillance of nonpoint source activities will be used to evaluate the effectiveness of best management practices in protecting beneficial uses as stated in Subsections 350.01.a. and 350.02.b. (12-31-91)

02. Limitation to Nonpoint Source Restrictions. Nonpoint source activities will be subject to the following: (7-1-93)

a. Except as provided in Subsections 350.02.b. and 350.02.c., so long as a nonpoint source activity is being conducted in accordance with applicable rules, regulations and best management practices as referenced in Subsection 350.03, or in the absence of referenced applicable best management practices, conducted in a manner that demonstrates a knowledgeable and reasonable effort to minimize resulting adverse water quality impacts, the activity will not be subject to conditions or legal actions based on Subsections 400.01.b. or 080.01. In all cases, if it is determined by the Director that imminent and substantial danger to the public health or environment is occurring, or may occur as a result of a nonpoint source by itself or in combination with other point or nonpoint source activities, then the Director may seek immediate injunctive relief to stop or prevent that danger as provided in Section 39-108, Idaho Code. (7-1-93)

b. If the Director determines through water quality monitoring and surveillance that water quality criteria are not being met, or that beneficial uses are being impaired as a result of a nonpoint source activity by itself or in combination with other point and nonpoint source activities then: (3-3-87)

i. For an activity occurring in a manner not in accordance with approved best management practices, or in a manner which does not demonstrate a knowledgeable and reasonable effort to minimize resulting adverse water quality impacts, the Director may with appropriate inter-Departmental coordination: (3-3-87)

(1) Prepare a compliance schedule as provided in Section 39-116, Idaho Code; and/or (2-2-83)

(2) Institute administrative or civil proceedings including injunctive relief

under Section 39-108, Idaho Code. (3-3-87)

ii. For activities conducted in compliance with approved best management practices, or conducted in a manner which demonstrates knowledgeable and reasonable effort to minimize resulting adverse water quality impacts, the Director may, with appropriate inter-Departmental coordination: (3-3-87)

(1) For those activities with approved best management practices as listed in Subsection 350.03 formally request that the responsible agency conduct a timely evaluation and modification of the practices to insure full protection of beneficial uses. (12-31-91)

(2) For all other nonpoint source activities which do not have approved best management practices as listed in Subsection 350.03, develop and recommend to the operator control measures necessary to fully protect the beneficial uses. Such control measures may be implemented on a voluntary basis, or where necessary, through appropriate administrative or civil proceedings. (12-31-91)

(3) If, in a reasonable and timely manner the approved best management practices are not evaluated or modified by the responsible agency, or if the appropriate control measures are not implemented by the operator, then the Director may seek injunctive relief to prevent or stop imminent and substantial danger to the public health or environment as provided in Section 39-108, Idaho Code. (3-3-87)

c. The Director may review for compliance project plans for proposed nonpoint source activities, based on whether or not the proposed activity will fully maintain or protect beneficial uses as listed in Sections 200 and 250. In the absence of relevant criteria in those sections, the review for compliance will be based on whether or not the proposed activity: (12-31-91)

i. Will comply with approved or specialized best management practices; and (3-3-87)

ii. Provides a monitoring plan which, when implemented, will provide information to the Director adequate to determine the effectiveness of the approved or specialized best management practices in protecting the beneficial uses of water; and (3-3-87)

iii. Provides a process for modifying the approved or site-specific best management practices in order to protect beneficial uses of water. (3-3-87)

d. For projects determined not to comply with those requirements, the plan may be revised and resubmitted for additional review by the Department. Any person aggrieved by a final determination of the Director may, within thirty (30) days, file a written request for a hearing before the Board in accordance with the Idaho Administrative Procedures Act. In all cases, implementation of projects detailed in a plan shall be conducted in a manner which will not result in imminent and substantial danger to the public health or environment. (3-3-87)

03. Approved Best Management Practices. The following are approved best

management practices for the purpose of Subsection 350.02: (12-31-91)

a. Idaho Forest Practices Rules as adopted by Board of Land Commissioners; (12-31-91)

b. Idaho Department of Health and Welfare Rules, Title 01, Chapter 06, "Rules Governing Solid Waste Management"; (7-1-93)

c. Idaho Department of Health and Welfare Rules, Title 01, Chapter 03, "Rules Governing Subsurface and Individual Sewage Disposal Systems"; (7-1-93)

d. "Rules and Minimum Standards for Stream Channel Alterations" as adopted by the Board of Water Resources; (7-1-93)

e. For the Spokane Valley Rathdrum Prairie Aquifer, "Rathdrum Prairie Sewage Disposal Regulations," as adopted by the Panhandle District Health Department Board of Health and approved by the Idaho Board of Health and Welfare; (7-1-93)

f. "Rules Governing Exploration and Surface Mining Operations in Idaho" as adopted by the Board of Land Commissioners; and (7-1-93)

g. "Rules Governing Placer and Dredge Mining in Idaho" as adopted by the Board of Land Commissioners. (7-1-93)

04. Restriction of Nonpoint Source Activities on Outstanding Resource Waters. (12-31-91)

a. The water quality of ORWs shall be maintained and protected. After the legislature has designated a stream segment as an outstanding resource water, no person shall conduct a new or substantially modify an existing nonpoint source activity that can reasonably be expected to lower the water quality of that ORW, except for conducting short term or temporary nonpoint source activities which do not alter the essential character or special uses of a segment, allocation of water rights, or operation of water diversions or impoundments. Stream segments not designated as ORWs that discharge directly into an ORW shall not be subject to the same restrictions as an ORW, nor shall the ORW mixing zone be subject to the same restrictions as an ORW. A person may conduct a new or substantially modify an existing nonpoint source activity that can reasonably be expected to lower the water quality of a tributary or stream segment, which discharges directly into an ORW or an ORW mixing zone, provided that the water quality of that ORW below the mixing zone shall not be lowered. (12-31-91)

b. After the legislature has designated a stream segment as an outstanding resource water as outlined in Subsection ~~053-055~~.05, existing nonpoint source activities may continue and shall be conducted in a manner that maintains and protects the current water quality of an ORW. The provisions of this section shall not affect short term or temporary activities that do not alter the essential character or special uses of a segment, allocation of water rights, or operations of water diversions or impoundments, provided that such activities shall be conducted in conformance with applicable laws and regulations. (12-31-91)()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

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

DOCKET NO. 16-0102-9601

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:

Pursuant to Section 67-5222(2), Idaho Code, public hearings will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for hearing must be received by the undersigned on or before June 3, 1996.

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

In June 1994, Idaho adopted EPA's National Toxics Rule (NTR) with dissolved metals criteria conversion factors consistent with EPA's 1993 guidance. EPA recently revised the NTR to include new dissolved metals criteria conversion factors which are less stringent than those adopted by Idaho. This situation had an immediate effect upon dischargers seeking discharge permits from EPA. EPA indicated they would use Idaho's more stringent factors in their NPDES permits.

On February 15, 1996 the Board of Health and Welfare adopted as a temporary rule an amendment to IDAPA 16.01.02 Subsection 250.07 revising Idaho's metals criteria conversion factors consistent with the latest NTR. Until adoption of the temporary rule, Idaho was in a position of being more stringent than the federal government. As a result of temporary adoption of the rule, Idaho is no longer more stringent than the federal government and dischargers will no longer be adversely affected by this inconsistency. The temporary rule appeared in the April 3, 1996 issue of the Idaho Administrative Bulletin.

With this publication, the Department of Health and Welfare proposes final adoption of the revised metals criteria conversion factors, including hardness equations for conversion factors for cadmium and lead, which were inadvertently left out of the temporary rule.

Negotiated rulemaking was not conducted because time was of the essence to adopt a state rule consistent with EPA to prevent an adverse affect on dischargers.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule-making, contact Mark Shumar 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 June 17, 1996.

DATED this 1st day of May, 1996.

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

TEXT OF DOCKET 16-0102-9601

250. SURFACE WATER QUALITY CRITERIA FOR USE CLASSIFICATIONS.
The following water quality criteria apply to surface waters of the state according to the designated beneficial uses on a water body. (8-24-94)

- 01. Recreation. (7-1-93)
 - a. Primary contact recreation: between May 1 and September 30 of each calendar year, waters designated for primary contact recreation are not to contain fecal coliform bacteria significant to the public health in concentrations exceeding: (7-1-93)
 - i. 500/100 ml. at any time; and (7-1-93)
 - ii. 200/100 ml. in more than ten percent (10%) of the total samples taken over a thirty (30) day period; and (7-1-93)
 - iii. A geometric mean of 50/100 ml. based on a minimum of five (5) samples taken over a thirty (30) day period. (7-1-93)
 - b. Secondary contact recreation: waters designated for secondary contact recreation are not to contain fecal coliform bacteria significant to the public health in concentrations exceeding: (7-1-93)
 - i. 800/100 ml. at any time; and (7-1-93)
 - ii. 400/100 ml. in more than ten percent (10%) of the total samples taken over a thirty (30) day period; and (7-1-93)
 - iii. A geometric mean of 200/100 ml. based on a minimum of five (5) samples taken over a thirty (30) day period. (7-1-93)
 - c. Primary and Secondary Contact Recreation: All toxic substance

criteria set forth in 40 CFR 131.36(b)(1), Column D2, revised as of December 22, 1992, effective February 5, 1993 (57 FR 60848, December 22, 1992). 40 CFR 131.36(b)(1) is hereby incorporated by reference in the manner provided in subsection 250.07; provided, however the standard for arsenic shall be 6.2 ug/L for Column D2 (which constitutes a recalculation to reflect an appropriate bioconcentration factor for fresh water). (3-8-95)

- 02. Aquatic Life. (7-1-93)
 - a. General Criteria. The following criteria apply to all aquatic life use classifications: (8-24-94)
 - i. Hydrogen Ion Concentration (pH) values within the range of 6.5 to 9.5; (7-1-93)
 - ii. The total concentration of dissolved gas not exceeding one hundred and ten percent (110%) of saturation at atmospheric pressure at the point of sample collection; (7-1-93)
 - iii. Total chlorine residual. (8-24-94)
 - (1) One (1) hour average concentration not to exceed 19 ug/l (8-24-94)
 - (2) Four (4) day average concentration not to exceed 11 ug/l. (8-24-94)
 - iv. All toxic substance criteria set forth in 40 CFR 131.36(b)(1), Columns B1, B2 and D2, revised as of December 22, 1992, effective February 5, 1993 (57 FR 60848, December 22, 1992) provided, however, the standard for arsenic shall be 6.2 ug/L for Column D2 (which constitutes a recalculation to reflect an appropriate bioconcentration factor for fresh water). 40 CFR 131.36(b)(1) is hereby incorporated by reference in the manner provided in subsection 250.07. (3-8-95)
 - b. Warm water biota: waters designated for warm water biota are to exhibit the following characteristics: (7-1-93)
 - i. Dissolved oxygen concentrations exceeding 5 mg/l at all times. In lakes and reservoirs this standard does not apply to: (7-1-93)
 - (1) The bottom twenty percent (20%) of the water depth in natural lakes and reservoirs where depths are thirty-five (35) meters or less. (7-1-93)
 - (2) The bottom seven (7) meters of water depth in natural lakes and reservoirs where depths are greater than thirty-five (35) meters. (7-1-93)
 - (3) Those waters of the hypolimnion in stratified lakes and reservoirs. (7-1-93)
 - ii. Water temperatures of thirty-three (33) degrees C or less with a maximum daily average not greater than twenty-nine (29) degrees C. (8-24-94)

iii. Ammonia. (8-24-94)

(1) One-hour average concentration of un-ionized ammonia (as N) is not to exceed $(0.43/A/B/2)$ mg/l, where:

A = 0.7 if the water temperature (T) is greater than or equal to 25 degrees C (if T > 30 degrees C site-specific criteria should be defined), or

A = $10^{\text{power}(0.03(20-T))}$ if T is less than 25 degrees C, and

B = 1 if the pH is greater than or equal to 8 (if pH > 9.0 site-specific criteria should be defined), or

B = $(1 + 10^{\text{power}(7.4-\text{pH})})/1.25$ if pH is less than 8 (if pH > 6.5 site-specific criteria should be defined). (8-24-94)

(i) The following Table gives one-hour average criteria for un-ionized ammonia (mg/l as N) at various water temperatures and pH values. The corresponding total ammonia concentration (mg/l as N) is given below each un-ionized ammonia criterion. (8-24-94)

TABLE I--WARM WATER BIOTA: ONE-HOUR AVERAGE CRITERIA FOR UN-IONIZED (TOP) AND TOTAL (BOTTOM) AMMONIA (mg/l as N) AT SELECTED WATER TEMPERATURES AND PH VALUES.

WATER TEMP. (DEGREES C)	pH						
	6.50	6.60	6.80	7.00	7.20	7.40	7.60
0.00	0.01	0.01	0.01	0.02	0.03	0.03	0.04
	28.92	28.07	26.01	23.27	19.94	16.31	12.62
2.00	0.01	0.01	0.02	0.02	0.03	0.04	0.05
	28.05	27.26	25.26	22.59	19.35	15.82	12.25
4.00	0.01	0.01	0.02	0.03	0.03	0.04	0.05
	27.34	26.52	24.57	22.03	18.92	15.40	11.94
6.00	0.0	0.01	0.02	0.03	0.04	0.05	0.06
	26.63	25.93	23.99	21.55	18.47	15.07	11.67
8.00	0.01	0.02	0.02	0.03	0.05	0.06	0.07
	26.08	25.35	23.55	21.01	18.01	14.74	11.44
10.00	0.02	0.02	0.03	0.04	0.05	0.07	0.08

WATER TEMP.	pH						
(DEGREES C)	6.50	6.60	6.80	7.00	7.20	7.40	7.60
	25.57	24.87	23.11	20.62	17.72	14.45	11.22
12.00	0.02	0.02	0.03	0.04	0.06	0.08	0.09
	25.13	24.43	22.66	20.29	17.39	14.21	11.04
14.00	0.02	0.02	0.04	0.05	0.07	0.09	0.11
	24.76	24.05	22.28	19.98	17.13	14.03	10.89
16.00	0.02	0.03	0.04	0.06	0.08	0.10	0.12
	24.43	23.84	22.00	19.75	16.92	13.85	10.78
18.00	0.03	0.03	0.05	0.07	0.09	0.12	0.14
	24.23	23.55	21.76	19.49	16.77	13.70	10.63
20.00	0.03	0.04	0.05	0.08	0.10	0.13	0.16
	24.04	23.27	21.58	19.32	16.61	13.60	10.56
22.00	0.03	0.04	0.06	0.09	0.12	0.15	0.19
	23.79	23.07	21.44	19.23	16.51	13.53	0.51
24.00	0.04	0.05	0.07	0.10	0.14	0.18	0.22
	23.72	22.97	21.36	19.14	16.45	3.52	0.49
26.00	0.04	0.05	0.08	0.11	0.15	0.19	0.24
	22.24	21.70	20.07	18.01	15.50	2.71	9.93
28.00	0.04	0.05	0.08	0.11	0.15	0.19	0.24
	19.43	18.83	17.48	15.68	13.50	1.10	8.65
30.00	0.04	0.05	0.08	0.11	0.15	0.19	0.24
	16.90	16.41	15.23	13.68	11.79	9.70	7.57

WATER TEMP.	pH						
DEGREES C	7.80	8.00	8.20	8.40	8.60	8.80	9.00
0.00	0.05	0.05	0.05	0.05	0.05	0.05	0.05
	9.30	6.59	4.19	2.66	1.69	1.09	0.71
2.00	0.06	0.06	0.06	0.06	0.061	0.06	0.06

WATER TEMP. DEGREES C	pH						
	7.80	8.00	8.20	8.40	8.60	8.80	9.00
	9.04	6.41	4.05	2.58	1.65	1.07	0.70
4.00	0.06	0.07	0.07	0.07	0.07	0.07	0.07
	8.82	6.25	3.98	2.53	1.62	1.05	0.69
6.00	0.07	0.08	0.08	0.08	0.08	0.08	0.08
	8.82	6.10	3.89	2.48	1.60	1.04	0.69
8.00	0.08	0.09	0.09	0.09	0.09	0.09	0.09
	8.44	5.98	3.82	2.44	1.57	1.03	0.69
10.00	0.10	0.11	0.11	0.11	0.11	0.11	0.11
	8.31	5.89	3.75	2.41	1.56	1.03	0.69
12.00	0.11	0.12	0.12	0.12	0.12	0.12	0.12
	8.13	5.81	3.70	2.38	1.55	1.02	0.69
14.00	0.13	0.14	0.14	0.14	0.14	0.14	0.14
	8.04	5.73	3.67	2.37	1.55	1.03	0.70
16.00	0.15	0.16	0.16	0.16	0.16	0.16	0.16
	7.97	5.68	3.65	2.36	1.55	1.04	0.72
18.00	0.17	0.19	0.19	0.19	0.19	0.19	0.19
	7.90	5.66	3.64	2.36	1.56	1.05	0.73
20.00	0.19	0.22	0.22	0.22	0.22	0.22	0.22
	7.88	5.63	3.63	2.37	1.57	1.08	0.76
22.00	0.22	0.25	0.25	0.25	0.25	0.25	0.25
	7.83	5.62	3.64	2.40	1.59	1.10	0.78
24.00	0.25	0.28	0.28	0.28	0.28	0.28	0.28
	7.82	5.63	3.66	2.42	1.63	1.13	0.82
26.00	0.27	0.31	0.31	0.31	0.31	0.31	0.31
	7.40	5.34	3.48	2.31	1.57	1.10	0.81
28.00	0.27	0.31	0.31	0.31	0.31	0.31	0.31
	6.48	4.68	3.07	2.05	1.41	1.00	0.75
30.00	0.27	0.31	0.31	0.31	0.31	0.31	0.31
	5.67	4.12	2.72	1.83	1.26	0.91	0.69

(2) Four-day average concentration of un-ionized ammonia (as N) is not to exceed $(0.66/A/B/C)$ mg/l, where:

$A = 1.0$ if the water temperature (T) is greater than or equal to 20 degrees C (if T > 30 degrees C site-specific criteria should be defined), or

$A = 10^{\text{power}(0.03(20-T))}$ if T is less than 20 degrees C, and)

$B = 1$ if the pH is greater than or equal to 8 (if pH > 9.0 site-specific criteria should be defined), or

$B = (1 + 10^{\text{power}(7.4-\text{pH})})/1.25$ if pH is less than 8 (if pH < 6.5 site-specific criteria should be defined), and

$C = 13.5$ if pH is greater than or equal to 7.7, or

$C = 20(10^{\text{power}(7.7-\text{pH})}/(1 + 10^{\text{power}(7.4-\text{pH})}))$ if the pH is less than 7.7. (4-13-95)

(a) The following Table gives four-day average criteria for un-ionized ammonia (mg/l as N) at various water temperatures and pH values. The corresponding total ammonia concentration (mg/l as N) is given below each un-ionized ammonia criterion. (8-24-94)

TABLE II--WARM WATER BIOTA: FOUR-DAY AVERAGE CRITERIA FOR UN-IONIZED (TOP) AND TOTAL (BOTTOM) AMMONIA (mg/l as N) AT SELECTED WATER TEMPERATURES AND PH VALUES.

WATER TEMP. DEGREES C	pH			
	6.5	6.6	6.8	7.0
0	0.0007	0.0008	0.0013	0.0021
	2.5	2.5	2.5	2.5
2	0.0008	0.0009	0.0015	0.0024
	2.5	2.5	2.5	2.5
4	0.0009	0.0011	0.0017	0.0027
	2.4	2.4	2.4	2.4
6	0.0010	0.0012	0.0020	0.0031
	2.3	2.3	2.3	2.3
8	0.0011	0.0014	0.0023	0.0036
	2.3	2.3	2.3	2.3

WATER TEMP.	pH			
DEGREES C	6.5	6.6	6.8	7.0
10	0.0013	0.0016	0.0026	0.0041
	2.3	2.3	2.3	2.3
12	0.0015	0.0019	0.0030	0.0047
	2.2	2.2	2.2	2.2
14	0.0017	0.0022	0.0034	0.0054
	2.2	2.2	2.2	2.2
16	0.0020	0.0025	0.0039	0.0062
	2.1	2.1	2.2	2.2
18	0.0023	0.0029	0.0045	0.0072
	2.1	2.1	2.1	2.1
20	0.0026	0.0033	0.0052	0.0082
	2.1	2.1	2.1	2.1
22	0.0026	0.0033	0.0052	0.0082
	1.8	1.8	1.8	1.8
24	0.0026	0.0033	0.0052	0.0082
	1.6	1.6	1.6	1.6
26	0.0026	0.0033	0.0052	0.0082
	1.37	1.37	1.37	1.38
28	0.0026	0.0033	0.0052	0.0082
	1.19	1.19	1.19	1.20
30	0.0026	0.0033	0.0052	0.0082
	1.04	1.04	1.04	1.04

WATER TEMP.	pH				
DEGREES C	7.2	7.4	7.6	7.8	8.0
0	0.0033	0.0052	0.0082	0.0110	0.0123
	2.5	2.5	2.6	2.2	1.52

WATER TEMP. DEGREES C	pH				
	7.2	7.4	7.6	7.8	8.0
2	0.0038	0.0060	0.0094	0.0126	0.0141
	2.5	2.5	2.5	2.1	1.48
4	0.0043	0.0068	0.0108	0.0145	0.0162
	2.4	2.4	2.4	2.0	1.44
6	0.0050	0.0079	0.0125	0.0166	0.0186
	2.4	2.4	2.4	2.0	1.41
8	0.0057	0.0090	0.0143	0.0191	0.0213
	2.3	2.3	2.3	2.0	1.38
10	0.0065	0.0104	0.0164	0.0219	0.0245
	2.3	2.3	2.3	1.9	1.36
12	0.0075	0.0119	0.0189	0.0252	0.0281
	2.2	2.2	2.2	1.9	1.34
14	0.0086	0.0137	0.0216	0.0289	0.0323
	2.2	2.2	2.2	1.9	1.32
16	0.0099	0.0157	0.0249	0.0332	0.0371
	2.2	2.2	2.2	1.8	1.31
18	0.0114	0.0180	0.0285	0.0381	0.0426
	2.1	2.1	2.2	1.8	1.30
20	0.0130	0.0207	0.0328	0.0437	0.0489
	2.1	2.1	2.1	1.8	1.30
22	0.0130	0.0207	0.0328	0.0437	0.0489
	1.8	1.8	1.9	1.6	1.13
24	0.0130	0.0207	0.0328	0.0437	0.0489
	1.6	1.6	1.6	1.4	0.98
26	0.0130	0.0207	0.0328	0.0437	0.0489
	1.38	1.39	1.40	1.19	0.86
28	0.0130	0.0207	0.0328	0.0437	0.0489
	1.20	1.21	1.22	1.04	0.76
30	0.0130	0.0207	0.0328	0.0437	0.0489

WATER TEMP.	pH				
DEGREES C	7.2	7.4	7.6	7.8	8.0
	1.05	1.06	1.07	0.92	0.66

WATER TEMP.	pH				
DEGREES C	8.2	8.4	8.6	8.8	9.0
0	0.0123	0.0123	0.0123	0.0123	0.0123
	0.97	0.61	0.39	0.25	0.163
2	0.0141	0.0141	0.0141	0.0141	0.0141
	0.94	0.60	0.38	0.25	0.161
4	0.0162	0.0162	0.0162	0.0162	0.0162
	0.92	0.58	0.37	0.24	0.159
6	0.0186	0.0186	0.0186	0.0186	0.0186
	0.90	0.57	0.37	0.24	0.158
8	0.0213	0.0213	0.0213	0.0213	0.0213
	0.88	0.56	0.36	0.24	0.158
10	0.0245	0.0245	0.0245	0.0245	0.0245
	0.87	0.56	0.36	0.24	0.158
12	0.0281	0.0281	0.0281	0.0281	0.0281
	0.86	0.55	0.36	0.24	0.159
14	0.0323	0.0323	0.0323	0.0323	0.0323
	0.85	0.55	0.36	0.24	0.162
16	0.0371	0.0371	0.0371	0.0371	0.0371
	0.84	0.54	0.36	0.24	0.165
18	0.0426	0.0426	0.0426	0.0426	0.0426
	0.84	0.54	0.36	0.24	0.169
20	0.0489	0.0489	0.0489	0.0489	0.0489
	0.84	0.55	0.36	0.25	0.174
22	0.0489	0.0489	0.0489	0.0489	0.0489

WATER TEMP. DEGREES C	pH				
	8.2	8.4	8.6	8.8	9.0
	0.73	0.48	0.32	0.22	0.157
24	0.0489	0.0489	0.0489	0.0489	0.0489
	0.64	0.42	0.28	0.20	0.142
26	0.0489	0.0489	0.0489	0.0489	0.0489
	0.56	0.37	0.25	0.18	0.130
28	0.0489	0.0489	0.0489	0.0489	0.0489
	0.49	0.33	0.23	0.16	0.120
30	0.0489	0.0489	0.0489	0.0489	0.0489
	0.44	0.29	0.20	0.146	0.110

c. Cold water biota: waters designated for cold water biota are to exhibit the following characteristics: (7-1-93)

i. Dissolved Oxygen Concentrations exceeding 6 mg/l at all times. In lakes and reservoirs this standard does not apply to: (7-1-93)

(1) The bottom twenty percent (20%) of water depth in natural lakes and reservoirs where depths are thirty-five (35) meters or less. (7-1-93)

(2) The bottom seven (7) meters of water depth in natural lakes and reservoirs where depths are greater than thirty-five (35) meters. (7-1-93)

(3) Those waters of the hypolimnion in stratified lakes and reservoirs. (7-1-93)

ii. Water temperatures of 22 degrees C or less with a maximum daily average of no greater than 19 degrees C. (8-24-94)

iii. Ammonia. (8-24-94)

(1) One-hour average concentration of un-ionized ammonia (as N) is not to exceed $(0.43/A/B/2)$ mg/l, where:

A = 1 if the water temperature (T) is greater than or equal to 20 degrees C (if T > 30 degrees C site-specific criteria should be defined), or

A = $10^{\text{power}(0.03(20-T))}$ if T is less than 20 degrees C, and

B = 1 if the pH is greater than or equal to 8 (if pH > 9.0 site-specific criteria should be defined); or

B = (1 + 10^{power(7.4-pH)})/1.25 if pH is less than 8 (if pH < 6.5 site-specific criteria should be defined). (8-24-94)

(i) The following Table gives one-hour average criteria for un-ionized ammonia (mg/l as N) at various water temperatures and pH values. The corresponding total ammonia concentration (mg/l as N) is given below each un-ionized ammonia criterion. (8-24-94)

TABLE III--COLD WATER BIOTA: ONE-HOUR AVERAGE CRITERIA FOR UN-IONIZED (TOP) AND TOTAL (BOTTOM) AMMONIA (mg/l as N) AT SELECTED WATER TEMPERATURES AND PH VALUES.

WATER TEMP. DEGREES C	pH						
	6.50	6.60	6.80	7.00	7.20	7.40	7.60
0.00	0.01	0.01	0.01	0.02	0.03	0.03	0.04
	28.92	28.07	26.01	23.27	19.94	16.31	12.62
2.00	0.01	0.01	0.02	0.02	0.03	0.04	0.05
	28.05	27.26	25.26	22.59	19.35	15.82	12.25
4.00	0.01	0.01	0.02	0.03	0.03	0.04	0.05
	27.34	26.52	24.57	22.03	18.92	15.40	11.94
6.00	0.01	0.01	0.02	0.03	0.04	0.05	0.06
	26.63	25.93	23.99	21.55	18.47	15.07	11.67
8.00	0.01	0.02	0.02	0.03	0.05	0.06	0.07
	26.08	25.35	23.55	21.01	18.01	14.74	11.44
10.00	0.02	0.02	0.03	0.04	0.05	0.07	0.08
	25.57	24.87	23.11	20.62	17.72	14.45	11.22
12.00	0.02	0.02	0.03	0.04	0.06	0.08	0.09
	25.13	24.43	22.66	20.29	17.39	14.21	11.04
14.00	0.02	0.02	0.04	0.05	0.07	0.09	0.11
	24.76	24.05	22.28	19.98	17.13	14.03	10.89
16.00	0.02	0.03	0.04	0.06	0.08	0.10	0.12
	24.43	23.84	22.00	19.75	16.92	13.85	10.78
18.00	0.03	0.03	0.05	0.07	0.09	0.12	0.14

WATER TEMP.	pH						
DEGREES C	6.50	6.60	6.80	7.00	7.20	7.40	7.60
	24.23	23.55	21.76	19.49	16.77	13.70	10.63
20.00	0.03	0.04	0.05	0.08	0.10	0.13	0.16
	24.04	23.27	21.58	19.32	16.61	13.60	10.56
22.00	0.03	0.04	0.05	0.08	0.10	0.13	0.16
	20.72	20.09	18.67	16.75	14.38	11.79	9.15
24.00	0.03	0.04	0.05	0.08	0.10	0.13	0.16
	17.99	17.43	16.20	14.52	12.48	10.26	7.96
26.00	0.03	0.04	0.05	0.08	0.10	0.13	0.16
	15.57	15.19	14.05	12.61	10.85	8.90	6.95
28.00	0.03	0.04	0.05	0.08	0.10	0.13	0.16
	13.60	13.18	12.23	10.98	9.45	7.77	6.06
30.00	0.03	0.04	0.05	0.08	0.10	0.13	0.16
	11.83	11.49	10.66	9.58	8.25	6.79	5.30

WATER TEMP.	pH						
DEGREES C	7.80	8.00	8.20	8.40	8.60	8.80	9.00
0.00	0.05	0.05	0.05	0.05	0.05	0.05	0.05
	9.30	6.59	4.19	2.66	1.69	1.09	0.71
2.00	0.06	0.06	0.06	0.06	0.06	0.06	0.06
	9.04	6.41	4.05	2.58	1.65	1.07	0.70
4.00	0.06	0.07	0.07	0.07	0.07	0.07	0.07
	8.82	6.25	3.98	2.53	1.62	1.05	0.69
6.00	0.07	0.08	0.08	0.08	0.08	0.08	0.08
	8.82	6.10	3.89	2.48	1.60	1.04	0.69
8.00	0.08	0.09	0.09	0.09	0.09	0.09	0.09
	8.44	5.98	3.82	2.44	1.57	1.03	0.69
10.00	0.10	0.11	0.11	0.11	0.11	0.11	0.11

WATER TEMP. DEGREES C	pH						
	7.80	8.00	8.20	8.40	8.60	8.80	9.00
	8.31	5.89	3.75	2.41	1.56	1.03	0.69
12.00	0.11	0.12	0.12	0.12	0.12	0.12	0.12
	8.13	5.81	3.70	2.38	1.55	1.02	0.69
14.00	0.13	0.14	0.14	0.14	0.14	0.14	0.14
	8.04	5.73	3.67	2.37	1.55	1.03	0.70
16.00	0.15	0.16	0.16	0.16	0.16	0.16	0.16
	7.97	5.68	3.65	2.36	1.55	1.04	0.72
18.00	0.17	0.19	0.19	0.19	0.19	0.19	0.19
	7.90	5.66	3.64	2.36	1.56	1.05	0.73
20.00	0.19	0.22	0.22	0.22	0.22	0.22	0.22
	7.88	5.63	3.63	2.37	1.57	1.08	0.76
22.00	0.19	0.22	0.22	0.22	0.22	0.22	0.22
	6.82	4.90	3.17	2.09	1.39	0.96	0.68
24.00	0.19	0.22	0.22	0.22	0.22	0.22	0.22
	5.93	4.27	2.77	1.84	1.24	0.86	0.62
26.00	0.19	0.22	0.22	0.22	0.22	0.22	0.22
	5.18	3.74	2.44	1.62	1.10	0.77	0.57
28.00	0.19	0.22	0.22	0.22	0.22	0.22	0.22
	4.53	3.28	2.15	1.43	0.99	0.70	0.52
30.00	0.19	0.22	0.22	0.22	0.22	0.22	0.22
	3.97	2.88	1.90	1.28	0.88	0.64	0.48

(2) Four-day average concentration of un-ionized ammonia (as N) is not to exceed $(0.66/A/B/C)$ mg/l, where:

A = 1.4 if the water temperature (T) is greater than or equal to 15 degrees C (if T > 30 degrees C site-specific criteria should be defined), or

A = $10^{\text{power}(0.03(20-T))}$ if T is less than 15 degrees C, and

B = 1 if the pH is greater than or equal to 8 (if pH > 9.0 site-specific criteria should be defined), or

B = $(1 + 10^{\text{power}(7.4-\text{pH})})/1.25$ if pH is less than 8 (if pH < 6.5 site-specific criteria should be defined), and

C = 13.5 if pH is greater than or equal to 7.7, or

C = $20(10^{\text{power}(7.7-\text{pH})}/(1 + 10^{\text{power}(7.4-\text{pH})}))$ if the pH is less than 7.7. (4-13-95)

(i) The following Table gives four-day average criteria for un-ionized ammonia (mg/l as N) at various water temperatures and pH values. The corresponding total ammonia concentration (mg/l as N) is given below each un-ionized ammonia criterion. (8-24-94)

**TABLE IV--COLD WATER BIOTA: FOUR-DAY AVERAGE
 CRITERIA FOR UN-IONIZED
 (TOP) AND TOTAL (BOTTOM) AMMONIA (mg/l as N)
 AT SELECTED WATER TEMPERATURES AND PH VALUES.**

WATER TEMP DEGREES C	pH				
	6.5	6.6	6.8	7.0	7.2
0	0.0007	0.0008	0.0013	0.0021	0.0033
	2.5	2.5	2.5	2.5	2.5
2	0.0008	0.0009	0.0015	0.0024	0.0038
	2.5	2.5	2.5	2.5	2.5
4	0.0009	0.0011	0.0017	0.0027	0.0043
	2.4	2.4	2.4	2.4	2.4
6	0.0010	0.0012	0.0020	0.0031	0.0050
	2.3	2.3	2.3	2.3	2.4
8	0.0011	0.0014	0.0023	0.0036	0.0057
	2.3	2.3	2.3	2.3	2.3
10	0.0013	0.0016	0.0026	0.0041	0.0065
	2.3	2.3	2.3	2.3	2.3
12	0.0015	0.0019	0.0030	0.0054	0.0075
	2.2	2.2	2.2	2.2	2.2
14	0.0017	0.0022	0.0034	0.0054	0.0086
	2.2	2.2	2.2	2.2	2.2
16	0.0019	0.0023	0.0037	0.0059	0.0093

WATER TEMP	pH				
DEGREES C	6.5	6.6	6.8	7.0	7.2
	2.0	2.0	2.0	2.0	2.0
18	0.0019	0.0023	0.0037	0.0059	0.0093
	1.7	1.7	1.7	1.7	1.7
20	0.0019	0.0023	0.0037	0.0059	0.0093
	1.50	1.50	1.51	1.51	1.51
22	0.0019	0.0023	0.0037	0.0059	0.0093
	1.30	1.30	1.30	1.30	1.31
24	0.0019	0.0023	0.0037	0.0059	0.0093
	1.13	1.13	1.13	1.13	1.13
26	0.0019	0.0023	0.0037	0.0059	0.0093
	0.98	0.98	0.98	0.98	0.99
28	0.0019	0.0023	0.0037	0.0059	0.0093
	0.85	0.85	0.85	0.86	0.86
30	0.0019	0.0023	0.0037	0.0059	0.0093
	0.74	0.74	0.74	0.75	0.75

WATER TEMP.	pH				
DEGREES C	7.4	7.6	7.8	8.0	8.2
0	0.0052	0.0082	0.0110	0.0123	0.0123
	2.5	2.6	2.2	1.52	0.97
2	0.0060	0.0094	0.0126	0.0141	0.0141
	2.5	2.5	2.1	1.48	0.94
4	0.0068	0.0108	0.0145	0.0162	0.0162
	2.4	2.4	2.0	1.44	0.92
6	0.0079	0.0125	0.0166	0.0186	0.0186
	2.4	2.4	2.0	1.41	0.90
8	0.0090	0.0143	0.0191	0.0213	0.0213

WATER TEMP.	pH				
DEGREES C	7.4	7.6	7.8	8.0	8.2
	2.3	2.3	2.0	1.38	0.88
10	0.0104	0.0164	0.0219	0.0245	0.0245
	2.3	2.3	1.9	1.36	0.87
12	0.0119	0.0189	0.0252	0.0281	0.0281
	2.2	2.2	1.9	1.34	0.86
14	0.0137	0.0216	0.0289	0.0323	0.0323
	2.2	2.2	1.9	1.32	0.85
16	0.0148	0.0234	0.0312	0.0349	0.0349
	2.0	2.0	1.7	1.24	0.79
18	0.0148	0.0234	0.0312	0.0349	0.0349
	1.8	1.8	1.5	1.07	0.69
20	0.0148	0.0234	0.0312	0.0349	0.0349
	1.52	1.53	1.30	0.93	0.60
22	0.0148	0.0234	0.0312	0.0349	0.0349
	1.31	1.32	1.12	0.81	0.52
24	0.0148	0.0234	0.0312	0.0349	0.0349
	1.14	1.15	0.98	0.70	0.46
26	0.0148	0.0234	0.0312	0.0349	0.0349
	0.99	1.00	0.85	0.61	0.40
28	0.0148	0.0234	0.0312	0.0349	0.0349
	0.86	0.87	0.75	0.54	0.35
30	0.0148	0.0234	0.0312	0.0349	0.0349
	0.75	0.76	0.65	0.47	0.31

WATER TEMP	pH			
DEGREES C	8.4	8.6	8.8	9.0
0	0.0123	0.0123	0.0123	0.0123

WATER TEMP	pH			
DEGREES C	8.4	8.6	8.8	9.0
	0.61	0.39	0.25	0.163
2	0.0141	0.0141	0.0141	0.0141
	0.60	0.38	0.25	0.161
4	0.0162	0.0162	0.0162	0.0162
	0.58	0.37	0.24	0.159
6	0.0186	0.0186	0.0186	0.0186
	0.57	0.37	0.24	0.158
8	0.0213	0.0213	0.0213	0.0213
	0.56	0.36	0.24	0.158
10	0.0245	0.0245	0.0245	0.0245
	0.56	0.36	0.24	0.158
12	0.0281	0.0281	0.0281	0.0281
	0.55	0.36	0.24	0.159
14	0.0323	0.0323	0.0323	0.0323
	0.55	0.36	0.24	0.162
16	0.0349	0.0349	0.0349	0.0349
	0.51	0.34	0.23	0.155
18	0.0349	0.0349	0.0349	0.0349
	0.45	0.29	0.20	0.138
20	0.0349	0.0349	0.0349	0.0349
	0.39	0.26	0.18	0.124
22	0.0349	0.0349	0.0349	0.0349
	0.34	0.23	0.16	0.112
24	0.0349	0.0349	0.0349	0.0349
	0.30	0.20	0.14	0.102
26	0.0349	0.0349	0.0349	0.0349
	0.27	0.18	0.127	0.093
28	0.0349	0.0349	0.0349	0.0349
	0.24	0.16	0.115	0.085

WATER TEMP	pH			
DEGREES C	8.4	8.6	8.8	9.0
30	0.0349	0.0349	0.0349	0.0349
	0.21	0.15	0.105	0.079

iv. Turbidity, below any applicable mixing zone set by the Department, shall not exceed background turbidity by more than 50 NTU instantaneously or more than 25 NTU for more than ten (10) consecutive days. (8-24-94)

d. Salmonid spawning: waters designated for salmonid spawning are to exhibit the following characteristics during the spawning period and incubation for the particular species inhabiting those waters: (7-1-93)

i. Dissolved Oxygen. (8-24-94)

(1) Intergravel Dissolved Oxygen. (8-24-94)

(a) One (1) day minimum of not less than 5.0 mg/l. (8-24-94)

(b) Seven (7) day average mean of not less than 6.0 mg/l. (8-24-94)

(2) Water-Column Dissolved Oxygen. (8-24-94)

(a) One-day minimum of not less than 6.0 mg/l or ninety percent of saturation, whichever is greater. (8-24-94)

ii. Water temperatures of thirteen (13) degrees C or less with a maximum daily average no greater than nine (9) degrees C. (8-24-94)

iii. Ammonia. (8-24-94)

(1) One (1) hour average concentration of un-ionized ammonia is not to exceed the criteria defined at Idaho Department of Health and Welfare Rules Section 250.02.c.iii.(1). (8-24-94)

(2) Four (4) day average concentration of un-ionized ammonia is not to exceed the criteria defined at Idaho Department of Health and Welfare Rules Section 250.02.c.iii.(2). (8-24-94)

iv. Unless modified for site-specific conditions, the time periods for salmonid spawning and incubation in the following Table shall apply for the indicated species. (8-24-94)

TABLE. Time Periods for Salmonid Spawning and Incubation.

Fish Species	(Annually) Time Period
Chinook salmon (spring)	Aug 1 - Apr 1
Chinook salmon (summer)	Aug 15 - June 15
Chinook Salmon (fall)	Sept 15 - Apr 15
Sockeye Salmon	Oct 1 - June 1
Steelhead trout	Feb 1 - July 15
Redband trout	Mar 1 - July 15
Cutthroat trout	Apr 1 - Aug 1
Sunapee trout	Sept 15 - June 10
Bull trout	Sept 1 - Apr 1
Golden trout	June 15 - Aug 15
Kokanee	Aug 1 - June 1
Rainbow trout	Jan 15 - July 15
Mountain whitefish	Oct 15 - Mar 15
Brown trout	Oct 1 - Apr 1
Brook trout	Oct 1 - June 1
Lake trout	Oct 1 - Apr 1
Arctic grayling	Apr 1 - July 1

(8-24-94)

03. Water Supplies.

(7-1-93)

a. Domestic: waters designated for domestic water supplies are to exhibit the following characteristics: (7-1-93)

i. All toxic substance criteria set forth in 40 CFR 131.36(b)(1), Column D1, revised as of December 22, 1992, effective February 5, 1993 (57 FR 60848, December 22, 1992). 40 CFR 131.36(b)(1) is hereby incorporated by reference in the manner provided in Subsection 250.07 provided, however, the standard for arsenic shall be .02 ug/L for Column D1 (which constitutes a recalculation to reflect an appropriate bioconcentration factor for fresh water). (3-8-95)

ii. Radioactive materials or radioactivity not to exceed concentrations specified in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 1, Chapter

8, "Rules Governing Public Drinking Water Systems." (8-24-94)

iii. Small public water supplies (Surface Water). (8-24-94)

(1) The following Table identifies waters, including their watersheds above the public water supply intake (except where noted), which are designated as small public water supplies. (8-24-94)

TABLE - DESIGNATED SMALL PUBLIC WATER SUPPLIES.			
County	Water Body	Supply No.#	Supply System Name
Benewah	Adams Creek	1050011	Fernwood Water District
Boise	Elk Creek	4080025	Idaho City Water Department
Boise	McBride Creek	4080047	Terrace Lakes Rec. Ranch
Bonner	Berry Creek	1090021	Colburn Water Association.
Bonner	Strong Creek	1090038	East Hope Water Department
Boundary	Meadow Creek	1110001	Bee Line Water Association
Boundary	Curley Creek	1110008	Curley Creek Water Assn.
Boundary	Molar Creek Highland Creek	1110017	Highland Flats Water Assn.
Boundary	Mission Creek	1110019	Mission Creek Water Assn.
Boundary	Caribou Creek	1110020	Moravia Water Association
Boundary	Brown Creek Cedar Creek	1110023	Paradise Valley Water Assn.
Boundary	Skin Creek	1110025	Skin Creek Water Association
Boundary	Twenty Mile Ck.	1110030	Twenty Mile Creek Water Assn.
Clearwater N.F.	Clearwater R.##	2180001	Ahsahka Water and Sewer District
Clearwater	Reeds Creek	2180029	Potlatch Corp - Headquarters
Elmore	E.F. Montezuma Creek	4200005	Atlanta Water Association
Idaho	Wall Creek	2250011	Clearwater Water Association
Idaho	Big Elk Creek	2250017	Elk City Water/Sewer Assn.
Nez Perce	Big Canyon Ck.	2350023	Peck Water System

TABLE - DESIGNATED SMALL PUBLIC WATER SUPPLIES.			
County	Water Body	Supply No.#	Supply System Name
Shoshone	Sawmill Gulch Canyon Creek	1400016	Citizens Utility Co-Burke
Shoshone	Spring Gulch Rosebud Gulch	1400032	Leisure Acres Trailer Court
Shoshone	Alder Creek East Alder Ck.	1400039	Murray Water Works
Shoshone	E.F. Silver Ck.	1400046	Silver Creek Water Association
Valley	Boulder Creek	4430059	Yellowpine Water System, Inc.

Public water supply number assigned by IDHW/DEQ.

Only the portion of the watershed below Dworshak Dam is included.
(8-24-94)

(2) For those surface waters identified in Section 250.03.a.iii.(1) turbidity as measured at the public water intake shall not be: (8-24-94)

(a) Increased by more than 5 NTU above natural background, measured at a location upstream from or not influenced by any human induced nonpoint source activity, when background turbidity is 50 NTU or less. (8-24-94)

(b) Increased by more than ten percent (10%) above natural background, measured at a location upstream from or not influenced by any human induced nonpoint source activity, not to exceed 25 NTU, when background turbidity is greater than 50 NTU. (8-24-94)

b. Agricultural: water quality criteria for agricultural water supplies will generally be satisfied by the water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, "Water Quality Criteria 1972" (Blue Book), Section V, Agricultural Uses of Water, EPA, March, 1973 will be used for determining criteria. This document is available for review at the Idaho Department of Health and Welfare, Division of Environmental Quality, or can be obtained from EPA or the U.S. Government Printing Office. (8-24-94)

c. Industrial: water quality criteria for industrial water supplies will generally be satisfied by the general water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, appropriate criteria will be adopted in Sections 250 or 275 through 298. (7-1-93)

04. Wildlife Habitats. Water quality criteria for wildlife habitats will generally be satisfied by the general water quality criteria set forth in Section 200.

Should specificity be desirable or necessary to protect a specific use, appropriate criteria will be adopted in Sections 250 or 275 through 298. (7-1-93)

05. Aesthetics. Water quality criteria for aesthetics will generally be satisfied by the general water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, appropriate criteria will be adopted in Sections 250 or 275 through 298. (7-1-93)

06. Development of Toxic Substance Criteria. (8-24-94)

a. Aquatic Life Criteria. (8-24-94)

i. Numeric criteria for the protection of aquatic life uses not identified in these rules for toxic substances, may be derived by the Department from the following information: (8-24-94)

(1) Site-specific criteria developed pursuant to Section 275.; (8-24-94)

(2) Effluent biomonitoring, toxicity testing and whole-effluent toxicity determinations; (8-24-94)

(3) The most recent recommended criteria defined in EPA's Aquatic Toxicity Information Retrieval (ACQUIRE) database. When using EPA recommended criteria to derive water quality criteria to protect aquatic life uses, the lowest observed effect concentrations (LOECs) shall be considered; or (8-24-94)

(4) Scientific studies, including but not limited to, instream benthic assessment or rapid bioassessment. (8-24-94)

b. Human Health Criteria. (8-24-94)

i. When numeric criteria for the protection of human health are not identified in these rules for toxic substances, quantifiable criteria may be derived by the Department from the most recent recommended criteria defined in EPA's Integrated Risk Information System (IRIS). When using EPA recommended criteria to derive water quality criteria to protect human health a fish consumption rate of 6.5 grams/day, a water ingestion rate of 2 liters/day and a cancer risk level of 10^{-6} shall be utilized. (8-24-94)

07. Numeric Criteria for Toxic Substances. (8-24-94)

a. 40 CFR 131.36, revised as of December 22, 1992, effective February 5, 1993 (57 FR 60848, December 22, 1992, the National Toxics Rule), and all subparts and notes are hereby incorporated by reference, except as noted in or amended by Subsections 250.07.a.i., ii., iii., iv., and v. (8-24-94)

i. The reference to "paragraph (d) of" in 40 CFR 131.36(c)(2)(iii) shall be deleted. (8-24-94)

ii. The second sentence of 40 CFR 131.36(b)(1), footnote C shall be deleted.

(8-24-94)

iii. 40 CFR 131.36(c)(1) shall be deleted and replaced with the following: "The criteria in paragraph (b) of this section apply to surface waters of the state as provided in Idaho IDAPA 16.01.02. "Water Quality Standards and Wastewater Treatment Requirements", Section 250. (8-24-94)

iv. The first sentence of 40 CFR 131.36(c)(4)(iii) shall be deleted and replaced with the following: "The criteria for metals (compounds #1-9 and 11-13 in paragraph (b) of this section) are expressed as dissolved concentrations with the following ~~correction~~ conversion factors: Arsenic(III) ~~.95~~ 1.000; Cadmium ~~.85~~ 1.136672-(ln hardness x 0.041838 for CMC and 1.101672-(ln hardness x 0.041838) for CCC; Chromium(III) ~~.85~~ 0.316 for CMC and 0.860 for CCC; Chromium(VI) ~~.95~~ 0.982 for CMC and 0.962 for CCC; Copper ~~.85~~ 0.960; Lead ~~.50~~ for CMC, ~~.25~~ for CCC 1.46203-(ln hardness x 0.145712); Mercury .85 for CMC only; Nickel ~~.85~~ 0.998 for CMC and 0.997 for CCC; Silver .85 for CMC only; Zinc ~~.85~~ 0.978 for CMC and 0.986 for CCC. Compound #10 (Selenium) is expressed as total recoverable concentrations. Compound #14 (Cyanide) is expressed as Weak Acid Dissociable (WAD) concentrations." (8-24-94)()

v. 40 CFR 131.36(d) shall not be incorporated by reference. (8-24-94)

b. For the purposes of NPDES permitting, interpretation and implementation of metals criteria listed in subsection 250.07.a. should be governed by the following standards, that are hereby incorporated by reference, in addition to the provisions of 40 CFR 131.36: provided, however, any identified conversion factors within these documents are not incorporated by reference. Metals criteria conversion factors are identified in Subsection 250.07.a.iv of this rule. (8-24-94)()

i. "Guidance Document on Dissolved Criteria -- Expression of Aquatic Life Criteria," EPA, October 1993; (8-24-94)

ii. "Guidance Document on Dynamic Modeling and Translators," EPA, August 1993; (8-24-94)

iii. "Guidance Document on Clean Analytical Techniques and Monitoring," EPA, October 1993. (8-24-94)

iv. "Interim Guidance on Determination and Use of Water-Effect Ratios for Metals," EPA, February 1994. (8-24-94)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE
DOCKET NO. 16-0309-9607
NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective May 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 regular rule-making procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(b), 56-203(g) and 56-203(i), Idaho Code.

PUBLIC HEARING SCHEDULE: 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 May 15, 1996.

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

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

The proposed rules will require clients that reside in a nursing facility and elect the Medicaid hospice benefit to contribute toward their care under the same rule (IDAPA 16.03.09.160.03) that requires all other Medicaid nursing facility residents to contribute toward the cost of their care.

A change in the federal government's application of regulations regarding certain hospice client contributions as post eligibility income instead of coinsurance prompt the Department's rule change.

Depending on the incomes of the hospice patients residing in nursing facilities, the total amount applied toward patient care will be less than ten thousand dollars (\$10,000) annually.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: 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 May 22, 1996.

DATED this 1st day of May, 1996.

STACI WELSH
Administrative Procedures Coordinator

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

TEXT OF DOCKET 16-0309-9607

104. HOSPICE.

Medical assistance will provide payment for hospice services for eligible recipients. Reimbursement will be based on Medicare program coverage as set out in this section. (10-24-88)

01. Definitions. Inherent in these definitions is that a patient understands the nature and basis for eligibility for hospice care without an inappropriate and explicit written statement about how the impending death will affect care. Though only written acknowledgment of the election periods is mandated, it is required that the patient or their representative be fully informed by a hospice before the beginning of a recipient's care about the reason and nature of hospice care. (10-24-88)

a. Attending physician. A physician who: (10-24-88)

i. Is a doctor of medicine or osteopathy; and (10-24-88)

ii. Is identified by the individual, at the time he or she elects to receive hospice care, as having the most significant role in the determination and delivery of the individual's medical care. (10-24-88)

b. Benefit period. A period of time that begins on the first day of the month the recipient elects hospice and ends on the last day of the eleventh successive calendar month. (10-24-88)

c. Bereavement counseling. Counseling services provided to the individual's family after the individual's death. (10-24-88)

d. Cap amount. The maximum amount of reimbursement the Idaho Medicaid Program will pay a designated hospice for providing services to Medicaid recipients per Subsection 104.12. (12-31-91)

e. Cap period. The twelve (12) month period beginning November 1 and ending October 31 of the next year. See overall hospice reimbursement cap referred to in Subsection 104.12. (12-31-91)

f. Election period. One of eight (8) periods within the benefit period which an individual may elect to receive Medicaid coverage of hospice care. Each period consists of any calendar month, or portion thereof, chosen within the benefit period. (10-24-88)

g. Employee. An individual serving the hospice or, if the hospice is a subdivision of an agency or organization, an employee of the agency or organization who is appropriately trained and assigned to the hospice unit. "Employee" also refers to a volunteer under the jurisdiction of the hospice. (10-24-88)

h. Freestanding hospice. A hospice that is not part of any other type of participating provider. (10-24-88)

i. Hospice. A public agency or private organization or a subdivision thereof that: (10-24-88)

i. Is primarily engaged in providing care to terminally ill individuals; and (10-24-88)

ii. Meets the conditions specified for certification for participation in the Medicare and Medicaid programs and has a valid provider agreement. (10-24-88)

j. Independent Physician. An attending physician who is not an employee of the hospice. (10-24-88)

k. Representative. A person who is, because of the individual's mental or physical incapacity, legally authorized in accordance with state law to execute or revoke an election for hospice care or terminate medical care on behalf of the terminally ill individual. (10-24-88)

l. Social Worker. A person who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education. (10-24-88)

m. Terminally Ill. When an individual has a certified medical prognosis that his or her life expectancy is six (6) months or less per Subsection 104.02. (12-31-91)

02. Physician Certification. The hospice must obtain the certification that an individual is terminally ill in accordance with the following procedures: (10-24-88)

a. For the first period of hospice coverage, the hospice must obtain, no later than two (2) calendar days after hospice care is initiated, written certification statements signed by the medical director of the hospice or the physician member of the hospice interdisciplinary group and the individual's attending physician (if the individual has one). The certification must include the statement that the individual's medical prognosis is that his or her life expectancy is six (6) months or less and the signature(s) of the physician(s). (10-24-88)

i. In the event the recipient's medical prognosis or the appropriateness of hospice care is questionable, the Department has the right to obtain another physician's opinion to verify a recipient's medical status. (10-24-88)

b. For any subsequent election period, the hospice must obtain, no later than two (2) calendar days after the beginning of that period, a written certification statement prepared by the medical director of the hospice or the physician member of the

interdisciplinary group. The certification must include the statement that the individual's medical prognosis is that his or her life expectancy is six (6) months or less and the signature(s) of the physician(s). (10-24-88)

c. The hospice must maintain the monthly certification statements for review per Section 190, governing surveillance and utilization. (12-31-91)

d. The hospice will submit a physician listing with their provider application and update changes in the listing of physicians which are hospice employees, including physician volunteers, to the Bureau. The designated hospice must also notify the Medicaid program when the designated attending physician of a recipient in their care is not a hospice employee. (8-1-92)

03. Election Procedures. If an individual elects to receive hospice care, he or she must file an election statement with a particular hospice. An election statement may also be filed by a legal representative or guardian per Section 15-5-312, Idaho Code. (10-24-88)

a. An election to receive hospice care will be automatically renewed after the initial election period and through any subsequent election periods without a break in care as long as the individual remains in the care of a designated hospice and does not revoke the election. (10-24-88)

b. A recipient who elected less than eight (8) monthly election periods within the benefit period may request the availability of the remaining election periods. When the following conditions are met, the request will be granted. (10-24-88)

i. The hospice days available did not exceed two hundred and ten (210) days in the benefit period due to the loss of financial eligibility. (10-24-88)

ii. The recipient or the legal representative did not change hospices excessively per Idaho Health and Welfare Department Rules Section 104.06.a. (7-1-94)

iii. The recipient or the legal representative did not revoke hospice election periods more than eight (8) times per Idaho Health and Welfare Department Rules Section 104.05. (7-1-94)

c. An individual may receive hospice services from the first day of hospice care or any subsequent day of hospice care, but a recipient cannot designate an effective date that is earlier than the date that the election is made. (7-1-94)

d. A recipient must waive all rights to Medicaid payments for the duration of the election period of hospice care, with the following exceptions: (10-24-88)

i. Hospice care and related services provided either directly or under arrangements by the designated hospice to the recipient. (10-24-88)

ii. Any Medicaid services that are not related or equivalent to the treatment of the terminal condition or a related condition for which hospice care was elected. (10-24-88)

iii. Physician services provided by the individual's designated attending physician if that physician is not an employee of the designated hospice or receiving compensation from the hospice for those services. (10-24-88)

04. Election of Hospice. The election statement must include the following items of information: (10-24-88)

a. Identification of the particular hospice that will provide care to the individual. (10-24-88)

b. The individual's or representative's acknowledgement that he or she has been given a full understanding of hospice care. (10-24-88)

c. The individual's or representative's acknowledgement that he or she understands that all Medicaid services except those identified in Idaho Health and Welfare Department Rules Section 104.03.d are waived by the election during the hospice benefit period. (7-1-94)

d. The effective date of the election. (10-24-88)

e. The signature of the individual or the representative and the date of that signature. (10-24-88)

05. Revocation of Hospice Election. An individual or representative may revoke the election of hospice care at any time. (10-24-88)

a. To revoke the election of hospice care, the individual must file a signed statement with the hospice that includes the following: (10-24-88)

i. The individual revokes the election for Medicaid coverage of hospice care effective as of the date of the revocation. (10-24-88)

b. Upon revocation of the hospice election, other Medicaid coverage is reinstated. (10-24-88)

06. Change of Hospice. An individual may at any time change their designated hospice during election periods for which he or she is eligible. (10-24-88)

a. An individual may change designated hospices no more than six (6) times during the hospice benefit period. (10-24-88)

b. The change of the designated hospice is not considered a revocation of the election. To change the designation of hospice programs, the individual must file during the monthly election period, with the hospice from which he or she has received care and with the newly designated hospice, a dated and signed statement that includes the following information: (10-24-88)

i. The name of the hospice from which the individual has received care; (10-24-88)

- ii. The name of the hospice from which he or she plans to receive care; and (10-24-88)
- iii. The effective date of the change in hospices. (10-24-88)
- c. A change in ownership of a hospice is not considered a change in the patient's designation of a hospice, and requires no action on the patient's part. (10-24-88)

07. Requirements for Coverage. To be covered, a certification that the individual is terminally ill must have been completed as set forth in Idaho Health and Welfare Department Rules Section 104.02 and hospice services must be reasonable and necessary for the palliation and management of the terminal illness and related conditions. The individual must elect hospice care in accordance with Idaho Health and Welfare Department Rules Section 104.03 and a plan of care must be established and reviewed at least monthly. To be covered, services must be consistent with the plan of care. (7-1-94)

a. In establishing the initial plan of care, the member of the basic interdisciplinary group who assesses the patient's needs must meet or call at least one (1) other group member (nurse, physician, medical social worker, or counselor) before writing the initial plan of care. At least one (1) of the persons involved in developing the initial plan must be a nurse or a physician. This plan must be established on the same day as the assessment if the day of assessment is to be a covered day of hospice care. The other two (2) members of the basic interdisciplinary group must review the initial plan of care and provide their input to the process of establishing the plan of care within two (2) calendar days following the day of assessment, input may be provided by telephone. (10-24-88)

08. Required Services. All services must be performed by appropriately qualified personnel, but it is the nature of the service, rather than the qualification of the person who provides it, that determines the category of the service. The following services are required: (10-24-88)

- a. Nursing care provided by or under the supervision of a registered nurse. (10-24-88)
- b. Medical social services provided by a social worker who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education, and who is working under the direction of a physician. (10-24-88)
- c. Physician's services performed by a physician as defined in Idaho Health and Welfare Department Rules Section 104.01.a. (7-1-94)
- d. Counseling services provided to the terminally ill individual and the family members or other persons caring for the individual at home. Counseling, including bereavement and dietary counseling, are core hospice services provided both for the purpose of training the individual's family or other care-giver to provide care, and for the purpose of helping the individual and those caring for him or her to adjust to the individual's approaching death. (10-24-88)
- e. Short-term inpatient care provided in a participating hospice inpatient

unit, or a participating hospital, or a NF that additionally meets the hospice standards regarding staff and patient areas. Services provided in an inpatient setting must conform to the written plan of care. General inpatient care may be required for procedures necessary for pain control or acute or chronic symptom management which cannot be provided in other settings. Inpatient care may also be furnished to provide respite for the individual's family or other persons caring for the individual at home. (7-1-94)

f. Medical equipment and supplies include drugs and biologicals. Only drugs as defined in Subsection 1861(t) of the Social Security Act and which are used primarily for the relief of pain and symptom control related to the patient's terminal illness are required. Appliances include durable medical equipment as well as other self-help and personal comfort items related to the palliation or management of the patient's terminal illness. Equipment is provided by the hospice for use in the patient's home while he or she is under hospice care. Medical supplies include only those that are part of the written plan of care. (7-1-94)

g. Home health aide and homemaker services furnished by qualified aides. Home health aides will provide personal care services and will also perform household services necessary to maintain a safe and sanitary environment in areas of the home used by the patient. Aide services must be provided under the general supervision of a registered nurse. Homemaker services include assistance in maintenance of a safe and healthy environment and services to enable the individual to carry out the plan of care. (10-24-88)

h. Physical therapy, occupational therapy and speech-language pathology services provided for purposes of symptom control or to enable the individual to maintain activities of daily living and basic functional skills. (10-24-88)

i. Nursing care, physician's services, medical social services and counseling are core hospice services and must be routinely provided by hospice employees. Supplemental core services may be contracted for during periods of peak patient loads and to obtain physician specialty services. (10-24-88)

09. Hospice Reimbursement--General. With the exception of payment for physician services (see Idaho Health and Welfare Department Rules Section 104.11), Medicaid reimbursement for hospice care will be made at one (1) of four (4) predetermined rates for each day in which an individual receives the respective type and intensity of the services furnished under the care of the hospice. The four (4) rates are prospective rates; there will be no retroactive rate adjustments other than the application of the "cap" on overall payments and the limitation on payments for inpatient care, if applicable. (7-1-94)

a. A description of the payment for each level of care is as follows: (10-24-88)

i. Routine home care. The hospice will be paid the routine home care rate for each day the patient is in residence, under the care of the hospice, and not receiving continuous home care. This rate is paid without regard to the volume or intensity of routine home care services provided on any given day. (10-24-88)

ii. Continuous home care. Continuous home care is to be provided only during a period of crisis. A period of crisis is a period in which a patient requires continuous care which is primarily nursing care to achieve palliation and management of acute medical symptoms. Care must be provided by either a registered nurse or a licensed practical nurse and a nurse must provide care for at least half the total period of care. A minimum of eight (8) hours of care must be provided during a twenty-four (24) hour day which begins and ends at midnight. This care need not be continuous and uninterrupted. If less skilled care is needed on a continuous basis to enable the person to remain at home, this is covered as routine home care. For every hour or part of an hour of continuous care furnished, the hourly rate will be reimbursed to the hospice up to twenty-four (24) hours per day. (10-24-88)

iii. Inpatient respite care. The hospice will be paid at the inpatient respite care rate for each day that the recipient is in an approved inpatient facility and is receiving respite care. Payment for respite care may be made for a maximum of five (5) days at a time including the date of admission but not counting the date of discharge in any monthly election period. Payment for the sixth and any subsequent day is to be made at the appropriate rate routine, continuous, or general inpatient rate. (10-24-88)

iv. General inpatient care. Payment at the inpatient rate will be made when general inpatient care is provided. No other fixed payment rates will be applicable for a day on which the recipient receives hospice general inpatient care except as described in Idaho Health and Welfare Department Rules Section 104.11. (7-1-94)

b. Date of discharge. For the day of discharge from an inpatient unit, the appropriate home care rate is to be paid unless the patient dies as an inpatient. When the patient is discharged as deceased, the inpatient rate, either general or respite, is to be paid for the discharge date. (10-24-88)

c. Hospice payment rates. The Medicaid hospice payment rates are the same as the Medicare hospice rates, adjusted to disregard cost offsets attributable to Medicare coinsurance amounts. Under the Medicaid hospice benefit, no cost sharing may be imposed with respect to hospice services rendered to Medicaid recipients. (10-24-88)

d. Obligation of continuing care. After the recipient's hospice benefit expires, the patient's Medicaid hospice benefits do not expire. The hospice must continue to provide that recipient's care until the patient expires or until the recipient revokes the election of hospice care. (10-24-88)

10. Limitation on Payments for Inpatient Care. Payments to a hospice for inpatient care must be limited according to the number of days of inpatient care furnished to Medicaid patients. During the twelve (12) month period beginning November 1 of each year and ending October 31 of the next year, the aggregate number of inpatient days (both general inpatient days and inpatient respite care) may not exceed twenty percent (20%) of the total number of days of hospice care provided to all Medicaid recipients during the same period by the designated hospice or its contracted agent(s). (10-24-88)

a. For purposes of computation, if it is determined that the inpatient rate should not be paid, any days for which the hospice receives payment at a home care rate will not be counted as inpatient days. The limitations on payment for inpatient days are as

follows: (10-24-88)

i. The maximum number of allowable inpatient days will be calculated by multiplying the total number of a provider's Medicaid hospice days by twenty percent (20%). (10-24-88)

ii. If the total number of days of inpatient care to Medicaid hospice patients is less than or equal to the maximum number of inpatient days computed in Idaho Health and Welfare Department Rules Section 104.10.a, then no adjustment is made. (7-1-94)

iii. If the total number of days of inpatient care exceeds the maximum number of allowable inpatient days computed in Idaho Health and Welfare Department Rules Section 104.10.a, then the payment limitation will be determined by: (7-1-94)

(a) Calculating the ratio of the maximum allowable inpatient days to the number of actual days of inpatient care, and multiplying this ratio by the total reimbursement for inpatient care that was made. (10-24-88)

(b) Multiplying excess inpatient care days by the routine home care rate. (10-24-88)

(c) Adding the amounts calculated in Subsections 104.10.a.iii.(a) and (b). (10-24-88)

(d) Comparing the amount in paragraph (c) with interim payments made to the hospice for inpatient care during the "cap period." (10-24-88)

b. The amount by which interim payments for inpatient care exceeds the amount calculated as in Idaho Department of Health and Welfare Rules Section 104.10.a.iii.(d) is due from the hospice. (7-1-94)

11. Payment for Physician Services. The basic rates for hospice care represent full reimbursement to the hospice for the costs of all covered services related to the treatment of the recipient's terminal illness, including the administrative and general activities performed by physicians who are employees of or working under arrangements made with the hospice. These activities would generally be performed by the physician serving as the medical director and the physician member of the hospice interdisciplinary group. Group activities include participation in the establishment of plans of care, supervision of care and services, periodic review and updating of plans of care, and establishment of governing policies. The costs for these services are included in the reimbursement rates for routine home care, continuous home care, and inpatient respite care. (10-24-88)

a. Reimbursement for a hospice employed physician's direct patient services which are not rendered by a hospice volunteer is made in accordance with the usual Idaho Medicaid reimbursement methodology for physician services. These services will be billed by the hospice under the hospice provider number and, the related payments will be counted in determining whether the overall hospice cap amount per Idaho Health and Welfare Department Rules Section 104.12. has been exceeded. The only physician services to be billed by a hospice for such services are direct patient care services.

Laboratory and X-ray services are included in the hospice daily rate. (7-1-94)

b. Volunteer physician services are excluded from Medicaid reimbursement with the following exceptions: (10-24-88)

i. A hospice may be reimbursed on behalf of a volunteer physician for specific direct patient care services which are not rendered on a volunteer basis. The hospice must have a liability to reimburse the physician for those services rendered. In determining whether a service is provided on a volunteer basis, a physician must not distinguish which services are provided voluntarily on the basis of the patient's ability to pay. (10-24-88)

ii. Reimbursement for an independent physician's direct patient services which are not rendered by a hospice volunteer is made in accordance with the usual Idaho Medicaid reimbursement methodology for physician services. These services will not be billed by the hospice under the hospice provider number and they will not be counted in determining whether the overall hospice cap amount per Idaho Health and Welfare Department Rules Section 104.12. has been exceeded. The only services to be billed by an attending physician are the physician's personal professional services. Costs for services such as laboratory or X-rays are not to be included on the attending physician's billed charges to the Medicaid program. The aforementioned charges are included in the daily rates paid and are expressly the responsibility of the hospice. (7-1-94)

12. Cap on Overall Reimbursement. Aggregate payments to each hospice will be limited during a hospice cap period per Idaho Health and Welfare Department Rules Section 104.01.e. The total payments made for services furnished to Medicaid recipients during this period will be compared to the "cap amount" for this period. Any payments in excess of the cap must be refunded by the hospice. (7-1-94)

a. The overall cap will be compared to reimbursement after the inpatient limitation is computed and subtracted from total reimbursement due the hospice. (10-24-88)

b. "Total payment made for services furnished to Medicaid recipients during this period" means all payments for services rendered during the cap year, regardless of when payment is actually made. (10-24-88)

c. The "cap amount" is calculated by multiplying the number of recipients electing certified hospice care during the period by six thousand five hundred dollars (\$6,500). This amount will be adjusted for each subsequent cap year beginning November 1, 1983, to reflect the percentage increase or decrease in the medical care expenditure category of the Consumer Price Index (CPI) for all urban consumers as published by the Bureau of Labor Statistics. It will also be adjusted as per Idaho Health and Welfare Rules Section 104.13. (7-1-94)

d. The computation and application of the "cap amount" is made by the Department after the end of the cap period. (10-24-88)

e. The hospice will report the number of Medicaid recipients electing hospice care during the period to the Department. This must be done within thirty (30)

days after the end of the cap period as follows: (10-24-88)

i. If the recipient is transferred to a noncertified hospice no payment to the noncertified hospice will be made and the certified hospice may count a complete recipient benefit period in their cap amount. (10-24-88)

f. If a hospice certifies in mid-month, a weighted average cap amount based on the number of days falling within each cap period would be used. (10-24-88)

13. Adjustment of the Overall Cap. Cap amounts in each hospice's cap period will be adjusted to reflect changes in the cap periods and designated hospices during a recipient's election period. The proportion of each hospice's days of service to the total number of hospice days rendered to the recipient during their election period will be multiplied by the cap amount to determine each hospice's adjusted cap amount. (6-23-89)

a. After each cap period has ended, the Department will calculate the overall cap within a reasonable time for each hospice participating in the Idaho Medicaid Program. (10-24-88)

b. Each hospice's cap amount will be computed as follows: (10-24-88)

i. The share of the "cap amount" that each hospice is allowed will be based on the proportion of total covered days provided by each hospice in the "cap period." (6-23-89)

ii. The proportion determined in Idaho Health and Welfare Department Rules Section 104.13.b. for each certified hospice will be multiplied by the "cap amount" specified for the "cap period" in which the recipient first elected hospice. (7-1-94)

c. The recipient must file an initial election during the period beginning September 28 of the previous year through September 27 of the current cap year in order to be counted as an electing Medicaid recipient during the current cap year. (6-23-89)

14. Additional Amount for NF Residents. An additional per diem amount will be paid for "room and board" of hospice residents in a certified NF receiving routine or continuous care services. In this context, the term "room and board" includes, but is not limited to, all assistance in the activities of daily living, in socializing activities, administration of medication, maintaining the cleanliness of a resident's room, and supervision and assisting in the use of durable medical equipment and prescribed therapies. The additional payments and the related days are not subject to the caps specified in Subsections 104.10 and 104.12. The room and board rate will be ninety-five percent (95%) of the per diem interim reimbursement rate assigned to the facility for those dates of service on which the recipient was a resident of that facility. (7-1-94)

15. Post Eligibility Treatment of Income. Where an individual is determined eligible for MA participation in the cost of long term care, the Department must reduce its payments for all costs of the hospice benefit, including the supplementary amounts for room and board, by an amount determined according to Subsection 160.03, of this rule. (5-1-96)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.11 - RULES GOVERNING INTERMEDIATE CARE FACILITIES
FOR THE MENTALLY RETARDED (ICF/MR)

DOCKET NO. 16-0311-9601

NOTICE OF INTENT TO PROMULGATE RULES
(NEGOTIATED RULEMAKING)

AUTHORITY: In compliance with Section 67-5220(1), Idaho code, notice is hereby given that this agency intends to propose rules and desires public comments prior to initiating formal rulemaking procedures. The action is negotiated rulemaking authorized pursuant to Sections 56-135 and 56-202, Idaho Code.

DESCRIPTIVE SUMMARY: The changes are being made based on changes made to Section 56-113, Idaho Code, during the 1996 Session of the Idaho Legislature, on assurances made by the Department to State Legislative committees, and in response to requests from providers to modify existing rules.

The proposed rule changes revise the method of payment for Medicaid Intermediate Care Facilities for the Mentally Retarded (ICF/MR) providers from an interim payment system with retrospective audit to a prospective system where providers are paid a monthly rate that, with certain exceptions, is final payment for the services provided. These changes replace the percentile cap on operating costs with a cap based on a percent of the median and clarify which costs will be subject to that cap. State-operated ICF/MR facilities will not be subject to the rules.

Changes will also be made to: (1) modify rules relating to the computation of allowable compensation for owners of ICF/MR and other facilities; (2) compute ICF/MR compensation for property based on the formula found in Section 56-108, Idaho Code; (3) clarify other rules relating to property reimbursement to assure that aggregate compensation to ICF/MR providers is not more than the projected amount that would have been paid using Medicare principles of reimbursement; (4) modify the rules regarding the treatment of costs related to leases for ICF/MR and other providers; (5) remove the interest rate limitation so interest-related costs are limited by market factors; and (6) revise the due date for filing cost reports for providers that also file Medicare cost reports so the deadlines coincide with revised Medicare deadlines.

These changes are intended to impact primarily ICF/MR providers. However, there will be some changes that affect all long term care providers.

A preliminary draft of the proposed rule is available for interested parties. To obtain a copy, contact:

Wynn Fuhrman
Department of Health and Welfare
Division of Medicaid
450 West State Street - 2nd Floor
P.O. Box 83720
Boise, Idaho 83720-0036
Telephone: (208) 334-5795

PUBLIC HEARING SCHEDULE: Negotiated rulemaking hearings will be held in May, 1996. Please contact Kathleen Allyn at (208) 334-5747 for hearing locations, dates, and times.

Any other hearings concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than May 15, 1996.

The Department will accept comments on the preliminary draft of the proposed rule through June 7, 1996. A proposed rule will then be developed from the negotiated hearings and written comments.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this negotiated rule, contact Wynn Fuhriman at (208) 334-5795.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 7, 1996.

DATED this 1st day of May, 1996.

STACI WELSH
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IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

**24.01.01 - RULES GOVERNING THE BOARD
OF ARCHITECTURAL EXAMINERS**

DOCKET NO. 24-0101-9501

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules are effective upon approval of the Idaho Legislature at its next session.

ACTION: The action, under Docket No. 24-0101-9501, concerns the pending adoption of rules governing the Idaho Board of Architectural Examiners, IDAPA 24, Title 01, Chapter 01, Rules Governing Architects.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to 54-312, Idaho Code.

DESCRIPTIVE SUMMARY: There are no substantive changes from the proposed rule text published November 1, 1995, Volume No. 95-11, pages 121 through 130 of the Bulletin.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this pending rule, contact Dee Ann Randall, at (208) 334-3233.

DATED this 27th day of March, 1996

Dee Ann Randall
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
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**IDAPA 24
TITLE01
Chapter 01**

RULES GOVERNING BOARD OF ARCHITECTURAL EXAMINERS

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 95-11, November 1, 1995
Pages 121 through 130**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1997 Idaho State Legislature
for final adoption**

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.18.01 - RULES GOVERNING THE REAL ESTATE APPRAISER BOARD

DOCKET NO. 24-1801-9501

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules are effective upon approval of the Idaho Legislature at its regular session.

ACTION: The action, under Docket No. 24-1801-9501 concerns the pending adoption of rules governing the Idaho Real Estate Appraiser Board, IDAPA 24, Title 18, Chapter 1, Rules Governing Real Estate Appraisers.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to 54-4106, Idaho Code.

DESCRIPTIVE SUMMARY: There are no substantive changes from the proposed rule text published December 6, 1995, Volume No. 95-12, pages 171 through 192 of the Bulletin, with the exception of a clerical error on page 184, Rule 350.01.a. which should be: "Each applicant must have successfully completed not less than ninety (90) 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."

The proposed rule was one hundred (100) classroom hours and should have been ninety (90) classroom hours.

The text of 24.18.01.350.01.a. should read as follows:

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)~~ ninety (90) 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.~~

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this pending rule, contact Dee Ann Randall, at (208) 334-3233.

DATED this 28th day of March, 1996

Dee Ann Randall
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

IDAPA 24
TITLE 18
Chapter 01

RULES GOVERNING THE REAL ESTATE APPRAISER BOARD

**There are some substantive changes
from the proposed rule text
The changes have been published in the
foregoing notice**

**The original text was published in the Idaho
Administrative Bulletin, Volume 95-12, December 6, 1995
Pages 171 through 192**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1997 Idaho State Legislature
for final adoption**

IDAPA 35 - STATE TAX COMMISSION
35.01.03 - RULES GOVERNING AD VALOREM PROPERTY TAXATION
DOCKET NO. 35-0103-9602
NOTICE OF PROPOSED RULES

ACTION: The action, under Docket No 35-0103-9602, concerns the proposed adoption of rules governing the State Tax Commission, IDAPA 35, Title 01, Chapter 03, Rules Governing Ad Valorem Property Taxes.

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 Sections 63-513 and 63-3624, 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: The Rule change will update the reference to be used by county assessors in setting value of recreational vehicles and delete procedures and policies not in the State Tax Commission's jurisdiction.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Alan Dornfest, 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 May 22, 1996.

DATED this 22nd day of March, 1996.

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

TEXT OF DOCKET NO. 35-0103-9602

020. VALUE OF RECREATIONAL VEHICLES FOR ANNUAL LICENSE REGISTRATION AND TAXATION OF UNREGISTERED RECREATIONAL VEHICLES.

01- ~~The recreational vehicle license fee shall be prorated by quarter for vehicles purchased from retail inventory after January 1, or owned by a resident and brought into the state after January 1. Said fee shall expire on December 31. The fee resulting from proration shall not be less than eight dollars and fifty cents (\$8.50) and includes the three dollar and fifty cent (\$3.50) charge for the recreational vehicle account. (7-1-93)~~

02- ~~The assessor shall not issue a license for the chassis of the motor home or travel trailer unless the~~

recreational vehicle fee is paid at the same time.

(7-1-93)

~~03. If after August 31, the required license and sticker have not been purchased and displayed, a taxpayer's valuation assessment notice shall be mailed to the owner of the recreational vehicle. If payment of the license fee and display of the sticker is accomplished prior to the fourth (4th) Monday of November, the assessor shall cancel the assessment.~~

(7-1-93)

~~021. COUNTY ASSESSOR TO ADMINISTER AND COLLECT LICENSE FEE.~~

(7-1-93)

01. Value of Recreational Vehicle for Registration Fees. The County assessors shall administer and collect the recreational vehicle ~~license~~ registration fee based on the industry valuation guide approved by the Commission pursuant to Section 49-446, Idaho Code. The approved guide is the N.A.D.A., Recreational Vehicle Appraisal Guide, September through December Edition, for the year preceding the year in which the fee is levied applies.

(7-1-93)()

02. Value of Motor Home for Registration Fees. The fee for motor homes shall be based on a schedule to be published annually by the Commission. This schedule shall exclude any chassis value. The Commission will maintain for a minimum of three (3) years the information on which ~~schedules~~ the supplements are based.

(7-1-93)()

03. Assessment Notice Mailed or Assessment Canceled. If after August 31, the required annual registration fee has not been paid, a taxpayer's valuation assessment notice shall be mailed to the owner of the recreational vehicle. If the registration is paid before the fourth (4th) Monday of November, the assessor shall cancel the assessment.

()

~~022~~021. - 999. (RESERVED).

IDAPA 35 - STATE TAX COMMISSION
35.01.03 - RULES GOVERNING AD VALOREM PROPERTY TAXATION
DOCKET NO. 35-0103-9603
NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective March 22, 1996.

ACTION: The action, under Docket No 35-0103-9603, concerns the proposed adoption of rules governing the State Tax Commission, IDAPA 35, Title 01 Chapter 03, Rules Governing Ad Valorem Property Taxes.

AUTHORITY: In compliance with Section 67-5226 and 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a temporary rule and has proposed rule-making. The action is authorized pursuant to Sections 63-513 and 63-3624, 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 180 being adopted as a temporary rule and being amended as a proposed rule, which would apply the 1996 benefit brackets. As a result of the passage of House Bill 398, the benefit portion of the circuit breaker income/benefit brackets needs to be revised.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Alan Dornfest, 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 May 22, 1996.

DATED this 26th day of March, 1996.

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

TEXT OF DOCKET 35-0103-9603

180. AMOUNT OF TAX REDUCTION.

01. Adjustment. The adjustment effective January 1, 1995, is two and eight tenths percent (2.8%).
(6-30-95)T
02. Effective Date. Effective ~~January~~ July 1, 1996, the brackets in Section 63-120(4), Idaho Code, are

adjusted as follows:

(6-30-95)T(3-22-96)T

income is \$7,220 or under	\$800, or actual taxes, whichever is less
\$7,221, but not more than \$7,510	\$780, or actual taxes, whichever is less;
\$7,511, but not more than \$7,830	\$760, or actual taxes, whichever is less;
\$7,831, but not more than \$8,140	\$740, or actual taxes, whichever is less;
\$8,141, but not more than \$8,430	\$720, or actual taxes, whichever is less
\$8,431, but not more than \$8,750	\$700, or actual taxes, whichever is less
\$8,751, but not more than \$9,050	\$680, or actual taxes, whichever is less
\$9,051, but not more than \$9,350	\$660, or actual taxes, whichever is less
\$9,351, but not more than \$9,660	\$640, or actual taxes, whichever is less
\$9,661, but not more than \$9,970	\$620, or actual taxes, whichever is less
\$9,971, but not more than \$10,270	\$600, or actual taxes, whichever is less
\$10,271, but not more than \$10,590	\$580, or actual taxes, whichever is less
\$10,591, but not more than \$10,880	\$560, or actual taxes, whichever is less
\$10,881, but not more than \$11,190	\$540, or actual taxes, whichever is less
\$11,191, but not more than \$11,500	\$520, or actual taxes, whichever is less
\$11,501, but not more than \$11,810	\$500, or actual taxes, whichever is less
\$11,811, but not more than \$12,100	\$480, or actual taxes, whichever is less
\$12,101, but not more than \$12,410	\$460, or actual taxes, whichever is less
\$12,411, but not more than \$12,720	\$440, or actual taxes, whichever is less
\$12,721, but not more than \$13,030	\$420, or actual taxes, whichever is less
\$13,031, but not more than \$13,330	\$400, or actual taxes, whichever is less
\$13,331, but not more than \$13,630	\$380, or actual taxes, whichever is less
\$13,631, but not more than \$13,950	\$360, or actual taxes, whichever is less
\$13,951, but not more than \$14,250	\$340, or actual taxes, whichever is less
\$14,251, but not more than \$14,550	\$320, or actual taxes, whichever is less
\$14,551, but not more than \$14,870	\$300, or actual taxes, whichever is less
\$14,871, but not more than \$15,160	\$280, or actual taxes, whichever is less
\$15,161, but not more than \$15,480	\$260, or actual taxes, whichever is less
\$15,481, but not more than \$15,770	\$240, or actual taxes, whichever is less
\$15,771, but not more than \$16,090	\$220, or actual taxes, whichever is less
\$16,091, but not more than \$16,390	\$200, or actual taxes, whichever is less
\$16,391, but not more than \$16,700	\$180, or actual taxes, whichever is less
\$16,701, but not more than \$17,000	\$160, or actual taxes, whichever is less
\$17,001, but not more than \$17,300	\$140, or actual taxes, whichever is less

<u>\$17,301, but not more than \$17,620</u>	<u>\$120, or actual taxes, whichever is less</u>
<u>\$17,621, but not more than \$17,940</u>	<u>\$100, or actual taxes, whichever is less</u>

<u>income is \$7,220 or under</u>	<u>\$900, or actual taxes, whichever is less</u>
<u>\$7,221, but not more than \$7,510</u>	<u>\$880, or actual taxes, whichever is less;</u>
<u>\$7,511, but not more than \$7,830</u>	<u>\$860, or actual taxes, whichever is less;</u>
<u>\$7,831, but not more than \$8,140</u>	<u>\$840, or actual taxes, whichever is less;</u>
<u>\$8,141, but not more than \$8,430</u>	<u>\$820, or actual taxes, whichever is less</u>
<u>\$8,431, but not more than \$8,750</u>	<u>\$800, or actual taxes, whichever is less</u>
<u>\$8,751, but not more than \$9,050</u>	<u>\$780, or actual taxes, whichever is less</u>
<u>\$9,051, but not more than \$9,350</u>	<u>\$750, or actual taxes, whichever is less</u>
<u>\$9,351, but not more than \$9,660</u>	<u>\$730, or actual taxes, whichever is less</u>
<u>\$9,661, but not more than \$9,970</u>	<u>\$710, or actual taxes, whichever is less</u>
<u>\$9,971, but not more than \$10,270</u>	<u>\$690, or actual taxes, whichever is less</u>
<u>\$10,271, but not more than \$10,590</u>	<u>\$670, or actual taxes, whichever is less</u>
<u>\$10,591, but not more than \$10,880</u>	<u>\$640, or actual taxes, whichever is less</u>
<u>\$10,881, but not more than \$11,190</u>	<u>\$620, or actual taxes, whichever is less</u>
<u>\$11,191, but not more than \$11,500</u>	<u>\$600, or actual taxes, whichever is less</u>
<u>\$11,501, but not more than \$11,810</u>	<u>\$580, or actual taxes, whichever is less</u>
<u>\$11,811, but not more than \$12,100</u>	<u>\$560, or actual taxes, whichever is less</u>
<u>\$12,101, but not more than \$12,410</u>	<u>\$530, or actual taxes, whichever is less</u>
<u>\$12,411, but not more than \$12,720</u>	<u>\$510, or actual taxes, whichever is less</u>
<u>\$12,721, but not more than \$13,030</u>	<u>\$490, or actual taxes, whichever is less</u>
<u>\$13,031, but not more than \$13,330</u>	<u>\$470, or actual taxes, whichever is less</u>
<u>\$13,331, but not more than \$13,630</u>	<u>\$450, or actual taxes, whichever is less</u>
<u>\$13,631, but not more than \$13,950</u>	<u>\$420, or actual taxes, whichever is less</u>
<u>\$13,951, but not more than \$14,250</u>	<u>\$400, or actual taxes, whichever is less</u>
<u>\$14,251, but not more than \$14,550</u>	<u>\$380, or actual taxes, whichever is less</u>
<u>\$14,551, but not more than \$14,870</u>	<u>\$360, or actual taxes, whichever is less</u>
<u>\$14,871, but not more than \$15,160</u>	<u>\$340, or actual taxes, whichever is less</u>
<u>\$15,161, but not more than \$15,480</u>	<u>\$320, or actual taxes, whichever is less</u>
<u>\$15,481, but not more than \$15,770</u>	<u>\$300, or actual taxes, whichever is less</u>
<u>\$15,771, but not more than \$16,090</u>	<u>\$270, or actual taxes, whichever is less</u>
<u>\$16,091, but not more than \$16,390</u>	<u>\$250, or actual taxes, whichever is less</u>

<u>\$16,391, but not more than \$16,700</u>	<u>\$230, or actual taxes, whichever is less</u>
<u>\$16,701, but not more than \$17,000</u>	<u>\$210, or actual taxes, whichever is less</u>
<u>\$17,001, but not more than \$17,300</u>	<u>\$190, or actual taxes, whichever is less</u>
<u>\$17,301, but not more than \$17,620</u>	<u>\$170, or actual taxes, whichever is less</u>
<u>\$17,621, but not more than \$17,910</u>	<u>\$150, or actual taxes, whichever is less</u>

~~(6-30-95)F~~(3-22-96)T

IDAPA 37 - DEPARTMENT OF WATER RESOURCES
37.01.02 - ENVIRONMENTAL AUDIT PROTECTION RULES
DOCKET NO. 37-0102-9602
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule is effective March 18, 1996.

AUTHORITY: In compliance with sections 67-5226(1) and 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a temporary rule and is commencing proposed rulemaking to promulgate a permanent rule. The temporary/proposed rule is a new chapter and shall be cited as IDAPA 37.01.02, Rules of the Idaho Department of Water Resources, Title 01, Chapter 02, Environmental Audit Protection Rules. The action is authorized by sections 9-810 and 42-1805(8), Idaho Code. Pursuant to section 67-5229, Idaho Code, the temporary/proposed rule incorporates by reference the substantive provisions of the Environmental Audit Protection Rules of the Idaho Department of Health and Welfare, IDAPA 16.01.10, Rules 10 through 18.

PRIOR RULE: This temporary/proposed rule replaces an identical temporary/proposed rule adopted by the agency on December 28, 1995 under Docket No. 37-0102-9601. Because the 1996 Idaho Legislature did not act to approve the previous temporary/proposed rule it expired on March 15, 1996 at the conclusion of the legislative session pursuant to Idaho Code § 67-5226(3).

OPPORTUNITY TO REQUEST PUBLIC HEARING: No public hearing concerning this proposed rulemaking is scheduled by the agency. The agency will provide an opportunity for oral presentation if requested 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 this notice of proposed rulemaking in the bulletin, or within fourteen (14) days prior to the end of the comment period, whichever is later.

DESCRIPTIVE SUMMARY: The following is the required finding and a concise statement of the supporting reasons for temporary adoption of the rule and a nontechnical explanation of the substance and purpose for proposing the rule for final adoption:

Voluntary environmental audit laws grant incentives to those regulated entities which voluntarily discover, disclose and correct violations of environmental laws. The Idaho Environmental Audit Protection Act (EAPA), effective July 1, 1995, prohibits state environmental agencies from disclosing, or under certain circumstances compelling disclosure of, a qualifying environmental audit, and provides for limited immunity for violations of state environmental law identified in an audit. Unless the sunset clause is subsequently removed by the legislature, the protections of the statute will not apply to submittals made after December 31, 1997.

The EAPA specifically directs the environmental agencies to promulgate rules (1) further defining environmental audits, (2) setting forth timetables for remedial actions to be performed and (3) governing the treatment of environmental audit reports and associated confidential business information. The Environmental Audit Protection Rules proposed are designed to implement the provisions of the EAPA and closely follow the legislative intent. The rules clarify which submittals are "voluntary," set forth what information is required to be in a plan or protocol for conducting an environmental audit, set forth compliance timetables which must be followed by the owner or operator to receive the

protections of the statute, further define the term “confidential business information” used in the statute, and establish some basic procedures to be followed by the agency to protect the confidentiality of submittals made pursuant to the statute.

Because the statute requires that rules must be in place on and after December 28, 1995, and because the prior agency rule has expired due to lack of approval by the 1996 Idaho Legislature, the Director of the Department of Water Resources has adopted this replacement rule as a temporary rule. The temporary rule will remain in effect until replaced by a final rule which has become effective as provided in section 67-5224(5), Idaho Code, provided that the temporary rule shall not remain in effect beyond the conclusion of the 1997 legislative session unless approved by concurrent resolution.

TEMPORARY RULE JUSTIFICATION: Pursuant to section 67-5226(1)(b), Idaho Code, the Governor has found that a temporary rule is required to comply with the requirements set forth by the Idaho Legislature in section 9-810(1), Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rulemaking, contact L. Glen Saxton at (208) 327-7900.

Anyone can submit written comment regarding this proposed rule. All written comments must be received by the undersigned on or before June 5, 1996.

DATED this day 18th of March, 1996.

Karl J. Dreher, Director
Department of Water Resources
1301 N. Orchard St.
Boise, ID 83706-2237

TEXT OF DOCKET NO. 34-0102-9602

IDAPA 37
TITLE 01
CHAPTER 02

ENVIRONMENTAL AUDIT PROTECTION RULES

000. LEGAL AUTHORITY (Rule 0).

This chapter is adopted by the Idaho Department of Water Resources under the legal authority of sections 9-810 and 42-1805(8), Idaho Code. (3-18-96)T

001. TITLE, SCOPE AND CITATION (Rule 1).

These rules shall be cited as IDAPA 37.01.02, Rules of the Idaho Department of Water

Resources, Title 01, Chapter 02, "Environmental Audit Protection Rules." These rules implement the Environmental Audit Protection Act, sections 9-801 to 9-811, Idaho Code. These rules are intended to encourage owners and operators of facilities and other persons conducting activities regulated under applicable environmental laws to conduct voluntary internal environmental audits of their activities, operations, compliance programs and management systems and to assess and improve compliance with applicable environmental laws while protecting confidentiality of communications relating to voluntary internal environmental audits. These rules are not intended to protect those who willfully violate environmental laws. (3-18-96)T

002. ADMINISTRATIVE APPEALS (Rule 2).

Persons may be entitled to appeal final agency actions authorized under this chapter pursuant to section 67-5270, Idaho Code, and IDAPA 37.01.01, Rules of Procedure of the Idaho Department of Water Resources. (3-18-96)T

003. WRITTEN INTERPRETATIONS (Rule 3).

The Department of Water Resources may have written statements that pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. If available, written statements can be inspected and copied at cost at the Department of Water Resources, 1301 N. Orchard, Boise, Idaho 83706. (3-18-96)T

004. CATCHLINES (Rule 4).

Catchlines within this chapter are not to be used in the interpretation of the rules. (3-18-96)T

005. -- 009. (RESERVED).

010. INCORPORATION BY REFERENCE (Rule 10).

The provisions of Rules 010 through 018 of the Environmental Audit Protection Rules of the Idaho Department of Health and Welfare, IDAPA 16.01.10, are incorporated by reference as Rule 010 of these rules, except that "Department" as used in these rules means the Idaho Department of Water Resources. (3-18-96)T

011. -- 099. (RESERVED).

Subject Index

A
AMOUNT OF TAX REDUCTION 86
ANALYTICAL PROCEDURES 36
ANTIDEGRADATION POLICY 27
APPLICATION OF STANDARDS 34
Activity Restrictions on Spokane Valley - Rathdrum Prairie Aquifer 37
Acute 15
Acute Criteria 15
Acute Toxicity 15
Additional Amount for NF Residents 78
Adjustment 86
Adjustment of the Overall Cap 78
Aesthetics 66
After Determining That Water Body Does Not Support Use 30
Applicability of Gas Supersaturation Standard 35
Application of Standards to Nonpoint Source Activities 34
Application of Standards to Point Source Discharges 34
Appropriate Reference Condition 15
Approved Best Management Practices 42
Aquatic Life 46
Aquatic Species 15
Assessment Notice Mailed or Assessment Canceled 85
Availability 10

B
BENEFICIAL USE SUPPORT STATUS 30
Background 15
Basin Advisory Group 15
Beneficial Use 15
Best Management Practice 16
Bioaccumulation 16
Biochemical Oxygen Demand (BOD) 16
Biological Monitoring or Biomonitoring 16
Biological Parameters 30
Biological Procedures 36
Biota 16
Board 16
Board Review 33

C
Cap on Overall Reimbursement 77
Change of Hospice 72
Chemical and Physical Procedures 36
Chronic 16
Chronic Criteria 16
Chronic Toxicity 16
Compliance Schedule or Schedule of Compliance 16
Criteria for Water Supplies From Ground Water 39

D
DEFINITIONS AND ABBREVIATIONS 15
Daily Mean 16
Definitions 69
Deleterious Material 17
Department 17
Design Flow 17
Designated Agency 17
Designated Beneficial Use or Designated Use 17
Designated Waters 33, 34
Designations 34
Desirable Species 17
Development of TMDLs 32
Development of Toxic Substance Criteria 66
Director 17
Discharge 17
Discharges Which Result in Water Quality Standards Violation 35
Disinfection 17
Dissolved Oxygen (DO) 17
Dissolved Product 18
Documents 10
Dynamic Model 18

E
EPA 18
Effective Date 86
Effluent 18
Effluent Biomonitoring 18
Election Procedures 71
Election of Hospice 72
Existing Beneficial Use or Existing Use 18

F
Facility 18
Fecal Coliform 18
Four-Day Average 18

Free Product 18
Full Protection, Full Support, or Full Maintenance of Designated Beneficial Uses of Water 18

G
GROUND WATER QUALITY STANDARDS 37
General Ground Water Quality Criteria 38
Geometric Mean 18
Ground Water Use Classifications 38
Ground water 18

H
HOSPICE 69
Habitat Parameters 30
Harmonic Mean Flow 19
Hazardous Material 19
High Quality Waters 27
Hospice Reimbursement--General 74
Hydrologically-Based Design Flow 19
Hypolimnion 19

I
Implementation Policy 40
Inhibition Concentration-25 (IC-25) 19
Instantaneous Concentration 19
Inter-Departmental Coordination 19
Intermittent Stream 19

L
LC-50 19
LEGAL AUTHORITY 14
Land Application 19
Limitation on Payments for Inpatient Care 75
Limitation to Nonpoint Source Restrictions 41
Load Allocation (LA) 20
Loading Capacity 20
Lower Water Quality 20
Lowest Observed Effect Concentration (LOEC) 20

M
Maintenance of Existing Uses for All Waters 27
Man-Made Waterways 37
Man-made Waterways 20
Metals Procedures 36
Milligrams Per Liter (mg/l) 20

Mixing Zone 20
 Mixing Zones 35
 Multiple Criteria 34

N

NATIONAL ELECTRICAL CODE, 1993 1996 EDITION 10
 National Pollutant Discharge Elimination System (NPDES) 20
 Natural Background for Toxic Substances 35
 Nephelometric Turbidity Units (NTU) 20
 No Observed Adverse Effect Level (NOAEL) 21
 No Observed Effect Concentration (NOEC) 21
 Nominations for Outstanding Resource Water Designation 32
 Nonpoint Source Activities 20
 Nuisance 21
 Numeric Criteria for Toxic Substances 66
 Nutrients 21

O

OUTSTANDING RESOURCE WATERS (ORW) 32
 One (1) Hour Average 21
 One (1) day Minimum 21
 Operator 21
 Outstanding Resource Water (ORW) 21
 Outstanding Resource Water Mixing Zone 22
 Outstanding Resource Waters 28
 Owner 22

P

PUBLIC PARTICIPATION 28
 Payment for Physician Services 76
 Person 22
 Petroleum Products 22
 Petroleum Storage Tank (PST) System 22
 Physician Certification 70
 Point Source 22
 Pollutant 22
 Post Eligibility Treatment of Income 78
 Potable Water 23
 Primary Treatment 23
 Priority of TMDL Development 31

Private Waters 37
 Project Plans 23
 Public Hearing 33
 Public Notice and Public Comment 33

R

RULES GOVERNING NONPOINT SOURCE ACTIVITIES 40
 Receiving Waters 23
 Recharge 23
 Recharge Water 23
 Recreation 45
 Reference Stream or Condition 23
 Release 23
 Required Services 73
 Requirements for Coverage 73
 Resident Species 23
 Responsible Persons in Charge 24
 Restriction of Nonpoint Source Activities on Outstanding Resource Waters 33, 43
 Restrictions of Point Source Discharges to Special Resource Waters and their Tributaries 34
 Revocation of Hospice Election 72

S

SPECIAL RESOURCE WATERS 34
 SURFACE WATER QUALITY CRITERIA FOR USE CLASSIFICATIONS 45
 Saturated Zone 24
 Secondary Treatment 24
 Seven (7) day Mean 24
 Sewage 24
 Short Term Activity Exemption 35
 Short-term or Temporary Activity 24
 Silviculture 24
 Sludge 24
 Special Resource Water 24
 Specialized Best Management Practices 25
 State 25
 State Water Quality Management Plan 25
 Steady-State Model 25
 Subsurface Disposal 25
 Suspended Sediment 25

T

TABLE - DESIGNATED SMALL PUBLIC WATER SUPPLIES

64

TABLE III--COLD WATER BIOTA ONE-HOUR AVERAGE CRITERIA FOR UN-IONIZED (TOP) AND TOTAL (BOTTOM) AMMONIA (mg/l as N) AT SELECTED WATER TEMPERATURES AND PH VALUES. 55

TABLE II--WARM WATER BIOTA FOUR-DAY AVERAGE CRITERIA FOR UN-IONIZED (TOP) AND TOTAL (BOTTOM) AMMONIA (mg/l as N) AT SELECTED WATER TEMPERATURES AND PH VALUES. 50

TABLE IV--COLD WATER BIOTA FOUR-DAY AVERAGE CRITERIA FOR UN-IONIZED (TOP) AND TOTAL (BOTTOM) AMMONIA (mg/l as N) AT SELECTED WATER TEMPERATURES AND PH VALUES. 58

TABLE I--WARM WATER BIOTA ONE-HOUR AVERAGE

CRITERIA FOR UN-IONIZED (TOP) AND TOTAL (BOTTOM) AMMONIA (mg/1 as N) AT SELECTED WATER TEMPERATURES AND PH VALUES. 47

TABLE. Maximum Allowable Concentrations for Selected Substances. 39

TABLE. Time Periods for Salmonid Spawning and Incubation. 63

Technology-based Effluent limitation 25

Total Maximum Daily Load (TMDL) 25

Toxic Substance 25

Toxicity Test 25

Treatment 26

Treatment System 26

Trihalomethane (THM) 26

Twenty-Four (24) Hour Average 26

U

USE DESIGNATIONS FOR SURFACE WATERS 37

Unclassified Surface Waters 37

Unique Ecological Significance 26

Until TMDLs Are Developed 31

Until a TMDL Is Completed 31

Use Designations for Ground Water 38

V

VALUE OF RECREATIONAL VEHICLES FOR ANNUAL LICENSE REGISTRATION AND TAXATION OF UNREGISTERED RECREATIONAL VEHICLES 84

VIOLATION OF WATER QUALITY STANDARDS 35

Value of Motor Home for Registration Fees 85

Value of Recreational Vehicle for Registration Fees 85

W

WATER QUALITY LIMITED WATERS AND TMDLS 30

Wasteload Allocation (WLA) 26

Wastewater 26

Water Bodies Not Fully Supporting Beneficial Uses 31

Water Pollution 26

Water Quality Limited Water Body 27

Water Supplies 63

Waters and Waters of the State 27

Watershed 27

Watershed Advisory Group 27

Whole-Effluent Toxicity 27

Wildlife Habitats 65