

# ***IDAHO ADMINISTRATIVE BULLETIN***

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*January 7, 1998*

*Volume 98-1*

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**IDAPA 15 - OFFICE OF THE GOVERNOR**  
**15.15.14 - RULES GOVERNING IDAHO CHILD CARE PROGRAM,**  
**CHILD CARE AND DEVELOPMENT BLOCK PROGRAM RULES**

**DOCKET NO. 15-1514-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1998, unless the rule is rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-802, Idaho Code, pursuant to 45 CFR Parts 98 and 99, Public Law 101-508 and Article 4, Section 5 of the Idaho Constitution.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule:

This program was transferred to the Department of Health and Welfare. The pending rules are being adopted as proposed and are being repealed in their entirety. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 97-7, page 18.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending and proposed rule, contact Dawn Kramer, Office of the Governor, (208) 334-2100.

DATED this day of November 19, 1997

Dawn Kramer, Staff Assistant  
Office of the Governor  
Statehouse  
P.O. Box 83720  
Boise, ID 83720-0034  
(208) 334-2100, FAX (208) 334-3454

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**IDAPA 15**  
**TITLE 15**  
**Chapter 14**

**RULES GOVERNING IDAHO CHILD CARE PROGRAM,**  
**CHILD CARE AND DEVELOPMENT BLOCK PROGRAM RULES**

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

**The original text was published in the Idaho**  
**Administrative Bulletin, Volume 97-7, July 2, 1997, page 18.**

**This rule has been adopted as Final by the Agency**  
**and is now pending review by the**  
**1998 Idaho State Legislature for final adoption.**

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

**DOCKET NO. 16-0101-9602**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the Board of Health and Welfare (Board) and is now pending review by the 1998 Idaho State Legislature for final approval. The rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-fourth Idaho Legislature unless prior to that date the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291. If the rule is approved, amended or modified by concurrent resolution, the rule will become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Idaho Code Section 67-5224, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Idaho Code Sections 39-105 and 39-107.

**DESCRIPTIVE SUMMARY:** The rule was adopted by the Board, upon recommendation of the Department of Health and Welfare, Division of Environmental Quality (Department), because the rule responds to the needs of the regulated community while protecting the public health and environment. A detailed summary of the reasons for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, Volume 97-7, July 2, 1997, pages 19 through 41.

The Department received comments from the public concerning the proposed rule. The Department has revised IDAPA 16.01.01 Section 213 as provided in Idaho Code Section 67-5227. The Department's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised by the public, is included in the rulemaking record maintained by the Division of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706.

IDAPA 16.01.01 Sections 006, 007, 201, 202, 205, 209, 787 and 788 have been adopted as initially proposed in the Idaho Administrative Bulletin, Volume 97-7, July 2, 1997, pages 19 through 41 and, therefore, have not been republished with this Notice.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this rule, contact Dan Pitman at (208) 373-0502.

Dated this 7th day of January, 1998.

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

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**IDAPA 16**  
**TITLE 01**  
**Chapter 01**

**RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO**

**There are substantive changes  
from the proposed rule text.**

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

The complete original text was published in the Idaho Administrative Bulletin, Volume 97-7, July 2, 1997, pages 19 through 41.

This rule has been adopted as Final by the Agency and is now pending review by the 1998 Idaho State Legislature for final adoption.

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**TEXT OF DOCKET NO. 16-0101-9602**

**213. PRE-PERMIT CONSTRUCTION.**

This section describes how owners or operators may commence construction or modification of certain stationary sources before obtaining the required permit to construct. ( )

01. Pre-Permit Construction Eligibility. Pre-permit construction approval is available for non-major sources and non-major modifications and for new sources or modifications proposed in accordance with Subsection 213.01.d. Pre-permit construction is not available for any new source or modification that: uses emissions netting to stay below major source levels; uses optional offsets pursuant to Section 206; or would have an adverse effect on the air quality related values of any Class I area. Owners or operators may ask the Department for the ability to commence construction or modification of qualifying sources under Section 213 before receiving the required permit to construct. To obtain the Department's pre-permit construction approval, the owner or operator shall satisfy the following requirements: ( )

a. The owner or operator shall apply for a permit to construct in accordance with Subsections 202.01.a., 202.02, and 202.03 of this chapter. ( )

b. The owner or operator shall consult with Department representatives prior to submitting a pre-permit construction approval application. ( )

c. The owner or operator shall submit a pre-permit construction approval application which must contain, but not be limited to: a letter requesting the ability to construct before obtaining the required permit to construct, a copy of the notice referenced in Subsection 213.02; proof of eligibility; process description(s); equipment list(s); proposed emission limits and modeled ambient concentrations for all air pollutants subject to regulation under this chapter, such that they demonstrate compliance with all applicable air quality rules and regulations. The models shall be conducted in accordance with written Department approved protocol and submitted with sufficient detail so that modeling can be duplicated by the Department. ( )

d. Owners or operators seeking limitations on a source's potential to emit such that permitted emissions will be either below major source levels or below a significant increase must describe in detail in the pre-permit construction application the proposed restrictions and certify in accordance with Section 123 that they will comply with the restrictions, including any applicable monitoring and reporting requirements. ( )

02. Permit to Construct Procedures for Pre-Permit Construction. ( )

a. Within ten (10) days after the submittal of the pre-permit construction approval application, the

owner or operator shall hold an informational meeting in at least one (1) location in the region in which the stationary source or facility is to be located. The informational meeting shall be made known by notice published at least ten (10) days before the meeting in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. A copy of such notice shall be included in the application. ( )

b. Within fifteen (15) days after the receipt of the pre-permit construction approval application, the Department shall notify the owner or operator in writing of pre-permit construction approval or denial. The Department may deny the pre-permit construction approval application for any reason it deems valid. ( )

c. Upon receipt of the pre-permit construction approval letter issued by the Department, the owner or operator may begin construction at their own risk as identified in Subsection 231.02.d. Upon issuance of the pre-permit construction approval letter, any and all potential to emit limitations addressed in the pre-permit construction application pursuant to Subsection 213.01.d. shall become enforceable. The owner or operator shall not operate those emissions units subject to permit to construct requirements in accordance with Section 200 unless and until issued a permit pursuant to Section 209. ( )

d. If the pre-permit construction approval application is determined incomplete or the permit to construct is denied, the Department shall issue an incompleteness or denial letter pursuant to Section 209. If the Department denies the permit to construct, then the owner or operator shall have violated Section 201 on the date it commenced construction as defined in Section 006. The owner or operator shall not contest the final permit to construct decision based on the fact that they have already begun construction. ( )

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

**DOCKET NO. 16-0101-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the Board of Health and Welfare (Board) and is now pending review by the 1998 Idaho State Legislature for final approval. The rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-fourth Idaho Legislature unless prior to that date the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291. If the rule is approved, amended or modified by concurrent resolution, the rule will become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Idaho Code Section 67-5224, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Idaho Code Sections 39-105 and 39-107. In addition, certain changes in this rulemaking are mandated by the United States Environmental Protection Agency (EPA) for final interim approval of Idaho's Title V operating permit program pursuant to 61 Fed. Reg. 64,622-35 (December 6, 1996).

**DESCRIPTIVE SUMMARY:** The rule was adopted by the Board, upon recommendation of the Department of Health and Welfare, Division of Environmental Quality (Department), because the rule responds to the needs of the regulated community while protecting the public health and environment. A detailed summary of the reasons for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, Volume 97-8, August 6, 1997, pages 34 through 77.

The Department received comments from the public concerning the proposed rule. The Department has revised IDAPA 16.01.01 Sections 008, 209, 314, 317, 384, 385, and 386 as provided in Idaho Code Section 67-5227. The Department's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised by the public, is included in the rulemaking record maintained by the Division of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706.

IDAPA 16.01.01 Sections 125, 126, 136, 201, 301, 313, 302, 322, 325, 335, 361, 381, 382, 383 and 387 have been adopted as initially proposed in the Idaho Administrative Bulletin, Volume 97-8, August 6, 1997, pages 34 through 77 and, therefore, have not been republished with this Notice.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this rule, contact Sue Richards at (208) 373-0502.

Dated this 7th day of January, 1998.

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

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**IDAPA 16**  
**TITLE 01**  
**Chapter 01**

**RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO**

**There are substantive changes  
from the proposed rule text.**

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

**The complete original text was published in the  
Idaho Administrative Bulletin, Volume 97-8, August 6, 1997,  
pages 34 through 77.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature  
for final adoption.**

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**TEXT OF DOCKET NO. 16-0101-9701**

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

01. Accountable. Any SIP emission trading program must account for the aggregate effect of the emissions trades in the demonstration of reasonable further progress, attainment, or maintenance. (5-1-94)
02. Affected States. All States: (5-1-94)
- a. Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or (5-1-94)
- b. That are within fifty (50) miles of the Tier I source. (5-1-94)
03. Air Pollution. The presence in the outdoor atmosphere of any air pollutant or combination thereof in such quantity of such nature and duration and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property. (5-1-94)
04. Allowance. An authorization allocated to a Phase II source by the EPA to emit during or after a specified calendar year, one ton of sulfur dioxide. (5-1-94)
05. Applicable Requirement. All of the following if approved or promulgated by EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the time of permit issuance but which have future-effective compliance dates): (5-1-94)
- a. Any standard or other requirement provided for in the applicable state implementation plan, including any revisions to that plan that are specified in 40 CFR Parts 52.670 through 52.690. (5-1-94)
- b. Any term or condition of any permits to construct issued by the Department pursuant to Sections 200 through 225 or by EPA pursuant to 42 U.S.C. Sections 7401 through 7515; provided that terms or conditions relevant only to toxic air pollutants are not applicable requirements. (5-1-94)
- c. Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60;



- (5-1-94)
- d. Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; (5-1-94)
- e. Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; (5-1-94)
- f. Any requirements established pursuant to 42 U.S.C. Section 7414(a)(3), 42 U.S.C. Section 7661a(c)(b) or Sections 120 through 1268 of these rules; (~~5-1-94~~)( )
- g. Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; (5-1-94)
- h. Any standard or other requirement for consumer and commercial products and tank vessels, under 42 U.S.C. Sections 7511b(e) and (f); and (5-1-94)
- i. Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR Part 82. (5-1-94)
- j. Any ambient air quality standard or increment or visibility requirement provided in 42 U.S.C. Sections 7470 through 7492, but only as applied to temporary sources receiving Tier I operating permits under Section 324. (5-1-94)
06. Designated Representative. A responsible person or official authorized by the owner or operator of a Phase II unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a Phase II unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Phase II unit. (5-1-94)
07. Draft Permit. The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. (5-1-94)
08. Emergency. (5-1-94)
- a. For the purposes of Sections 326 through 332, an emergency is any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including natural disasters, which situation requires immediate corrective action to restore normal operation, and that causes the Tier I source to exceed a technology-based emission limitation under the Tier I operating permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. (5-1-94)
- b. For the purposes of Sections 380 through 387 an emergency is any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including natural disasters, which situation requires immediate corrective action to restore normal operation. (5-1-94)
09. Emissions Allowable Under the Tier I Operating Permit. A federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emission cap that the facility has assumed to avoid an applicable requirement to which the source would otherwise be subject. (5-1-94)
10. Excess Emissions. Emissions of an air pollutant in excess of any applicable air quality standard, emission standard emission limit or permit terms or conditions. (5-1-94)
11. Final Permit. The version of a Tier I permit issued by the Department that has completed all review procedures required in Sections 364 and 366. (5-1-94)
12. General Permit. A Tier I permit issued pursuant to Section ~~323~~35. (~~5-1-94~~)( )

13. Insignificant Activity. ~~Categorically exempt insignificant~~ Those activities as determined in that qualify as insignificant in accordance with Section 317. ~~(3-3-95)L( )~~ (5-1-94)( )

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

a. For hazardous air pollutants: ( )

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

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

b. For non-attainment areas: ( )

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

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

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

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

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

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

ii. ~~If~~ the area is "serious," fifty (50) tpy or more. (5-1-94)

iii. ~~If~~ the area is "severe," twenty five (25) tpy or more, and. (5-1-94)

iv. ~~If~~ the area is "extreme," ten (10) tpy or more. (5-1-94)( )

c. The facility emits or has the potential to emit one hundred (100) tons per year or more of any air pollutant. The fugitive emissions shall not be considered in determining whether the facility is major unless the facility belongs to one of the following categories: ( )

h. ~~For facilities addressed in Subsections 008.14.e. through 14.g. above, fugitive emissions from emissions units within the facility shall not be considered in determining whether a facility is major except in the following cases:~~ (3-7-95)L

- i. ~~For d~~ Designated facilities. (3-7-95)L( )
- ii. ~~For fossil fuel fired steam electric plants of more than two hundred fifty million (250,000,000) BTU's per hour heat input.~~ (3-7-95)L
- iii. ~~For any emissions units in a~~ All other source categories regulated, as of August 7, 1980, by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63, but only to the extent the fugitive emissions are regulated by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63 for the particular source category with respect to those air pollutants that have been regulated for that category. (3-7-95)L( )
15. Permit Revision. Any minor permit modification, substantive permit modification, administrative permit amendment or reopening. (5-1-94)
16. Phase II Source. A source that is subject to emissions reduction requirements of 42 U.S.C. Section 7651 through 7651o and shall have the meaning given to it pursuant to those sections. (5-1-94)
17. Phase II Unit. A unit that is subject to emissions reduction requirements of 42 U.S.C. Sections 7651 through 7651o and the term shall have the meaning given to it pursuant to those sections. (5-1-94)
18. Proposed Permit. The version of a permit that the Department proposes to issue and forwards to the EPA for review. (5-1-94)
19. Quantifiable. The Department must be able to determine the emissions impact of any SIP trading programs requirement(s) or emission limit(s). (5-1-94)
20. Regulated Air Pollutant. The following air pollutants: (5-1-94)
- a. Nitrogen oxides including nitrogen dioxide, volatile organic compounds, ozone, lead, carbon monoxide, PM-10 and sulfur oxides. (7-1-97)
- b. Any air pollutant that is regulated in 40 CFR Part 60. (5-1-94)
- c. Any Class I or II substance listed in, or listed in accordance with 42 U.S.C. Sections 7671a(a) or 7671a(b). (5-1-94)
- d. Any air pollutant subject to a standard promulgated under 42 U.S.C. Section 7412 or other requirements established under 42 U.S.C. Section 7412, including 42 U.S.C. Section 7412(g), (j), and (r), including the following: (5-1-94)
- i. Any air pollutant subject to requirements under 42 U.S.C. Section 7412(j). If the EPA fails to promulgate a standard by the date established pursuant to 42 U.S.C. Section 7412(e), any air pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to 42 U.S.C. Section 7412(e); and (5-1-94)
- ii. Any air pollutant for which the requirements of 42 U.S.C. Section 7412(g)(2) have been met, but only with respect to the individual source subject to 42 U.S.C. Section 7412(g)(2) requirement. (5-1-94)
21. Replicable. Any SIP procedures for applying emission trading shall be structured so that two independent entities would obtain the same result when determining compliance with the emission trading provisions. (5-1-94)
22. Tier I Operating Permit. Any permit covering a Tier I source that is issued, renewed, amended, or revised pursuant to Sections 300 through 387. (5-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**209. PROCEDURE FOR ISSUING PERMITS.**

01. General Procedures. General procedures for permits to construct. (5-1-94)
- a. Within thirty (30) days after receipt of the application for a permit to construct, the Department shall determine whether the application is complete or whether more information must be submitted and shall notify the applicant of its findings in writing. (5-1-94)
- b. Within sixty (60) days after the application is determined to be complete the Department shall:
- i. Notify the applicant in writing of the approval, conditional approval, or denial of the application if an opportunity for public comment is not required pursuant to Section 209.01.c. The Department shall set forth reasons for any denial; or (5-1-94)
- ii. Issue a proposed approval, proposed conditional approval, or proposed denial. (5-1-94)
- c. An opportunity for public comment shall be provided on an application for any new major facility or major modification, any new facility or modification which would cause a significant contribution to existing ambient concentrations or affect any Class I area, any application which uses fluid modeling or a field study to establish a good engineering practice stack height pursuant to Sections 510 through 516, any application which uses an interpollutant trade pursuant to Subsection 210.17, and any other application which the Director determines an opportunity for public comment should be provided. (6-30-95)
- i. The Department's proposed action, together with the information submitted by the applicant and the Department's analysis of the information, shall be made available to the public in at least one (1) location in the region in which the stationary source or facility is to be located. (5-1-94)
- ii. The availability of such materials shall be made known by notice published in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. (5-1-94)
- iii. A copy of such notice shall be sent to the applicant and to appropriate federal, state and local agencies. (5-1-94)
- iv. There shall be a thirty (30) day period after initial publication for comment on the Department's proposed action, such comment to be made in writing to the Department. (5-1-94)
- v. After consideration of comments and any additional information submitted during the comment period, and within forty-five (45) days after initial publication of the notice, or notice of public hearing if one is requested under Subsections 209.02.b.iv. or 209.02.a.ii., unless the Director deems that additional time is required to evaluate comments and information received, the Department shall notify the applicant in writing of approval, conditional approval, or denial of the permit. The Department shall set forth the reasons for any denial. (5-1-94)
- vi. All comments and additional information received during the comment period, together with the Department's final determination, shall be made available to the public at the same location as the preliminary determination. (5-1-94)
- d. A copy of each permit will be sent to the U.S. Environmental Protection Agency. (5-1-94)
02. Additional Procedures for Specified Sources. (5-1-94)
- a. For any new major facility or major modification in an attainment or unclassifiable area for any air pollutant, except for those new major facilities and major modifications exempted under Subsections 205.04.a. and 205.04.b.

(5-1-94)

i. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the degree of increment consumption that is expected from the new major facility or major modification; and (5-1-94)

ii. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality effects of the new major facility or major modification, alternative to it, the control technology required, and other appropriate considerations. (5-1-94)

b. For any new major facility or major modification which would affect a federal Class I area or an integral vista of a mandatory federal Class I area. (5-1-94)

i. If the Department is notified of the intent to apply for a permit to construct, it shall notify the appropriate Federal Land Manager within thirty (30) days; (5-1-94)

ii. A copy of the permit application and all relevant information, including an analysis of the anticipated effects on visibility in any federal Class I area, shall be sent to the Administrator of the U.S. Environmental Protection Agency and the Federal Land Manager within thirty (30) days of receipt of a complete application and at least sixty (60) days prior to any public hearing on the application; (5-1-94)

iii. Notice of every action related to the consideration of the permit shall be sent to the Administrator of the U.S. Environmental Protection Agency; (5-1-94)

iv. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality effect of the new major facility or major modification, alternative to it, the control technology required, and other appropriate considerations. (5-1-94)

v. The notice of public hearing, if required, shall explain any differences between the Department's preliminary determination and any visibility analysis performed by the Federal Land Manager and provided to the Department within thirty (30) days of the notification pursuant to Subsection 209.02.b.ii. (5-1-94)

vi. Upon a sufficient showing by the Federal Land Manager that a proposed new major facility or major modification will have an adverse impact upon the air quality related values (including visibility) of any federal mandatory Class I area, the Director may deny the application notwithstanding the fact that the concentrations of air pollutants would not exceed the maximum allowable increases for a Class I area. (5-1-94)

03. Establishing a Good Engineering Stack Height. The Department will notify the public of the availability of any fluid model or field study used to establish a good engineering practice stack height and provide an opportunity for a public hearing before issuing a permit or setting an emission standard based thereon. (5-1-94)

04. Revisions of Permits to Construct. The Director may approve a revision of any permit to construct provided the stationary source or facility continues to meet all applicable requirements of Sections 200 through 225. Revised permits will be issued pursuant to procedures for issuing permits (Section 209), except that the requirements of Subsections 209.01.c., 209.02.a., 209.02.b. and 209.04, shall only apply if the permit revision results in an increase in allowable emissions or if deemed appropriate by the Director. (5-1-94)

05. Permit to Construct Procedures for Tier I Sources. For Tier I sources that require a permit to construct, the owner or operator shall either: (5-1-94)

a. Submit only the information required by Sections 200 through ~~225~~19 for a permit to construct, in which case: (5-1-94)(\_\_\_\_\_)

i. A permit to construct or denial will be issued in accordance with Subsections 209.01.a. and 209.01.b. (5-1-94)

ii. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. ~~(5-1-94)~~(\_\_\_\_)

iii. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit. (\_\_\_\_)

iiii. Within twelve (12) months after commencing operation, the owner or operator shall submit an application for a Tier I operating permit or a request for a minor or substantive permit modification, whichever is appropriate. ~~(5-1-94)~~(\_\_\_\_)

iv. The application or minor or substantive permit modification request shall be processed in accordance with timelines: ~~Subsections 361 and Subsections 367.02 through 367.05.~~ ~~(5-1-94)~~(\_\_\_\_)

vi. The final Tier I operating permit action shall supersede the permit to construct: ~~or~~ ~~(5-1-94)~~(\_\_\_\_)

b. Submit all information required by Sections 200 through 2199 and 300 through 387 for a permit to construct and a Tier I operating permit, in which case: ~~(5-1-94)~~(\_\_\_\_)

i. Completeness of the application shall be determined within thirty (30) days. (5-1-94)

ii. The Department shall prepare a proposed permit to construct or denial and a draft Tier I operating permit, in accordance with Sections 200 through 2199 and 300 through 387, within sixty (60) days. ~~(3-20-97)~~(\_\_\_\_)

iii. The Department shall provide for public comment and affected state review in accordance with Sections 209, 364 and 365 on the proposed permit to construct or denial and draft Tier I operating permit or denial. ~~(5-1-94)~~(\_\_\_\_)

iv. Except as otherwise provided by these rules, the Department shall prepare and issue to the owner or operator a final permit to construct or denial within fifteen (15) days after the close of the public comment period. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit. ~~(5-1-94)~~(\_\_\_\_)

v. The final permit to construct will be sent to EPA as the proposed Tier I operating permit, or as a proposed amendment to the Tier I operating permit, for review in accordance with Section 366. ~~(5-1-94)~~(\_\_\_\_)

vi. The permittee shall request that the permit to construct requirements be incorporated into the Tier I operating permit through an administrative amendment in accordance with Section 384. (5-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**314. REQUIRED STANDARD APPLICATION FORM AND REQUIRED INFORMATION.**

01. General Requirements. (5-1-94)

a. Applications shall be submitted on a form or forms provided by the Department or by other means prescribed by these rules or the Department. The application shall be certified by the responsible official in accordance with Section 123. (5-1-94)

i. If the Tier I source is regulated under 42 U.S.C. Sections 7651 through 7651o, the owner or operator shall also submit nationally-standardized acid rain forms provided by EPA. (5-1-94)

b. All information shall be in sufficient detail so that the Department may efficiently and effectively determine the applicability of requirements and make all other necessary evaluations and determinations. (5-1-94)

02. General Information for the Facility. (5-1-94)
- a. Provide identifying information, including the name, address and telephone number of: (5-1-94)
    - i. The owner; (5-1-94)
    - ii. The operator; (5-1-94)
    - iii. The facility where the Tier I source is located; (5-1-94)
    - iv. The registered agent of the owner, if any; (5-1-94)
    - v. The registered agent of the operator, if any; (5-1-94)
    - vi. The responsible official, if other than the owner or operator; and (5-1-94)
    - vii. The contact person. (5-1-94)
  - b. Provide a general description of the processes used and products produced by the facility where the Tier I source is located, including any associated with each requested alternative operating scenario and trading scenario. The description shall include narrative and applicable SIC codes. (5-1-94)
  - c. Provide a general description of each process line affecting a Tier I source. (5-1-94)
03. Excess Emissions Procedures. For all air pollution control equipment, emissions units, or other sources from which excess emissions may occur during startup, shutdown, and scheduled maintenance, provide detailed descriptions of the specific procedures which will be used to minimize excess emissions. Specific information for each of these three (3) types of excess emissions events (i.e. startup, shutdown and scheduled maintenance) shall be described in full detail for each piece of control equipment, emissions unit or other source and shall include all of the following: (5-1-94)
- a. Identification of the specific air pollution control equipment, emissions unit, or other source. (5-1-94)
  - b. Identification of the specific air pollutants likely to be emitted in excess of applicable standards or limits during the startup, shutdown, or scheduled maintenance period. (5-1-94)
  - c. The estimated amount of excess emissions expected to be released during each event. (5-1-94)
  - d. The expected duration of each excess emissions event. (5-1-94)
  - e. An explanation of why the excess emissions are unavoidable for each of the three types of excess emissions events (i.e. startup, shutdown, and scheduled maintenance). (5-1-94)
  - f. Specification of the frequency at which each of the three types of excess emissions events (i.e. startup, shutdown, and scheduled maintenance) are expected to occur. (5-1-94)
  - g. For scheduled maintenance, the owner or operator shall also provide detailed explanations of: (5-1-94)
    - i. Why the maintenance is needed. (5-1-94)
    - ii. Why it is impractical to reduce or cease operation of the emissions unit(s) or other source(s) during the scheduled maintenance period. (5-1-94)
    - iii. Why the excess emissions are not avoidable through better scheduling of the maintenance or

through better operation and maintenance practices. (5-1-94)

iv. Why, where applicable, it is necessary to by-pass, take off line, or operate the air pollution control equipment at reduced efficiency while the maintenance is being performed. (5-1-94)

v. Why auxiliary air pollution control equipment is not used during the scheduled maintenance period to eliminate the excess emissions. (5-1-94)

h. Justification to explain why the piece of control equipment, emissions unit or other source can not be modified or redesigned to eliminate or reduce the excess emissions which occur during startup, shutdown, and scheduled maintenance. (5-1-94)

i. Detailed specification of the procedures to be followed by the owner or operator which will minimize excess emissions at all times during startup, shutdown, and scheduled maintenance. These procedures may include such measures as preheating or otherwise conditioning the emissions unit prior to its use or the application of auxiliary air pollution control equipment to reduce the excess emissions. (5-1-94)

04. Specific Information for Each Emissions Unit. The owner or operator shall provide, in an itemized format, all of the information identified in Subsections 314.05 through 314.12 for each emissions unit, unless the emissions unit is an insignificant activity. (3-3-95)

05. Emissions. (5-1-94)

a. Identify and describe all emissions of pollutants for which the source is major and all emissions of regulated air pollutants from each emissions unit. Fugitive emissions shall be included in the application in the same manner as stack emissions, regardless of whether the source category is included in the list of sources contained in the definition of major facility (Section 008). (3-20-97)( )

b. Emissions rates shall be quantified in tons per year (tpy) and in such additional terms as are necessary to determine compliance consistent with the applicable test method. (3-20-97)

c. Identify and describe all points of emissions in sufficient detail to establish the basis for fees and applicability of requirements of the Clean Air Act. (3-20-97)

d. To the extent it is needed to determine or regulate emissions, identify and quantify all fuels, fuel use, raw materials, production rates, and operating schedules. (5-1-94)

e. Identify and describe all air pollution control equipment and compliance monitoring devices or activities. (5-1-94)

f. Identify and describe all limitations on source operation or any work practice standards affecting emissions. (5-1-94)

g. Provide the calculations on which the information provided under Subsections 314.05.a. through 314.05.e. is based. (5-1-94)

06. Applicable Requirements. (5-1-94)

a. Cite and describe all applicable requirements affecting the emissions unit; and (5-1-94)

b. Describe or reference all methods required by each applicable requirement for determining the compliance status of the emissions unit with the applicable requirement, including any applicable monitoring, recordkeeping and reporting requirements or test methods. (5-1-94)

07. Other Requirements. Other specific information that may be necessary to determine the applicability of, implement or enforce any requirement of the Act, these rules, 42 U.S.C. Sections 7401 through 7671q or federal regulations. (5-1-94)



08. Proposed Exemptions and Determinations of Nonapplicability. (5-1-94)
- a. ~~Identify and provide an explanation of any proposed exemptions from applicable requirements.~~ (5-1-94)
- b. Identify any other requirements for which the applicant seeks a determination of nonapplicability and provide an explanation of why the requirement is not applicable to the Tier I source. (5-1-94)(\_\_\_\_)
09. Alternative Operating Scenarios. (5-1-94)
- a. Identify all requested alternative operating scenarios. (5-1-94)
- b. Provide a detailed description of all requested alternative operating scenarios. Include all the information required by Section 314 that is relevant to the alternative operating scenario. (5-1-94)
10. Compliance Certifications. (5-1-94)
- a. Provide a compliance certification regarding the compliance status of each emissions unit at the time the application is submitted to the Department that: (5-1-94)
- i. Identifies all applicable requirements affecting each emissions unit. (5-1-94)
- ii. Certifies the compliance status of each emissions unit with each of the applicable requirements. (5-1-94)
- iii. Provides a detailed description of the method(s) used for determining the compliance status of each emissions unit with each applicable requirement, including a description of any monitoring, recordkeeping, reporting and test methods that were used. Also provide a detailed description of the method(s) required for determining compliance. (5-1-94)
- iv. Certifies the compliance status of the emissions unit with any applicable enhanced monitoring requirements. (5-1-94)
- v. Certifies the compliance status of the emissions unit with any applicable enhanced compliance certification requirements. (5-1-94)
- vi. Provides all other information necessary to determining the compliance status of the emissions unit. (5-1-94)
- b. Provide a schedule for submission of compliance certifications during the term of the Tier I operating permit. The schedule shall require compliance certifications to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Department. (5-1-94)
11. Compliance Plans. (5-1-94)
- a. Provide a compliance description as follows: (5-1-94)
- i. For each applicable requirement with which the emissions unit is in compliance, state that the emissions unit will continue to comply with the applicable requirement. (5-1-94)
- ii. For each applicable requirement that will become effective during the term of the Tier I operating permit that does not contain a more detailed schedule, state that the emissions unit will meet the applicable requirement on a timely basis. (5-1-94)
- iii. For each applicable requirement that will become effective during the term of the Tier I operating permit that contains a more detailed schedule, state that the emissions unit will comply with the applicable

requirement on the schedule provided in the applicable requirement. (5-1-94)

iv. For each applicable requirement with which the emission unit is not in compliance, state that the emissions unit will be in compliance with the applicable requirement by the time the Tier I operating permit is issued or provide a compliance schedule in accordance with Subsection 314.11.b. (5-1-94)

b. All compliance schedules shall: (5-1-94)

i. Include a schedule of remedial measures leading to compliance, including a verifiable sequence of actions and specific dates for achieving milestones and achieving compliance. (5-1-94)

ii. Include a schedule for submission to the Department of periodic progress reports no less frequently than every six (6) months or at a more frequent period if one is specified in the underlying applicable requirement or by the Department. (5-1-94)

iii. Incorporate the terms and conditions of any applicable consent order, judicial order, judicial consent decree, administrative order, settlement agreement or judgment. (5-1-94)

iv. Be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based. (5-1-94)

c. Provide a schedule for submission of compliance plans during the term of the Tier I operating permit. The schedule shall require compliance plans to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Department. (5-1-94)

12. Trading Scenarios. (5-1-94)

a. Identify all requested trading scenarios, including alternative emissions limits (bubbles) authorized by Section 440. (5-1-94)

b. Provide a detailed description of all requested trading scenarios. Include all the information required by Section 314 that is relevant to the trading scenario and all the information required by Section 440, if applicable. Emissions trades must comply with all applicable requirements. (5-1-94)( )

c. Provide proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. Emissions trades involving emissions units for which the emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trade shall not be approved. ( )

13. Additional Information. Provide all additional information that the Department determines is necessary for the Department to efficiently and effectively perform its functions. Such functions include, but are not limited to, determining the applicability of requirements for all air pollutants, determining compliance with applicable requirements, developing or defining Tier I operating permit terms and conditions, defining all approved alternativeoperatingscenarios,evaluatingexcessemissionsproceduresomakingallnecessaryevaluationsanddeterminations. (5-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**317. INSIGNIFICANT ACTIVITIES.**

01. ~~Insignificant Activities~~ Applicability Criteria. This Section contains the criteria for identifying insignificant activities for the purposes of the Tier I operating permit program. Notwithstanding any other provision of this rule, no emission unit or activity subject to an applicable requirement shall qualify as an insignificant emission unit or activity. Applicants may not exclude from Tier I operating permit applications information that is needed to determine whether the facility is major or whether the facility is in compliance with applicable requirements.

- (3-3-95)L(\_\_\_\_)
- a. ~~Categorically exempt~~ Presumptively insignificant emission units. (3-3-95)L(\_\_\_\_)
- i. ~~This Section contains lists of units and activities that are categorically exempt from this chapter. Except as provided above, the activities listed in this section may be omitted from the permit application.~~  
(3-3-95)L(\_\_\_\_)
- (1) ~~Alterations that do not constitute a modification or require a permitting action under Sections 200 through 225, or are permitting actions that pertain only to Toxic Air Pollutants. Blacksmith forges.~~ (3-3-95)L(\_\_\_\_)
- (2) Mobile transport tanks on vehicles except for those containing asphalt and not including loading and unloading operations. (3-3-95)L(\_\_\_\_)
- (3) ~~Lubricating oil storage tanks.~~ Natural gas pressure regulator vents, excluding venting at oil and gas production facilities. (3-3-95)L(\_\_\_\_)
- (4) Storage tanks, reservoirs and pumping and handling equipment of any size, limited to soaps, lubricants, lubricating oil, treater oil, hydraulic fluid, vegetable oil, grease, animal fat, aqueous salt solutions or other materials and processes using appropriate lids and covers where there is no generation of objectionable odor or airborne particulate matter. (3-3-95)L(\_\_\_\_)
- (5) Pressurized storage of oxygen, nitrogen, carbon dioxide, air, or inert gases. (3-3-95)L
- (6) Storage of solid material, dust-free handling. (3-3-95)L
- (7) ~~Vehicle exhaust from auto maintenance and repair shops.~~ Boiler water treatment operations, not including cooling towers. (3-3-95)L(\_\_\_\_)
- (8) Vents from continuous emission monitors and other analyzers. (3-3-95)L
- (9) Vents from rooms, buildings and enclosures that contain permitted emissions units or activities from which local ventilation, controls, and separate exhaust are provided. (3-3-95)L
- (10) Internal combustion engines for propelling or powering a vehicle. (3-3-95)L
- (11) Recreational fireplaces including the use of barbecues, campfires and ceremonial fires. (3-3-95)L
- (12) ~~Brazing, soldering, and welding equipment and oxygen-hydrogen cutting torches for use in cutting metal wherein components of the metal do not generate HAP hazardous air pollutants or HAP hazardous air pollutant precursors.~~  
(3-3-95)L(\_\_\_\_)
- (13) Atmospheric generators used in connection with metal heat treating processes using non-hazardous air pollutant metals as the primary raw material. (3-3-95)L(\_\_\_\_)
- (14) Non-hazardous air pollutant M metal finishing or cleaning using tumblers. (3-3-95)L(\_\_\_\_)
- (15) ~~Metal casting molds and molten metal crucibles that do not contain potential HAPs.~~ (3-3-95)L
- (16) ~~Die casting.~~ (3-3-95)L
- (17) ~~Metal or glass heat treating, in the absence of molten materials, oils, or VOCs.~~ (3-3-95)L
- (185) Drop hammers or hydraulic presses for forging or metalworking. (3-3-95)L
- (196) Electrolytic deposition, used to deposit brass, bronze, copper, iron, tin, zinc, precious and other metals not listed as the parents of HAP hazardous air pollutants. (3-3-95)L(\_\_\_\_)

~~(2017)~~ Metal fume vapors from electrically heated foundry/forge operations wherein the components of the metal do not generate HAPs or HAP precursors. Electric arc furnaces are excluded from consideration for listing as insignificant. Equipment used for surface coating, painting, dipping or spraying operations, except those that will emit volatile organic compound or hazardous air pollutant. (3-3-95)L(\_\_\_\_)

~~(2118)~~ Metal melting and molten metal holding equipment and operations wherein the components of the metal do not generate HAPs or HAP precursors. Electric arc furnaces are not considered for listing as insignificant. Process water filtration systems. (3-3-95)L(\_\_\_\_)

~~(2219)~~ Inspection equipment for metal products. Portable electrical generators that can be moved by hand from one location to another. Moved by hand means that it can be moved without the assistance of any motorized or non-motorized vehicle, conveyance, or device. (3-3-95)L(\_\_\_\_)

(230) Plastic and resin curing equipment, excluding FRP and provided these activities are not related to the source's primary business activity. (3-3-95)L(\_\_\_\_)

(241) Extrusion equipment, metals, minerals, plastics, grain or wood used without solvents containing hazardous air pollutant. (3-3-95)L(\_\_\_\_)

(252) Presses and vacuum forming, for curing rubber and plastic products or for laminating plastics without solvents containing hazardous air pollutants present. (3-3-95)L(\_\_\_\_)

(263) Roller mills and calendars; for use with rubber and plastics without solvents containing hazardous air pollutants. (3-3-95)L(\_\_\_\_)

(274) Conveying and storage of plastic pellets. (3-3-95)L

(285) Plastic compression, injection, and transfer molding and extrusion, rotocasting, pultrusion, blowmolding, excluding acrylics, PVC, polystyrene and related copolymers and the use of plasticizer. Only oxygen, carbon dioxide, nitrogen, air or inert gas allowed as blowing agent. (3-3-95)L

(296) Plastic pipe welding. (3-3-95)L

~~(30)~~ Nonmetallic mineral mines and screening plants except for crushing and associated activities that are not subject to 40 CFR Part 60 Subpart 000. Quarrying of silica rock and associated activities are not considered for listing as insignificant. (3-3-95)L

~~(31)~~ Wet sand and gravel screening. (3-3-95)L

~~(3227)~~ Wax application in either a molten state or aqueous suspension. (3-3-95)L(\_\_\_\_)

~~(3328)~~ Plant maintenance and upkeep including routine housekeeping, janitorial activities, cleaning and preservation of equipment, preparation for and painting of structures or equipment, retarring roofs, applying insulation to buildings in accordance with applicable environmental and health and safety requirements and paving or stripping parking lots lawn, landscaping and groundskeeping activities. Provided these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and not otherwise triggering a permit modification. (3-3-95)L(\_\_\_\_)

~~(3429)~~ Agricultural activities on a facility's property that are not subject to registration or new source review by the permitting authority. (3-3-95)L

(350) Maintenance of paved streets and parking lots including paving, stripping, salting, sanding, cleaning and sweeping of streets and paved surfaces and salting and sanding. Provided these activities are not related to the source's primary business activity, do not otherwise trigger a permit modification, and fugitive emissions are reasonably controlled as required in Section 808. (3-3-95)L(\_\_\_\_)

- (361) Ultraviolet curing processes. (3-3-95)L
- (372) Hot melt adhesive application with no ~~VOC~~ volatile organic compounds or hazardous air pollutants in the adhesive formula. (3-3-95)L(\_\_\_\_)
- (383) Laundering, dryers, extractors, tumblers for fabrics, using water solutions of bleach and/or detergents except for boilers. (3-3-95)L(\_\_\_\_)
- (394) Steam cleaning operations. (3-3-95)L
- (4035) Steam sterilizers. (3-3-95)L
- (4136) ~~Food preparing for human consumption~~ Food service activities including cafeterias, kitchen facilities and barbecues located at a source for providing food service on premises. (3-3-95)L(\_\_\_\_)
- (4237) Portable drums and totes. (3-3-95)L
- (4338) ~~Lawn, landscaping and groundskeeping activities.~~ Fluorescent light tube and aerosol can crushing in units designed to reduce emissions from these activities. (3-3-95)L(\_\_\_\_)
- (4439) Flares used to indicate danger to the public. (3-3-95)L
- (450) General vehicle maintenance including vehicle exhaust from repair facilities provided these activities are not related to the source's primary business activity and do not have applicable requirements under title VI of the Clean Air Act. (3-3-95)L(\_\_\_\_)
- (461) Comfortairconditioningoraircoolingsystems,notusedtoremoveaircontaminantsfromspecificequipment. (3-3-95)L
- (472) Natural draft hoods, natural draft stacks, or natural draft ventilators for sanitary and storm drains, safety valves, and storage tanks subject to size and service limitations expressed elsewhere in this section. (3-3-95)L
- (483) Natural and forced air vents for bathroom/toilet facilities. (3-3-95)L
- (494) Office activities. (3-3-95)L
- (5045) Equipment used for quality control/assurance or inspection purposes, including Ssampling equipment-connections used exclusively to withdraw materials for laboratory analyses and testing. (3-3-95)L(\_\_\_\_)
- (5146) Fire ~~fighting~~ suppression systems and similar safety equipment and equipment used to train firefighters including fire drill pits. (3-3-95)L(\_\_\_\_)
- (5247) Materials and equipment used by, and activity related to operation of infirmary; infirmary is not the source's business activity except equipment affected by the radionuclide NESHAP. (3-3-95)L(\_\_\_\_)
- (5348) ~~Fuel and exhaust emissions from vehicles in parking lots.~~ Satellite Accumulation Areas (SAAs) and Temporary Accumulation Areas (TAAs) managed in compliance with RCRA. (3-3-95)L(\_\_\_\_)
- (5449) Equipment for Ccarving, cutting, routing, turning, drilling, machining, sawing, surface grinding, sanding, planing, buffing, shot blasting, sintering, or polishing: Ceramics, glass, leather, metals, plastics, rubber, concrete, paper stock, or wood provided that: these activities are not conducted as part of a manufacturing process. (3-3-95)L(\_\_\_\_)
- (a) ~~Activity is performed indoors.~~ (3-3-95)L
- (b) ~~Particulate emissions control is in the immediate vicinity of activity.~~ (3-3-95)L

- (e) Exhaust from the particulate control is within the building housing the activity. (3-3-95)L
- (d) Only de minimis levels of fugitive particulate emissions enter the environment. (3-3-95)L
- (550) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment subject to other exemption limitation, e.g., internal and external combustion equipment. (3-3-95)L
- (561) Equipment used exclusively to slaughter animals, but not including other equipment at Sslaughterhouses, such as equipment except rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment. (3-3-95)L( )
- (572) Ozonation equipment. (3-3-95)L
- (583) Nonasbestos brake shoe bonding Temporary construction activities at a facility provided that the installation or modification of emissions units must comply with all applicable federal, state, and local rules and regulations. (3-3-95)L( )
- (594) Batch loading and unloading of solid phase catalysts. (3-3-95)L
- (60) ~~Demineralization and oxygen scavenging (deaeration) of water.~~ (3-3-95)L
- (6155) Pulse capacitors. (3-3-95)L
- (62) ~~Laser trimmers, using dust collection to prevent fugitive emissions.~~ (3-3-95)L
- (63) ~~Plasma etcher, using dust collection to prevent fugitive emissions and using only oxygen, nitrogen, carbon dioxide, or inert gas.~~ (3-3-95)L
- (6456) Gas cabinets using only gases that are not regulated air pollutants. (3-3-95)L
- (6557) CO2 lasers, used only on metals and other materials which do not emit only de minimis levels of HAP hazardous air pollutants in the process. (3-3-95)L( )
- (6658) Structural changes not having air contaminant emissions. (3-3-95)L
- (67) ~~Confection cooking equipment.~~ (3-3-95)L
- (6859) Equipment used to Mmixing, packaging, storage and handling activities of any size, limited to soaps, lubricants, vegetable oil, grease, animal fat, and non-volatile aqueous salt solutions, provided appropriate lids and covers are utilized. (3-3-95)L( )
- (690) Photographic process equipment by which an image is reproduced upon material sensitized to radiant energy, e.g., blueprint activity, photocopiers, mimeograph, telefax, photographic developing, and microfiche provided these activities are not related to the source's primary business activity. (3-3-95)L( )
- (7061) Pharmaceutical and cosmetics packaging equipment. (3-3-95)L
- (7162) Paper trimmers/binders provided these activities are not related to the source's primary business activity. (3-3-95)L( )
- (7263) Sample gathering, preparation and management Bench-scale laboratory equipment and laboratory equipment used exclusively for physical or chemical analysis, including associated vacuum producing devices but excluding research and development facilities. (3-3-95)L( )
- (7364) Repair and maintenance shop activities; not involving installation of an emission unit and not increasing potential emissions of a regulated air pollutant related to the source's primary business activity.

~~(3-3-95)L( )~~

~~(7465) Handling equipment and associated activities for glass and aluminum which is destined for recycling, not the refining process itself provided these activities are not related to the source's primary business activity.~~  
~~(3-3-95)L( )~~

~~(7566) Hydraulic and hydrostatic testing equipment. (3-3-95)L~~

~~(7667) Batteries and battery charging stations, except at battery manufacturing plants. (3-3-95)L( )~~

~~(7768) Porcelain and vitreous enameling equipment. (3-3-95)L~~

~~(7869) Solid waste containers. (3-3-95)L~~

~~(790) Salt baths using nonvolatile salts and not used in operations which result in air emissions that do not result in emissions of any regulated air pollutants. (3-3-95)L( )~~

~~(8071) Shock chambers. (3-3-95)L~~

~~(8172) Wire strippers. (3-3-95)L~~

~~(8273) Humidity chambers. (3-3-95)L~~

~~(8374) Solar simulators. (3-3-95)L~~

~~(8475) Environmental chambers not using hazardous air pollutant (HAP) gases. (3-3-95)L( )~~

~~(8576) Totally enclosed conveyors not including transfer points. (3-3-95)L( )~~

~~(8677) Steam vents and safety relief valves. (3-3-95)L~~

~~(8778) Air compressors, pneumatically operated equipment, systems, and hand tools. (3-3-95)L~~

~~(8879) Steam leaks. (3-3-95)L~~

~~(890) Boiler blow-down tank. (3-3-95)L~~

~~(9081) Salt cake mix tanks at pulp mills. (3-3-95)L( )~~

~~(9182) Digester chip feeders at pulp mills. (3-3-95)L( )~~

~~(9283) Weak liquor and filter tanks at pulp mills. (3-3-95)L( )~~

~~(9384) Process water and white water storage tanks at pulp mills. (3-3-95)L( )~~

~~(9485) Demineralizer water tanks, demineralization, demineralizer vents, and oxygen scavenging (deaeration) of water. (3-3-95)L( )~~

~~(9586) Clean condensate tanks. (3-3-95)L~~

~~(9687) Alum tanks. (3-3-95)L~~

~~(9788) Broke beaters, repulpers, pulp and repulping tanks, stock chests and pulp handling. (3-3-95)L~~

~~(9889) Lime and mud filtrate tanks. (3-3-95)L~~

~~(990) Hydrogen peroxide tanks. (3-3-95)L~~

<del>(10091)</del> Lime mud washer.	(3-3-95)L
<del>(10192)</del> Lime mud filter.	(3-3-95)L
<del>(10293)</del> <u>Hydro and L</u> iquor clarifiers or filters and storage tanks and associated pumping, piping, and handling. (3-3-95)L( )	
<del>(10394)</del> Lime grits washers, filters, and handing.	(3-3-95)L
<del>(10495)</del> Lime silos and feed bins.	(3-3-95)L
<del>(10596)</del> Paper forming.	(3-3-95)L
<del>(106)</del> <u>Dryers including yankee, after dryer, curing systems, and cooling systems and non process related dryers.</u> (3-3-95)L	
<del>(107)</del> <u>Vacuum system exhausts.</u>	<del>(3-3-95)L</del>
<del>(10897)</del> Starch cooking.	(3-3-95)L
<del>(10998)</del> <u>Pulp S</u> tock cleaning and <u>pressurized pulp washing screening.</u>	<del>(3-3-95)L( )</del>
<del>(11099)</del> <u>Paper W</u> inders or other paper converting equipment.	<del>(3-3-95)L( )</del>
<del>(111)</del> <u>Chipping.</u>	<del>(3-3-95)L</del>
<del>(112)</del> <u>Debarking.</u>	<del>(3-3-95)L</del>
<del>(11300)</del> Sludge dewatering and <u>wet sludge</u> handling.	<del>(3-3-95)L( )</del>
<del>(11401)</del> Screw press vents.	(3-3-95)L
<del>(11502)</del> Pond dredging.	(3-3-95)L
<del>(11603)</del> Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation.	(3-3-95)L
<del>(11704)</del> Non-PCB oil filled circuit breakers, oil filled transformers and other equipment that is analogous to, but not considered to be, a tank.	(3-3-95)L
<del>(11805)</del> <u>Lab-scale E</u> lectric or steam-heated drying ovens and autoclaves.	<del>(3-3-95)L( )</del>
<del>(11906)</del> Sewer manholes, junction boxes, sumps and lift stations associated with waste water treatment systems. (3-3-95)L	
<del>(12007)</del> Water cooling towers processing exclusively noncontact cooling water.	(3-3-95)L
<del>(12108)</del> Paper coating and sizing.	(3-3-95)L
<del>(122)</del> <u>Space heating, if the capacity of the heating unit is less than five hundred thousand (500,000) BTU's per hour input.</u>	<del>(3-3-95)L</del>
<del>(12309)</del> Process waste water and ponds.	(3-3-95)L
<del>(12410)</del> Outdoor firearms practice ranges.	(3-3-95)L



- b. ~~Units and Insignificant activities defined as insignificant~~ on the basis of size or production rate. (3-3-95)L(\_\_\_\_)
- i. This section contains lists of units or activities that are ~~exempt from this chapter~~ insignificant on the basis of size or production rate. Units and activities listed in this section must be listed in the permit application. The following units and activities are determined to be insignificant based on their size or production rate: (3-3-95)L(\_\_\_\_)
- (1) Operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than two hundred sixty (260) gallon capacity thirty five cubic feet (35cft), heated only to the minimum extend to avoid solidification if necessary. (3-3-95)L
  - (2) Operation, loading and unloading of storage tanks, not greater than one thousand one hundred (1,100) gallon capacity, with lids or other appropriate closure, not for use with hazardous air pollutants (~~HAPs~~), maximum (max.) vp five-hundred fifty (550) mm Hg. (3-3-95)L(\_\_\_\_)
  - (3) Operation, loading and unloading of ~~VOC volatile organic compound~~ storage tanks ~~(including gasoline storage tanks)~~, ten thousand (10,000) gallons capacity or less, with lids or other appropriate closure, vp not greater than eighty (80) mm Hg at twenty-one (21) degrees C. Operation, loading and unloading of gasoline storage tanks, ten thousand (10,000) gallons capacity or less, with lids or other appropriate closure. (3-3-95)L(\_\_\_\_)
  - (4) Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas (LPG), storage tanks, vessel capacity under forty thousand (40,000) gallons. (3-3-95)L
  - (5) Combustion source, less than five million (5,000,000) Btu/hr, exclusively using natural gas, butane, propane, and/or LPG. (3-3-95)L
  - (6) Combustion source, less than five hundred thousand (500,000) Btu/hr, using any commercial fuel containing less than four-tenths percent (.4%) by weight sulfur for coal or less than one percent (1%) by weight sulfur for other fuels. (3-3-95)L
  - (7) Combustion source, of less than one million (1,000,000) Btu/hr, if using kerosene, No. 1 or No. 2 fuel oil. (3-3-95)L
  - (8) Combustion source, not greater than five hundred thousand (500,000) Btu/hr, if burning waste wood, wood waste or waste paper. (3-3-95)L
  - (9) Welding using not more than one (1) ton per day of welding rod. (3-3-95)L
  - (10) Foundry sand molds, unheated and using binders with less than twenty-five hundredths percent (.25%) free phenol by sand weight. (3-3-95)L
  - (11) "Parylene" coaters using less than five hundred (500) gallons of coating per year. (3-3-95)L
  - (12) Printing and silkscreening, using less than two (2) gallon/day of any combination of the following: Inks, coatings, adhesives, fountain solutions, thinners, retarders, or nonaqueous cleaning solutions. (3-3-95)L
  - (13) Water cooling towers and ponds, not using chromium-based corrosion inhibitors, not used with barometric jets or condensers, not greater than ten thousand (10,000) gpm, not in direct contact with gaseous or liquid process streams containing regulated air pollutants. (3-3-95)L
  - (14) Combustion turbines, of less than five hundred (500) HP. (3-3-95)L
  - (15) Batch solvent distillation, not greater than fifty-five (55) gallons batch capacity. (3-3-95)L
  - (16) Municipal and industrial water chlorination facilities of not greater than twenty million (20,000,000) gallons per day capacity. The exemption does not apply to waste water treatment. (3-3-95)L

- (17) Surface coating, using less than two (2) gallons per day. (3-3-95)L
- (18) Space heaters and hot water heaters using natural gas, propane or kerosene and generating less than five million (5,000,000) Btu/hr. (3-3-95)L
- (19) Tanks, vessels, and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids excluding: (3-3-95)L
- (a) Ninety-nine percent (99%) or greater H<sub>2</sub>SO<sub>4</sub> or H<sub>3</sub>PO<sub>4</sub>. (3-3-95)L
- (b) Seventy percent (70%) or greater HNO<sub>3</sub>. (3-3-95)L
- (c) Thirty percent (30%) or greater HCl. (3-3-95)L
- (d) More than one (1) liquid phase where the top phase is more than one percent (1%) ~~VOE~~ volatile organic compounds. (3-3-95)L( )
- (20) Equipment used exclusively to pump, load, unload, or store high boiling point organic material, material with initial boiling point (IBP) not less than one hundred fifty (150) degrees C or vapor pressure (vp) not more than five (5) mm Hg at twenty-one (21) degrees C with lids or other appropriate closure. (3-3-95)L
- (21) Smokehouses under twenty (20) square feet. (3-3-95)L
- (22) Milling and grinding activities, using paste-form compounds with less than one percent (1%) ~~VOE~~ volatile organic compounds. (3-3-95)L( )
- (23) Rolling, forging, drawing, stamping, shearing, or spinning hot or cold metals. (3-3-95)L
- (24) Dip-coating operations, using materials with less than one percent (1%) ~~VOE~~ volatile organic compounds. (3-3-95)L( )
- (25) Surface coating, aqueous solution or suspension containing less than one percent (1%) ~~VOE~~ volatile organic compounds. (3-3-95)L( )
- (26) Cleaning and stripping activities and equipment, using solutions having less than one percent (1%) ~~VOE~~ volatile organic compounds by weight. On metallic substrates, acid solutions are not considered for listing as insignificant. (3-3-95)L( )
- (27) Storage and handling of water based lubricants for metal working where the organic content of the lubricant is less than ten percent (10%). (3-3-95)L
- (28) Municipal and industrial waste water chlorination facilities of not greater than one million (1,000,000) gallons per day capacity. (3-3-95)L
- (29) ~~Any other activity that is requested to be listed as insignificant by the applicant and agreed to by the department~~ Domestic sewage treatment ponds with average flow rates less than four hundred (400) gpm or treating waste from less than three thousand (3000) people from non-residential sources. (3-3-95)L( )
- (30) An emission unit or activity with emissions less than or equal to ~~five ten~~ ten percent (10%) of the levels contained in subsection a. of the definition of significant and no more than one (1) ton per year of any HAP hazardous air pollutant. (3-3-95)L( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**384. ADMINISTRATIVE PERMIT AMENDMENTS.**

01. Generally. (5-1-94)
- a. An administrative permit amendment is an alteration that does any of the following: (5-1-94)
- i. Corrects typographical errors. (5-1-94)
- ii. Identifies a change in the name, address, or phone number of any person identified in the Tier I operating permit, or provides a similar minor administrative change at the Tier I source. (5-1-94)
- iii. Requires more frequent monitoring or reporting by the permittee. (5-1-94)
- iv. Allows for a change in ownership or operational control of a Tier I source where the Department determines that no other change in the Tier I operating permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the Department. (5-1-94)
- v. Incorporates into the Tier I operating permit the requirements from a permit to construct that was issued by the Department in accordance with Subsection 209.05.b. (5-1-94)
- ~~vi. Incorporates terms and conditions consistent with a compliance schedule and developed in accordance with Subsection 322.13.d. (5-1-94)~~
- ~~vii. Incorporates an applicable consent order, judicial consent decree, judicial order, administrative order, settlement agreement or judgment. (5-1-94)~~
- b. Alterations constituting a modification, requiring a permitting action or otherwise regulated under 42 U.S.C. Sections 7651 through 7651o are not administrative permit amendments. (5-1-94)
02. Authorization for Administrative Permit Amendments. (5-1-94)
- a. For administrative permit amendments initiated by the permittee, the permittee shall submit a request to the Department. The request shall: (5-1-94)
- i. State at the beginning of the request that it is a "REQUEST FOR ADMINISTRATIVE PERMIT AMENDMENT." (5-1-94)
- ii. Describe the proposed administrative permit amendment. (5-1-94)
- iii. State the date on which the proposed administrative amendment will occur at the facility. (5-1-94)
- iv. Identify any Tier I operating permit term or condition that is no longer applicable as a result of the change. (5-1-94)
- v. Identify any applicable requirement that would apply to the Tier I source as a result of the change. (5-1-94)
- vi. Specifically identify the permit to construct, if any. (5-1-94)
- b. For administrative permit amendments initiated by the Department, the Department shall notify the permittee that the Department is initiating an administrative permit amendment and provide a brief summary of the proposed administrative permit amendment. (5-1-94)
03. Procedures. An administrative permit amendment may be made by the Department consistent with the following: (5-1-94)

a. The Department shall, within sixty (60) days of receipt of a request for an administrative permit amendment or within sixty (60) days of sending notice to the permittee, take final action and may incorporate such changes without providing notice to the public or affected States provided that it designates any such administrative permit amendment as having been made pursuant to Section 384. (5-1-94)

b. ~~Unless the Department has already submitted a copy of the revised permit to EPA under Subsection 209.05.b.v., the~~ Department shall submit a copy of the revised permit, or an addendum, to the EPA and send the original to the permittee. (5-1-94)(\_\_\_\_)

c. The permittee may implement the alterations addressed in the request for an administrative permit amendment under Subsections 384.01.a.i. through 384.01.a.v. immediately upon submittal of the request. If the permittee obtains a permit to construct under Subsection 209.05.b, then so long as the permit to construct does not violate any terms or conditions of the existing Tier I operating permit, the permittee may operate the source described in the permit to construct immediately upon submittal of the request. (5-1-94)(\_\_\_\_)

d. The permittee shall implement the alterations addressed in the administrative permit amendment immediately upon receiving the original revised Tier I operating permit, or an addendum, unless the Department establishes a different date in the administrative permit amendment. (5-1-94)

04. Permit Shield Applicability. (5-1-94)

a. Upon final action by the Department, the permit shield described in Section 325 shall extend to administrative permit amendments identified in Subsection 384.01.a.v. (5-1-94)

b. The permit shield described in Section 325 shall not apply to any administrative permit amendment not identified in Subsection 384.01.a.v. (5-1-94)

**385. MINOR PERMIT MODIFICATIONS.**

01. Generally. A minor permit modification is an alteration that either: (5-1-94)(\_\_\_\_)

a. Does not do any of the following: (5-1-94)

i. Violate any applicable requirement; (5-1-94)(\_\_\_\_)

ii. ~~Involve significant substantive alterations to existing monitoring (including testing), reporting, or recordkeeping requirements in the Tier I operating permit, as defined under Subsection 386.01;~~ (5-1-94)(\_\_\_\_)

iii. Require or change: a case-by-case determination of an emission limitation or other standard; a source-specific determination of ambient impacts; or a visibility or increment analysis; (5-1-94)(\_\_\_\_)

iv. Seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include, but are not limited to, an enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I of the Clean Air Act or an alternative emissions limit for an early reduction of hazardous air pollutants that was approved pursuant to regulations promulgated under 42 U.S.C. Section 7412(i)(5); or (5-1-94)(\_\_\_\_)

v. ~~Constitute a modification or require a permitting action under Sections 200 through 225, 42 U.S.C. Sections 7401 through 7515, 42 U.S.C. Sections 7651 through 7651o, 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63, and is not otherwise regulated under 42 U.S.C. Sections 7651 through 7651o, unless the modification or permitting action only involves toxic air pollutants under any provisions of Title I of the Clean Air Act.~~ (5-1-94)(\_\_\_\_)

vi. ~~Result in an exceedance of the emissions allowable under the Tier I operating permit (whether expressed therein as a rate of emissions or in terms of total emissions).~~ (5-1-94)

b. ~~Alterations involving~~ May involve the use of economic incentives, marketable permits, emissions trading, and other similar approaches; provided that the SIP or an applicable requirement explicitly provides that such alterations may be made as minor permit modifications. (5-1-94)( )

~~02. Significant Alterations. Alterations affecting how the Department determines whether the permittee is in compliance with emission limitations and other Tier I operating permit terms and conditions are significant alterations to existing monitoring (including testing), reporting, or recordkeeping requirements. Such alterations include, but are not limited to, changes that would relax reporting or recordkeeping requirements and changes that switch from direct measurement of emissions to fuel sampling and analysis such as switching from emissions monitoring of SO<sub>2</sub> to sampling and analyzing coal sulfur content.~~ (5-1-94)

032. Authorization for Minor Permit Modifications. A permittee may initiate a minor permit modification by submitting a complete application to the Department. The application shall: (5-1-94)

a. Request the use of minor permit modification procedures and state at the beginning of the request that it is a "REQUEST FOR MINOR PERMIT MODIFICATION - INDIVIDUAL PROCESSING." (5-1-94)

b. Meet the requirements of Sections 311 through 315. (5-1-94)

c. Provide a summary sheet: (5-1-94)

i. Describing the proposed minor permit modification. (5-1-94)

ii. Stating the date on which the proposed minor permit modification will occur at the facility. (5-1-94)

iii. Describing and quantifying any change in emissions resulting from the minor permit modification including, but not limited to, an identification of any new air pollutants that will be emitted. (5-1-94)

iv. Identifying any Tier I operating permit term or condition that will no longer be applicable as a result of the minor permit modification. (5-1-94)

v. Identifying any applicable requirement that is applicable to the Tier I source as a result of the minor permit modification. (5-1-94)

d. Present suggested revisions to the text of the Tier I operating permit in legislative format. (5-1-94)

e. Include a certification consistent with Section 123, that the proposed minor permit modification meets the criteria for use of minor permit modification procedures and that the suggested revisions fully and accurately implement and demonstrate compliance with all applicable requirements governing the proposed minor permit modification. (5-1-94)

f. Include completed forms for the Department to use to notify the EPA and affected States as required under Sections 364 and 366. (5-1-94)

~~043. Procedures. A minor permit modification may be made by the Department consistent with the following:~~ (5-1-94)

a. Within five (5) working days of receipt of a complete minor permit modification application, the Department shall forward the forms completed by the applicant and other required information, if any, to the EPA and affected States. Affected States and EPA review shall occur simultaneously. (5-1-94)

b. The Department shall promptly notify EPA and any affected States in writing if the Department refuses to accept all the timely recommendations submitted by affected States. (5-1-94)

c. The Department may not issue a final permit modification until after EPA's forty-five (45) day review period or until EPA has notified the Department that EPA will not object to issuance of the permit

modification, whichever is first; although the Department can approve the permit modification prior to that time. ( )

ed. Within ninety (90) days of the Department's receipt of a complete minor permit modification application or within fifteen (15) days after the end of EPA's forty-five (45) day review period, whichever is earlier ~~later~~, the Department shall take one of the following actions: (5-1-94)( )

i. Issue the minor permit modification as proposed ~~and submit a copy of the revised Tier I operating permit, or an addendum, to the EPA and the original to the permittee; provided that, the Department may not issue the minor permit modification until after EPA has notified the Department that EPA will not object or until at least sixty (60) days have elapsed since the Department received the complete application.~~ (5-1-94)( )

ii. Deny the minor permit modification application. (5-1-94)

iii. Determine that the requested minor permit modification does not meet the minor permit modification criteria and should be reviewed under the substantive modification procedures. (5-1-94)

iv. Revise the proposed minor permit modification, transmit the revised proposal to the EPA and affected States in accordance with Sections 364 and 366, notify the permittee and re-initiate the ninety (90) day timeline identified in Subsection 385.043.c. (5-1-94)( )

de. The permittee may make the alteration proposed in its minor permit modification application at any time after it files such application with the Department and before final action by the Department. (5-1-94)

ef. The permittee shall implement the alterations addressed in the minor permit modification immediately upon receiving the original revised Tier I operating permit, or an addendum, unless the Department establishes a different date in the minor permit modification. (5-1-94)

054. Transitional Compliance. ~~If~~ The permittee may makes the proposed alteration at any time before ~~final action by the Department~~ the revised Tier I operating permit is issued, and compliance shall be determined as follows until the Department takes any of the actions specified in Subsections 385.043.c.i. through 385.043.c.iii.: (5-1-94)( )

a. The permittee must comply with both the applicable requirements governing the alteration and the suggested revisions to the text of the Tier I operating permit. (5-1-94)

b. The permittee need not comply with the existing permit terms and conditions it seeks to modify; provided that, if the source fails to comply with the applicable requirements governing the alteration and the suggested revisions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it. (5-1-94)

065. Permit Shield Applicability. The permit shield described in Section 325 shall not apply to any minor permit modification. (5-1-94)

076. Group Processing Procedures. The permittee may initiate group processing of its minor permit modification applications and the Department may process minor permit modification applications in groups as follows: (5-1-94)

a. The group may only consist of minor permit modification applications submitted by a single permittee for a single Tier I operating permit. (5-1-94)

b. The increased emissions requested in the minor permit modification applications in the group must not exceed the lesser of the following: (5-1-94)

i. Ten percent (10%) of the emissions allowed by the existing Tier I operating permit for the emissions unit for which the alteration is requested. (5-1-94)

- ii. Twenty percent (20%) of the criteria in Major Facility as defined in Subsection 008.14-  
(5-1-94)( )
- iii. Five (5) tons per year. (5-1-94)
- iv. ~~Any threshold developed by the Department on a case-by-case basis.~~ (5-1-94)
- c. A permittee may initiate the group processing of minor permit modifications by submitting an application to the Department. The application shall: (5-1-94)
- i. Request the use of group processing procedures and state at the beginning of the request that it is a "REQUEST FOR MINOR PERMIT MODIFICATION - GROUP PROCESSING." (5-1-94)
- ii. Comply with all of the requirements of Subsections 385.032.b. through 385.032.f. (5-1-94)( )
- iii. List the permittee's other pending minor permit modification applications that are awaiting group processing. (5-1-94)
- iv. State whether the minor permit modification, when aggregated with other pending minor permit modification applications awaiting group processing, is less than, equal to, or greater than the threshold provided in Subsection 385.076.b. and provide calculations supporting the statement. (5-1-94)( )
- v. List the permittee's other minor permit modifications that have been approved within the preceding twelve (12) months or that are awaiting individual processing. (5-1-94)
- vi. Certify, consistent with Section 123, that the permittee has provided a brief written notification describing the requested minor permit modification to the EPA. (5-1-94)
- d. The Department may process minor permit modifications in groups in accordance with Subsection 385.043 except as modified by the following: (5-1-94)( )
- i. Every three (3) months or within five (5) working days of receiving a minor permit modification application in which the permittee states that emissions increases proposed in the minor permit modification applications awaiting group processing are equal to or greater than the threshold provided in Subsection 385.076.b., whichever is the earlier, the Department shall identify the minor permit modification applications that will be processed as a group. (5-1-94)( )
- ii. Promptly after identifying the group of minor permit modification applications that will be processed as a group, the Department shall notify EPA and affected States as provided in Subsection 385.043.a. (5-1-94)( )
- iii. The Department shall take one of the actions provided in Subsections 385.043.c.i. through 385.043.d.iv. for each of the proposed minor permit modifications in the group within one hundred eighty (180) days of the Department's receipt of the first complete minor permit modification application processed in the group. (5-1-94)( )
- iv. If the Department takes the action provided in Subsections 385.043.c.i. or 385.03.d., the Department ~~may not shall~~ issue the minor permit modifications ~~until after EPA has notified the Department that EPA will not object or until at least sixty (60) days have elapsed since the Department identified the group of minor permit modification applications that will as eligible to be processed as a group within one hundred eighty (180) days of receipt of the application or fifteen (15) days after the end of EPA's forty-five (45) day review period, whichever is later.~~ (5-1-94)( )
- v. If the Department takes the action provided in Subsection 385.043.ed.iv., the Department shall initiate a new timeline requiring a further action within ninety (90) days. (5-1-94)( )

**386. SUBSTANTIVE PERMIT MODIFICATIONS.**

01. Generally. A substantive permit modification ~~is any alteration. Alterations that do not meet the criteria for~~ is an alteration that does not qualify as a minor permit modification or administrative amendment. Every significant change in existing monitoring permit terms or conditions and every relaxation of reporting or record-keeping permit terms or conditions off-permit changes, permit deviations, administrative permit amendments or minor permit modifications must be processed under Section 386 shall be considered significant. Nothing in Section 386 this section shall be construed to preclude the permittee from making alterations consistent with Sections 382 through 385. (5-1-94)(\_\_\_\_)

02. Authorization. A permittee may initiate a substantive permit modification by submitting a complete substantive permit modification application to the Department. The application shall: (5-1-94)

a. Request the use of substantive permit modification procedures and state at the beginning of the request that it is a "REQUEST FOR SUBSTANTIVE PERMIT MODIFICATION." (5-1-94)

b. Meet the requirements of Sections 311 through 315. (5-1-94)

c. Provide a summary sheet: (5-1-94)

i. Describing the proposed substantive permit modification. (5-1-94)

ii. Describing and quantifying any change in emissions resulting from the substantive permit modification including, but not limited to, an identification of any new air pollutants that will be emitted. (5-1-94)

iii. Identifying any Tier I operating permit term or condition that will no longer be applicable as a result of the substantive permit modification. (5-1-94)

iv. Identifying any applicable requirement that is applicable to the Tier I source as a result of the substantive permit modification. (5-1-94)

d. Present suggested revisions to the text of the Tier I operating permit in legislative format. (5-1-94)

03. Procedures. (5-1-94)

a. Substantive permit modifications shall be issued in accordance with all requirements of Sections 300 through 387 as they apply to Tier I operating permit issuance and Tier I operating permit renewal, including those for applications, public participation, review by affected States, and review by EPA. (5-1-94)

b. The Department will process the majority of significant permit modifications within nine (9) months of receiving a complete substantive permit modification application. The Department shall determine which substantive permit modification applications will be processed within nine (9) months. (5-1-94)

c. The permittee may not make the alteration proposed in its substantive permit modification application at any time before final action by the Department; ~~unless the alteration is also authorized as an off-permit change, permit deviation, administrative permit amendment or minor permit modification and the permittee complies with all corresponding conditions and requirements.~~ Final action in this instance may include issuance of a permit to construct or receipt of a pre-permit construction approval letter in accordance with Subsection 213.02.c. So long as the permit to construct does not violate any terms or conditions of the existing Tier I operating permit, the permittee may operate the source described in the permit to construct upon its issuance. (5-1-94)(\_\_\_\_)

d. The permittee shall implement the alterations addressed in the substantive permit modification immediately upon receiving the original revised Tier I operating permit, or an addendum, unless the Department establishes a different date in the substantive permit modification. (5-1-94)

04. Permit Shield Applicability. Upon final action by the Department, the permit shield described in Section 325 shall extend to substantive permit modifications. (5-1-94)



**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO**  
**DOCKET NO. 16-0101-9703**

**NOTICE OF TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The temporary rule is effective December 1, 1997.

**AUTHORITY:** In compliance with Idaho Code Sections 67-5226(1) and 67-5221(1), notice is hereby given that the Board of Health and Welfare (Board) has adopted a temporary rule and the Department of Health and Welfare, Division of Environmental Quality (Department) is commencing proposed rulemaking to promulgate a final rule. The action is authorized by Idaho Code Sections 39-105 and 39-107. In addition, this rulemaking is mandated by the United States Environmental Protection Agency (EPA) pursuant to 40 CFR 70.9.

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

Tuesday, February 10, 1998, 6:30 p.m., Division of Environmental Quality Conference Center, 1410 N. Hilton, Boise, Idaho.

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

**DESCRIPTIVE SUMMARY:** The Department is required to charge fees for the Title V operating permit program. Sufficient funds must be obtained from these fees to meet all funding requirements of the program. This rulemaking has been undertaken to provide industry the option of paying Title V operating permit fees based on actual (measured or calculated) annual emissions and permit allowable annual emissions. This will lower fees for some facilities choosing to pay fees based on the actual annual emissions. The rule will affect industry required to pay Title V operating permit fees. The text of the proposed rule is based on a consensus recommendation resulting from the negotiated rulemaking process. The negotiation was open to the public. Actual participants in the negotiation included industry representatives. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Volume 97-9, September 3, 1997, page 75.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Idaho Code Section 67-5226(1)(b), the Governor has found that temporary adoption of the rule is appropriate in that the rule complies with deadlines in amendments to federal programs.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning the proposed rulemaking, contact Sue Richards at (208)373-0502.

**SUBMISSION OF WRITTEN COMMENTS:** Anyone may submit written comments regarding this proposed rule. All written comments must be received by the undersigned on or before February 11, 1998.

Dated this 7th day of January, 1998.

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. 16-0101-9703**

**527. REGISTRATION.**

Any person owning or operating a facility or source for which Sections 525 through 538 applies shall, by May 1, 1993 and each May 1 thereafter register with the Department and submit the following: (5-1-94)

01. Facility Information. The name, address, telephone number and location of the facility; (5-1-94)
02. Owner/Operator Information. The name, address and telephone numbers of the owners and operators; (5-1-94)
03. Facility Emission Units. The number and type of emission units present at the facility or the Tier I permit number for the facility; ~~(5-1-94)~~(12-1-97)T
04. Pollutant Registration. ~~The amount, in tons or pounds, for which the facility is to be registered to emit from each source, except that no amount in excess of or less than an existing permit, consent order, or judicial order will be allowed. The facility is to register for following air pollutants~~ The emissions from the previous calendar year, or other twelve (12) month period requested by the registrant and approved by the Department for oxides of sulfur (SO<sub>x</sub>), oxides of nitrogen (NO<sub>x</sub>), particulate matter and volatile organic compounds (VOC) based on one (1) or more of the following methods chosen by the registrant: ~~(5-1-94)~~(12-1-97)T
  - a. ~~Oxides of sulfur (SO<sub>x</sub>)~~ Actual annual emissions; ~~(5-1-94)~~(12-1-97)T
  - b. ~~Oxides of nitrogen (NO<sub>x</sub>)~~ An estimate of the actual annual emissions calculated using the unit's actual operating hours, production rates, in-place control equipment, and types of materials processed, stored, or combusted during the preceding calendar year; ~~(5-1-94)~~(12-1-97)T
  - c. ~~Carbon monoxide (CO)~~; Allowable emissions based on permit limitations. ~~(5-1-94)~~(12-1-97)T
  - d. ~~Particulate matter~~; ~~(5-1-94)~~
  - e. ~~Volatile organic compounds (VOCs)~~; ~~(5-1-94)~~
05. Radionuclide Registration. The amount of radionuclides from facilities regulated under 40 CFR Part 61, Subpart H, for which the registrant wishes to be registered to emit from each source in curies per year except that no amount in excess of or less than an existing permit, consent order, or judicial order will be allowed. (5-1-94)
06. Air Pollutant Registration Fee. A registration fee of thirty dollars (\$30) per ton for all air pollutants listed in Subsection 527.04, ~~except carbon monoxide on and after January, 1995.~~ The registration fee may be paid in two installments as provided in Subsection 532.01. ~~(3-7-95)~~(12-1-97)T
07. Radionuclide Registration Fee. A registration fee of five dollars per curie per year (\$5/curie/year) for facilities regulated under 40 CFR Part 61, Subpart H. The registration fee may be paid in two installments as provided in Subsection 532.01. (5-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**529. REGISTRATION COMPLIANCE. (RESERVED).**

~~No person shall allow, suffer, cause, or permit the emission of any air pollutant listed in Subsection 527.04 or 527.05 in amounts in excess of those specified in the registration, an existing permit, consent order, or judicial order, whichever is lower; nor does the registration in any way imply, permit, or allow any relief, waiver, or variance from these rules or an existing permit, consent order, or judicial order.~~ (5-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**537. EXEMPTIONS.**

01. Registration Fees. The following facilities or sources are exempt from paying registration fees under Sections 525 through 538: (5-1-94)

a. Facilities and sources specified by the Department, after public notice, as exempt from the payment of registration fees; and (5-1-94)

b. Country grain elevators. (5-1-94)

~~e. Facilities that paid registration fees in good faith for Carbon Monoxide in 1993 and 1994 shall not be subject to additional fees on Carbon Monoxide. (3-7-95)L~~

~~d. Insignificant activities as identified in Subsection 317.01.b. (3-7-95)L~~

02. Registering and Paying Fees. The following facilities or sources are exempt from registering and paying registration fees under Sections 525 through 538: (5-1-94)

a. Facilities and sources specified by the Department, after public notice, as exempt from registration and the payment of registration fees; ~~and~~ (5-1-94)(12-1-97)T

b. Confined animal feeding operations; ~~and~~ (5-1-94)(12-1-97)T

c. Insignificant activities identified in Subsection 317.01.a. (3-7-95)L(12-1-97)T

03. Paying Fees. The following emissions are exempt from registering and paying registration fees under Section 525 through 538: (3-7-95)L

a. Fugitive emissions from wood products. (3-7-95)L

b. Fugitive dust emissions, except facilities listed in Subsections ~~008.14.h.c.i.~~ and 008.14.c.ii. Facilities listed in that section shall not be required to pay fees for fugitive dust emission in excess of one hundred (100) tons. (3-7-95)L(12-1-97)T

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

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

**DOCKET NO. 16-0102-9701**

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

**EFFECTIVE DATE:** This rule has been adopted by the Board of Health and Welfare (Board) and is now pending review by the 1998 Idaho State Legislature for final approval. The amendments to the temporary rule are effective December 1, 1997. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-fourth Idaho Legislature unless prior to that date the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291. If the rule is approved, amended or modified by concurrent resolution, the rule will become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Idaho Code Sections 67-5224 and 67-5226, notice is hereby given that the Board has adopted a pending rule and amended a temporary rule. The action is authorized by Idaho Code Sections 39-105, 39-107, and 39-3601 et seq. In addition, promulgation of this rule circumvents federal promulgation of state water quality standards pursuant to 33 U.S.C. Section 1313(c) (Section 303(c) of the Clean Water Act).

**DESCRIPTIVE SUMMARY:** In June 1994 the state adopted revisions to its water quality standards addressing primarily toxics standards. These revisions were sent to the U.S. Environmental Protection Agency (EPA) for its review and approval the following month. The EPA did not act on this submission within the time frame specified within the Clean Water Act (CWA) and was sued by several environmental groups as a consequence. The EPA sent the state an approval/disapproval letter in June 1996 which largely disapproved portions of the state's water quality standards that had been in effect for many years and had been previously approved by the EPA. The judge ordered the EPA to follow through with its disapproval and to promulgate standards for Idaho within a certain specified time frame. The EPA published a proposed rule to promulgate standards for Idaho on April 28, 1997, and was ordered to complete the rulemaking by July 27, 1997 if Idaho does not resolve the issues prior to that time. In June 1997, the Board adopted a temporary rule to avoid, in part, the necessity for federal promulgation on several of the issues involved. The EPA conditionally approved all of the temporary rule revisions except the bull trout temperature criteria.

In August 1997, the Department of Health and Welfare, Division of Environmental Quality (Department) proposed final adoption of the June 1997 temporary rule. The Department received public comments concerning the proposed rule and has revised the initial proposal as provided in Idaho Code Section 67-5227. Rather than keep the June 1997 temporary rule in place while the pending rule awaits legislative review, the Board amended the temporary rule with the same revisions which have been made to the proposed rule.

The pending rule and amendments to temporary rule were adopted by the Board, upon recommendation of the Department, because the rule responds to the needs of the regulated community while protecting the public health and environment.

The Department has revised IDAPA 16.01.02 Sections 130 and 250 as provided in Idaho Code Section 67-5227. The Department's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised by the public, is included in the rulemaking record maintained by the Division of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706.

IDAPA 16.01.02 Sections 060, 101, 110, 120, 140, 150, and 160 have been adopted as initially proposed in the Idaho Administrative Bulletin, Volume 97-8, August 6, 1997, pages 78 through 121 and, therefore, have not been republished with this notice.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this rule, contact Mark Shumar at (208)373-0502.

Dated this 7th day of January, 1998.

Paula Junae Saul  
Environmental Quality Section  
Attorney General's Office

1410 N. Hilton  
 Boise, Idaho 83706-1255

**IDAPA 16**  
**TITLE 01**  
**Chapter 02**

**WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS**

**There are substantive changes  
 from the proposed rule text.**

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

**The complete original text was published in the  
 Idaho Administrative Bulletin, Volume 97-8, August 6, 1997,  
 pages 78 through 121.**

**This rule has been adopted as Final by the Agency  
 and is now pending review by the  
 1998 Idaho State Legislature  
 for final adoption.**

**TEXT OF DOCKET NO. 16-0102-9701**

**130. SALMON BASIN.**

The waters found within the Salmon hydrologic basin are designated for use as follows:

(7-1-93)

01. Designated Uses Within Salmon Basin - Table C.

(~~3-20-97~~)(~~12-1-97~~)T

Map Code	Waters	DESIGNATED USES							
		Domestic Water Supply	Agricultural Water Supply	Cold Water Biota	Warm Water Biota	Salmonid Spawning	Primary Contact Recreation	Secondary Contact Recreation	Special Resource Water
a. SB-10	SALMON RIVER - source to East Fork Salmon	#	#	#		#	#	#	#
b. SB-20	SALMON RIVER - E.F. Confluence to Pahsimeroi River	#	#	#		#	#	#	#

Map Code	Waters	DESIGNATED USES							
		Domestic Water Supply	Agricultural Water Supply	Cold Water Biota	Warm Water Biota	Salmonid Spawning	Primary Contact Recreation	Secondary Contact Recreation	Special Resource Water
c. SB-110	YANKEE FORK - source to mouth	#	#	#		#	#	#	#
d. SB-120	EAST FORK OF SALMON - source to mouth	#	#	#		#	#	#	#
e. SB-130	THOMPSON CREEK - source to mouth		#	#		#		#	
f. SB-140	SQUAW CREEK - source to mouth		#	#		#		#	
g. SB-210	PAHSIMEROI RIVER - source to mouth	#	#	#		#	#	#	#
h. SB-30	SALMON RIVER - Pahsimeroi to Lemhi River	#	#	#		#	#	#	#
i. SB-310	LEMHI RIVER - source to mouth	#	#	#		#	#	#	#
j. SB-40	SALMON RIVER - Lemhi River to Middle Fork Salmon	#	#	#		#	#	#	#
k. SB-410	NORTH FORK SALMON RIVER - source to mouth	#	#	#		#	#	#	#
l. SB-420	PANTHER CREEK - source to Blackbird Creek	#	#	#		#	#	#	#
m. SB-421	BLACKBIRD CREEK - source to <del>mouth</del> , and including, Blackbird Creek Reservoir			#		#		#	
n. SB-4211	<del>WEST FORK OF BLACKBIRD CREEK - source to mouth</del> BLACKBIRD CREEK - Blackbird Creek Reservoir Dam to Mouth			#		#		#	
o. SB-4212	WEST FORK OF BLACKBIRD CREEK - source to, but not including, the concrete channel			#		#		#	
p. SB-4213	WEST FORK OF BLACKBIRD CREEK - concrete channel to mouth							#	
eq. SB-430	PANTHER CREEK - Blackbird Creek to mouth		#	#		#		#	

Map Code	Waters	DESIGNATED USES							
		Domestic Water Supply	Agricultural Water Supply	Cold Water Biota	Warm Water Biota	Salmonid Spawning	Primary Contact Recreation	Secondary Contact Recreation	Special Resource Water
p̄l. SB-440	MIDDLE FORK SALMON RIVER - source to mouth	#	#	#		#	#	#	#
q̄s. SB-441	BIG CREEK - source to mouth	#	#	#		#	#	#	#
r̄t. SB-4411	MONUMENTAL CREEK - source to mouth	#	#	#		#	#	#	#
s̄u. SB-50	SALMON RIVER - Middle Fork to South Fork	#	#	#		#	#	#	#
t̄v. SB-510	SOUTH FORK OF SALMON RIVER - source to mouth	#	#	#		#	#	#	#
ūw. SB-511	EAST FORK OF SOUTH FORK SALMON RIVER - source to mouth	#	#	#		#	#	#	#
v̄x. SB-5111	JOHNSON CREEK - source to mouth	#	#	#		#	#	#	#
w̄y. SB-512	SECESH RIVER - source to mouth	#	#	#		#	#	#	#
x̄z. SB-60	SALMON RIVER - South Fork to Little Salmon River	#	#	#		#	#	#	#
ȳaa. SB-610	LITTLE SALMON RIVER - source to mouth	#	#	#		#	#	#	#
z̄bb. SB-611	RAPID RIVER - source to mouth	#	#	#		#	#	#	#
aācc. SB-70	SALMON RIVER - Little Salmon River to Whitebird Creek	#	#	#		#	#	#	#
bb̄dd. SB-710	WHITEBIRD CREEK - source to mouth	#	#	#		#	#	#	
eēee. SB-80	SALMON RIVER - Whitebird Creek to mouth	#	#	#		#	#	#	#
ff̄ff. SB-810	ROCK CREEK - source to mouth (Johns Creek)		#	#		#	#	#	

02. Salmon Hydrologic Basin - Map C. (7-1-93)

**APPENDIX C - Salmon Hydrologic Basin - Map**



(BREAK IN CONTINUITY OF SECTIONS)

**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 six and two-tenths (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 six and one-half (6.5) to nine and one-half (9.5); (7-1-93)
    - ii. The total concentration of dissolved gas not exceeding one hundred 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 nineteen (19) ug/l (8-24-94)
      - (2) Four (4) day average concentration not to exceed eleven (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 six point two (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 five (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 (1) 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<sup>power(0.03(20-T))</sup> 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<sup>power(7.4-pH))</sup>/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
	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

<b>WATER TEMP.</b>	<b>pH</b>						
<b>(DEGREES C)</b>	<b>6.50</b>	<b>6.60</b>	<b>6.80</b>	<b>7.00</b>	<b>7.20</b>	<b>7.40</b>	<b>7.60</b>
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	10.51
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	13.52	10.49
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	12.71	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	11.10	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

<b>WATER TEMP.</b>	<b>pH</b>						
<b>DEGREES C</b>	<b>7.80</b>	<b>8.00</b>	<b>8.20</b>	<b>8.40</b>	<b>8.60</b>	<b>8.80</b>	<b>9.00</b>
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
	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

WATER TEMP. DEGREES C	pH						
	7.80	8.00	8.20	8.40	8.60	8.80	9.00
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 =  $(1 + 10^{\text{power}(7.4-pH)})/1.25$  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 =  $20(10^{\text{power}(7.7-pH)})/(1 + 10^{\text{power}(7.4-pH)})$  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/1 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
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

<b>WATER TEMP.</b>	<b>pH</b>			
<b>DEGREES C</b>	<b>6.5</b>	<b>6.6</b>	<b>6.8</b>	<b>7.0</b>
30	0.0026	0.0033	0.0052	0.0082
	1.04	1.04	1.04	1.04

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

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

<b>WATER TEMP.</b>	<b>pH</b>				
<b>DEGREES C</b>	<b>8.2</b>	<b>8.4</b>	<b>8.6</b>	<b>8.8</b>	<b>9.0</b>
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

WATER TEMP. DEGREES C	pH				
	8.2	8.4	8.6	8.8	9.0
	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
	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 six (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 twenty-two (22) degrees C or less with a maximum daily average of no greater than nineteen (19) degrees C. (8-24-94)

iii. Ammonia. (8-24-94)

(1) One (1) 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 twenty (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). (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
	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

<b>WATER TEMP.</b>	<b>pH</b>						
<b>DEGREES C</b>	<b>6.50</b>	<b>6.60</b>	<b>6.80</b>	<b>7.00</b>	<b>7.20</b>	<b>7.40</b>	<b>7.60</b>
	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

<b>WATER TEMP.</b>	<b>pH</b>						
<b>DEGREES C</b>	<b>7.80</b>	<b>8.00</b>	<b>8.20</b>	<b>8.40</b>	<b>8.60</b>	<b>8.80</b>	<b>9.00</b>
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
	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

WATER TEMP. DEGREES C	pH						
	7.80	8.00	8.20	8.40	8.60	8.80	9.00
	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 fifteen (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

WATER TEMP DEGREES C	pH				
	6.5	6.6	6.8	7.0	7.2
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
	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. DEGREES C	pH				
	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
	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 DEGREES C	pH			
	8.4	8.6	8.8	9.0
0	0.0123	0.0123	0.0123	0.0123
	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
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 fifty (50) NTU instantaneously or more than twenty-five (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 five point zero (5.0) mg/l. (8-24-94)

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

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

(a) One (1) day minimum of not less than six point zero (6.0) mg/l or ninety percent (90%) 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 Subsection 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 Subsection 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.**

<b>Fish Species</b>	<b>(Annually) Time Period</b>
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

Fish Species	(Annually) Time Period
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)

~~e. Bull trout temperature criteria. Known bull trout spawning and juvenile rearing stream segments as identified by the Department based on best available data or as designated under Sections 110 through 160 of this rule, shall not exceed a seven (7) day moving average of twelve degrees celsius (12oC) based on daily average water temperatures, or shall not exceed a seven (7) day moving average of fifteen degrees celsius (15oC) based on daily maximum water temperatures, during July, August and September. For the purposes of measuring these criteria, the daily average shall be generated from a recording monitoring device with a minimum of six (6) evenly spaced measurements in a twenty-four (24) hour period, and the daily maximum must be determined from either a maximum-minimum thermometer or a recording monitoring device providing at least hourly recordings. (6-20-97)T~~

e. Bull Trout Temperature Criteria. Water temperatures for the waters identified under Subsection 250.02 e.i. shall not exceed twelve degree Celsius (12C) daily average during June, July and August for juvenile bull trout rearing, and nine degrees Celsius (9C) daily average during September and October for bull trout spawning. For the purposes of measuring these criteria, the daily average shall be generated from a recording device with a minimum of six (6) evenly spaced measurements in a twenty-four (24) hour period. (12-1-97)T

i. The bull trout temperature criteria shall apply to all tributary waters, not including fifth (5th) order main stem rivers, located within areas above fourteen hundred (1400) meters elevation south of the Salmon River basin-Clearwater River basin divide, and above six hundred (600) meters elevation north of the Salmon River basin-Clearwater River basin divide, in the fifty-nine (59) Key Watersheds listed in Table 6, Appendix F of Governor Batt's State of Idaho Bull Trout Conservation Plan, 1996, or as designated under Sections 110 through 160 of this rule. (12-1-97)T

ii. Exceeding the bull trout temperature criteria will not be considered a water quality standards violation when the air temperature exceeds the ninetieth (90th) percentile of the seven (7) day average daily maximum air temperatures for the warmest seven (7) day period of the year. (12-1-97)T

iii. No thermal discharges will be permitted to the waters described under Subsection 250.02.e.i. unless socially and economically justified as determined by the Department, and then only if the resultant increase in stream temperature is less than five-tenths degrees Celsius (0.5C). (12-1-97)T

iv. The Director may, at his discretion, waive or raise the bull trout temperature criteria under Section 250.02.e. as they pertain to a specific water body included within Subsection 250.02.e.i. Any such determination shall be made consistent with 40 CFR 131.11 and shall be based on a finding that bull trout spawning and rearing is not an existing use in such water body or would be fully supported at a higher temperature criteria. For any determination under this subsection, the Director shall, prior to making a determination, provide for public notice and comment on the proposed determination. For any such proposed determination, the Director shall prepare and make available to the public a technical support document addressing the proposed modification. (12-1-97)T

f. Kootenai River sturgeon temperature criteria. Water temperatures within the Kootenai River from Bonners Ferry to Shorty's Island, shall not exceed a seven (7) day moving average of fourteen degrees celsius (14C)



based on daily average water temperatures, during May 1 through July 1. (6-20-97)T

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 point zero two (.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 01, Chapter 08, "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 Ck	1050011	Fernwood Water Dist.
Boise	Elk Ck	4080025	Idaho City Water Dept.
Boise	McBride Ck.	4080047	Terrace Lakes Rec. Ranch
Bonner	Berry Ck	1090021	Colburn Water Assn.
Bonner	Strong Ck.	1090038	East Hope Water Dept.
Boundary	Meadow Ck.	1110001	Bee Line Water Assn.
Boundary	Curley Ck.	1110008	Curley Ck. Water Assn.
Boundary	Molar Ck. and Highland Ck.	1110017	Highland Flats Water Assn.
Boundary	Mission Ck	1110019	Mission Creek Water Assn.
Boundary	Caribou Ck.	1110020	Moravia Water Assn.
Boundary	Brown Creek and Cedar Ck.	1110023	Paradise Valley Water Assn.
Boundary	Skin Ck.	1110025	Skin Ck. Water Assn.
Boundary	Twenty Mile Ck.	1110030	Twenty Mile Ck. Water Assn.
Clearwater N.F.	Clearwater R.**	2180001	Ahsahka Water and Sewer District
Clearwater	Reeds Ck.	2180029	Potlatch Corp-Headquarters
Elmore	E.F. Montezuma Ck.	4200005	Atlanta Water Assn.
Idaho	Wall Creek	2250011	Clearwater Water Assn.
Idaho	Big Elk Ck.	2250017	Elk City Water/Sewer Assn.
Nez Perce	Big Canyon Ck.	2350023	Peck Water System

County	Water Body	Supply No.*	Supply System Name
Shoshone	Sawmill Gulch and Canyon Ck.	1400016	Citizens Utility Co-Burke
Shoshone	Spring Gulch and Rosebud Gulch	1400032	Leisure Acres Trailer Court
Shoshone	Alder Ck. and East Alder Ck.	1400039	Murray Water Works
Shoshone	E.F. Silver Ck.	1400046	Silver Creek Water Assn.
Valley	Boulder Ck.	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 Subsection 250.03.a.iii.(1) turbidity as measured at the public water intake shall not be: (8-24-94)

(a) Increased by more than five (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 fifty (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 twenty-five (25) NTU, when background turbidity is greater than fifty (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 six point five (6.5) grams/day, a water ingestion rate of two (2) liters/day and a cancer risk level of ten (10) power-six (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., 250.07.a.ii., 250.07.a.iii., 250.07.a.iv., and 250.07.a.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 conversion factors: Arsenic(III) 1.000; Cadmium 1.136672-(ln hardness x 0.041838 for CMC and 1.101672-(ln hardness x 0.041838) for CCC; Chromium(III) 0.316 for CMC and 0.860 for CCC; Chromium(VI) 0.982 for CMC and 0.962 for CCC; Copper 0.960; Lead 1.46203-(ln hardness x 0.145712); Mercury .85 for CMC only; Nickel 0.998 for CMC and 0.997 for CCC; Silver .85 for CMC only; Zinc 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." (3-20-97)
- 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. (3-20-97)
- 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**

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

**DOCKET NO. 16-0102-9702**

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

**EFFECTIVE DATE:** This rule has been adopted by the Board of Health and Welfare (Board) and is now pending review by the 1998 Idaho State Legislature for final approval. The amendments to the temporary rule are effective December 1, 1997. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-fourth Idaho Legislature unless prior to that date the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291. If the rule is approved, amended or modified by concurrent resolution, the rule will become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Idaho Code Sections 67-5224 and 67-5226, notice is hereby given that the Board has adopted a pending rule and amended a temporary rule. The action is authorized by Idaho Code Sections 39-105, 39-107, and 39-3601 et seq. In addition, promulgation of this rule circumvents federal promulgation of state water quality standards pursuant to 33 U.S.C. Section 1313(c) (Section 303(c) of the Clean Water Act).

**DESCRIPTIVE SUMMARY:** In response to the United States Environmental Protection Agency's disapproval of the standards for Lindsey Creek and the West Fork of Blackbird Creek, the Department of Health and Welfare, Division of Environmental Quality (Department) determined that the following uses should be designated in the water quality standards in addition to those uses currently designated:

Lindsey Creek - secondary contact recreation (IDAPA 16.01.02.120.01.ii.)  
West Fork Blackbird Creek - cold water biota, salmonid spawning (IDAPA 16.01.02.130.01.n.).

Upon the Department's recommendation, the Board of Health and Welfare adopted the referenced designated uses in a temporary rule with an effective date of March 1, 1997. Prior to adoption of this rule, these two water bodies lacked beneficial uses protective of fishable/swimmable goals of the Clean Water Act. In order to maintain these goals, these waters should have at least one aquatic life use protection and one recreation use protection.

In May 1997, the Department proposed final adoption of the March 1997 temporary rule. The Department received public comments concerning the proposed rule and has revised the initial proposal as provided in Idaho Code Section 67-5227. Rather than keep the March 1997 temporary rule in place while the pending rule awaits legislative review, the Board amended the temporary rule with the same revisions which have been made to the proposed rule.

The pending rule and amendments to temporary rule were adopted by the Board, upon recommendation of the Department, because the rule responds to the needs of the regulated community while protecting the public health and environment.

The Department has revised IDAPA 16.01.02 Section 130 as provided in Idaho Code Section 67-5227. The Department's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised by the public, is included in the rulemaking record maintained by the Division of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706.

IDAPA 16.01.02 Section 120 has been adopted as initially proposed in the Idaho Administrative Bulletin, Volume 97-5, May 7, 1997, pages 38 through 43 and Volume 97-4, April 2, 1997, pages 8 through 13.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this rule, contact Mark Shumar at (208)373-0502.

Dated this 7th day of January, 1998.

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

**IDAPA 16**  
**TITLE 01**  
**Chapter 02**

**WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS**

**There are substantive changes  
from the proposed rule text.**

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

**The complete original text was published in the  
Idaho Administrative Bulletin, Volume 97-5, May 7, 1997,  
pages 38 through 43 and Volume 97-4, April 2, 1997, pages 8 through 13.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature  
for final adoption.**

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**TEXT OF DOCKET NO. 16-0102-9702**

**130. SALMON BASIN.**

The waters found within the Salmon hydrologic basin are designated for use as follows: (7-1-93)

01. Designated Uses Within Salmon Basin - Table C. (~~3-1-97~~T)(12-1-97)T

Legend:

- # Protected for General Use
- \*Protected for Future Use
- x Use Protected Above Mining Impact Area

Map Code	Waters	DESIGNATED USES							
		Domestic Water Supply	Agricultural Water Supply	Cold Water Biota	Warm Water Biota	Salmonid Spawning	Primary Contact Recreation	Secondary Contact Recreation	Special Resource Water
a. SB-10	SALMON RIVER - source to East Fork Salmon	#	#	#		#	#	#	#

Map Code	Waters	DESIGNATED USES							
		Domestic Water Supply	Agricultural Water Supply	Cold Water Biota	Warm Water Biota	Salmonid Spawning	Primary Contact Recreation	Secondary Contact Recreation	Special Resource Water
b. SB-20	SALMON RIVER - E.F. Confluence to Pahsimeroi River	#	#	#		#	#	#	#
c. SB-110	YANKEE FORK - source to mouth	#	#	#		#	#	#	#
d. SB-120	EAST FORK OF SALMON - source to mouth	#	#	#		#	#	#	#
e. SB-130	THOMPSON CREEK - source to mouth		#	#		#		#	
f. SB-140	SQUAW CREEK - source to mouth		#	#		#		#	
g. SB-210	PAHSIMEROI RIVER - source to mouth	#	#	#		#	#	#	#
h. SB-30	SALMON RIVER - Pahsimeroi to Lemhi River	#	#	#		#	#	#	#
i. SB-310	LEMHI RIVER - source to mouth	#	#	#		#	#	#	#
j. SB-40	SALMON RIVER - Lemhi River to Middle Fork Salmon	#	#	#		#	#	#	#
k. SB-410	NORTH FORK SALMON RIVER - source to mouth	#	#	#		#	#	#	#
l. SB-420	PANTHER CREEK - source to Blackbird Creek	#	#	#		#	#	#	#
m. SB-421	BLACKBIRD CREEK - source to <del>mouth, and including, Blackbird Creek Reservoir</del>			* #		#		#	
n. SB-4211	<del>WEST FORK OF BLACKBIRD CREEK - source to mouth</del> BLACKBIRD CREEK - Blackbird Creek Reservoir Dam to Mouth			#		#		#	
o. SB-4212	WEST FORK OF BLACKBIRD CREEK - <del>source to, but not including, the concrete channel</del>			#		#		#	

Map Code	Waters	DESIGNATED USES							
		Domestic Water Supply	Agricultural Water Supply	Cold Water Biota	Warm Water Biota	Salmonid Spawning	Primary Contact Recreation	Secondary Contact Recreation	Special Resource Water
p. SB-4213	WEST FORK OF BLACK-BIRD CREEK - concrete channel to mouth							#	
eq. SB-430	PANTHER CREEK - Blackbird Creek to mouth		#	#		#		#	
pr. SB-440	MIDDLE FORK SALMON RIVER - source to mouth	#	#	#		#	#	#	#
qs. SB-441	BIG CREEK - source to mouth	#	#	#		#	#	#	#
rt. SB-4411	MONUMENTAL CREEK - source to mouth	#	#	#		#	#	#	#
su. SB-50	SALMON RIVER - Middle Fork to South Fork	#	#	#		#	#	#	#
ty. SB-510	SOUTH FORK OF SALMON RIVER - source to mouth	#	#	#		#	#	#	#
uw. SB-511	EAST FORK OF SOUTH FORK SALMON RIVER - source to mouth	#	#	#		#	#	#	#
vx. SB-5111	JOHNSON CREEK - source to mouth	#	#	#		#	#	#	#
wy. SB-512	SECESH RIVER - source to mouth	#	#	#		#	#	#	#
xz. SB-60	SALMON RIVER - South Fork to Little Salmon River	#	#	#			#	#	#
yaa. SB-610	LITTLE SALMON RIVER - source to mouth	#	#	#		#	#	#	#
zbb. SB-611	RAPID RIVER - source to mouth	#	#	#		#	#	#	#
aacc. SB-70	SALMON RIVER - Little Salmon River to Whitebird Creek	#	#	#			#	#	#
bbdd. SB-710	WHITEBIRD CREEK - source to mouth	#	#	#		#	#	#	
eeee. SB-80	SALMON RIVER - Whitebird Creek to mouth	#	#	#			#	#	#
edff. SB-810	ROCK CREEK - source to mouth (Johns Creek)		#	#		#	#	#	

02. Salmon Hydrologic Basin - Map C.

(7-1-93)





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

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

**DOCKET NO. 16-0102-9801**

**NOTICE OF TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The temporary rule is effective December 1, 1997.

**AUTHORITY:** In compliance with Idaho Code Sections 67-5226(1) and 67-5221(1), notice is hereby given that the Board of Health and Welfare (Board) has adopted a temporary rule and the Department of Health and Welfare, Division of Environmental Quality (Department) is commencing proposed rulemaking to promulgate a final rule. The action is authorized by Idaho Code Sections 39-105, 39-107, and 39-3601 et seq.

**PUBLIC HEARING SCHEDULE:** No hearings have been scheduled. Pursuant to Idaho Code Section 67-5222(2), a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before January 23, 1998. If no such written request is received, a public hearing will not be held.

**DESCRIPTIVE SUMMARY:** The development of arsenic human health criteria for surface water quality standards has been in a state of flux for a number of years. Based on the U.S. Environmental Protection Agency's (EPA) procedures developed under the Clean Water Act, human health criteria for arsenic developed for the National Toxics Rule (NTR) were several orders of magnitude more restrictive than the drinking water maximum contaminant level (MCL) for arsenic developed under the Safe Drinking Water Act. In Idaho, the human health criteria for arsenic are 6.2 ug/l (fish ingestion) and 0.02 ug/l (fish and water ingestion), whereas the drinking water MCL is 50 ug/l. This incongruity led a number of people in states and in the regulated community to question the arsenic human health criteria for surface waters. Recently, EPA has been re-evaluating arsenic criteria on two fronts, the drinking water MCL under Safe Drinking Water Act methodology and the bioaccumulation potential in fish under Clean Water Act methodology. Based on more recent information, the Department concluded that the level for both standards should be 25 ug/l. When the rule was presented to the Board for temporary adoption, they accepted the idea of raising the level but revised the actual level to 50 ug/l.

In Idaho, the more restrictive human health criteria as a result of the NTR are more stringent than background levels in a number of areas around the state. For example, arsenic levels in ground water may be greater than 6 ug/l but usually always less than 50 ug/l. Thus, a drinking water supply that utilizes ground water may be fit to drink because the arsenic level is less than 50 ug/l, but is not capable of being discharged to a stream or river because it exceeds 6 ug/l. This leads to unreasonable situations where municipalities are required to remove arsenic from sewage treatment plant effluent that got there through acceptable public drinking water. The Department proposed a change in the human health criteria for surface waters from 6.2 ug/l (fish ingestion) and 0.02 ug/l (fish and water ingestion) to 25 ug/l for both categories, which was increased to 50 ug/l by the Board when adopted as a temporary rule.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

Negotiated rulemaking was not conducted because time is of the essence to prevent potential over-regulation of surface water dischargers for arsenic.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Idaho Code Section 67-5226(1)(c), the Governor has found that temporary adoption of the rule is appropriate in that the rule confers a benefit. The rule benefits the regulated community and the public in general by preventing the over-regulation of surface water dischargers like publicly owned treatment works and avoiding the added expense of unnecessary removal of background levels of arsenic from waste streams.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning the proposed rulemaking, contact Mark Shumar at (208)373-0502.

**SUBMISSION OF WRITTEN COMMENTS:** Anyone may submit written comments regarding this proposed rule. All written comments must be received by the undersigned on or before February 6, 1998.

Dated this 7th day of January, 1998.

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

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**TEXT OF DOCKET NO. 16-0102-9801**

**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 ~~six and two-tenths (6.2)~~ fifty (50) ug/L for Column D2 ~~(which constitutes a recalculation to reflect an appropriate bioconcentration factor for fresh water).~~ ~~(3-8-95)~~ (12-1-97)T
- 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 six and one-half (6.5) to nine and one-half (9.5); (7-1-93)

ii. The total concentration of dissolved gas not exceeding one hundred 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 nineteen (19) ug/l (8-24-94)

(2) Four (4) day average concentration not to exceed eleven (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 ~~six point two (6.2) fifty (50) 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)~~(12-1-97)T

b. Warm water biota: waters designated for warm water biota are to exhibit the following characteristics: (7-1-93)

i. Dissolved oxygen concentrations exceeding five (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 (1) 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
	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

<b>WATER TEMP.</b>	<b>pH</b>						
<b>DEGREES C</b>	<b>7.80</b>	<b>8.00</b>	<b>8.20</b>	<b>8.40</b>	<b>8.60</b>	<b>8.80</b>	<b>9.00</b>
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
	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 =  $(1 + 10^{\text{power}(7.4-pH)})/1.25$  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 =  $20(10^{\text{power}(7.7-pH)})/(1 + 10^{\text{power}(7.4-pH)})$  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
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

<b>WATER TEMP.</b>	<b>pH</b>			
<b>DEGREES C</b>	<b>6.5</b>	<b>6.6</b>	<b>6.8</b>	<b>7.0</b>
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

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

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

<b>WATER TEMP.</b>	<b>pH</b>				
<b>DEGREES C</b>	<b>8.2</b>	<b>8.4</b>	<b>8.6</b>	<b>8.8</b>	<b>9.0</b>
0	0.0123	0.0123	0.0123	0.0123	0.0123
	0.97	0.61	0.39	0.25	0.163



WATER TEMP. DEGREES C	pH				
	8.2	8.4	8.6	8.8	9.0
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
	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 six (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 twenty-two (22) degrees C or less with a maximum daily average of no greater than nineteen (19) degrees C. (8-24-94)

iii. Ammonia. (8-24-94)

(1) One (1) 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<sup>power(0.03(20-T))</sup> if T is less than twenty (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<sup>power(7.4-pH))</sup>/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

<b>WATER TEMP.</b>	<b>pH</b>						
<b>DEGREES C</b>	<b>6.50</b>	<b>6.60</b>	<b>6.80</b>	<b>7.00</b>	<b>7.20</b>	<b>7.40</b>	<b>7.60</b>
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
	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

<b>WATER TEMP.</b>	<b>pH</b>						
<b>DEGREES C</b>	<b>7.80</b>	<b>8.00</b>	<b>8.20</b>	<b>8.40</b>	<b>8.60</b>	<b>8.80</b>	<b>9.00</b>
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

WATER TEMP. DEGREES C	pH						
	7.80	8.00	8.20	8.40	8.60	8.80	9.00
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	0.19	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 fifteen (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
	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

<b>WATER TEMP</b>	<b>pH</b>				
<b>DEGREES C</b>	<b>6.5</b>	<b>6.6</b>	<b>6.8</b>	<b>7.0</b>	<b>7.2</b>
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

<b>WATER TEMP.</b>	<b>pH</b>				
<b>DEGREES C</b>	<b>7.4</b>	<b>7.6</b>	<b>7.8</b>	<b>8.0</b>	<b>8.2</b>
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
	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

<b>WATER TEMP.</b>	<b>pH</b>				
<b>DEGREES C</b>	<b>7.4</b>	<b>7.6</b>	<b>7.8</b>	<b>8.0</b>	<b>8.2</b>
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

<b>WATER TEMP</b>	<b>pH</b>			
<b>DEGREES C</b>	<b>8.4</b>	<b>8.6</b>	<b>8.8</b>	<b>9.0</b>
0	0.0123	0.0123	0.0123	0.0123
	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

WATER TEMP	pH			
	8.4	8.6	8.8	9.0
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
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 fifty (50) NTU instantaneously or more than twenty-five (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 five point zero (5.0) mg/l. (8-24-94)

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

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

(a) One (1) day minimum of not less than six point zero (6.0) mg/l or ninety percent (90%) 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 Subsection 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 Subsection 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.**

<b>Fish Species</b>	<b>(Annually) Time Period</b>
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)

e. Bull Trout Temperature Criteria. Water temperatures for the waters identified under Subsection 250.02 e.i. shall not exceed twelve degree Celsius (12C) daily average during June, July and August for juvenile bull trout rearing, and nine degrees Celsius (9C) daily average during September and October for bull trout spawning. For the purposes of measuring these criteria, the daily average shall be generated from a recording device with a minimum of six (6) evenly spaced measurements in a twenty-four (24) hour period. (12-1-97)T

i. The bull trout temperature criteria shall apply to all tributary waters, not including fifth (5th) order main stem rivers, located within areas above fourteen hundred (1400) meters elevation south of the Salmon River basin-Clearwater River basin divide, and above six hundred (600) meters elevation north of the Salmon River basin-Clearwater River basin divide, in the fifty-nine (59) Key Watersheds listed in Table 6, Appendix F of Governor Batt's State of Idaho Bull Trout Conservation Plan, 1996, or as designated under Sections 110 through 160 of this rule. (12-1-97)T

ii. Exceeding the bull trout temperature criteria will not be considered a water quality standards violation when the air temperature exceeds the ninetieth (90th) percentile of the seven (7) day average daily

maximum air temperatures for the warmest seven (7) day period of the year. (12-1-97)T

iii. No thermal discharges will be permitted to the waters described under Subsection 250.02.e.i. unless socially and economically justified as determined by the Department, and then only if the resultant increase in stream temperature is less than five-tenths degrees Celsius (0.5C). (12-1-97)T

iv. The Director may, at his discretion, waive or raise the bull trout temperature criteria under Section 250.02.e. as they pertain to a specific water body included within Subsection 250.02.e.i. Any such determination shall be made consistent with 40 CFR 131.11 and shall be based on a finding that bull trout spawning and rearing is not an existing use in such water body or would be fully supported at a higher temperature criteria. For any determination under this subsection, the Director shall, prior to making a determination, provide for public notice and comment on the proposed determination. For any such proposed determination, the Director shall prepare and make available to the public a technical support document addressing the proposed modification. (12-1-97)T

f. Kootenai River Sturgeon Temperature Criteria. Water temperatures within the Kootenai River from Bonners Ferry to Shorty's Island, shall not exceed a seven (7) day moving average of fourteen degrees Celsius (14oC) based on daily average water temperatures, during May 1 through July 1. (6-20-97)T

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 ~~point zero two (.02) fifty (50) ug/l~~ for Column D1 ~~(which constitutes a recalculation to reflect an appropriate bioconcentration factor for fresh water).~~ (3-8-95)(12-1-97)T

ii. Radioactive materials or radioactivity not to exceed concentrations specified in Idaho Department of Health and Welfare Rules, IDAPA 16.01.08, "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 Ck	1050011	Fernwood Water Dist.
Boise	Elk Ck	4080025	Idaho City Water Dept.
Boise	McBride Ck.	4080047	Terrace Lakes Rec. Ranch
Bonner	Berry Ck	1090021	Colburn Water Assn.
Bonner	Strong Ck.	1090038	East Hope Water Dept.
Boundary	Meadow Ck.	1110001	Bee Line Water Assn.
Boundary	Curley Ck.	1110008	Curley Ck. Water Assn.
Boundary	Molar Ck. and Highland Ck.	1110017	Highland Flats Water Assn.
Boundary	Mission Ck	1110019	Mission Creek Water Assn.
Boundary	Caribou Ck.	1110020	Moravia Water Assn.

County	Water Body	Supply No.*	Supply System Name
Boundary	Brown Creek and Cedar Ck.	1110023	Paradise Valley Water Assn.
Boundary	Skin Ck.	1110025	Skin Ck. Water Assn.
Boundary	Twenty Mile Ck.	1110030	Twenty Mile Ck. Water Assn.
Clearwater N.F.	Clearwater R.**	2180001	Ahsahka Water and Sewer District
Clearwater	Reeds Ck.	2180029	Potlatch Corp-Headquarters
Elmore	E.F. Montezuma Ck.	4200005	Atlanta Water Assn.
Idaho	Wall Creek	2250011	Clearwater Water Assn.
Idaho	Big Elk Ck.	2250017	Elk City Water/Sewer Assn.
Nez Perce	Big Canyon Ck.	2350023	Peck Water System
Shoshone	Sawmill Gulch and Canyon Ck.	1400016	Citizens Utility Co-Burke
Shoshone	Spring Gulch and Rosebud Gulch	1400032	Leisure Acres Trailer Court
Shoshone	Alder Ck. and East Alder Ck.	1400039	Murray Water Works
Shoshone	E.F. Silver Ck.	1400046	Silver Creek Water Assn.
Valley	Boulder Ck.	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 Subsection 250.03.a.iii.(1) turbidity as measured at the public water intake shall not be: (8-24-94)

(a) Increased by more than five (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 fifty (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 twenty-five (25) NTU, when background turbidity is greater than fifty (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 six point five (6.5) grams/day, a water ingestion rate of two (2) liters/day and a cancer risk level of ten (10) power-six (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., 250.07.a.ii., 250.07.a.iii., 250.07.a.iv., and 250.07.a.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 conversion factors: Arsenic(III) 1.000; Cadmium 1.136672-(ln hardness x 0.041838 for CMC and 1.101672-(ln hardness x 0.041838) for CCC; Chromium(III) 0.316 for CMC and 0.860 for CCC; Chromium(VI) 0.982 for CMC and 0.962 for CCC; Copper 0.960; Lead 1.46203-(ln hardness x 0.145712); Mercury .85 for CMC only; Nickel 0.998 for CMC and 0.997 for CCC; Silver .85 for CMC only; Zinc 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." (3-20-97)
- 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. (3-20-97)

- 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**  
**16.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE**  
**DOCKET NO. 16-0105-9702**  
**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the Board of Health and Welfare (Board) and is now pending review by the 1998 Idaho State Legislature for final approval. The rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-fourth Idaho Legislature unless prior to that date the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291. If the rule is approved, amended or modified by concurrent resolution, the rule will become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Idaho Code Section 67-5224, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Idaho Code Sections 39-4401 et seq. and 39-5801 et seq. In addition, 40 CFR 271.2(e) and Idaho Code Section 39-4404 require the Idaho Department of Health and Welfare (Department) to adopt amendments to federal law as proposed under this docket.

**DESCRIPTIVE SUMMARY:** The rule was adopted by the Board, upon recommendation of the Department, because the rule responds to the needs of the regulated community while protecting the public health and environment. In addition, the rule maintains consistency with federal programs. A detailed summary of the reasons for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, Volume 97-9, September 3, 1997, pages 76 through 82.

The Department received no comments from the public concerning the proposed rule. The rule has been adopted as initially proposed in the Idaho Administrative Bulletin, Volume 97-9, September 3, 1997, pages 76 through 82. The rulemaking record is maintained at the Division of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this rule, contact John Brueck at (208)373-0502.

DATED this 7th day of January, 1998.

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

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**IDAPA 16**  
**TITLE 01**  
**Chapter 05**

**RULES AND STANDARDS FOR HAZARDOUS WASTE**

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

**The original text was published in the Idaho Administrative Bulletin, Volume 97-9,  
September 3, 1997, pages 76 through 82.**

**This rule has been adopted as Final by the Agency and is now pending review  
by the 1998 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.01.06 - SOLID WASTE MANAGEMENT RULES AND STANDARDS**

**DOCKET NO. 16-0106-9801**

**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Idaho Code Section 67-5221(1), notice is hereby given that this agency has proposed rulemaking. The action is authorized by Chapters 1 and 74, Title 39, Idaho Code.

**PUBLIC HEARING SCHEDULE:** No hearings have been scheduled. Pursuant to Idaho Code Section 67-5222(2), a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before January 21, 1998. If no such written request is received, a public hearing will not be held.

**DESCRIPTIVE SUMMARY:** The proposed rule adopts a siting license fee schedule as required by the Idaho Solid Waste Facilities Act. The proposed rule requires owners of proposed commercial solid waste facilities to pay a siting license fee at the time that a commercial solid waste siting license application is submitted. The siting license fee is based on the proposed size and volume of municipal solid waste to be accepted at the facility. The proposed fee is from \$3500 to \$7500. The proposed rule also requires that the applicant shall provide to the Department of Health and Welfare a map of the proposed commercial solid waste facility, 10 copies of the siting license application and a single copy of the application in a format suitable for photocopying.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. It is these additions to which public comment should be addressed.

**FEE SUMMARY:** The siting license fee is based on the proposed size of the commercial solid waste facility and the proposed volume of waste to be received at the facility. The fee starts at \$3500 for commercial solid waste facilities less than 5 acres in size and accepting less than 20 tons per day, the fee schedule ends at \$7500 for facilities on greater than 50 acres and proposed to receive more than 100 tons per day. Idaho Code Section 39-7408C authorizes imposition of this fee.

Negotiated rulemaking was not conducted as the Legislature directed the Department of Health and Welfare to undertake this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the proposed rulemaking, contact Barry Burnell at (208)373-0502.

**SUBMISSION OF WRITTEN COMMENTS:** Anyone can submit written comment regarding this proposed rule. All written comments must be received by the undersigned on or before January 28, 1998.

DATED this 7th day of January, 1998.

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

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**TEXT OF DOCKET NO. 16-0106-9801**

**003. DEFINITIONS.**

01. Account. The Waste Tire Grant Account as established pursuant to Section 39-6505, Idaho Code. (12-25-92)
02. Board. The Idaho State Board of Health and Welfare. (12-31-91)
03. Commercial Solid Waste Facility. A facility owned and operated as an enterprise conducted with the intent of making a profit by any individual, association, firm, or partnership for the disposal of solid waste, but excludes a facility owned or operated by a political subdivision, state or federal agency, municipality or a facility owned or operated by any individual, association firm, or partnership exclusively for the disposal of solid waste generated by such individual, association, firm, or partnership. ( )
034. Composting. The biological decomposition of organic waste under controlled conditions. (12-31-91)
045. Conditional Use Permit. A written authorization issued by a District which, by its conditions, may authorize the permittee to construct, install, or operate facilities and conduct specific activities in accordance with specified limitations. (12-25-92)
056. Cover Materials. Any soil or other suitable material that is used to protect the active portion of the solid waste management site. (12-25-92)
067. Department. The Idaho Department of Health and Welfare. (12-25-92)
078. Director. The director of the Department of Health and Welfare or his designee. (12-25-92)
089. Districts. One (1) of the seven (7) district health departments which were created by Title 39, Chapter 4, Idaho Code. (12-25-92)
0910. Division. The Idaho Department of Health and Welfare Division of Environmental Quality. (12-25-92)
101. Domestic Solid Waste. All solid waste which normally originates in the household. (12-31-91)
142. Hazardous Solid Waste. A solid waste that may, by itself or in combination with other solid waste, be infectious, explosive, poisonous, highly flammable, caustic, or otherwise dangerous or injurious to human, plant, or animal life. (12-31-91)
123. Idaho Retreader. A person who accepts passenger and light truck tires generated in Idaho and retreads such tires in Idaho and is registered with the Division in accordance with Subsection 100.02. (12-25-92)
134. Incinerator. A combustion device specifically designed for the volume reduction by burning of combustible community solid wastes. (12-31-91)
145. Land Fill. An area of land or excavation in which solid wastes are placed for permanent disposal and that is not a land application unit, surface impoundment, injection well or waste pile. (12-25-92)
156. Leachate. A liquid that has passed through or emerged from waste and contain soluble, suspended, or miscible materials removed from such waste. (12-25-92)
167. Lift. A compacted layer of solid waste plus its overlying cover material in a sanitary landfill. (12-31-91)
178. Motor Vehicle. Any automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination or other vehicle operated on the roads of this state, used to transport persons or property and propelled by power other than muscular power, but motor vehicle does not include bicycles. (12-25-92)



189. Municipal Solid Waste Landfill (MSWLF). A discrete area of land or an excavation that receives household waste and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under 40 CFR 257.2. A MSWLF unit may also receive other types of RCRA subtitle D wastes, such as commercial solid waste, nonhazardous sludge, small quantity generator waste, and industrial solid waste. Such a landfill may be publicly or privately owned. A MSWLF unit also may be a new MSWLF, an existing MSWLF, or lateral expansion. (12-25-92)
1920. Open Dump. A landfill which lacks proper management and is not operated with compaction and cover. (12-25-92)
201. Passenger and Light Truck Tire. Any motor vehicle tire with a rim diameter of twelve (12) inches through sixteen (16) inches. (12-25-92)
212. Person. Any individual, association, partnership, firm, joint stock company, trust, political subdivision, public or private corporation, state or federal government department, agency or instrumentality, or any other legal entity which is recognized by law as the subject of rights and duties. (12-25-92)
23. Projected Waste Volume. The total actual or potential solid waste volume in tons per day, or an equivalent measurement, proposed to be disposed at the commercial solid waste facility. ( )
224. Public Waters. Includes lakes, ponds, reservoirs, springs, wells, rivers, streams, creeks, marshes, canals, drainage ditches, and all other bodies of surface or underground waters, natural or artificial, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters) which are wholly or partially within or bordering the State or within its jurisdiction. (12-31-91)
235. Recycling. The reclamation of solid waste and its subsequent introduction into an industrial process by which the materials is transformed into a new product in such a manner that the original identity as a product is lost. (12-31-91)
246. Residue. All of the solid material remaining after combustion of solid waste. (12-31-91)
257. Retail Seller of Motor Vehicle Tires and Wholesale Seller of Motor Vehicle Tires. Includes those persons who sell or lease motor vehicles to others in the ordinary course of business. (12-25-92)
268. Reuse. The reintroduction of a product into the economic stream without total loss of the original identity. (12-31-91)
279. Review Committee. An advisory committee appointed by the Administrator of the Division of Environmental Quality to establish and/or review the percentages in Subsections 100.10.a. and 100.05.a. and review proposals submitted under Subsections 100.05 and 100.06. (12-25-92)
2830. Salvage. The reclamation of solid waste at a disposal site. (12-31-91)
2931. Sanitary Landfill. A solid waste disposal operation where the wastes are spread on land in thin layers, compacted to the smallest practical volume, and covered with cover material once each day of operation in order to safeguard against environmental pollution, nuisances, and health hazards. (12-31-91)
302. Site. A solid waste management site. (12-25-92)
33. Site Size. The sum in acres of all proposed solid waste landfill units. ( )
314. Solid Waste. Any material defined by Sections 39-103(10) and 39-7403(51), Idaho Code. (12-25-92)
325. Solid Waste Management Site. Any land area used for storage, transfer, processing, separation, incineration, composting, treatment, recycling, reuse, or disposal of solid wastes. (12-31-91)

336. Solid Waste Management System. The entire process, method, or technique used to control solid waste--including generation through reuse, recycling, or disposal, also including the plans, maps, specifications, sites and facilities for the same. (12-31-91)
347. Tire. Shall have the meaning contained in Section 49-121, Idaho Code. (12-25-92)
358. Transfer Station. A fixed or mobile facility used as an adjunct to a solid waste management system whereby solid wastes may be recompactd or otherwise processed and transferred from one (1) vehicle or container to another for transportation to another place. (12-31-91)
369. Waste Tire. A tire that is no longer suitable for its original intended purpose because of wear, damage or defect. (12-25-92)
3740. Waste Tires Generated In Idaho. Tires which first became waste tires in Idaho. (12-25-92)
3841. Waste Tire Collection Site. A site where waste tires are collected before being offered for recycling or reuse and where more than one thousand five hundred (1,500) tires are kept on site on any day. (12-25-92)
3942. Working Face. That portion of a sanitary landfill where solid waste is being dumped and compacted prior to placement of daily cover material. (12-31-91)

**(BREAK IN CONTINUITY OF SECTIONS)**

**101. -- 9953. (RESERVED).**

**994. COMMERCIAL SOLID WASTE SITING LICENSE FEE.**

An application for a commercial solid waste siting license, required by the Idaho Solid Waste Facilities Act, shall be accomplished by a siting license fee in an amount established by these rules. The license fee shall not exceed seven thousand five hundred dollars (\$7,500) and shall be submitted with the siting license application. ( )

01. Commercial Solid Waste Siting License Fee Criteria. The commercial solid waste siting license fee, required by the Idaho Solid Waste Facilities Act and these rules, shall be based on the cost of the Department's review and the characteristics of the proposed commercial solid waste facility, including the projected site size, projected waste volume, and the hydrogeological and atmospheric characteristics surrounding the site. ( )

02. Commercial Solid Waste Siting License Fee Scale. The commercial solid waste siting license fee, required by the Idaho Solid Waste Facilities Act and these rules, shall be determined using the table below. The fee, determined using the table below, may then be adjusted by the Department, if necessary, to reflect the cost of the Department's review taking into account the hydrogeological and atmospheric characteristics surrounding the site. ( )

<b>COMMERCIAL SOLID WASTE SITING LICENSE FEE SCALE</b>			
<b><u>PROJECTED SOLID WASTE VOLUME</u></b>			
<b><u>Tons per day (TPD)</u></b>			
<u>Site Size</u>	<u>Up to 20 TPD</u>	<u>20 to 100 TPD</u>	<u>More than 100 TPD</u>
<u>5 acres or less</u>	<u>\$3,500</u>	<u>\$4,500</u>	<u>\$5,500</u>
<u>5 to 50 acres</u>	<u>\$4,500</u>	<u>\$5,500</u>	<u>\$6,500</u>
<u>more than 50 acres</u>	<u>\$5,500</u>	<u>\$6,500</u>	<u>\$7,500</u>

03. Notification of Adjustment of the Fee. Within thirty (30) days of receipt of the application and fee, the Department shall notify the applicant if the fee has been adjusted and the date by which any additional fee must be paid by the applicant. ( )

04. Expansion or Enlargement of a Commercial Solid Waste Facility. The expansion or enlargement of a commercial solid waste facility constitutes a new proposal for which a commercial solid waste siting license is required and for which a siting license fee must be paid. All commercial solid waste facilities not in operation on March 20, 1996 must submit a commercial solid waste license application and fee. ( )

05. Commercial Solid Waste Siting License Fee Not Refundable. The commercial solid waste siting license fee, required by the Idaho Solid Waste Facilities Act and by these rules, shall not be refundable and may not be applied toward any subsequent application should the commercial solid waste siting license application be canceled, withdrawn or denied. ( )

**995. COMMERCIAL SOLID WASTE SITING LICENSE APPLICATION.**

In addition to the contents of a Siting License Application, as required in the Idaho Solid Waste Facilities Act, these rules require the applicant to include in the application the following items: ( )

01. Location. A map indicating the location of the proposed commercial solid waste facility. ( )
02. Copies of Application. Ten (10) copies of the completed application. ( )
03. Application Format. A copy of the application in a format prepared for photocopying. ( )

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

**16.01.09 - IDAHO RADIATION CONTROL RULES**

**DOCKET NO. 16-0109-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** The repeal of the Idaho Radiation Control Rules has been adopted by the Board of Health and Welfare (Board) and is now pending review by the 1998 Idaho Legislature for final approval. The repeal of the rules will become final and effective on July 1, 1998 unless prior to that date the repeal is approved, rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291. If the repeal is approved, amended or modified by concurrent resolution, the repeal will become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Idaho Code Section 67-5224, notice is hereby given that the Board has repealed a rule chapter. The action is authorized by Chapters 1 and 30, Title 39, Idaho Code.

**DESCRIPTIVE SUMMARY:** The rules were repealed by the Board, upon recommendation of the Department of Health and Welfare, Division of Environmental Quality, because the action responds to the needs of the regulated community while protecting the public health and environment. A detailed summary of the reasons for repealing the rules is set forth in the initial proposal published in the Idaho Administrative Bulletin, Volume 97-7, July 2, 1997, pages 42 through 43. In conjunction with this repeal, the Board has adopted a new chapter of Idaho Radiation Control Rules, IDAPA 16.02.27, to be implemented by the Department of Health and Welfare, Division of Health.

No public comments concerning the proposed repeal were submitted. The one public comment received did not specifically address the proposed repeal of the rules. The rules have been repealed as initially proposed in the Idaho Administrative Bulletin, Volume 97-7, July 2, 1997, pages 42 and 43. The rulemaking record is maintained at the Division of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this repeal, contact Brian Monson at (208)373-0502.

DATED this 7th day of January, 1998.

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

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**IDAPA 16  
TITLE 01  
Chapter 09**

**IDAHO RADIATION CONTROL RULES**

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

**The original text was published in the Idaho Administrative Bulletin,  
Volume 97-7, July 2, 1997, pages 42 and 43.**

**This rule has been adopted as Final by the Agency and is now pending review  
by the 1998 Idaho State Legislature for final adoption.**

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

**16.01.11 - GROUND WATER QUALITY RULE**

**DOCKET NO. 16-0111-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the Board of Health and Welfare (Board) and is now pending review by the 1998 Idaho Legislature for final approval. The rule will become final and effective on July 1, 1998 unless prior to that date the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291. If the rule is approved, amended or modified by concurrent resolution, the rule will become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Idaho Code Section 67-5224, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Idaho Code Sections 39-105, 39-107, 39-120, and 39-126 and requested by the 1997 Idaho Legislature under House Concurrent Resolution (HCR) No. 8.

**DESCRIPTIVE SUMMARY:** The rule was adopted by the Board, upon recommendation of the Department of Health and Welfare, Division of Environmental Quality (Department), in response to the Legislature's request under HCR No. 8. A detailed summary of the reasons for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, Volume 97-8, August 6, 1997, pages 123 through 130.

The rule has been adopted as initially proposed in the Idaho Administrative Bulletin, Volume 97-8, August 6, 1997, pages 123-130. The Department received comments from the public concerning the proposed rule. The Department's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised by the public, is included in the rulemaking record maintained by the Division of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this rule, contact Susan Burke at (208) 373-0502.

DATED this 7th day of January, 1998.

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

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**IDAPA 16  
TITLE 01  
Chapter 11**

**GROUND WATER QUALITY RULE**

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

**The original text was published in the Idaho Administrative Bulletin,  
Volume 97-8, August 6, 1997, pages 123 through 130.**

**This rule has been adopted as Final by the Agency and is now pending review  
by the 1998 Idaho State Legislature for final adoption.**

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

**16.01.20 - RULES FOR ADMINISTRATION OF DRINKING WATER LOAN ACCOUNT**

**DOCKET NO. 16-0120-9701**

**NOTICE OF PENDING RULE AND AMENDMENTS TO TEMPORARY RULE**

**EFFECTIVE DATE:** This rule has been adopted by the Board of Health and Welfare (Board) and is now pending review by the 1998 Idaho State Legislature for final approval. The amendments to the temporary rule are effective December 1, 1997. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-fourth Idaho Legislature unless prior to that date the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291. If the rule is approved, amended or modified by concurrent resolution, the rule will become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Idaho Code Sections 67-5224 and 67-5226, notice is hereby given that the Board has adopted a pending rule and amended a temporary rule. The action is authorized by Idaho Code Sections 39-105, 39-107, and 39-7602(5). In addition, Section 1452 of the federal Safe Drinking Water Act (SDWA) (42 U.S.C. Section 300j-12) requires the Department of Health and Welfare (Department) to adopt this rule in order to maintain primacy of the drinking water program.

**DESCRIPTIVE SUMMARY:** On July 2, 1997, the Board of Health and Welfare adopted as a temporary rule a new rule chapter to be cited as IDAPA 16.01.20, Rules of the Idaho Department of Health and Welfare, IDAPA 16, Title 01, Chapter 20, Rules for Administration of Drinking Water Loan Account. This rule implements the provisions of the 1997 legislation enacted under S. 1036 (Section 105(3)(e), Idaho Code, and Chapter 76, Title 39, Idaho Code) and the 1996 amendments to the SDWA. The rule promotes public health by providing low interest loans to eligible public drinking water systems for needed infrastructure improvements. As money is paid back into the revolving loan account, new loans are made to other recipients that need assistance in maintaining their facilities in order to meet state and federal safe drinking water standards.

In August 1997, the Department of Health and Welfare (Department) proposed final adoption of the July 1997 temporary rule. The Department received no public comments regarding the proposed rule; however, in response to concerns identified after temporary adoption of the rule, the Department has revised the initial proposal as provided by Idaho Code Section 67-5227. Rather than keep the July 1997 temporary rule in place while the pending rule awaits legislative review, the Board amended the temporary rule with the same revisions which have been made to the proposed rule.

The pending rule and amendments to temporary rule were adopted by the Board, upon recommendation of the Department, because the rule responds to the needs of the regulated community while protecting the public health and environment.

The Department has revised IDAPA 16.01.20 Sections 010, 020, 030, and 041 as provided in Idaho Code Section 67-5227. The Department's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised by the public, is included in the rulemaking record maintained by the Division of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706.

IDAPA 16.01.20 Sections 000, 001, 002, 003, 004, 005, 011, 021, 031, 040, 050, 051, 060, 080, 995 and 996 have been adopted as initially proposed in the Idaho Administrative Bulletin, Volume 97-8, August 6, 1997, pages 131 through 146 and, therefore, have not been republished with this Notice.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this rule, contact Lance Nielsen at (208)373-0502.

Dated this 7th day of January, 1998.

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

**IDAPA 16**  
**TITLE 01**  
**Chapter 20**

**RULES FOR THE ADMINISTRATION OF DRINKING WATER LOAN ACCOUNT**

**There are substantive changes  
from the proposed rule text.**

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

**The complete original text was published in the  
Idaho Administrative Bulletin, Volume 97-8, August 6, 1997,  
pages 131 through 146.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature  
for final adoption.**

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**TEXT OF DOCKET NO. 16-0120-9701**

**010. DEFINITIONS.**

For the purpose of the rules contained in this chapter, the following definitions apply: (7-3-97)T

01. Administrator. The Administrator of the Division of Environmental Quality. (7-3-97)T
02. Applicant. Any qualifying entity making application for loan funds. (7-3-97)T
03. Board. The Idaho State Board of Health and Welfare. (7-3-97)T
04. CE. "Categorical exclusion" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. (7-3-97)T
05. Community Water System. A public water system that: (7-3-97)T
  - a. Serves as least fifteen (15) service connections used by year round residents of the area served by the system; or (7-3-97)T
  - b. Regularly serves at least twenty-five (25) year-round residents. (7-3-97)T
06. Construction. The building, erection, acquisition, alteration, reconstruction, improvement, or extension of public water system facilities, including planning to determine the economic and engineering feasibility of public water system facilities, the engineering, architectural, legal, fiscal, and economic investigations, reports and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary in the

- construction of public water system facilities and the inspection and supervision of the construction. (7-3-97)T
07. Department. The Idaho Department of Health and Welfare. (7-3-97)T
08. Director. The Director of the Idaho Department of Health and Welfare or his/her designee. (7-3-97)T
09. Disadvantaged Community. The service area of a public water system that meets affordability criteria established by the Division of Environmental Quality after public review and comment. (7-3-97)T
10. Disadvantaged Loans. Loans made to a disadvantaged community. (7-3-97)T
11. Division. The Division of Environmental Quality. (7-3-97)T
12. EID. Environmental Information Document. (7-3-97)T
13. EIS. Environmental Impact Statement. (7-3-97)T
14. Eligible Costs. Costs which are necessary for planning, designing, and/or constructing public water system facilities. To be eligible, costs must be reasonable, allowable, and allocable. (7-3-97)T
15. EligibleSystems.Publicandprivatecommunitywatersystemsandnonprofitnoncommunitywatersystems. (7-3-97)T
16. Engineering Report. A report which compares public water system facility alternatives and identifies the most cost effective, environmentally sound alternative. (7-3-97)T
17. Financial Management System. Uniform method of recording, summarizing, and analyzing financial information about the public water system facility. (7-3-97)T
18. FNSI. Finding of no significant impact. (7-3-97)T
19. Ineligible Costs. Costs which are not necessary for the planning, designing, and/or construction of public water system facilities or which are not reasonable, allowable, or allocable. (7-3-97)T
20. MCL. Maximum Contaminant Level. The maximum permissible level of a contaminant in water which is delivered to any user of a public water system. (7-3-97)T
21. Municipality. A city, town, or other public entity created pursuant to state law. (7-3-97)T
22. Noncommunity Water System. A public water system that is not a community water system. (7-3-97)T
23. Nonprofit Noncommunity Water System. A public water system that is not a community water system and is governed by Section 501 of the U. S. Internal Revenue Code and includes but is not limited to: state agencies, municipalities, and nonprofit organizations such as churches and schools. (7-3-97)T
24. Nontransient Noncommunity Water System. A public water system that is not a community water system and that regularly serves at least 25 (twenty-five) of the same persons over six (6) months per year. (7-3-97)T
25. O & M Manual. Operation and Maintenance Manual is a guidance and training manual outlining the optimum operation and maintenance of the public water system facility or its components. (7-3-97)T
26. Person. An individual, corporation, company, association, partnership, state agency, municipality, or federal agency (and includes officers, employees, and agents of any corporation, company, association, state agency, municipality, or federal agency). (7-3-97)T



27. Plan of Operation. A schedule of specifications and completion dates for construction, start-up, and operation of the public water system facility. (7-3-97)T
28. Priority List. A list of proposed drinking water projects rated by severity of risk to public health, the necessity to ensure compliance with the Safe Drinking Water Act (42 U.S.C. 300f Section et seq.), population affected, and need on a household basis for protection of Idaho's public drinking water. (7-3-97)T
29. Public Water Systems. A system for the provision to the public of water for human consumption through pipes or other constructed conveyances if such system has at least fifteen (15) service connections or regularly serves at least twenty-five (25) individuals. Such term includes: (7-3-97)T
- a. Any drinking water source, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such systems, and (7-3-97)T
- b. Any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. A connection to a system that delivers water by a constructed conveyance shall not be considered a connection if: (7-3-97)T
- i. The water is used exclusively for purposes other than residential uses (consisting of drinking, cooking, and bathing, or other similar uses); (7-3-97)T
- ii. The Director determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulation is provided for residential or similar uses for drinking, cooking, or bathing, or other similar uses; or (7-3-97)T
- iii. The Director determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations. (7-3-97)T
30. Qualifying Entity. Any county, city, special service district, nonprofit or investor-owned corporation, or other governmental entity, or a combination thereof, which owns or operates a public water system and which establishes and maintains a dedicated loan repayment source. (~~7-3-97~~)T(12-1-97)T
31. Scope of Project. Those portions of the proposed facility including administration, engineering, and physical components that constitute a complete project as determined from the most cost effective, environmentally sound public water system facility alternative identified in a engineering report and approved by the Division. (7-3-97)T
32. State. The State of Idaho. (7-3-97)T
33. Supplier or Provider of Water. Any person who owns and/or operates a public water system. (7-3-97)T
34. Suspension. An action by the Director to suspend a loan contract prior to project completion for a specified cause. Suspended contracts may be reinstated. (7-3-97)T
35. Termination. An action by the Administrator to permanently terminate a loan contract prior to project completion for a specific cause. Terminated contracts shall not be reinstated. (7-3-97)T
36. URTH. Unreasonable risks to health. Refers to a level of contamination that presents an "unreasonable risk to health" and is determined on a contaminant by contaminant basis by the U.S. Environmental Protection Agency. (7-3-97)T
37. User Charge System. A system of rates and service charges applicable to specific types of users, including any legal enforcement mechanism as may be required, which provides sufficient reserves and/or revenues for debt retirement, operation and maintenance, and replacement of the public water system facility. (7-3-97)T

38. Water System Protection Ordinance. An ordinance adopted pursuant to Chapter 32, Title 42, Idaho Code, or other applicable law which requires new connections to be properly designed and constructed, which prohibits cross-connections with non-potable water sources (and in all ways protects the water system from injection of contaminants), and which provides for fees for service from users or classes of users. (7-3-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**020. PRIORITY SYSTEM.**

01. Purpose. A priority rating system shall be utilized by the Division to annually allot available funds to projects determined eligible for funding assistance under the Drinking Water Loan Account Program in accordance with these rules. Projects considered for priority rating shall first be evaluated by Division regional staff. (7-3-97)T

02. Priority Rating. The priority rating system shall be based on a weighted numerical points system. Priority criteria shall contain the following points: (7-3-97)T

a. Public Health Emergency. Certified by the Division. Such emergencies shall be related to a waterborne outbreak, chemical or radiological contamination levels above URTH, or a failed water source. (100 points) (7-3-97)T

b. Public Health Hazard. Identified and verified by the Division. Points shall be given based on the presence and severity of waterborne illnesses. (19 points) (7-3-97)T

c. Water Quality Violations. Identified and verified by the Division. Points shall be given, based on maximum contaminant levels (MCLs) or based on treatment technique violations, for microbiological and chemical constituents. (71 points) (7-3-97)T

d. General Conditions of Existing Facilities. Points shall be given based on deficiencies with facilities for pumping, treating, and delivering drinking water. (61 points) (7-3-97)T

e. Overall Urgency. Points shall be given to entities that need a new source of water to assure safety and adequate supply. (10 points) (7-3-97)T

f. Consent or Administrative Orders. Points shall be given if the system is operating under an order. (30 points) (7-3-97)T

g. Incentives. Bonus points shall be awarded to systems that promote source water protection, conservation, economy, proper operation maintenance, and monitoring. (16 points) (7-3-97)T

h. Affordability. Points shall be given when proposed system user charges exceed state affordability guidelines. (10 points) (12-1-97)T

03. Priority List. A list shall be developed annually from projects rated according to Subsection 020.02. Such list shall be submitted for public review and comment, and shall thereafter be submitted to the Board for approval and adoption. (7-3-97)T

04. Priority Reevaluation. Whenever significant changes occur, which in the Division's judgment would affect the design parameters or treatment requirements by either increasing or decreasing the need for, or scope of any project, a reevaluation of that priority rating shall be conducted. (7-3-97)T

05. Priority Target Date. A qualifying entity, whose project is on the adopted priority list, and for which funding is available, shall be contacted by the Division and a target date for submission of a completed loan application shall be established. (7-3-97)T

06. Project Bypass. A project that does not or shall not meet the project target date or a Division schedule that allows for timely utilization of loan funds may be bypassed, substituting in its place the next highest ranking project or projects that are ready to proceed. A project that is bypassed shall be notified in writing of the reasons for being bypassed. (7-3-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**030. PROJECT FUNDING.**

01. Project Step Funding. Projects may be funded in steps: (7-3-97)T
- a. Step 1. Engineering report prepared by a professional engineer licensed in the state of Idaho who carries professional liability indemnification in accordance with Subsection 050.5005.d., and in a format prescribed by the Division; (~~7-3-97~~)T(12-1-97)T
  - b. Step 2. Design, which includes the preparation by a professional engineer licensed in the State of Idaho of the detailed engineering plans and specifications necessary for the bidding and construction of the project; (~~7-3-97~~)T(12-1-97)T
  - c. Step 3. Construction, which includes bidding and actual construction of the project; or (7-3-97)T
  - d. Step 4. A combination of Step 2 and Step 3. (7-3-97)T
02. Combination Step Funding. Projects may be funded in any combination of the steps with approval of the Division. Separate loans may be awarded for Step 1 or Step 2 projects. If a Step 1 or Step 2 project proceeds to construction, either the Step 1 or Step 2 loan, or both, may be consolidated with the Step 3 loan. If a project does not proceed to construction, outstanding Step 1 and Step 2 loans shall be amortized and a repayment schedule prepared by the Division. (7-3-97)T
03. Cost Effective Requirement. Step 2, Step 3, or Step 4 loans shall not be awarded until a final cost effective and environmentally sound alternative has been selected by the Step 1 engineering report as approved by the Division. The cost effective alternative may be selected based on the comments received from at least one (1) public hearing attended by affected users within the jurisdiction of the qualifying entity and conducted in accordance with state law. (7-3-97)T
04. Funding for Reserve Capacity. Funding for reserve capacity of a drinking water system shall not exceed a twenty (20) year population growth. (7-3-97)T
05. Eligible Project Costs. Costs eligible for funding shall be determined from the scope of the project and may include, but not be limited to: (7-3-97)T
- a. Costs of salaries, benefits, and expendable material the qualified entity incurs in the project except ordinary operating expenses of local government such as salaries and expenses of a mayor; city council members; board; or a city, district, or board attorney; (7-3-97)T
  - b. Costs for construction contract bids and executed in compliance with state public works construction laws; (7-3-97)T
  - c. Professional and consulting services; (7-3-97)T
  - d. Engineering directly related to the public water system facilities; (7-3-97)T
  - e. Financial, technical, and management capability analysis if it shall ensure compliance; (7-3-97)T

- f. Preparation of construction drawings, specifications, estimates, and construction contract documents;  
(7-3-97)T
- g. Landscaping; (7-3-97)T
- h. Removal and relocation or replacement of utilities for which the qualifying entity is legally obligated to pay; (7-3-97)T
- i. Material acquired, consumed, or expended specifically for the project; (7-3-97)T
- j. A reasonable inventory of laboratory chemicals and supplies necessary to initiate plant operations; (7-3-97)T
- k. Preparation of an operation and maintenance manual; (7-3-97)T
- l. Preparation of a plan of operation; (7-3-97)T
- m. Start-up services; (7-3-97)T
- n. Public participation for alternative selection; (7-3-97)T
- o. Development of user charge and financial management systems; (7-3-97)T
- p. Development of water system protection and backflow prevention ordinance or rule; (7-3-97)T
- q. Initial staffing plans and budget development; (7-3-97)T
- r. Costs of assessing and defending contractor claims determined unmeritable by the Division; (7-3-97)T
- s. Site acquisition costs, including right of way, well lot site, system site, and finished water storage; or  
(7-3-97)T
- t. Certain direct and other costs as determined eligible by the Division; ~~(7-3-97)T~~ (12-1-97)T
- 06. Ineligible Project Costs. Costs which are ineligible for funding include, but are not limited to:  
(7-3-97)T
  - a. Basin or area wide planning not directly related to the project; (7-3-97)T
  - b. Bonus payments not legally required for completion of construction before a contractual completion date; (7-3-97)T
  - c. Personal injury compensation or damages arising out of the project; (7-3-97)T
  - d. Fines or penalties due to violations of, or failure to comply with, federal, state, or local laws; (7-3-97)T
  - e. Costs outside the scope of the approved project; (7-3-97)T
  - f. Ordinary operating expenses of local government, such as salaries and expenses of a mayor, city council members, board, or city or board attorney; (7-3-97)T
  - g. Cost of land in excess of that needed for treatment or storage of finished water; (7-3-97)T
  - h. Costs of condemnations; or (7-3-97)T

- i. Engineering costs prepared without professional liability indemnification. (7-3-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**041. ENVIRONMENTAL REVIEW.**

01. Overview of Process. The applicant shall consult with the Division at an early stage in the preparation of the engineering report to determine the required level of environmental review. Based on review of existing information, the Division shall assess potential environmental impacts and shall instruct the applicant to either: (7-3-97)T

- a. Submit a request for Categorical Exclusion (CE) with supporting backup documentation as specified by the Division; (7-3-97)T
- b. Prepare an Environmental Information Document (EID) in a format specified by the Division; or (7-3-97)T
- c. Prepare an Environmental Impact Statement (EIS) in a format specified by the Division. (7-3-97)T

02. Categorical Exclusions. At the request of an applicant, the Division shall determine from existing information whether an action is consistent with categories eligible for exclusion where upon the Division shall issue a notice of Categorical Exclusion from substantive environmental review. Once the Categorical Exclusion is granted for the proposed project and a notice of Categorical Exclusion has been published in a local newspaper to inform the public of this action, the engineering report can be approved and the loan award can proceed. (7-3-97)T

03. Environmental Review Process. When issuance of a Categorical Exclusion is not appropriate, the applicant shall prepare an ~~e~~Environmental ~~i~~Information ~~d~~ocument (EID). In accordance with Division procedures: ~~(7-3-97)T~~(12-1-97)T

- a. Various laws and executive orders related to environmentally sensitive resources shall be considered as the EID is prepared. Appropriate state and federal agencies shall be consulted regarding these laws and executive orders. (7-3-97)T
- b. A full range of relevant impacts, both direct and indirect, of the proposed project shall be discussed in the EID, including measures to mitigate adverse impacts, cumulative impacts, and impacts that shall cause irreversible or ~~inevitable~~ irretrievable commitment of resources. ~~(7-3-97)T~~(12-1-97)T

c. The Division shall review the draft EID and either request additional information about one (1) or more potential impacts, or shall draft a "finding of no significant impact" (FNSI). (7-3-97)T

04. Final Finding of No Significant Impact. The final FNSI shall be published in a newspaper of general circulation in the geographical area of the proposed project in accordance with state policies on public participation. Following the required period of public review and comment and after any public concerns about project impacts are resolved, the FNSI shall become final and the engineering report can be approved and the loan can be awarded. (7-3-97)T

05. Environmental Impact Statement (EIS) Requirements. If an EIS is required, the applicant shall: (7-3-97)T

- a. Contact all affected state agencies, and other interested parties, to determine the required scope of the document; (7-3-97)T
- b. Prepare and submit a draft EIS to all interested agencies, and other interested parties, for review and

comment; (7-3-97)T

c. Conduct a public hearing which may be in conjunction with a engineering report hearing; and (7-3-97)T

d. Prepare and submit a final EIS incorporating all agency and public input for Division review and approval. (7-3-97)T

06. Final EIS. Upon completion of the EIS by the applicant and approval by the Division of all requirements listed in Subsection 041.045-d, the Division shall issue a record of decision, documenting the mitigative measures which shall be required of the applicant. The loan agreement can be completed once the final EIS has Division approval. (~~7-3-97~~)T(12-1-97)T

07. Mitigation Measures. Prior to approval of a facilities plan, the Division must ensure that effective mitigation measures identified in the FNSI and EID shall be implemented by the applicant. (7-3-97)T

08. Partitioning the Environmental Review. Under certain circumstances, the building of a component/partition of a drinking water system may be justified in advance of all environment review requirements for the remainder of the system. The Division shall approve partitioning the environment review in accordance with established procedures. (7-3-97)T

09. Federal Environmental Review Use. If environmental review for the project has been conducted by another state, federal, or local agency, the Division may, in its discretion, issue its own determination by adopting the document of the federal agency. (7-3-97)T

10. Validity of Review. Environmental reviews are valid for five (5) years. If a loan application is received for a project with an environmental review which is more than five (5) years old, the Division shall reevaluate the project, environmental conditions, and public views and shall: (7-3-97)T

a. Reaffirm the earlier decision; or (7-3-97)T

b. Require supplemental information to the earlier Environmental Impact Statement, Environmental Information Document, or request for Categorical Exclusion. Based upon a review of the updated document, the Division shall issue and distribute a revised notice of Categorical Exclusion, finding of no significant impact, or record of decision. (7-3-97)T

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

**16.02.08 - VITAL STATISTICS RULES**

**DOCKET NO. 16-0208-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 39-255, Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rules are being adopted as proposed. The original text of the proposed rules was published in the September 3, 1997 Administrative Bulletin, Volume 97-9, pages 83 and 84.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Jane S. Smith at (208) 334-5976.

DATED this 7th day of January, 1998.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-5548 fax

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**IDAPA 16  
TITLE 02  
Chapter 08**

**VITAL STATISTICS RULES**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-9, September 3, 1997,  
pages 83 and 84.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.02.19 - RULES GOVERNING FOOD SAFETY AND**  
**SANITATION STANDARDS FOR FOOD ESTABLISHMENTS (UNICODE)**

**DOCKET NO. 16-0219-9701**

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

**EFFECTIVE DATE:** The amendments to the temporary rule are effective July 1, 1997. These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section(s) Chapter 16, Title 39, Idaho Code.

**DESCRIPTIVE SUMMARY:** The proposed rules have been amended in response to public comment and to make typographical, transcriptional, and clerical corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the August 6, 1997 Administrative Bulletin, Volume 97-8, pages 147 through 166.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Donald R. Brothers at (208) 334-5938.

DATED this 7th day of January, 1998.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-5548 fax

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**IDAPA 16**  
**TITLE 02**  
**Chapter 19**

**RULES GOVERNING FOOD SAFETY AND**  
**SANITATION STANDARDS FOR FOOD ESTABLISHMENTS (UNICODE)**

**There are substantive changes**  
**from the proposed rule text.**

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



**The complete original text was published in the  
Idaho Administrative Bulletin, Volume 97-8, August 6, 1997,  
pages 147 through 166.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature  
for final adoption.**

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**TEXT OF DOCKET NO. 16-0219-9701**

**920. LICENSURE.**

No person shall operate a food establishment who does not have a valid license issued to him by the regulatory authority, when no other state or federal food safety inspection or license is required. (7-1-97)T

01. Application Procedure. Any person desiring to operate a food establishment shall make written application for a license on forms provided by the regulatory authority and pay a license fee in the amount of fifty-five dollars (\$55) as provided for by Title 39, Chapter 16, Idaho Code. (7-1-97)T

a. An application for a license is to be made not less than fifteen (15) days before the date planned for opening a new establishment or change of ownership. (6-30-95)

b. The applicant for a license must be the legal owner or the agent of the legal owner of the food establishment. (6-30-95)

c. The application is to include the name and mailing address of the applicant; the form of ownership of the food establishment; the type of food establishment to be operated; the name, mailing address and location of the food establishment; the signature of the individuals comprising the legal ownership or the agent of the legal owner; such other information as may be required by the regulatory authority; and the license fee. An application without the license fee is not complete and cannot be processed. (7-1-97)T

d. Annual renewal of the food establishment license is required. The license shall expire December 31st of each year. A renewal application and license fee must be submitted by December 1st of each year for the forthcoming year which starts January 1st. (7-1-97)T

02. License Issuance for a New Food Establishment. A license shall be issued to a new food establishment when: (6-30-95)

a. The required plans, specifications and information requested by the regulatory authority have been reviewed and approved; (6-30-95)

b. The properly completed application has been submitted and license fee received; and (7-1-97)T

c. A preoperational inspection has shown that the establishment has been built or remodeled in accordance with approved plans and specifications, and it is ready for operation in accordance with all provisions of these rules. (6-30-95)

03. License Issuance for an Existing Establishment. A license shall be issued to an existing food establishment when: (6-30-95)

a. The properly completed application has been submitted and license fee received; and (7-1-97)T

b. A preoperational inspection has shown that the establishment is in compliance with all provisions of these rules, except that an existing compliance schedule shall be recognized, and the establishment is ready for operation in accordance with all provisions of these rules. (6-30-95)

04. Number of Licenses. No food establishment shall have more than one (1) license except: (6-30-95)

a. Where ~~more~~ multiple licenses would be prudent and equitable as determined by the license holder and the regulatory authority; ~~(6-30-95)~~(7-1-97)T

b. Where more than one (1) license is allowed, such common operations and areas (restrooms, refuse disposal facilities, etc.) shall be recognized as part of each licensed establishment; and (7-1-97)T

c. Should the license holder of a food establishment, having more than one (1) operation, division or department on the premise and under the same ownership, wish to have all such operations, divisions or departments reflected on ~~under~~ one license, ~~such and such operations, divisions or departments inspected separately,~~ the request shall be granted, provided the following qualifications and requirements are met: ~~(7-1-97)T~~(7-1-97)T

i. Each operation, division or department is essentially separate from any other operation, division or department in the food establishment and can function independently; (7-1-97)T

ii. Each operation, division or department is sufficiently large enough to have a manager who is specifically responsible for the activities of the particular operation, division or department and none other; (7-1-97)T

iii. Such common operations and areas (restrooms, refuse disposal facilities, etc.) shall be recognized as part of each operation, division or department; (7-1-97)T

iv. The license holder of the food establishment recognizes that each such operation, division or department will be inspected and regulated as a separate entity; (7-1-97)T

v. The license holder shall be ultimately responsible for regulatory action and enforcement fees associated with the enforcement of the rules should such operations, divisions or departments fail to comply with these rules. Such regulatory action shall be done in accordance with Sections 960, 970 and 976 of these rules; and (7-1-97)T

vi. Regulatory action against the license holder shall commence upon failure of the operation, division or department to satisfy Subsection 960.02.b. and it becomes necessary to enforce Subsection 960.02.c. (7-1-97)T

05. Terms and Conditions of a License. The license holder upon acceptance of the license issued by the regulatory authority shall: (6-30-95)

a. Comply with the provisions of these rules, technical waivers and modifications, and the directives of the regulatory authority; (6-30-95)

b. Allow representatives of the regulatory authority warrantless access to the food establishment during hours of operation unannounced, in order to determine whether the food establishment is in compliance with these rules in accordance with Subsection 940.05; (7-1-97)T

c. Accept notices issued and served by the regulatory authority in accordance with Section 970; (6-30-95)

d. Be subject to the administrative, civil, injunctive and criminal remedies authorized by these rules for failure to comply with the provisions of these rules or an order, warning or directive of the regulatory authority; (6-30-95)

e. Post the license in a conspicuous place of the food establishment; (6-30-95)

f. Immediately contact the regulatory authority in the event of a foodborne or waterborne outbreak,

fire, flood, extended interruption of potable water or electrical service or other emergency in the food establishment which may affect food safety; (6-30-95)

g. Comply with any order, warning or directive issued by the regulatory authority in response to individual food establishment or community-wide emergencies; and (6-30-95)

h. Replace any identified existing equipment or utensils allowed by Subsection 500.16, with equipment and utensils which fully comply with these rules when directed by the regulatory authority, or when replaced in normal course of operation. (6-30-95)

06. Copy of the Terms and Conditions. The regulatory authority shall provide a written copy of the terms and conditions applicable to a license at the time the license is issued, except that failure to provide this information will not prevent the regulatory authority from taking any authorized action upon the failure of the license holder to comply with these rules or any other order, warning or directive of the regulatory authority. (6-30-95)

07. Copy of Rules. The regulatory authority shall make available to the license holder a copy of these rules for his reference and compliance requirements. (6-30-95)

08. License Not Transferable. A license is not transferable. An application for a new license is required when there is a change in food establishment ownership, location or type of business or operation. (6-30-95)

09. Temporary Food Establishment License. License for a temporary food establishment, as defined in Subsection 005.140, shall be valid for no more than fourteen (14) days. (7-1-97)T

10. Operation and Restrictions Specified. The type of operation or restrictions shall be specified on the license. (6-30-95)

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

**16.02.27 - IDAHO RADIATION CONTROL RULES**

**DOCKET NO. 16-0227-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) Title 39, Chapters 1 and 30, Idaho Code.

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

In Subsection 211.02 d.vi.(2) a change was made in reference to the milligray/millirads from 200 to 300. In Subsection 211.03.c.i. the word "or" was inserted between the words primary and secondary.

The proposed rules have been amended in response to public comment and to make typographical, transcriptional, and clerical corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code.

On the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in July 2, 1997 Idaho Administrative Bulletin, Volume 97-7, pages 44 through 117.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact David Eisentrager at (208) 334-2235 ext. 245.

DATED this 7th day of January, 1998.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-5548 fax

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**IDAPA 16  
TITLE 02  
Chapter 27**

**IDAHO RADIATION CONTROL RULES**

**There are substantive changes  
from the proposed rule text.**

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

The complete original text was published in the  
Idaho Administrative Bulletin, Volume 97-7, July 2, 1997,  
pages 44 through 117.

This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature  
for final adoption.

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**TEXT OF DOCKET NO. 16-0227-9701**

**211. RADIOGRAPHIC MACHINES USED FOR MAMMOGRAPHY.**

In addition to other applicable requirements of these rules, radiation machines used for mammography shall comply with these requirements: ( )

- 01. General Requirements. ( )
  - a. Only radiation machines specifically designed for mammography shall be used; ( )
  - b. Radiation machines used for mammography shall be evaluated to ensure conformance to the requirements of these rules at intervals not to exceed twelve (12) months, and upon installation prior to being used on human beings. ( )
  - c. The registrant shall record the results of all tests made to evaluate compliance with these rules, and shall maintain these records available for inspection by the agency for a minimum of three (3) years. ( )
- 02. Radiation Machine Standards. ( )
  - a. X-ray Beam Quality. ( )
    - i. When used with screen-film image receptors, the useful beam shall have a half-value layer (HVL) between the values of: measured kilovoltage/100 and measured kilovoltage/100 + 0.1 millimeters aluminum equivalent. ( )
    - ii. All other mammography imaging modalities shall meet the requirements for minimum half-value layer specified in Subsection 204.03.a. of these rules. ( )
    - iii. Determination of half-value layer for mammography systems shall include the contribution to useful beam equivalent aluminum filtration made by the compression device. ( )
  - iv. The actual kilovolts-peak (kVp) shall be within plus or minus five percent (5%) of the indicated kVp. ( )
- b. Radiation Output. ( )
  - i. Radiation machines used for mammography shall be capable of producing five hundred (500) milliroentgens/second (one hundred twenty nine (129) microCoulomb/kilogram/second) for at least three (3) seconds, and producing a minimum output of eight (8) milliroentgens (two point one (2.1) microCoulomb/kilogram) per milliAmpere-second. ( )
  - ii. The minimum radiation output requirements of this part shall be measured at a point four point five

(4.5) centimeters from the surface of the patient support device with the source-to-image receptor distance (SID) at maximum and the output attenuation of the compression device included. ( )

c. X-ray Beam Alignment\Limitation\Transmission. ( )

i. The radiation machine used for mammography shall be provided with means to limit the useful x-ray beam so that the x-ray field at the plane of the image receptor does not extend beyond any edge of the image receptor at any designated source to image receptor distance except the edge of the image receptor adjacent to the chest wall, where the x-ray field may extend beyond this edge by no more than two percent (2%) of the SID. ( )

ii. The projected collimator light field shall extend beyond the projected radiation field along both the length or width of the radiation field, at any designated source to image receptor distance, by no more than two percent (2%) of the SID. ( )

d. Mammographic Exposure Control. ( )

i. Radiation machines used for mammography shall incorporate means to terminate the exposure at a preset time interval, a preset product of tube current and exposure duration, a preset number of pulses, or a preset radiation exposure at the plane of the image receptor. ( )

ii. Exposure shall only be possible by the use of an exposure switch of the "deadman" type as defined in Subsection 002.30 of these rules. ( )

iii. When both manual and automatic exposure control modes are available, the x-ray control panel shall clearly indicate which mode is selected. ( )

iv. The coefficient of variation between exposures for both automatic and manual exposure modes shall not exceed five one hundredth (0.05). This requirement is met when four (4) successive exposures are made at identical exposure factors, and the standard deviation of the four (4) exposure values divided by the mean exposure value is less than or equal to five one hundredth (0.05). ( )

v. Exposure control in the automatic exposure mode shall provide the capability of maintaining constant film density to within plus or minus three tenths (0.3) optical density unit of the average optical density over the range of clinically used kilovoltage, for acrylic or BR-12 phantom thicknesses of two (2) centimeter to six (6) centimeters. ( )

vi. The mammography exposure control system(s) shall limit the mean glandular dose, for one craniocaudal view of a four point five (4.5) centimeter compressed breast composed of fifty percent (50%) adipose fifty percent (50%) glandular tissue, not to exceed these values: ( )

(1) One milligray (one hundred (100) millirads) for non-grid screen-film imaging modes; ( )

(2) ~~Two~~ three milligray (~~two~~ three hundred (~~200~~ 300) millirads) for screen-film systems with grid. ( )

(3) The technical exposure factors used to determine compliance with this part shall be those used by the facility for its clinical images of a fifty percent (50%) adipose fifty percent (50%) glandular tissue four point five (4.5) centimeter compressed breast, craniocaudal view. ( )

vii. Determination of mean glandular dose shall be made with a breast phantom in the useful beam. The breast phantom shall be equivalent in attenuation to the RMI 156 breast phantom. ( )

e. Integral Ancillary Equipment ( )

i. Radiation machines used for mammography shall be provided with an integral anti-scatter grid available for use with all image receptor sizes. ( )

ii. The mammography radiation machine shall be provided with a compression device which is capable of compressing the breast with a force of at least twenty five (25) pounds and no more than forty (40) pounds for a period of at least fifteen (15) seconds. ( )

iii. The chest wall edge of the compression paddle must be aligned with the chest wall edge of the image receptor to within one percent (1%) of the SID when the compression paddle is placed four point five (4.5) centimeters above the patient support device. ( )

iv. Radiation machines used for mammography, and which are newly installed after the effective date of these rules shall incorporate a post-exposure milliamperere-seconds indicator when used in automatic exposure control mode. ( )

03. Quality Assurance Program. ( )

a. QA Program Responsibilities. The registrant shall maintain, and have in place prior to the initiation of mammography imaging, a written quality assurance program for each mammography x-ray system. The registrant shall be responsible for providing qualified individuals whose duties include: ( )

i. Conducting equipment performance monitoring functions; ( )

ii. Analyzing the monitoring results to determine if there are problems requiring correction; ( )

iii. Carrying out or arranging for the necessary corrective actions when quality assurance testing indicates a standard in these rules is not met. ( )

b. Image Quality Standards/Processor Performance. ( )

i. Phantom Image Quality. The mammography x-ray system shall be capable of providing an image of a seventy five one hundredths (0.75) millimeter fiber, a thirty two one hundredths (0.32) millimeter speck group, and a seventy five one hundredths (0.75) millimeter mass. This standard will be met when a mammographic image of an RMI 156 breast phantom demonstrates four (4) fibers, three (3) speck groups and three (3) masses. ( )

ii. Mid-density (MD) density difference (DD). Deviations from established operating levels for measured values of mid-density (MD) and density difference (DD) on sensitometric control charts shall not exceed one tenth (0.10) Optical Density Units. ( )

iii. Base + Fog (B + F). The base + fog shall not exceed the established operating level by more than three one hundredths (0.03) Optical Density Units. ( )

iv. Darkroom Fog. Darkroom fog levels shall not exceed five one hundredths (0.05) Optical Density Units above base + fog. Darkroom fog tests shall be made with film presensitized by exposure to sufficient light from an intensifying screen so that after processing, an Optical Density of one and two tenths (1.2) to one and six tenths (1.6) is achieved. The presensitized film shall be exposed to darkroom safelight conditions for two (2) minutes. ( )

v. Image Receptor Systems. Image receptor systems and their individual components shall be specifically designed for, and appropriate to mammography imaging. ( )

vi. Intensifying Screens. Mammography image intensifying screens shall be removed from service and appropriate corrective action implemented if the following standards are not met: ( )

(1) Screen Speed Uniformity. Intercomparison of the measured optical density in the geometric center of a phantom image obtained with each intensifying screen in use shall be not exceed three tenths (0.30) optical density unit between the minimum and maximum density. The technical exposure factors shall be the same for each screen, and the phantom used for these images shall be a four (4.0) centimeter thick cassette-sized phantom of acrylic or BR-12, or a breast phantom equivalent in attenuation to the RMI 156. ( )

(2) Screen-film Contact. Cassettes shall not be used for mammography if one or more large areas ( $\geq$  one (1.0) centimeters) of poor film-screen contact is visualized on an image made with a forty (40) mesh mammography film- screen contact test tool. ( )

(3) Screen Identification. Each intensifying screen shall be legibly marked with a unique identification mark for that particular screen, visible on the film outside the area of clinical interest, with a corresponding mark on the outside of the cassette. ( )

vii. Film Processors. Film processors utilized for mammography shall be adjusted to, and operated at the specifications recommended by the mammographic film manufacturer. Alternative settings which are shown by documented test results to provide equivalent sensitometric performance are acceptable. ( )

viii. Reject Rate. Corrective action shall be taken if the film reject rate exceeds five percent (5%). The reject rate shall be based upon clinical images which must be repeated. ( )

c. Quality Assurance Tests/Intervals. The registrant shall ensure that the following quality control tests are performed when applicable equipment or components are initially installed, replaced or repaired, and at least at these specified intervals: ( )

i. Primary or Secondary Barrier Transmission-Upon initial installation and following each significant modification to the mammography system or the primary or secondary barriers. ( )

ii. Processor performance by sensitometric means - daily, or each day of use prior to the first patient exposure. For any mammography registrant using film processors at multiple locations, such as mobile mammography services, each processor shall be subject to this requirement. ( )

iii. Screen Cleanliness Artifacts - weekly. ( )

iv. Image Quality - monthly for stationary systems and prior to performing mammography at each location for mobile systems. ( )

v. Reject Rate Analysis - three (3) months. ( )

vi. Compression Device - six (6) months. ( )

vii. Darkroom Integrity (safelight condition, light leaks) - six (6) months. ( )

viii. Screen-film Contact - six (6) months. ( )

ix. Beam Alignment and Limitation - twelve (12) months. ( )

x. Automatic Exposure Control Reproducibility - twelve (12) months. ( )

xi. Collimator alignment - twelve (12) months. ( )

xii. Focal Spot Size Resolution - upon initiation installation and at each tube replacement, and at intervals not to exceed twelve (12) months. ( )

xiii. Half-value Layer - twelve (12) months. ( )

xiv. kVp Accuracy - twelve (12) months. ( )

xv. Radiation Output Reproducibility and linearity - twelve (12) months. ( )

d. QA Program Annual Review. In addition to the routine quality assurance testing required in these rules, the registrant shall effect a comprehensive review of the effectiveness of all elements of the quality assurance program for each mammography system at intervals not to exceed twelve (12) months. This review shall: ( )



- i. Address all aspects of quality assurance in these rules for each mammography x-ray system; ( )
- ii. Be documented in writing and the results maintained available for inspection by the agency for three (3) years; ( )
- e. Corrective Action. When a mammography x-ray system fails one of the quality assurance tests required in these rules, unless otherwise specified herein, the mammography x-ray system shall be removed from service until appropriate corrective action is completed. The mammography x-ray system shall not be placed back into service until repeat test results verify adequacy of the corrective action. ( )

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE  
16.03.03 - RULES GOVERNING CHILD SUPPORT SERVICES**

**DOCKET NO. 16-0303-9702**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 56-202 and 56-203a, Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rules are being adopted as proposed. The original text of the proposed rules was published in the August 6, 1997 Administrative Bulletin, Volume 97-8, page 169.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Shannon Barnes at (208) 334-5711.

DATED this 7th day of January, 1998.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-5548 fax

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**IDAPA 16  
TITLE 03  
Chapter 03**

**RULES GOVERNING CHILD SUPPORT SERVICES**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-8, August 6, 1997, page 169.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE  
16.03.03 - RULES GOVERNING CHILD SUPPORT SERVICES**

**DOCKET NO. 16-0303-9703**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 56-202 and 56-203a, Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rules are being adopted as proposed. The original text of the proposed rules was published in the August 6, 1997 Administrative Bulletin, Volume 97-8, pages 170 through 180.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Shannon Barnes at (208) 334-5711.

DATED this 7th day of January, 1998.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-5548 fax

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**IDAPA 16  
TITLE 03  
Chapter 03**

**RULES GOVERNING CHILD SUPPORT SERVICES**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-8, August 6, 1997,  
pages 170 through 180.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE  
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE**

**DOCKET NO. 16-0309-9711**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 56-202 (b) and 56-203 (g), Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rules are being adopted as proposed. The original text of the proposed rules was published in the October 1, 1997 Administrative Bulletin, Volume 97-10, pages 37 and 38.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Robbie Charlton at (208) 334-5795.

DATED this 7th day of January, 1998.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-5548 fax

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**IDAPA 16  
TITLE 03  
Chapter 09**

**RULES GOVERNING MEDICAL ASSISTANCE**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-10, October 1, 1997,  
pages 37 and 38.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE**  
**DOCKET NO. 16-0309-9708**  
**NOTICE OF VACATION OF RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the rulemaking previously initiated under this docket. The action is authorized pursuant to Section(s) 67-5226 (2), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a summary of the reasons for the vacation:

This docket is being vacated.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this vacation, contact Lloyd Forbes at, (208) 334-5795.

DATED this 7th day of January, 1998.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Division of Legal Services  
450 West State Street, 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone, (208) 334-5548 fax

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.04.03 - RULES GOVERNING FEES FOR MENTAL HEALTH CENTER SERVICES**

**DOCKET NO. 16-0403-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 39-119, Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rules are being adopted as proposed. The original text of the proposed rules was published in the October 1, 1997 Administrative Bulletin, Volume 97-10, pages 39 through 42.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Roy Sargeant at (208) 334-5528.

DATED this 7th day of January, 1998.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-5548 fax

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**IDAPA 16**  
**TITLE 04**  
**Chapter 03**

**RULES GOVERNING FEES FOR MENTAL HEALTH CENTER SERVICES**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-10, October 1, 1997,  
pages 39 through 42.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.04.06 - RULES GOVERNING FEES FOR ADULT AND CHILD DEVELOPMENT CENTERS**

**DOCKET NO. 16-0406-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 39-119, Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rules are being adopted as proposed. The original text of the proposed rules was published in the October 1, 1997 Administrative Bulletin, Volume 97-10, pages 43 through 48.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Paul Swatsenbarg at (208) 334-5512.

DATED this 7th day of January, 1998.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-5548 fax

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**IDAPA 16**  
**TITLE 04**  
**Chapter 06**

**RULES GOVERNING FEES FOR ADULT AND CHILD DEVELOPMENT CENTERS**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-10, October 1, 1997,  
pages 43 through 48.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE  
16.04.15 - RULES GOVERNING HOMEMAKER SERVICES**

**DOCKET NO. 16-0415-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 39-119, Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rules are being adopted as proposed. The original text of the proposed rules was published in the October 1, 1997 Administrative Bulletin, Volume 97-10, page 49. This chapter is being repealed in its entirety.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Roseanne Hardin at (208) 334-5700.

DATED this 7th day of January, 1998.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-5548 fax

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**IDAPA 16  
TITLE 04  
Chapter 15**

**RULES GOVERNING HOMEMAKER SERVICES**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-10, October 1, 1997, page 49.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**



**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.06.01 - RULES GOVERNING FAMILY AND CHILDREN'S SERVICES**  
**DOCKET NO. 16-0601-9801**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These temporary rules are effective July 1, 1998.

**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 rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 39-105 (l), 39-106 (l)a, 56-202 (b), 56-203 (b), 56-204A, and 16-2432, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 21, 1998.

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

**DESCRIPTIVE SUMMARY:** Provides rules to implement the Children's Mental Health Services Act and provide services to children who are seriously emotionally disturbed. The rules will also clarify the Department's role in responding to child abuse and neglect on Indian reservations and to whom foster care maintenance payments can be made.

**TEMPORARY RULE JUSTIFICATION:** 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.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Anna Sever, at (208) 344-5920.

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 July 1, 1998. The Department will hold public meetings around the State beginning in April, 1998 to negotiate these rules with the public. The date, time and location of the meetings will be advertised locally.

DATED this 7th day of January, 1998.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Division of Legal Services  
450 West State Street, 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone, (208) 334-5548 fax

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**TEXT OF DOCKET NO. 16-0601.9801**

**000. LEGAL AUTHORITY.**

Pursuant to Sections 16-1624, 16-2001, 16-2402, 39-105(1), 39-106(1)(a), 56-202(b), 56-203b, 56-204(a) and 56-204A, Idaho Code, the Idaho Legislature has delegated to the Department the responsibility to establish and enforce such rules and methods of administration as may be necessary or proper to administer social services to people who are in need. These services include but are not limited to provisions for child protection services, termination of

parental rights, foster care, adoption services, children's mental health services, institutional and group care, services for unwed parents, and payments for foster care and day care. In addition, pursuant to Sections 39-105(1), 39-119, 56-803, 16-1822, and 16-1827, the Idaho Legislature has delegated to the Board of Health and Welfare the responsibility to establish and enforce rules governing licensing, fees for services, and adoption of "hard-to-place" children. Authority to establish and enforce rules governing and implementing the Interstate Compact on Placement of Children and Interstate Compact on Adoption and Medical Assistance is vested in the Compact Administrators, pursuant to Sections 16-2102, Article VII, and 39-7501, Idaho Code, respectively. ~~(11-16-95)T~~(7-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. DEFINITIONS AND ABBREVIATIONS.**

For the purposes of the rules contained in Idaho Department of Health and Welfare Rules, IDAPA 16.06.01, "Rules Governing Family and Children's Services," the following terms and abbreviations are used as defined herein:

(11-16-95)T

01. AFDC (Aid to Families with Dependent Children). Federal/state-supported income maintenance program for persons with limited income and assets who are determined to be eligible by the Department's local offices. Federal funds are allocated under Title IV-A of the Social Security Act. When used with regard to eligibility for social services, this term includes recipients of AFDC and those persons whose needs are taken into account when determining their eligibility. (11-16-95)T

02. AFDC-FC (Aid to Families with Dependent Children-Foster Care). Child care provided in lieu of parental care in a foster home, children's agency or institution eligible to receive Aid to Dependent Children under Title IV-E of the Social Security Act. (11-16-95)T

03. A/R. Applicant for or recipient of services. (11-16-95)T

04. Adoption Assistance. Funds provided to adoptive parents of children who have special needs and/or could not be adopted without financial or medical assistance. (11-16-95)T

05. Adoption Services. Protective service through which children are provided with permanent homes, under new legal parentage, including transfer of the mutual rights and responsibilities that prevail in the birth parent-child relationship. (11-16-95)T

06. Alternate Care. Temporary living arrangements, when necessary for a child to leave his own home, through a variety of foster care, respite care, residential treatment and institutional resources, in accordance with the protections established in public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980" as amended, the Child Protective Act, Section 16-1601 et seq., Idaho Code, and the Indian Child Welfare Act. (11-16-95)T

07. Board. The Idaho State Board of Health and Welfare. (11-16-95)T

08. Case Management. A change oriented service to families that assures and coordinates the provision of family assessment, case planning, treatment and other services, protection, advocacy, review and reassessment, documentation and timely closure of a case. (11-16-95)T

09. Case Plan. See "Family Plan". (11-16-95)T

10. Central Office. The state level administrative office of the Department of Health and Welfare located in Boise, Idaho. (11-16-95)T

11. Child Mental Health. All children under eighteen (18) shall be served who:.. (7-1-98)T

a. Are seriously emotional disturbed or gravely impaired due to a serious mental illness: and

(7-1-98)T

b. Present a significant risk of harm to themselves and/or significant risk of harm to others; and

(7-1-98)T

c. Because of their mental illness are at risk for out-of-home placements or are currently in out-of-home placement and lack adequate resources to participate in their community non-public system of care. (7-1-98)T

d. Seriously emotionally disturbed children who are involuntarily committed to the Department for out-of-home placement shall be served without regard to income. (7-1-98)T

12. Child Mental Health Services. Services provided in response to the needs of seriously emotionally disturbed children and their families. These services are provided in accordance with the provisions of Section 16-2402 et seq., Idaho Code, the "Children's Mental Health Services Act". (7-1-98)T

13. Child Protection. All children under eighteen (18) who have been harmed or threatened with harm by a person responsible for their health or welfare, including runaways who are harmed or threatened with harm by virtue of their status, through non-accidental physical or mental injury, sexual abuse (as defined by state law) or negligent treatment or maltreatment, including the failure to provide adequate food, clothing or shelter shall be served without regard to income. Developmentally disabled or emotionally disturbed children who are committed to the Department for out-of-home placement shall be served without regard to income. (11-16-95)T

14. Child Protective Services. Services provided in response to potential, alleged or actual abuse, abandonment or neglect of individuals under the age of eighteen (18) in accordance with the provisions of Section 16-1601 et seq., Idaho Code, the "Child Protective Act". (11-16-95)T

15. Compact Administrator. The individual designated to coordinate interstate transfers of persons requiring special services in accordance with the provisions of Section 16-21-1 et seq., Idaho Code; "Interstate Compact on the Placement of Children," Section 16-1901 et seq., Idaho Code; or the "Interstate Compact on Mental Health," Section 66-1201 et seq., Idaho Code; or the "Interstate Compact on Adoption and Medical Assistance," Section 39-7501 et seq. Idaho Code. (11-16-95)T

16. DHW Regions. Seven (7) geographically defined regions which serve as administrative units for the delivery of social services through local Department local offices. (11-16-95)T

17. Day Care for Children. Direct care and/or protection for children within or outside of the home when the custodial or developmental needs of the child are not being met by the family for any portion of a twenty-four (24) hour day. (11-16-95)T

18. Day Treatment Services. Intensive nonresidential services that include an integrated set of educational, clinical, social, vocational and family interventions provided on a regularly scheduled, typically daily, basis. (11-16-95)T

19. Department. The Idaho Department of Health and Welfare. (11-16-95)T

20. Director. The Director of the Department of Health and Welfare or designee. (11-16-95)T

21. Emergency Assistance To Families. Social services, emergency payments and placement services authorized by FACS social workers for Emergency Assistance eligible families to meet emergency need. (7-1-97)T

22. Extended Family Member. As defined by the law, or custom of an Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen (18) and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent. (11-16-95)T

23. FFP. Federal Financial Participation. (11-16-95)T

224. Family. Related individuals including birth or adoptive immediate family members, extended family members and significant other individuals, who are included in the family plan. (11-16-95)T
235. Family and Children's Services (FACS). Those programs and services directed to families and children, administered by the Department and provided in accordance with these rules. (11-16-95)T
246. Family Assessment. An ongoing process based on information gained through a series of meetings with a family to gain mutual perception of strengths and resources that can support them in creating long-term solutions related to identified service needs and/or safety issues that threaten family integrity, unity or the ability to care for their members. (11-16-95)T
257. Family Case Record. Compilation of all documents relating to a family's case. (11-16-95)T
268. Family Centered Services. An approach to the delivery of social services that focuses on families rather than individuals. Services are based on assessment of the entire family and a negotiated family plan designed to strengthen and maintain the family, while ensuring the protection and well being of children ~~and the safety of their communities.~~ (11-16-95)T(7-1-98)T
279. Family Plan. A written document that serves as the guide for provision of services. The plan, developed with the family, clearly identifies who does what, when, how and why. The family plan incorporates any special plans made for individual family members. If the family includes an Indian child, or child's tribe, tribal elders and/or leaders should be consulted early in the plan development. (11-16-95)T
2830. Family Services Worker. Any of the direct service personnel, including social workers, psychologists, counselors and family therapists, working in regional Family and Children's Services Programs. For purposes of pre-placement home studies, adoption home studies, reports to the court under the Termination and Adoption Acts, and Placement Supervision Reports, "family services workers" also include licensed counselors or psychologists, or individuals who have at least bachelor's degrees in social work, marriage and family therapy, or other social sciences. (11-16-95)T
2931. Field Office. A Department of Health and Welfare service delivery site. (11-16-95)T
302. Goal. A long-range statement of what is to be accomplished to succeed in the direction of the mission of the program. (11-16-95)T
313. Indian. Any person who is a member of an Indian tribe or who is an Alaska Native and a member of a Regional Corporation as defined in 43 U.S.C. 1606. (11-16-95)T
324. Indian Child. Any unmarried person who is under the age of eighteen (18) who is: (11-16-95)T
- a. A member of an Indian tribe, or (11-16-95)T
  - b. Eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe. (11-16-95)T
335. Indian Child Welfare Act (ICWA). The Indian Child Welfare Act, 25 U.S.C. 1901, et seq. (11-16-95)T
346. Indian Child's Tribe. (11-16-95)T
- a. The Indian tribe in which an Indian child is a member or eligible for membership, or (11-16-95)T
  - b. In the case of an Indian child who is a member of or eligible for membership in more than one (1) tribe, the Indian tribe with which the Indian child has the more significant contacts. (11-16-95)T
357. Indian Tribe. Any Indian Tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians,

including any Alaska Native village as defined in 43 U.S.C. 1602(c). (11-16-95)T

368. Information and Referral Services. A service which enables individuals to gain access to human services through providing accurate, current information on community and Department resources. While information and referral is not a separate service of the Department it is provided as a component of most social service programs. Information and referral services will be provided without regard to income. (11-16-95)T

379. Job Opportunities and Basic Skills Training Program (JOBS). The training and employment program established for recipients of aid to dependent children by the Family Support Act of 1988 and provided in Idaho Department of Health and Welfare Rules. (11-16-95)T

3840. Job Search Assistance Program (JSAP). The training and employment program established for food stamp recipients by the Hunger Prevention Act of 1988 and provided in accordance with Idaho Department of Health and Welfare Rules. (11-16-95)T

3941. Licensed. Facilities or programs being licensed in accordance with the provisions of Idaho Department of Health and Welfare Rules, Title 06, Chapter 02, "Rules and Standards for Child Care Licensing". (11-16-95)T

402. Licensing. See Idaho Department of Health and Welfare Rules, Title 06, Chapter 02, "Rules and Standards for Child Care Licensing," Section 100. (11-16-95)T

443. Medicaid. See "Title XIX," defined in Subsection 004.38. (11-16-95)T

424. Medicare. See "Title XVIII," defined in Subsection 004.39. (11-16-95)T

45. Most in Need of Mental Health Services. A child under eighteen (18) years of age who is gravely impaired as evidenced by imminent risk of harm to self or others or are at risk of out-of-home placement due to a serious emotional disturbance and lack resources to obtain services through the non-public community treatment system. (7-1-98)T

436. Multiethnic Placement Act of 1994 (MEPA). MEPA prohibits states or public and private foster care and adoption agencies that receive federal funds from delaying or denying the placement of any child solely on the basis of race, color or national origin. (11-16-95)T

447. Needs Assessment. First step in the planning process which results in systematic documentation of existing conditions in relationship to desired conditions taking into consideration the number of individuals or families who are receiving services and the number who remain unserved. (11-16-95)T

458. Objective. Statement of measured and specific progress toward a goal to be achieved during a stated period of time. (11-16-95)T

469. Permanency Planning. A primary function of family services initiated in all cases to identify programs, services and activities designed to establish permanent home and family relationships for children within a reasonable amount of time. (11-16-95)T

4750. P.L. 96-272. Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980." Section 422 requires states to implement a case review system to protect children in alternate care under the supervision of the state. (11-16-95)T

4851. Planning. An orderly rational process which results in identification of needs and formulation of strategies to fulfill such needs, within resource constraints. (11-16-95)T

4952. Prevention. Programs, services and activities aimed at preventing child protective and severe behavioral and emotional problems. Prevention services are developed and provided by FACS in coordination with other statewide and community organizations as resources are available. (11-16-95)T

503. Protective Services. To provide assistance in response to potential, actual or alleged neglect, abuse or exploitation of children. (11-16-95)T

544. Purchase of Services. Provision of services to clients by local agencies or individuals who contract with DHW. (11-16-95)T

525. Qualified Expert Witness--ICWA. A person who is most likely to be a qualified expert witness in the placement of an Indian child is: (11-16-95)T

a. A member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs pertaining to family organization and child rearing practices; (11-16-95)T

b. An individual who is not a tribal member who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child rearing practices within the Indian child's tribe; (11-16-95)T

c. A professional person who has substantial education and experience in a pertinent specialty area and substantial knowledge of prevailing social and cultural standards and child rearing practices within the Indian community; or (11-16-95)T

d. An individual regarded as being a qualified expert who is referred by the Indian child's tribe, the Department's ICWA Specialist, or the Bureau of Indian Affairs. (11-16-95)T

536. Regional Office. Department office located in one (1) of seven (7) areas of the state which comprises a geographically defined service area for the administration and delivery of the Department's services. (11-16-95)T

547. Reservation. Indian country as defined in 18 U.S.C. Section 1151, and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation. Such term includes but is not limited to the Kootenai Reservation, the Coeur d'Alene Reservation, the Nez Perce Reservation, the Duck Valley Reservation, and the Shoshone-Bannock Reservation. (11-16-95)T

558. Risk Assessment. Direct contact of a family services worker with a family to objectively determine if safety issues or immediate service needs exist, which require further Family and Children's Services response. (11-16-95)T

569. SSI (Supplemental Security Income). Income maintenance grants for eligible persons who are aged, blind or disabled. Grants are provided under Title VI of the Social Security Act and are administered by the Social Security Administration and local Social Security Offices. (11-16-95)T

5760. Self-Support Services. Supportive social services provided to an individual and their family to increase their ability to obtain employment. (11-16-95)T

~~58. Severe Behavioral and Emotional Disorders. Serious emotional disability of an individual under the age of eighteen (18) years, which requires sustained mental health treatment interventions from two (2) or more components of the service system. (11-16-95)T~~

61. Serious Emotional Disturbance (SED). An emotional or behavioral disorder or a neuropsychiatric condition which results in a serious disability, which requires sustained treatment interventions and causes the child's functioning to be impaired in thought, perception, affect and/or behavior. A disorder shall be considered to be a serious disability if it causes substantial impairment in functioning in family, school and/or community. A substance abuse disorder does not, by itself, constitute a serious emotional disturbance, although it may co-exist with serious emotional disturbance. (7-1-98)T

5962. Sheltered Workshop Services. Work activities and extended sheltered employment services for adults age eighteen (18) and over who are developmentally disabled as defined by the Idaho Developmental

Disabilities Services and Facilities Act. Sheltered workshop services are established to assist individuals in acquiring skills which promote opportunities for independent daily living and/or employment. Activities include therapeutic and prevocational activities, skills for self-care and management of daily living and recreational and work skills training. (11-16-95)T

603. Social Service Block Grant. The social service block grant funds are federal funds provided to states to assist in the development of comprehensive social service programs to help those with special needs to achieve and maintain a greater degree of economic self support and self sufficiency, to prevent neglect, abuse, or exploitation of children and adults who are unable to protect their own interests, to prevent or reduce inappropriate institutional care, and to secure referral or admission for institutional care when other forms of care are not appropriate. (11-16-95)T

644. TAFI. Temporary Assistance to Families in Idaho. (7-1-97)T

625. Target Population. Group of persons, residing within a defined geographical area, who are identified as being at risk for an adverse social or health condition or combination of conditions and whom the program is designed to serve. (11-16-95)T

636. Title IV-A. Title under the Social Security Act which provides public assistance to families with dependent children and is commonly identified as Aid to Families with Dependent Children (AFDC). (7-1-97)T

647. Title IV-B. Title under the Social Security Act which provides Child Welfare Services. This categorical service program is aimed at improving the general welfare of children regardless of income. (11-16-95)T

658. Title IV-E. Title under the Social Security Act which provides funding for foster care maintenance (formerly provided for under Title IV-A of the Social Security Act) and adoption assistance payments for certain eligible children. (11-16-95)T

669. Title XVIII (Medicare). Title of the Social Security Act which provides funding for medical services for persons over age sixty-five (65). (11-16-95)T

670. Title XIX (Medicaid). Title under the Social Security Act which provides "Grants to States for Medical Assistance Programs." (11-16-95)T

6871. Tribal Court. A court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings. (11-16-95)T

6972. Unmarried Parents' Services. Unmarried parents' services are aimed at achieving or maintaining self-sufficiency or self-support for unmarried parents. These services include counseling for all unmarried parents who need such service in relation to their plans for their children and arranging for and/or paying for prenatal and confinement care for the well-being of the parent and infant. (11-16-95)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**020. GENERAL REQUIREMENTS APPLICABLE TO ALL FAMILY AND CHILDREN'S SERVICES PROGRAMS.**

01. Information, Referral and Screening. All residents of the state of Idaho, regardless of the duration of their residency shall be entitled to receive, upon referral or request: (11-16-95)T

a. Accurate and current information about services to children and families provided through the Department. (11-16-95)T

- b. Referral to other appropriate public or private services available in the community; and (11-16-95)T
- c. A screening to determine service needs and safety issues that can be addressed through Family and Children's Services. (11-16-95)T

02. **Initiating Family and Children's Services.** Family and children's services are initiated upon referral for services that the program is legally mandated to provide or after completion of a written voluntary request for services. Efforts shall be made to identify any Indian children in the family and all possible tribes in which a child may be a member or eligible for membership. ~~(7-1-98)T~~(7-1-98)T

03. **Individual Authorized to Request Voluntary Services.** Requests for voluntary services shall be made by a family member or by an authorized representative, or by someone acting on behalf of an incompetent or incapacitated person. (11-16-95)T

04. **Record of Request for Services.** The date of referral or request for services shall be documented in the records of the field office. (11-16-95)T

05. **Information to be Provided to Family.** Upon referral or application for services, the family services worker shall inform the family that: (11-16-95)T

a. They have the right to accept or reject services offered by the Department, except those services imposed by law or by a court order; (11-16-95)T

b. Fees may be charged for certain services, and that the parent has financial responsibility for the child in care; (11-16-95)T

c. They have the right to pursue an administrative appeal of any decision of Family and Children's Services relating to them, including but not limited to any decision not to provide services or to discontinue planned services; the Department's failure to act upon a referral or request for services within thirty (30) days; or an decision to remove a child from an alternate care placement unless court-ordered or court-authorized. (11-16-95)T

**021. ASSESSMENT OF NEED.**

Upon referral for protective, children's mental health or other legally-mandated services, or upon voluntary request for services, assessment of need shall be determined by the Department or by contractors based upon the following: ~~(11-16-95)T~~(7-1-98)T

01. **Risk Assessment.** A risk assessment shall be conducted to determine the safety of the child, the family, and the community. (11-16-95)T

02. **Family Assessment.** If the referral is for legally-mandated services or if the risk assessment indicates a need, a family assessment shall be conducted. (11-16-95)T

03. **Other Evaluations.** When a family assessment indicates a need, other professional diagnostic evaluations of the family or individual involved shall be arranged. (11-16-95)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**030. FAMILY SERVICES PROVIDED.**

The services and treatment provided by Family and Children's Services shall be based upon regional needs and resources, and include at least the following elements: (7-1-97)

01. **Crisis Response.** Family and Children's Services shall respond, on a twenty-four (24) hour per day seven (7) day per week basis, to family crises associated with child protective and severe emotional disturbances in



children. (7-1-97)

02. Case Management. Family services shall include case management to assure and coordinate family assessment, case planning, treatment and other services, protection of children, permanency planning, advocacy, review and reassessment, documentation and timely closure of cases. (7-1-97)

03. Multi-disciplinary Family Services. Family services shall be multi-disciplinary and shall be oriented toward resolution of issues associated with child protective, children's mental health, substance abuse and adoptive situations; training and employment issues; including parenting skills and severe behavioral and emotional disorders. ~~(7-1-97)~~(7-1-98)T

04. Education, Training and Employment Programs. Family services shall be available to support the education, training and employment programs of the Job Opportunities and Basic Skills Training Program (JOBS) for public assistance recipients and the Job Search Assistance Program (JSAP) for Food Stamp recipients. (7-1-97)

05. Community Based. Family services shall be aimed at bringing the child and family to a level of functioning that demonstrates a safe environment and an ability to provide a safe environment acceptable in the community and make maximum use of normal environments such as the home, school, other home-like settings, and other community services and resources. ~~(7-1-97)~~(7-1-98)T

06. Preventative Services. (7-1-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**040. FAMILY SERVICES PRACTICE.**

Through social work and the use of other appropriate and available resources, the Department provides services for children and families with the goal of preventing or eliminating the need to remove children from their homes; providing for children's safe return home as soon as possible; providing mental health treatment services needed by the child and family; and promoting the stability and security of Indian tribes and families by compliance with the Indian Child Welfare Act. ~~(11-16-95)~~(7-1-98)T

01. Service Capacity Management. The Department shall manage service capacity within each region of the state to ensure that family service workers respond within a reasonable period of time to referrals, requests for services and ongoing family case needs. (11-16-95)T

02. Permanency Planning. Permanency is the primary goal of family services in all cases by: (11-16-95)T

a. Establishing a plan for programs, services and activities that move toward the goal of permanency for family members within a reasonable amount of time as identified in the family plan; (11-16-95)T

b. Identifying temporary and permanent living arrangements for children who are unable to remain in their own homes; (11-16-95)T

c. Providing counseling to children, families and alternate care providers toward the goal of family reunification or toward other permanent arrangements for the children when family reunification is not feasible within a reasonable amount of time; ~~and~~ ~~(11-16-95)~~(7-1-98)T

d. Providing services and assistance to facilitate independent living when that is the goal of the permanency plan for a child; and ~~(11-16-95)~~(7-1-98)T

e. Providing services, including case management, so that children with serious emotional disturbances can remain within their home, family, school, community and receive treatment in the least restrictive and most appropriate setting possible. (7-1-98)T

03. Family Plan Development. The family plan shall be completed within thirty (30) days of the date the case was opened. (11-16-95)T

a. Families shall be involved in identification of issues, planning their own service and treatment goals, objectives and processes. The family plan and any changes to it shall be signed and dated by the family, or the reason for their refusal to sign shall be documented in the plan. (~~11-16-95~~)T(7-1-98)T

b. The duration and frequency of services shall be determined based on the needs of the family and individuals involved and shall be identified in the family plan. (11-16-95)T

c. All parties shall receive a copy of the family plan and all parties, including the parents and the child if of appropriate age, shall sign a statement indicating they have read and understood the plan. (11-16-95)T

d. At least every six (6) months, the assigned family services worker shall reassess the need for continued services and if appropriate, update the plan based on the changing needs of the family or individual family members. (11-16-95)T

e. Administrative or judicial review shall be held at least every six months for each child placed by the Department under the Child Protective Act and the Children's Mental Health Services Act and at least annually for children in guardianship of the Department and who are placed in adoptive homes, from the date guardianship is granted until a final court order of adoption is issued and placed in the family plan. (~~11-16-95~~)T(7-1-98)T

f. Planning for closure shall begin at the time the family plan is developed and the ending date for services shall be projected. (11-16-95)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**050. SERVICES TO BE PROVIDED.**

The role of the family services worker is to assure that the following services are provided and documented in the case record: (11-16-95)T

01. Reasonable Efforts/Active Efforts. Services offered or provided to the family that were intended to prevent removal of the child from the family, prevent a seriously emotionally disturbed child from having to move to a more restrictive setting, or to obtain another permanent placement; or, for an Indian child, a description of the active efforts made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family; that these efforts have proved unsuccessful; and that based on qualified expert information, continued custody by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child; (~~11-16-95~~)T(7-1-98)T

02. ICWA Preferences. If appropriate, application of the placement preference for placement in accordance with the Indian Child Welfare Act, or a detailed explanation of good cause for not applying the preferences; (11-16-95)T

03. Least Restrictive Setting. Placement in the least restrictive setting and in close proximity to the parents or if not, justification that the placement is in the best interest of the child; or, for an Indian child, placement in the least restrictive setting that most approximates a family and is within reasonable proximity to the child's home taking into account any special needs of the child; (11-16-95)T

04. Legal Requirements. Compliance with all the requirements of the court at the time of the judicial determination; and in the case of an Indian child, notice of the pending proceeding to the parent or Indian custodian and the Indian child's tribe, including notice of their right to intervene; the right to twenty (20) days' additional time to prepare for the proceeding; the right to appointment of counsel if the parent or Indian custodian is indigent; the right to examine all documents filed with the court upon which placement may be based; and the right to withdraw consent

- to a voluntary foster placement; (11-16-95)T
05. Analysis of Cause for Placement. An analysis of the circumstances that necessitated the placement and improvements required for the child's return home; (11-16-95)T
06. Planning for Foster Care. Formulation of the Department's plan for assuring that the child receives necessary care while in the foster home or treatment setting, including services to the foster parents; (11-16-95)T
07. Date for Permanent Placement. Determination of the anticipated date the child will be returned to his or her the parents or to an alternate permanent placement; (~~11-16-95~~)T(7-1-98)T
08. Consideration of Long-Term Foster Care. Use of long-term care shall be utilized only when circumstances will not allow the child with special needs to ~~be returned~~ return home or be placed with an adoptive family, after reasonable efforts to replace the child with the parents or another family or an adoptive family. There must be active agreement of the caretaker and child. Such agreement shall be in writing and signed by the foster parent(s), child, designated FACS staff and where appropriate, the child's family; (~~11-16-95~~)T(7-1-98)T
09. Visitation for Birth Parents. Arrangements for visitation arrangements provided to the birth parents; (11-16-95)T
10. Notification of Change in Placement. Written notification to the ~~natural birth~~ parents within seven (7) days of a change of placement of the foster child if a child is relocated to another foster care setting, or similar notice to the parent or Indian custodian of an Indian child, and the Indian child's tribe, which includes the information described in Subsection 040.e.; (~~11-16-95~~)T(7-1-98)T
11. Notification of Change in Visitation. Written notification that ~~natural birth~~ parents shall be notified in writing if there is to be a change in their visitation schedule with their child in foster care; (~~11-16-95~~)T(7-1-98)T
12. Notification of Right to Participate and Appeal. A written statement that birth parents shall be notified in writing of their right to discuss any changes and the opportunity to appeal if they disagree with changes in placement or visitation; (11-16-95)T
13. ICWA Placement Preferences. Compliance with the foster care placement preferences of the Indian Child Welfare Act; (11-16-95)T
14. Compliance with requirements of the Multiethnic Placement Act. (11-16-95)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**154. RESPONSE PRIORITIES.**

The Department shall use the following statewide standards for responding to allegations of abuse, neglect or abandonment, using the determination of risk to the child as the primary criterion. Any variance from these response standards shall be documented in the family's case file with a description of action taken, which shall be reviewed and signed by the Child Protective Supervisor. (7-1-97)

01. Priority I. The Department shall respond immediately if a child is in immediate danger involving a life-threatening or emergency situation. Emergency situations include sexual abuse when a child may have contact with the alleged perpetrator and circumstances indicate a need for immediate response. Law enforcement shall be notified and requested to respond or to accompany a family services worker. Every attempt should be made to coordinate the Department's assessment with law enforcement's investigation. The child must be seen by a Department family services worker, law enforcement, and medical personnel if applicable, immediately unless written regional protocol agreements direct otherwise. All allegations of physical abuse of a child through the age of six (6) or with profound developmental disabilities should be considered under Priority I unless there is reason to believe that the child is not in immediate danger. (7-1-97)

02. Priority II. A child is not in immediate danger but allegations of abuse, including physical or sexual abuse, or serious physical or medical neglect are clearly defined in the referral. Law enforcement shall be notified within twenty-four (24) hours. The child shall be seen by the family services worker within forty-eight hours (48) of the Department's receipt of the referral. Law enforcement must be notified within twenty-four (24) hours of receipt of all Priority II referrals which involve issues of abuse or neglect. (7-1-97)

03. Priority III. A child may be in a vulnerable situation because of services needs, which if left unmet, may result in harm, or a child is without parental care for safety, health and well being. The child and parents will be interviewed for substantiation of the facts, and to assure that there is no parental abuse or neglect. A family services worker shall respond within three (3) calendar days and the child must be seen by the worker within five (5) calendar days of the Department's receipt of the referral. (7-1-97)

04. Notification to ~~Referent~~ Referent. The Department of Health and Welfare, Family and Children's Services, shall notify the reporting individual of the receipt of the referral within five (5) days. ~~(7-1-97)~~(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**156. REPORTS INVOLVING INDIAN CHILDREN.**

~~Reports of possible abuse, abandonment or neglect of a child known or suspected to be Indian, shall be handled in compliance with the Indian Child Welfare Act. If jurisdiction of the report is within any Indian reservation or the child is a ward of a tribal court, the appropriate tribal authorities shall be immediately notified and no further investigation shall be done by the Department. A record of any response from the tribe shall be maintained in the case record and written documentation of any action taken shall be provided to the appropriate tribal authorities. Possible abuse, abandonment, or neglect of a child who is known or suspected to be Indian shall be reported to appropriate tribal authorities immediately. If the reported incident occurs off a reservation, the department shall perform the investigation. The department shall also investigate incidents reported on a reservation if requested to do so by appropriate authorities of the tribe. A record of any response shall be maintained in the case record and written documentation shall be provided to the appropriate tribal authorities.~~ ~~(11-16-95)~~(7-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**171. ASSESSMENT.**

The assessment shall include contact with the child or children involved, the immediate family and a records check for history with respect to child protection issues. (7-1-97)

01. Interview of a Child. The interview of a child concerning a child protective report shall be conducted: (7-1-97)

a. In a manner that protects all children involved from undergoing any unnecessary traumatic experience, including but not limited to multiple interviews; (7-1-97)

b. By a professional with specialized training in using techniques that consider the natural communication modes and developmental stages of children; and (7-1-97)

c. In a neutral, non-threatening environment, such as a specially equipped interview room, if available. (7-1-97)

02. Interview of Family. Interview of the child's immediate family is mandatory in every case and may require the participation of law enforcement. The family services worker conducting the interview shall: (7-1-97)

a. Immediately notify the parents being interviewed of the purpose and nature of the assessment. At

the initial contact with family, the name and work phone numbers of the case worker and his/her supervisor shall be given to ensure the family has a contact for questions and concerns that may arise following the visit; (7-1-97)

- b. Interview siblings who are identified as being at risk; and (7-1-97)
- c. Not divulge the name of the person making the report during the course of the assessment. (7-1-97)

03. Collateral Interviews. Any assessment of an abuse or neglect report shall include at least one (1) collateral interview with a person who is familiar with the circumstances of the child or children involved. Collateral interviews shall be conducted with discretion and preferably with the parents' permission. (7-1-97)

04. Role of Law Enforcement. Section 16-1625, Idaho Code, specifies that the Department may enlist the cooperation of peace officers for phases of the risk assessment for which they have the expertise and responsibility. Such areas include, but are not limited to: (7-1-97)

- a. Interviewing the alleged perpetrator; (7-1-97)
- b. Removing the alleged perpetrator from the child's home in accordance with Section 39-6301, Idaho Code, the "Domestic Violence Act"; and (7-1-97)
- c. Taking a child into custody in accordance with Section 16-1612, Idaho Code, where a child is endangered and prompt removal from his or her surroundings is necessary to prevent serious physical or mental injury. (7-1-97)

05. Notification of ~~Referent~~ Referent. Upon completion of the Risk Assessment, the Referent shall be notified. ~~(7-1-97)~~(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**240. ADMINISTRATIVE REVIEW.**

Unless a judicial review occurs at the end of a six (6) month period in a Child Protective Act placement or other out of home placement including placements under the Children's Mental Health Services Act, the Department shall conduct an individual family case review to assure compliance with all applicable state and federal laws, and to ensure good social and clinical practice. ~~(11-16-95)~~(7-1-98)T

- 01. Notice of Administrative Review. The administrative review shall include: (11-16-95)T
  - a. Advance written notice to all parties, including an Indian child's tribe if appropriate, and including at least two weeks' notice to adoptive parents; (11-16-95)T
  - b. Action being considered; (11-16-95)T
  - c. The right to be represented by the individual of their choice. (11-16-95)T

02. Procedure in Administrative Review. The parties shall be given the opportunity for face-to-face discussion including attending, asking questions and making statements. (11-16-95)T

03. Members of Administrative Review Panel. The administrative review team shall include a Department employee who is not in the direct line of supervision in the delivery of services to the child or parents being reviewed. The review panel may include agency staff, staff of other agencies, officers of the court, members of Indian tribes and citizens qualified by experience, professional background or training. Members of the administrative review panel shall be chosen by the regional director and receive instructions from the program manager to enable them to understand the review process and their roles as participants. (11-16-95)T

04. Issues Considered in Administrative Review. The review panel shall: (11-16-95)T
- a. Review the extent to which all parties have ~~complied~~ followed through with the family plan, their progress toward alleviating the circumstances necessitating the placement and the extent to which the goals described in the plan have been achieved. (~~11-16-95)T~~(7-1-98)T
  - b. Review compliance with the Indian Child Welfare Act, if appropriate; (11-16-95)T
  - c. Make a determination of the continuing necessity for and appropriateness of the child's placement; and (11-16-95)T
  - d. A target date by which the child may be returned home or placed for adoption, legal guardianship or other permanent placement. (11-16-95)T
05. Recommendations and Conclusions of Administrative Review Panel. Following the review, written conclusions and recommendations shall be provided to all participants, subject to Department safeguards for confidentiality. The decision shall also provide appeal rights. (11-16-95)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**400. AUTHORITY FOR ALTERNATE CARE SERVICES.**

Upon approval of the Regional Family and Children's Services Manager or designee, the Department may provide or purchase alternative care under the following conditions: (11-16-95)T

01. Department Custody. When the child is in the legal custody or guardianship of the Department; or (11-16-95)T
02. Voluntary Agreement. Upon agreement with the parents when circumstances interfere with their provision of proper care or they are no longer able to maintain a child with serious emotional disturbance in their home and they can benefit from social work and treatment services. A family plan must be developed between the Department and the family. A contract between the Department and the service provider, if applicable, must also be in effect. (~~11-16-95)T~~(7-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**403. INVOLUNTARY PLACEMENT UNDER THE CHILDREN'S MENTAL HEALTH SERVICES ACT.**

When a seriously emotionally disturbed child presents a significant danger to himself or herself and/or to others and the child's parent will not consent to a voluntary placement of the child, the child can be placed involuntarily through a court order. Involuntary Treatment Orders are limited to one hundred twenty (120) days and can be changed to a voluntary placement upon the request of the consenting parent(s). At the end of one hundred twenty (120) days, a judicial redetermination is required to extend the involuntary treatment order for an additional set period of time. (7-1-98)T

**4034. OUT-OF-STATE PLACEMENTS (INTERSTATE COMPACTS).**

Where necessary to encourage all possible positive contacts with family, including extended family, placement with family members or others who are outside the state of Idaho shall be considered. On very rare occasion the Department may contract with a residential facility out of state if it best serves the needs of the child and is at a comparable cost to facilities within Idaho. When out-of-state placement is considered in the permanency planning for a child, such placement shall be coordinated with the respective interstate compact administrator in Central Office according to the provisions of Section 16-2101 et seq., Idaho Code, the "Interstate Compact on the Placement of Children" and Section 66-1201 et seq., Idaho Code, the "Interstate Compact on Mental Health." Placements shall be in compliance with all state and federal laws. (11-16-95)T

**4045. ALTERNATE CARE CASE MANAGEMENT.**

Case management shall continue while the child is in alternate care and shall ensure the following: (7-1-97)

01. Preparation for Placement. Preparing a child for placement in alternate care shall be the joint responsibility of the child's family, the child (when appropriate), the family services worker and the alternate care provider. (7-1-97)

of: 02. Information for Provider. The Department and the family shall inform the alternate care provider (7-1-97)

a. Any medical, health and dental needs of the child; (7-1-97)

b. The name of the child's doctor; (7-1-97)

c. The child's current functioning and behaviors; (7-1-97)

d. The child's history and past experiences; (7-1-97)

e. The child's cultural and racial identity needs; (7-1-97)

f. Any educational, developmental, or special needs of the child; (7-1-97)

g. The child's interest and talents; (7-1-97)

h. The child's attachment to current caretakers; (7-1-97)

i. Procedures to follow in case of emergency; (7-1-97)

provider. j. Any additional information that may be required by the terms of the contract with the alternate care provider. (7-1-97)

03. Parental Responsibilities. Parents shall sign a Departmental form of consent for medical care and keep the family services worker advised of where they can be reached in case of an emergency. Any refusal to give medical consent shall be documented in the family case record. (7-1-97)

04. Financial Arrangements. The family services worker shall assure that the alternate care provider understands the financial and payment arrangements and that necessary Department forms are completed and submitted. (7-1-97)

05. Contact with Child. The family, the family services worker, the alternate care provider and the child, if of appropriate developmental age, shall establish a schedule for frequent and regular visits to the child by the family and by the family services worker or designee. (7-1-97)

a. Face-to-face contact in the alternate care setting with the child by the family services worker must occur at least monthly or when necessary for the observable needs of the child. (7-1-97)

b. The Department shall have strategies in place to detect abuse or neglect of children in alternate care. (7-1-97)

c. Regular contact with children placed in intensive treatment facilities, in or out-of-state, shall occur in accordance with Idaho Department of Health and Welfare policy on "Placement in Intensive Treatment Facilities." (7-1-97)

d. Frequent and regular contact between the child and parents and other family members shall be encouraged and facilitated unless it is specifically determined not to be in the best interest of the child. Such contact will be face-to-face if possible, with this contact augmented by telephone calls, written correspondence, pictures and

the use of video and other technology as may be relevant and available. (7-1-97)

06. Discharge Planning. Planning for discharge from alternate care into family services that follow alternate care shall be developed with all concerned parties. Discharge planning shall be initiated at the time of placement and completed prior to the child's return home or to the community. (7-1-97)

07. Transition Planning. Planning for discharge from alternate care into a permanent placement shall be developed with all concerned parties. Discharge planning shall be initiated at the time of placement and completed prior to the child's return home or to the community. (7-1-97)

08. Financial and Support Services. As part of the discharge planning, Departmental resources shall be coordinated to expedite access to Department financial and medical assistance and community support services. (7-1-97)

**4056. -- 419. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**424. REQUIREMENTS FOR THE ALTERNATE CARE PLAN (SECTION 422 COMPLIANCE).**

Section 422 of P.L. 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980," requires states to implement a case review system to protect children who are in alternate care under the supervision of the state. The system must meet certain requirements for the contents of the alternate care plan, for periodic case review and for dispositional hearings. (7-1-97)

01. Contents. The alternate care plan shall include the following eight (8) requirements (seven (7) requirements of P.L. 96-272 and one (1) requirement subsequently added by P.L. 101-239): (7-1-97)

a. A description of the type of home or institution in which the child is to be placed; (7-1-97)

b. A discussion of the appropriateness of the placement; (7-1-97)

c. A statement of how the plan is designed to achieve placement in the least restrictive (most family-like) and most appropriate setting available, consistent with the best interest and special needs of the child; (7-1-97)

d. A statement of how the plan is designed to achieve placement in close proximity to the parents' home, consistent with the best interest and special needs of the child; (7-1-97)

e. Discussion of how the family and the Department plan to carry out the judicial determination made (court order) with respect to the child in accordance with Section 472(a)(1), P.L. 96-272. The Department shall use a family unity meeting concept making reasonable efforts to gather immediate and extended family members and other significant supporters to identify family strengths relevant to creating a safe environment for the child. This process will be fully reported to the court along with resulting plans and commitments; (7-1-97)

f. A plan for assuring that the child receives proper care; (7-1-97)

g. A plan for assuring that identified services are provided to the child and family to improve the conditions in the parents' home, to recommend to the court return of the child to that home or to arrange for other permanent placement for the child. In the case of a child with a serious emotional disturbance, the plan will identify services and behavior required for the child to return to living at home. All case plans shall include specific time frames of obtaining the family's measurable outcomes and defined frequency of communication, review and reassessment of risk; ~~(7-1-97)~~(7-1-98)T

h. A plan for assuring that identified services are provided to the child and foster parents to address the needs of the child while in foster care; (7-1-97)



- i. A discussion of the appropriateness of the services provided to the child under the plan; and (7-1-97)
  - j. To the extent available and accessible, current health and education records, including: (7-1-97)
    - i. The names and addresses of the child's health and educational providers; (7-1-97)
    - ii. The child's grade level performance; (7-1-97)
    - iii. The child's school record; (7-1-97)
    - iv. Assurances that the child's alternate care arrangements take into account proximity to the school in which the child is enrolled at the time the alternate care plan is developed; (7-1-97)
    - v. A record of the child's immunizations; (7-1-97)
    - vi. The child's known medical problems including any emotional and/or behavioral disturbances; ~~(7-1-97)~~(7-1-98)T
    - vii. Any other pertinent health and education information concerning the child. (7-1-97)
  - k. A statement explaining why the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a state different from the state in which such home is located, and why such placement is in the best interests of the child; (7-1-97)
    - l. A plan for assuring that if a child has been placed in foster care outside the state in which the home of the parents of the child is located, periodically but not less frequently than every twelve (12) months, a caseworker on the staff of the state agency of the state in which the home of the parents of the child is located, or of the state in which the child has been placed, visit such child in such home or institution and submit a report on such visit to the state agency of the state in which the home of the parents of the child is located. (7-1-97)
02. Periodic Review. By the provision of Section 475(5)(b), P.L. 96-272, the status of each child placed in alternate care must be reviewed periodically, but no less frequently than every six (6) months from the date of the original alternate care placement and every six (6) months thereafter until the child has been in placement for eighteen (18) months (see Subsection 424.03.c.), by either a court or an administrative review. The periodic reviews shall meet the following six (6) requirements: (7-1-97)
- a. The periodic reviews have determined the continuing necessity for an appropriateness of the placement. (7-1-97)
  - b. The periodic reviews have determined the extent of compliance with the alternate care plan. (7-1-97)
  - c. The periodic reviews have determined the extent of progress which has been made toward alleviating or mitigating the causes necessitating the placement. (7-1-97)
  - d. The periodic reviews have projected a likely date by which the child may be returned to his or her own home or be placed for adoption or in legal guardianship. ~~(7-1-97)~~(7-1-98)T
  - e. The periodic reviews are open to the participation of the parents and the children involved. (7-1-97)
  - f. The periodic reviews are conducted by a panel of appropriate persons, at least one (1) of whom is not responsible for the case management of, or delivery of, services to either the child or the parents who are the subject of the review. (7-1-97)
03. Dispositional Hearings. By the provisions of Section 475(5)(b), P.L. 96-272, every child in alternate

- care under state supervision must be afforded a permanency planning dispositional hearing. (7-1-97)
- a. Dispositional hearings shall meet the following three (3) requirements: (7-1-97)
    - i. Procedural safeguards were applied with respect to parental rights pertaining to the removal of the child from the home of his or her parents. (7-1-97)
    - ii. Procedural safeguards were applied with respect to parental rights pertaining to a change in the child's placement. (7-1-97)
    - iii. Procedural safeguards were applied with respect to parental rights pertaining to any determination affecting visitation rights. (7-1-97)
  - b. Procedural safeguards shall assure fundamental fairness to the family including the following: (7-1-97)
    - i. Opportunity for a hearing prior to any change of disposition or of the status quo; (7-1-97)
    - ii. Adequate notice of such hearings, with time to prepare and right to be present; (7-1-97)
    - iii. Their right to know the allegations against them and to confront those allegations; and (7-1-97)
    - iv. Their right to have legal counsel appointed if requested and eligible. (7-1-97)
  - c. Permanency planning dispositional hearings shall be held no later than eighteen (18) months after the date of the original alternate care placement and no later than every twelve (12) months thereafter. Some hearings, not dispositional hearings, are required more frequently according to the following guidelines: (7-1-97)
    - i. Hearings are required each time any child is moved to a more restrictive alternate care setting; (7-1-97)
    - ii. Every twelve (12) months for any child in the care of the Department under Section 16-1610, Idaho Code, the "Child Protective Act," a renewal of custody hearing is needed. This hearing shall meet dispositional hearing requirements if the judge makes, and the resulting court order contains, required findings. (7-1-97)
    - iii. Hearings are required in accordance with Section 16-2010(c), Idaho Code, at least each eighteen (18) months from the date guardianship was granted, until a final court order of adoption is issued and placed in the adoptive family's case record. (7-1-97)
  - d. The administrative or judicial hearing for permanency planning disposition must include, at a minimum: (7-1-97)
    - i. Written notice to all parties at least two (2) weeks in advance specifying: (7-1-97)
      - (1) The date, time, and place of the review; (7-1-97)
      - (2) Action to be taken; (7-1-97)
      - (3) Opportunity for face-to-face discussion including attending, asking questions, and making statements; (7-1-97)
      - (4) Opportunity for recourse in the form of a petition for review by the magistrate division of the District Court or, more generally, by the request for a review hearing in underlying court action under the appropriate Act. (7-1-97)
    - ii. Determination of: (7-1-97)

- (1) Continuing necessity for, and appropriateness of, the child's placement; and (7-1-97)
- (2) Future status of the child (whether the child should be returned to the family, should continue in foster care for specified period, should be placed for adoption or should continue in foster care on a permanent, long term basis, and in the case of a child in care out of state, whether the out-of-state placement continues to be appropriate and in the best interest of the child). (7-1-97)
- e. The eighteen (18) month permanency planning dispositional hearing may be held by the court having jurisdiction in the underlying case if that is the preference of the court. If the court does not wish to conduct this hearing, it may be held administratively by a hearing officer appointed by the regional director. (7-1-97)
- i. The hearing officer shall not be an employee of the Division of Family and Community Services or a regional Family and Children's Services Program. (7-1-97)
- ii. The hearing officer shall be certified as having completed the training program provided by the Deputy Attorney General assigned to the region or the Division that will enable him to understand the review process and his role as participant and hearing officer. This requirement of certification does not include hearing officers with legal background or judges, although both are encouraged to attend training sessions. (7-1-97)
- f. A written record of the administrative or judicial hearing shall be maintained: (7-1-97)
- i. Indicating the time, date, and place of the review and all the participants; (7-1-97)
- ii. Stating the recommendations and conclusions and the reasons therefore; (7-1-97)
- iii. Filed in the family's case record; and (7-1-97)
- iv. Provided to all participants, subject to the safeguards regarding confidentiality in accordance with the provisions of IDAPA 16, Title 05, Chapter 01, "Rules Governing the Protection and Disclosure of Department Records". (7-1-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**570. DRIVERS' LICENSES FOR CHILDREN IN ALTERNATE CARE.**

Foster parents shall be discouraged to sign for a foster child's driver's license. Insurance purchased by the Department does not provide coverage. No departmental employee shall sign for any foster child's driver's license or permit without written authorization from the Regional Director. Any Department employee signing for a child's driver's license or permit without the Regional Director's approval assumes full personal responsibility and liability for any damages that may be assessed against the child and shall not be covered by the Department's insurance. (11-16-95)T

01. Payment by Department. The Department shall make payments for driver's training, licenses and permits for children in the Department's guardianship when provided for in the family case plan for older teens for whom emancipation is the goal. (11-16-95)T

02. Payment by Parents. The ~~natural~~ parents of children in foster care must authorize drivers' training, provide payment and sign for drivers' licenses. ~~(11-16-95)T~~(7-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**630. FOSTER CARE MAINTENANCE PAYMENTS.**

Foster care maintenance payments shall be made only on behalf of an eligible child who is in a licensed family foster home of an individual, in an approved relative's home, in a private ~~nonprofit~~ child care institution, in a home licensed,

approved or specified by the Indian child's tribe, or in a state-licensed public child care institution accommodating no more than twenty-five (25) children. Payments may be made to individuals, to a public or private ~~nonprofit~~ child placement of child care agency. For Title IV-E purposes, payments for foster care maintenance, whether at regular or specialized rates, are limited to the following: ~~(11-16-95)T~~ (7-1-98)T

01. Maintenance of Child. The cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, personal incidentals, liability insurance for the child, and reasonable travel to the child's home for visitation. (11-16-95)T

02. Administrative Costs. Reasonable costs of administration and operation of an institution necessarily required to provide the maintenance of the child. (11-16-95)T

03. Exclusions. No Title IV-E reimbursement is available for children placed in detention facilities, forestry camps, training schools or any other facility operated primarily for the detention of delinquent children. (11-16-95)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**640. PAYMENT IN THE HOME OF A RELATIVE.**

A child living with a relative may be eligible for a ~~AFDC TAFI~~ grant and/or Title XIX benefits. This will be considered first. No additional room and board payment or foster care payment may be made if the child is receiving ~~AFDC TAFI~~. A foster care payment may be made if the relative is not legally responsible for the support of the child and the child is in the legal custody of the Department. ~~(11-16-95)T~~ (7-1-98)T

~~641. -- 699.~~ **(RESERVED).**

**641. CHILDREN'S MENTAL HEALTH SERVICES.**

01. Services Provided. Section 16-2402 of the Idaho Code designates the Department as the lead agency in establishing and coordinating community supports, services, and treatment for children with serious emotional disturbances and their families. The goals of services are safety of the child and family and individualized treatment in the least restrictive and most normalized setting possible for the child. Successful outcome indicators include, but are not limited to: (7-1-98)T

- a. The child is living in his or own home community; (7-1-98)T
- b. The child's primary relationships and social identity is with positive peers; (7-1-98)T
- c. The child attends and participates in his or her school regularly; (7-1-98)T
- d. The child's life is free of critical incidents which endanger him or her and/or others; and (7-1-98)T
- e. The child has no involvement with the juvenile corrections system. (7-1-98)T

02. Use of Public Funds and Benefits. Public funds and benefits will be used to provide services for children with serious emotional disturbances and their families who are most in need of services. Services should be planned and implemented to maximize the support of the family's ability to provide adequate safety and well-being for the child at home. If the child cannot receive adequate services within the family home, community resources shall be provided to minimize the need for institutional or other residential placement. services shall be individually planned with the family to meet the unique needs of each child and family. Services shall be provided without requiring that parents relinquish custody of their child. (7-1-98)T

**642. SERVICES TO BE PROVIDED.**

In additional to those services cited in IDAPA 16.06.01.040 and 16.06.01.050, the Department provides and/or

financially supports a continuum of services for seriously emotionally disturbed children and their families.

(7-1-98)T

01. Family and Community-Based Services. Services include, but are necessarily limited to, Therapeutic Support Services such as screening, intake, risk assessment, comprehensive assessment/evaluation, crisis and emergency intervention, psychiatric, individual, group and family therapy, family preservation, companions, day treatment, crisis respite care, therapeutic foster care, case management, and psychosocial rehabilitation services both group and individual.

(7-1-98)T

02. Out-of-Home Residential Services. Services which include, but are necessarily limited to: Therapeutic Group Home, Residential Treatment, State Hospital and Psychiatric Hospitalization.

(7-1-98)T

03. Transition Services. Planning with youths and their families as the youths approach age eighteen (18) ensure that the youths with a serious emotional disturbance will receive services, as adults, that they need and for which they are eligible.

(7-1-98)T

04. Community Education and Outreach. These activities assure that citizens in each community are aware of what issues affect children's mental health as well as what children's mental health services are available within the community, both publicly and privately funded.

(7-1-98)T

**643. CHARGES TO PARENTS.**

Parents of children with serious emotional disturbances who are receiving services from the Department's Family and Children's Services program, are responsible for paying for services provided to their child and to their family. The amount charged for each service be in accordance with the parents' ability to pay as determined by a sliding fee scale. In addition, liable third-party sources including, but not limited to, private insurance and Medicaid must be included in determining the ability to pay for services that the parent and child are receiving. When a child is placed in alternate care, parents are responsible for costs associated with the care of their child or children. The family will be referred to Child Support Services for determination of fees associated with out-of-home-care and for payment arrangements according to IDAPA 16.06.01, Sections 436 through 440.

(7-1-98)T

**644. FEE DETERMINATION FOR SERVICES OTHER THAN ALTERNATE CARE.**

Parent(s) or guardians must complete a voluntary application for service and complete a "Fee Determination Form" prior to the delivery of services. The fee determination process includes the following features:

(7-1-98)T

01. Ability to Pay. Charges are based upon the number of dependents and family income.

(7-1-98)T

a. An ability to pay determination will be made at the time of the voluntary request for services or as soon as possible.

(7-1-98)T

b. Redetermination of ability to pay will be made at least annually or upon request of the parents or at any time changes occur in family size, income or allowable deductions.

(7-1-98)T

c. In determining the family's ability to pay for services, the Department shall deduct annualized amounts for:

(7-1-98)T

i. Court-ordered obligations;

(7-1-98)T

ii. Dependent support;

(7-1-98)T

iii. Child care payments necessary for parental employment;

(7-1-98)T

iv. Medical expenses;

(7-1-98)T

v. Transportation;

(7-1-98)T

vi. Extraordinary rehabilitative expenses; and

(7-1-98)T

vii. State and federal tax payments, including FICA taxes. (7-1-98)T

d. Information regarding third-party payors and other resources including Medicaid or private insurance must be identified and developed in order to fully determine the parents' ability to pay and to maximize reimbursement for the cost of services provided. (7-1-98)T

e. It is the responsibility of the parent(s) to obtain and provide information not available at the time of the initial financial interview whenever that information becomes available. (7-1-98)T

02. Time of Payment. Normally charges for services will be due upon delivery of the service unless other arrangements are made, such as for monthly billing. (7-1-98)T

03. Charges. An amount will be charged based on family size, resources, income, assets and allowable deductions, exclusive of third-party liable sources, but in no case will the amount charged exceed the cost of the services. (7-1-98)T

04. Sliding Fee Scale. Fees will be charged on a sliding scale and based on the current Poverty Guidelines published in the Federal Register. Incomes below the five percent (5%) level are not to be charged. The fee schedule will be available in the regional offices of Family and Children's Services. (7-1-98)T

05. Established Fee. The maximum hourly fees or flat fees charged for children's mental health services are shown in the following Table:

<b>Table 644. Hourly Charges for Children's Mental Health Services</b>		
<u>a.</u>	<u>Psychosocial Rehabilitation Services</u>	<u>Hourly Charge</u>
<u>i.</u>	<u>Individual Psychosocial Rehabilitation</u>	<u>\$74</u>
<u>ii.</u>	<u>Group Psychosocial Rehabilitation</u>	<u>\$18</u>
<u>iii.</u>	<u>Rehabilitative Evaluation</u>	<u>\$74</u>
<u>iv.</u>	<u>Task Plan Development</u>	<u>\$74</u>
<u>v.</u>	<u>Community Crisis Support</u>	<u>\$74</u>
<u>vi.</u>	<u>Psychopharmacological Management</u>	<u>\$32</u>
<u>vii.</u>	<u>Psychological Test</u>	<u>\$63</u>
<u>viii.</u>	<u>Medical Report (new)</u>	<u>\$63</u>
<u>ix.</u>	<u>Medical Report (past record)</u>	<u>\$63</u>
<u>x.</u>	<u>Consultation/Collateral</u>	<u>\$63</u>
<u>xi.</u>	<u>Crisis Intervention (at Emergency Room)</u>	<u>\$74</u>
<u>xii.</u>	<u>Diagnostic Interview/Screening</u>	<u>\$63</u>
<u>b.</u>	<u>Psychotherapy</u>	
<u>i.</u>	<u>Individual</u>	<u>\$63 \$83*</u>
<u>ii.</u>	<u>Group Psychotherapy</u>	<u>\$24</u>
<u>iii.</u>	<u>Family Psychotherapy</u>	<u>\$63 \$77*</u>
		<u>*M.D. rate</u>

(7-1-98)T

**645. ACCESS TO SERVICES.**

The Department will prioritize services to seriously emotionally disturbed children and their families. Services may be accessed through a voluntary application for services or through involuntary legal proceedings. When regional service capacity is reached, every effort will be made to obtain alternative services for the child and family. Their names will also be placed on a waiting list for Department services. (7-1-98)T

01. Response. The Department will respond to the following situations: (7-1-98)T

a. The Department will respond on a twenty four (24) hours a day, seven (7) days a week basis to reports of emergency conditions in which a child is considered to be in immediate danger involving a life-threatening situation. This would include dangerousness or risk of physical harm due to a mental illness and/or grave impairment. (7-1-98)T

b. The Department will also respond to reports of situations involving danger, but less than immediate harm. This would include situations in which parents refuse to seek services for a child with serious emotional disturbance and this neglect poses health hazards to the child that may result in physical injury or extreme emotional impairment. (7-1-98)T

02. Access Beyond Immediate Danger. In order to access publicly funded children's mental health services beyond the emergency conditions cited above, a child must be seriously emotionally disturbed, as defined in these rules. (7-1-98)T

03. Local Resources and Plan Development. Children with serious emotional disturbances and their families may have access to local resources and services which do not require placement outside their home into alternate care. A plan will be developed between the Department, the parent(s), the child, if appropriate, and the service provider. This plan will be specific, measurable and objective in the identification of the goal(s), relevant issues, objectives and outcomes. (7-1-98)T

04. Payment for Treatment. When parent(s) request Department payment for a child's treatment, a signed service agreement must be negotiated and signed by the parent(s). In addition, a referral will be made to Child Support Services to collect payment for the cost of out-of-home care. (7-1-98)T

**646. -- 699. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**862. REPORT TO THE COURT - ADOPTION ACT.**

When the family and the child who was placed for adoption in that home are ready to finalize the adoption, the family's attorney shall file a petition to adopt with the court. A copy of that petition shall be served upon the director of the Department. Upon receipt of a copy of the petition to adopt, family services worker or qualified individual shall verify the allegations set forth in the petition and make a thorough investigation of the matter and report the findings in writing to the court within thirty (30) days. (11-16-95)T

01. Registration and Acknowledgement Acknowledgment. Upon receipt of the petition to adopt, the field office shall register it and acknowledge receipt to the court and to the petitioners or private adoption agency. If the licensed adoption agency or qualified individual which completed the pre-placement home study is not identified, that information should be obtained from the attorney. The register shall indicate the date the petition was received, the date the study is due in court, the date the completed study was sent to the court, whether an Indian child is involved, and other pertinent data. ~~(11-16-95)T~~(7-1-98)T

02. Initial Interview. Upon receipt of the petition, the family services worker or qualified individual shall arrange an initial interview with the adopting family. (11-16-95)T

03. Time Frame for Investigation. If the family services worker or qualified individual is unable to complete the study within thirty (30) days, an extension of time shall be requested in writing of the court, stating the reasons for the request. If the family services worker suspects that the child is of Indian heritage and the child's tribe or the Secretary has not been notified, the family services worker shall inform the court and the independent agency of the need to comply with the Indian Child Welfare Act. (11-16-95)T

04. Medical Information. A copy of medical and genetic information compiled in the investigation shall be made available to the adopting family by the family services worker or qualified individual prior to the final order of adoption. (11-16-95)T



**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.06.09 - RULES GOVERNING THE EMPLOYMENT AND TRAINING PROGRAM**  
**FOR IDAHO RECIPIENTS OF FOOD STAMPS**

**DOCKET NO. 16-0609-9704**

**NOTICE OF VACATION OF RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the rulemaking previously initiated under this docket. The action is authorized pursuant to Section(s) 39-106(1), 56-202(b), and 56-209, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a summary of the reasons for the vacation:

This chapter is being vacated in its entirety and has been incorporated into the rules governing the Food Stamp program of Idaho.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this vacation, contact Patti Campbell at (208) 334-4951.

DATED this 7th day of January, 1998.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Division of Legal Services  
450 West State Street, 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone, (208) 334-5548 fax

**IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE**  
**18.01.26 - HEALTH MAINTENANCE ORGANIZATIONS**

**DOCKET NO. 18-0126-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 41-211, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 97-10, October 1, 1997, page 63.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the pending rules, contact James Alcorn at (208) 334-4202.

Dated this 3rd day of November, 1997.

James M. Alcorn, Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250  
Fax: (208) 334-4398

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**IDAPA 18**  
**TITLE 01**  
**Chapter 26**

**HEALTH MAINTENANCE ORGANIZATIONS**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-10, October 1, 1997, page 63.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**

**IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE**

**18.01.26 - MANAGED CARE REFORM ACT**

**DOCKET NO. 18-0126-9702**

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

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. This action is authorized pursuant to Section 41-211, Idaho Code.

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

The capital surplus and deposit requirements for managed care organizations based on enrolled members set forth at Subsection 18.01.26.011.04.a have been amended in response to public comment, and are being amended pursuant to Section 67-5227, Idaho Code. Rather than keep the temporary rules in place while the pending rules await legislative approval, the Department has amended the temporary rules with the same revisions that have been made to the proposed rules.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, October 1, 1997, pages 64 through 68.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending and temporary rules, contact James Alcorn at (208) 334-4202.

Dated this 3rd day of November, 1997.

James M. Alcorn, Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250  
Fax: (208) 334-4398

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**IDAPA 18  
TITLE 01  
Chapter 26**

**MANAGED CARE REFORM ACT**

**There are substantive changes  
from the proposed rule text.**

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

**The complete original text was published in the Idaho Administrative Bulletin, Volume 97-10, October 1, 1997, pages 64 through 68.**

**This rule has been adopted as Final by the Agency and is now pending review by the 1998 Idaho State Legislature for final adoption.**

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**TEXT OF DOCKET NO. 18-0126-9702**

**011. APPLICATION FOR CERTIFICATE OF AUTHORITY.**

01. Certificate of Authority Required. Any person offering a managed care plan on a predetermined and prepaid basis is transacting the business of insurance and must be authorized under a Certificate of Authority issued by the Director of Insurance. (1-1-98)T

02. Availability of Forms. Application forms will be furnished by the Director on the request of the MCO. (1-1-98)T

03. Application Requirements. The application for a Certificate of Authority will include the additional affidavits, statements, and other information as enumerated in Idaho Code, Sections 41-319, 41-3904, 41-3905, and 41-3906. After receiving these completed documents, the Director has the authority to request any supplemental information he deems necessary before final approval or disapproval is given. (1-1-98)T

04. Capital Surplus and Deposit Requirements. In accordance with Idaho Code, Sections 41-3905(8) and 41-3905(9), a managed care organization having a valid Idaho certificate of authority to transact insurance as a health maintenance organization on or before July 1, 1997, or a managed care organization issued a certificate of authority after July 1, 1997, may be allowed by the Director of the Department of Insurance a period of up to three years to comply with the capital, surplus, and deposit requirements of Idaho Code, Sections 41-313 and 41-316 or 41-316A. (1-1-98)T

a. The Director has established the following minimum increases in capital fund requirements as per Idaho Code, Section 41-3905(8), based on the number of enrolled members:

<b>Enrolled Members</b>	<b>Capital Funds</b>
0-100	200,000
101- <del>200</del> <u>300</u>	<del>400,000</del> <u>300,000</u>
<del>201-300</del> <u>301-500</u>	<del>600,000</del> <u>400,000</u>
301- <del>400</del> <u>501-700</u>	<del>800,000</del> <u>500,000</u>
<del>401-500</del> <u>701-1,000</u>	1,000,000
<del>501-750</del> <u>1,001-2,000</u>	1,500,000

<del>750-1,000</del> 2,001-3,000	2,000,000
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~~(1-1-98)T~~(1-1-98)T

b. In no event shall the organization’s capital funds be less than the following:

One year after the organization becomes subject to Title 41, Chapter 39, as amended effective July 1, 1997:	\$1,000,000
Two years after the date the organization becomes subject to Title 41, Chapter 39, as amended effective July 1, 1997:	\$1,500,000
Three years after the date the organization becomes subject to Title 41, chapter 39, as amended effective July 1, 1997:	\$2,000,000

(1-1-98)T

c. Immediately upon becoming subject to Title 41, Chapter 39, Idaho Code, as amended effective July 1, 1997, the managed care organization’s minimum statutory deposit requirements shall be calculated as fifty percent (50%) of the amount of the organization’s Capital funds as calculated above up to a maximum of one million dollars (\$1,000,000), but shall not be less than two hundred thousand dollars (\$200,000). The amount of the deposit so held by the Department shall be adjusted based on the organization’s December 31st and June 30th financial statement filings each year. In no event will the minimum required statutory deposit amount be reduced. Upon notification by the department of the necessary increase in the deposit amount, the organization will have no more than thirty (30) days to come into compliance with the required amount. Failure to increase the deposit as required will subject the organization to suspension or revocation of its certificate of authority pursuant to Idaho Code, Section 41-326.

~~(1-1-98)T~~(1-1-98)T

**IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE**  
**18.01.52 - STATISTICAL REPORTING BY INSURANCE CARRIERS**

**DOCKET NO. 18-0152-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 41-211, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-9, September 3, 1997, page 159.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rules, contact James Alcorn at (208) 334-4202.

Dated this 3rd day of November, 1997.

James M. Alcorn, Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250  
Fax: (208) 334-4398

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**IDAPA 18**  
**TITLE 01**  
**Chapter 52**

**STATISTICAL REPORTING BY INSURANCE CARRIERS**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-9, September 3, 1997, page 159.**

**This repeal of this rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**

**IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE**

**18.01.53 - CONTINUING EDUCATION**

**DOCKET NO. 18-0153-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 41-211, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, October 1, 1997, pages 69 through 72.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rules, contact James Alcorn at (208) 334-4202.

Dated this 3rd day of November, 1997.

James M. Alcorn, Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250  
Fax: (208) 334-4398

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**IDAPA 18  
TITLE 01  
Chapter 53**

**CONTINUING EDUCATION**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-10, October 1, 1997,  
pages 69 through 72.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**

**IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE**  
**18.01.54 - MEDICARE SUPPLEMENT INSURANCE MINIMUM STANDARDS**

**DOCKET NO. 18-0154-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 41-211, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-9, September 3, 1997, pages 160 and 161.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rules, contact James Alcorn at (208) 334-4202.

Dated this 3rd day of November, 1997.

James M. Alcorn, Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250  
Fax: (208) 334-4398

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**IDAPA 18**  
**TITLE 01**  
**Chapter 54**

**MEDICARE SUPPLEMENT INSURANCE MINIMUM STANDARDS**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-9, September 3, 1997,  
pages 160 and 161.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**



**IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE**  
**18.01.55 - FIRE SAFETY STANDARDS FOR DAY CARE**  
**DOCKET NO. 18-0155-9701**  
**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 41-211, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-9, September 3, 1997, pages 162 and 163.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rules, contact James Alcorn at (208) 334-4202.

Dated this 3rd day of November, 1997.

James M. Alcorn, Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250  
Fax: (208) 334-4398

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**IDAPA 18**  
**TITLE 01**  
**Chapter 55**

**FIRE SAFETY STANDARDS FOR DAY CARE**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-9, September 3, 1997,  
pages 162 and 163.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**

**IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE**  
**18.01.62 - ANNUAL AUDITED FINANCIAL REPORTS**  
**DOCKET NO. 18-0162-9701**  
**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 41-211, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, October 1, 1997, page 73.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rules, contact James Alcorn at (208) 334-4202.

Dated this 3rd day of November, 1997.

James M. Alcorn, Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250  
Fax: (208) 334-4398

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**IDAPA 18**  
**TITLE 01**  
**Chapter 62**

**ANNUAL AUDITED FINANCIAL REPORTS**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-10, October 1, 1997, page 73.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**

**IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE**  
**18.01.63 - UNDERGROUND STORAGE TANK TECHNICIAN CERTIFICATION**

**DOCKET NO. 18-0163-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 41-211, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-9, September 3, 1997, page 164.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rules, contact James Alcorn at (208) 334-4202.

Dated this 3rd day of November, 1997.

James M. Alcorn, Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250  
Fax: (208) 334-4398

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**IDAPA 18**  
**TITLE 01**  
**Chapter 63**

**UNDERGROUND STORAGE TANK TECHNICIAN CERTIFICATION**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-9, September 3, 1997, page 164.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**

**IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE**  
**18.01.65 - RULES FOR THE SURPLUS LINE BROKERS OF IDAHO**

**DOCKET NO. 18-0165-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 41-211, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-9, September 3, 1997, page 165 and 166.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rules, contact James Alcorn at (208) 334-4202.

Dated this 3rd day of November, 1997.

James M. Alcorn, Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250  
Fax: (208) 334-4398

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**IDAPA 18**  
**TITLE 01**  
**Chapter 65**

**RULES FOR THE SURPLUS LINE BROKERS OF IDAHO**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-9, September 3, 1997,  
pages 165 and 166.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**

**IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE**  
**18.01.69 - RULE TO IMPLEMENT THE SMALL EMPLOYER**  
**HEALTH INSURANCE AVAILABILITY ACT**

**DOCKET NO. 18-0169-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 41-211, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, October 1, 1997, pages 74 through 85.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rules, contact James Alcorn at (208) 334-4202.

Dated this 3rd day of November, 1997.

James M. Alcorn, Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250  
Fax: (208) 334-4398

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**IDAPA 18**  
**TITLE 01**  
**Chapter 69**

**RULE TO IMPLEMENT THE SMALL EMPLOYER**  
**HEALTH INSURANCE AVAILABILITY ACT**

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

**The original text was published in the Idaho**  
**Administrative Bulletin, Volume 97-10, October 1, 1997,**  
**pages 74 through 85.**

**This rule has been adopted as Final by the Agency**  
**and is now pending review by the**  
**1998 Idaho State Legislature for final adoption.**

**IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE**  
**18.01.70 - RULE TO IMPLEMENT THE SMALL EMPLOYER**  
**HEALTH INSURANCE AVAILABILITY ACT PLAN DESIGN**

**DOCKET NO. 18-0170-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 41-211, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, October 1, 1997, pages 86 through 97.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rules, contact James Alcorn at (208) 334-4202.

Dated this 3rd day of November, 1997.

James M. Alcorn, Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250  
Fax: (208) 334-4398

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**IDAPA 18**  
**TITLE 01**  
**Chapter 70**

**RULE TO IMPLEMENT THE SMALL EMPLOYER HEALTH**  
**INSURANCE AVAILABILITY ACT PLAN DESIGN**

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

**The original text was published in the Idaho**  
**Administrative Bulletin, Volume 97-10, October 1, 1997,**  
**pages 86 through 97.**

**This rule has been adopted as Final by the Agency**  
**and is now pending review by the**  
**1998 Idaho State Legislature for final adoption.**

**IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE**  
**18.01.73 - RULE TO IMPLEMENT THE INDIVIDUAL HEALTH INSURANCE**  
**AVAILABILITY ACT PLAN DESIGN**

**DOCKET NO. 18-0173-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 41-211, Idaho Code.

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

The proposed rules are being amended as follows to correct a typographical error:

Section 011 Limitations and Exclusions  
Attachment D  
Catastrophic Benefit Plan  
Schedule of Benefits  
**Now Reads:** Benefit Areas B1, C, D, E, F, G  
**Should Read:** Benefit Areas B1, C, D, E, F

A typographical error showed the inclusion of G. **It should be deleted.** The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, October 1, 1997, pages 107 through 114.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rules, contact James Alcorn at (208) 334-4202.

Dated this 3rd day of November, 1997.

James M. Alcorn, Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250  
Fax: (208) 334-4398

**IDAPA 18**  
**TITLE 01**  
**Chapter 73**

**RULE TO IMPLEMENT THE INDIVIDUAL HEALTH  
INSURANCE AVAILABILITY ACT PLAN DESIGN**

**There are substantive changes  
from the proposed rule text.**

**The corrections to the sections that have changed  
from the original proposed text  
are printed in this notice.**

**The complete original text was published in the  
Idaho Administrative Bulletin, Volume 97-10, October 1, 1997,  
pages 107 through 114.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**



**IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE**

**18.01.74 - COORDINATION OF BENEFITS**

**DOCKET NO. 18-0174-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 41-211, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, October 1, 1997, pages 115 through 123.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rules, contact James Alcorn at (208) 334-4202.

Dated this 3rd day of November, 1997.

James M. Alcorn, Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250  
Fax: (208) 334-4398

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**IDAPA 18  
TITLE 01  
Chapter 74**

**COORDINATION OF BENEFITS**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-10, October 1, 1997,  
pages 115 through 123.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**

**IDAPA 20 - DEPARTMENT OF LANDS**  
**20.03.05 - RULES GOVERNING RIVERBED MINERAL LEASING IN IDAHO**  
**DOCKET NO. 20-0305-9601**  
**NOTICE OF VACATION OF RULE-MAKING**

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the rule-making previously initiated under this docket. The action is authorized pursuant to Sections 47-710, 47-714 and 58-104 Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a summary of the reasons for the vacation:

In January of 1996, the Idaho Department of Lands proposed amendments to the Rules Governing Riverbed Mineral Leasing in Idaho, IDAPA 20.03.05. The rulemaking process was not completed and the amendments never approved. The vacation of the rulemaking will terminate the proposed amendments only. The vacation of the rulemaking shall have no effect on the current Rules Governing Riverbed Mineral Leasing in Idaho, IDAPA 20.03.05, which shall continue in full force and effect as last amended in 1991.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this vacation, contact Sue Moore at (208) 334-0244.

DATED this 7th day of November 1997.

Stanley Hamilton, Director  
Idaho Department of Lands  
954 West Jefferson Street  
P.O. Box 83720  
Boise, Idaho 83720-0050  
(208) 334-0200 Telephone  
(208) 334-2339 Fax

**IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD**  
**25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD**  
**DOCKET NO. 25-0101-9701**

**NOTICE OF PENDING RULES AND AMENDMENT TO TEMPORARY RULES**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. A pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If a pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules and amended temporary rules. The action is authorized pursuant to Section 36-2107(b) and (d), Idaho Code.

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

The changes to the rules include adding goat packing and parasailing to the definition of hazardous excursions. It adds the word "inactivity" to the definition of "Nonuse" and makes nonuse one of the reasons for relinquishment of a license. Failure to obey an order of the Board is an additional form of unethical or unprofessional conduct. An outfitter's license would have client and harvest limitations or restrictions on it. The rules provide for a one time employment of a guide on a temporary basis. They also clarify that applications received by the Board on or after July 1 of each year will not be accepted for licensure and the license will therefore have expired. Procedures for amending an outfitter license are set out which are similar to a new outfitter license application. New Rule 049 provides for reports which have to be submitted to the Board. New Rule 058 provides for board allocation of deer and elk tags pursuant to House Bill 1172 passed by the 1997 legislative session. The amendments to Rule 059 provides for new outfitting activities on the Boise and Payette Rivers. A definition of the standard terms of probation are set out in Rule 068.

The proposed rules have been amended in response to public comment, to make the rules internally consistent, and to make typographical, transcriptional, and clerical corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code. Rule 002.31 was amended to clarify the term "inactivity." Rule 015.01 was amended to make this rule internally consistent with Rule 027. Rule 027 was amended to make it consistent with the changes in Rule 015. Rule 057 was amended to clarify that tags are allocated among the authorized operating areas and a tag allocation factor will be noted on the license of each outfitter affected.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, pages 198 through 214.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the pending rules, contact: Dean Sangrey, Executive Director (208) 327-7380 - FAX 327-7382

DATED this 12th day of November, 1997.

Dean Sangrey, Executive Director  
Outfitters and Guides Licensing Board  
1365 North Orchard, Suite 172  
Boise, Idaho 83706  
(208) 327-7380 - FAX (208) 327-7382

**IDAPA 25**  
**TITLE 01**  
**Chapter 01**

**RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD**

**There are substantive changes  
from the proposed rule text.**

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

**The complete original text was published in the  
Idaho Administrative Bulletin, Volume 97-10, October 1, 1997,  
pages 198 through 214.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature  
for final adoption.**

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**TEXT OF DOCKET NO. 25-0101-9701**

**002. DEFINITIONS.**

The Act defines certain terminology applicable to its interpretation and administration (Idaho Code 36-2102). Further definitions, for the purposes of these Rules are: (4-1-92)

01. Act. Shall mean Idaho Code, Title 36, Chapter 21, commonly known as the Outfitters and Guides Act, as amended. (4-1-92)

02. Authorized Person. An investigator or enforcement agent in the employ of the Board, a conservation officer of the Idaho Department of Fish and Game, or any local, state, or federal law enforcement officer. (4-1-92)

03. Board. The Idaho Outfitters and Guides Licensing Board. (4-1-92)

04. Board Meeting. The set schedule of meeting dates established for conduct of regular Board business on a calendar year basis. Additional meetings may be scheduled as necessary (See Section 071). (4-1-92)

05. Booking Agent. Any individual, firm, business, partnership, or corporation that makes arrangements for the use of the services of a licensed outfitter and receives compensation therefore. A booking agent does not supply personnel or facilities and services to outfitter clientele. (4-1-92)

06. Compensation. The receipt or taking of goods, services, or cash in exchange for outfitted or guided activities. A bona fide charging of out-of-pocket travel expenses by members of a recreational party shall not be deemed compensation. However, such out-of-pocket expenses may not include depreciation, amortization, wages, or other recompense. (4-1-92)

07. Completed Application. An application submitted for Board consideration which contains all of the material required to be submitted by the Board for that license category. (4-1-92)

08. Consideration. The receipt or taking of goods, services, or cash in exchange for the provision of facilities and services in the conduct of outfitted or guided activities. (4-1-92)

09. Desert. A region of scarce rainfall and vegetation in areas often having great differences between day, night and seasonal temperatures. A desert is a land surface ranging from level, plateau land, or undulating to sharply breaking hill-lands and sand dunes that, in addition, may be broken by poor to well-defined, deeply entrenched drainage systems, rims, cliffs, and escarpments. (4-1-92)

10. Designated Agent. An individual who meets all qualifications for an outfitter's license who is employed as an agent by any person, firm, partnership, corporation, or other organization or combination thereof that is licensed by the Board to operate as an outfitter and who shall, together with the licensed outfitter, be responsible and accountable for the conduct of the licensed outfitter's operations. The name of each designated agent employed by an outfitter shall appear on the outfitter's bond. A designated agent may act as a guide if he possesses the qualifications of a guide as determined by the Board. (Previously referred to as Managing Agent). (4-1-92)

11. Drift Boats. Shall be substituted for and have the same meaning as "float boats" defined below. (4-1-92)

12. Enforcement Agent. An individual employed by the Board having the power of peace officers to enforce the provisions of the Idaho Outfitters and Guides Act (Idaho Code, Title 36, Chapter 21) and the Rules promulgated thereunder. (4-1-92)

13. Facilities and Services. The provision of personnel, lodging (tent, home, lodge, or hotel/motel), transportation (other than by commercial carrier), guiding, preparation and serving of food and equipment, or any other accommodation for the benefit of clientele in the conduct of outdoor recreational activities as designed in Idaho Code 36-2102(b). (4-1-92)

14. First Aid Card. A valid card issued by the American Red Cross to denote the individual whose name and signature appear thereon has successfully completed an applicable Red Cross course and is qualified to render appropriate, minimal first aid as prescribed by the American Red Cross, or other valid evidence showing successful completion of an equivalent course conducted by an organization acceptable to the Board. (4-1-92)

15. Fishing. Fishing activities, on those waters and for those species described in the Idaho Department of Fish and Game "General Fishing Seasons Rules" and any anadromous fishing rules; for purposes of the "Act," fishing is defined as follows: (4-1-92)

a. Anadromous fishing means fishing for salmon or steelhead trout. (4-1-92)

b. Float boat fishing means the use of floatboats without motors for the conduct of fishing as a major activity on those waters open to commercial activities as set forth in Section 059. (4-1-92)

c. Fly fishing means a licensed activity restricted to the use of fly fishing equipment and procedures, as defined by Idaho Department of Fish and Game rules. (4-1-92)

d. Incidental fishing means fishing conducted as a minor activity. (4-1-92)

e. Power boat fishing means the use of power boats in conduct of fishing as a major activity on those Idaho waters open to commercial outfitting activities as set forth in Section 059. (4-1-92)

f. Walk and wade fishing means fishing conducted along or in a river, stream, lake or reservoir, and may include the use of personalized flotation equipment, but does not include the use of watercraft. (4-1-92)

16. Float Boats. Watercraft (inflatable watercraft, dories, drift boats, canoes, catarafts, kayaks, sport yaks, or other small watercraft) propelled by, and moving with the stream flow, maneuvered by oars, paddles, sweeps,

pike poles or by motors for downstream steerage only. Downstream steerage does not include holding or upstream travel of a watercraft with a motor. Excluded as float boats are personal flotation devices, innertubes, air mattresses, or similar devices. (4-1-92)

17. Guide. An individual who meets the criteria as set forth in Idaho Code 36-2102(c), and has further met the required qualifications as prescribed in the Rules to provide professional guided services to clientele in the pursuit and conduct of licensed activities. (4-1-92)

18. Guide License. A license issued by the Board to an individual who is employed by a licensed outfitter to furnish personal services for the conduct of outdoor recreational activities as defined in Idaho Code 36-2102(c). (4-1-92)

19. Hazardous Excursions. Outfitted or guided activities conducted outside municipal limits in a desert or mountainous environment which may constitute a potential danger to the health, safety, or welfare of participants involved. These activities shall include, but are not limited to: day or overnight trailrides, backpacking, technical mountaineering/rock climbing, cross-country skiing, backcountry alpine skiing, llama and goat packing, parasailing, snowmobiling, survival courses, and motored and non-motored cycling. (8-15-97)T

20. He/his/him. Shall mean either the male or female gender. (4-1-92)

21. Hunting. The pursuit of any game animal or bird and all related activities including packing of camp equipment, supplies, game meat and clients to and from a hunting camp. (12-30-93)

22. Incidental Activity. Shall be and is the same as a minor activity. (4-1-92)

23. Incidental Amendment. All outfitter license amendment requests that can be processed by the Board without requiring outside research or recommendation of a land managing agency or other agency before the Board takes final action on said amendment request. (4-1-92)

24. Investigator. An individual employed by the Board to monitor compliance with the provisions of the Outfitters and Guides Act (Idaho Code, Title 36, Chapter 21) and Rules promulgated thereunder and issue warning tickets for violations thereof. An investigator shall not have arrest powers nor any other power of a peace officer. (4-1-92)

25. Major Activity. A licensed activity, the nature of which requires a significant commitment of time and effort by an outfitter in its execution and is intended to provide a significant amount of income to an outfitter. (4-1-92)

26. Major Amendment. All outfitter license amendment requests requiring Board research or recommendation of a land management agency or other agency before the Board takes final action on the amendment request. (4-1-92)

27. Minor Activity. A licensed activity the nature of which may be carried out in conjunction with a major activity, but is not intended to provide a significant amount of income to an outfitter. (4-1-92)

28. Mountainous. A region receiving limited to abundant annual precipitation with an associated vegetative cover of grass, weeds, shrubs, or trees. Cool summer temperatures and cold winter temperatures prevail. A mountainous area is a land surface ranging from level to gently rolling low hills to elevated lands that are often broken with poor to well-developed, deeply entrenched drainage systems, rims, cliffs, and escarpments to steep-sided land masses of impressive size and height. (4-1-92)

29. New Opportunity. A proposed commercial outfitted activity to be conducted in an area where no similar commercial outfitted activity has been conducted in the past. (4-1-92)

30. Nonresident. An individual, corporation, firm, or partnership who is not a resident of the state of Idaho. (See "Resident"). (4-1-92)

31. Nonuse. Inactivity, such as incidental activity only, or an outfitter's making zero use of major licensed activities for any two (2) of the three (3) preceding years. See Definitions, "Zero use", and Subsection 024.01. ~~(8-15-97)F~~(8-15-97)T
32. Operating Area. The area assigned by the Board to an outfitter for the conduct of outfitting activities. (4-1-92)
33. Operating Plan. A detailed schedule or plan of operation which an outfitter proposes to follow in the utilization of licensed privileges, areas, or activities. (See Subsection 018.03). (4-1-92)
34. Outfitter. An individual, corporation, firm, partnership, or other organization or combination thereof that meets the criteria as set forth in Idaho Code 36-2102(b), and has further met the required qualifications as prescribed in the Rules to conduct an outfitting business in Idaho. (4-1-92)
35. Outfitter License. A license issued by the Board to an individual, partnership, corporation, or other duly constituted organization to conduct activities as defined in Idaho Code 36-2102(b). NOTE: The conduct of an outfitted operation on any private land(s) within an operating area approved by the Board is not authorized unless signed permission/lease is obtained from the private land owner(s), or their agent(s), and filed with the Board. (4-1-92)
36. Out-of-Pocket Costs. The direct costs attributable to a recreational activity. Such direct costs shall not include: (4-1-92)
- a. Compensation for either sponsors or participants; (4-1-92)
  - b. Amortization or depreciation of debt or equipment; or (4-1-92)
  - c. Costs of non-expendable supplies. (4-1-92)
37. Power Boats. All motorized watercraft used on Idaho waters open to commercial outfitting activities as set forth in Subsections 059.01 and 059.02. Excluded as power boats are hovercraft, jetskis or similar devices, and float boats using motors for downstream steerage. (4-1-92)
38. Relinquishment of License Privileges. The failure to re-apply at the expiration of a license; the loss through nonuse, inactivity, revocation, or voluntary surrender of a license; or other loss of license. (See Subsection 030.03). (8-15-97)T
39. Resident. An individual, corporation, firm, or partnership who has resided in the state of Idaho for a period of six (6) months next preceding the time of application for license. (4-1-92)
40. Rules. The Rules of the Board. (4-1-92)
41. Stay of Board Action. An order, pursuant to Idaho Code 67-5215(c), stopping or delaying the enforcement of a Board decision, order or action. (4-1-92)
42. Third Party Agreement. The allowing of the conduct of an outfitted or guided activity by the outfitter licensed to conduct those activities by any persons not directly employed by said outfitter. (See Section 023). (4-1-92)
43. Trainee. A person not less than sixteen (16) years of age who does not possess the necessary experience or skill qualifications required to obtain a guide license, but who is working toward obtaining the necessary experience or skill qualifications. This required training shall be recorded on a form provided by the Board. A trainee may not provide any direct guiding services for clients, but may assist while under direct supervision. (5-1-95)
44. Under Supervision. The trainee must be in a boat operated by a licensed boatman, or one in which the operation is closely monitored by a licensed boatman. The licensed boatman need not be in the same boat during

training as long as the trainee's activity is closely monitored. (4-1-92)

45. Unethical/Unprofessional Conduct. Any activity(ies) by an outfitter or guide which is inappropriate to the conduct of the outfitting or guiding profession. These activities include, but are not limited to: an outfitter employing an unlicensed guide; providing false, fraudulent or misleading information to the Board; failure to obey an order of the Board; failure to provide services as advertised or contracted; harassment of the public in their use of Idaho's outdoor recreational opportunities; violation of state or federal fish and game laws; engaging in unlicensed activities or conducting outfitter/guide services outside the operating area for which the licensee is licensed; or disregard for the conservation, maintenance or enhancement of fish, game, land and water resources. (8-15-97)T

46. Validated Training Form. An approved form bearing the "Great Seal of the State of Idaho" AND the official stamp of the Board affixed thereon. (4-1-92)

47. Watercraft. A boat or vessel propelled mechanically or manually, capable of operating on inland water surfaces. Excluded as watercraft are hovercraft, jetskis, personal flotation devices (PFD's), or similar devices. (4-1-92)

48. Zero Use. No or negligible use by an outfitter of his licensed activity unless the lack of use is due to an act of nature or season or hunting or fishing restrictions by a state or federal agency that limit the ability of the outfitter to seek and accommodate clientele. (4-1-92)

**(BREAK IN CONTINUITY OF SECTIONS)**

**015. FEES.**

Prior to the issuance of a license, an applicant must submit the appropriate fee in the form of a certified check, cashier's check, money order, or outfitter's company check. The fee need not be submitted by a new applicant in order for the application to be considered complete but must accompany any renewal application. (4-1-92)

01. Fee. The fee for a resident or nonresident outfitter license is two hundred fifty dollars (\$250) for licenses effective April 1, 1992. When a completed renewal application is filed with the Board after March 31, the following penalty shall apply: (4-1-92)

a. A completed application ~~postmarked or~~ received by the Board prior to April 16 - no late fee shall apply. ~~(4-1-92)~~(8-15-97)T

b. A completed application ~~postmarked or~~ received by the Board April 16 through June 30 - a fifty dollar (\$50) late fee shall be paid before the license is issued. ~~(4-1-92)~~(8-15-97)T

c. A completed application ~~postmarked or~~ received by the Board on or after July 1 will not be accepted for licensure. The license will have lapsed and therefore is void and vacated. If a completed application is not ~~postmarked or otherwise~~ received by the Board by June 30 of the renewal license year, the license is relinquished. ~~(8-15-97)T~~(8-15-97)T

02. Other Fee. The fee for a resident or nonresident guide license is eighty-five dollars (\$85) for licenses effective April 1, 1992. (4-1-92)

**(BREAK IN CONTINUITY OF SECTIONS)**

**027. OUTFITTER LICENSE TENURE.**

Tenure in any outfitter's operating area ceases with the expiration of his outfitter license at the end of any license year. Priority in the operating area may be maintained by submitting a complete application for a license for the ensuing license year before the expiration date of the current license. If a completed application is not ~~postmarked or~~ received



by the Board by June 30 of the renewal license year, the license is relinquished.

~~(8-15-97)F~~(8-15-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**057. ALLOCATION OF DEER AND ELK TAGS.**

The number of deer or elk tags allocated ~~to each outfitter~~ among the authorized operating areas within each game management area, unit or zone will be determined by the Board pursuant to Idaho Code, Section 36-408(d) and 36-408(j), based on historical use and a tag allocation factor shall be noted on the license of each outfitter so affected.

~~(8-15-97)F~~(8-15-97)T

**IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION**

**26.01.30 - IDAHO SAFE BOATING RULES**

**DOCKET NO. 26-0130-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-7002, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, at pages 215 through 221.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Rinda Just at the address or telephone numbers listed below.

DATED this 30th day of October, 1997

Rinda Just, Deputy Attorney General  
P. O. Box 83720  
Boise, ID 83720-0066  
Phone: (208) 334-3695  
TDD: 1-800-542-5738  
Fax: (208) 334-3182

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**IDAPA 26  
TITLE 01  
Chapter 30**

**IDAHO SAFE BOATING RULES**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-10, October 1, 1997,  
pages 215 through 221.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**

**IDAPA 27 - IDAHO BOARD OF PHARMACY**  
**27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY**

**DOCKET NO. 27-0101-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the board and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1997, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code notice is hereby given that this board has adopted a pending rule. The action is authorized pursuant to Sections 67-5206(1) and 54-1717, Idaho Code.

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

Rule 141 will provide that persons ineligible for a license before the Board will be ineligible for any type of license the Board issues. Rule 158 will change the current allowance to specify the type of over-the-counter ephedrine drugs available. Rule 159 will set forth specific requirements for a prescription. Rule 160 will set guidelines for chain drug stores to use common electronic files to maintain prescription records. Rule 163 will provide guidelines for the electronic transmission of prescriptions from a practitioner to a pharmacist. Rule 165 will provide for collaborative agreements between practitioners of pharmacists regarding implementation and modification of drug therapy. Rule 178 will provide for clarification of air flow hoods that meet Class 100 environmental standards. Rule 184 will provide that administrative discipline in other states constitutes grounds for administrative discipline in Idaho. Rule 251 provides for a change in the duties of pharmacy support personnel. Rule 292 provides for the registration of durable medical equipment outlets and what prescription items those outlets are allowed to hold for sale. Rule 401 will specify that all fees charged by the Board are annual in nature and not prorated. Rule 403 will change the due date for annual controlled substance fees. Rule 404 will change the due date for non-pharmacy outlet fees and specify the fee for durable medical equipment outlets. Rule 406 will set the fee for registration of pharmacy support personnel. Rule 439 will change the word "triplicate" to "duplicate" to conform with the statutory change. Rule 445 will change the triplicate filing program to conform to the duplicate filing program. Rule 469 will change the reporting requirements for duplicate prescriptions in conformance with the change in the code.

Certain clerical errors were discovered after the publication of the proposed rule in the Idaho Administrative Bulletin, Volume No. 97-10. The section containing the corrected errors is being reprinted following this notice. In Subsection 158.02 the citation to "Subsection 158.01.a." has been changed to "Subsection 158.02.a." In Subsection 158.02.b. the word "that" has been changed to "than" and a citation to "Subsection 158.01" has been changed to "Subsection 158.02."

The remaining pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, pages 222 through 236.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Richard Markuson at (208) 334-2356.

DATED this 12th day of November, 1997.

Nicole S. McKay, Deputy Attorney General  
Office of the Attorney general  
Statehouse, Room 114  
P. O. Box 83720  
Boise, Idaho 83720-0010  
(208)322-3081  
(208) 334-3107 (FAX)

**IDAPA 27**  
**TITLE 01**  
**Chapter 01**

**RULES OF THE IDAHO BOARD OF PHARMACY**

**There are no substantive changes from the proposed rule text, however, certain clerical errors have been corrected in this Bulletin.**

**The original text was published in the Idaho Administrative Bulletin, Volume 97-10, October 1, 1997, pages 222 through 236.**

**This rule has been adopted as Final by the Agency and is now pending review by the 1998 Idaho State Legislature for final adoption.**

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**CORRECTED TEXT OF DOCKET NO. 27-0101-9701**

**158. PRESCRIPTION DRUGS.**

01. Designated Drugs. In addition to those drugs designated as prescription or legend drugs as defined in Section 54-1705 (23), Idaho Code, the Idaho Board of Pharmacy includes preparations containing ephedrine or salts of ephedrine, as prescription drugs. (7-1-93)

~~02. Drugs Exempt from Designation. The following brand name products and their generic equivalents are exempt from designation as prescription drugs under Section 158.01. (7-1-93)~~

~~a. Bronkaid tablets; (8-4-94)~~

~~b. Pazo hemorrhoid ointment and suppositories; (8-4-94)~~

~~e. Primatene Dual Action tablets. (8-4-94)~~

02. Exempt Drugs. A product that meets all the criteria set forth in Subsection 158.02.a. is exempt from the designation as prescription drugs under Subsection 158.01 and exempt from inclusion as a Schedule II controlled substance under Idaho Code Section 37-2707, unless it is being used or possessed as an immediate precursory of another controlled substance. ( )

a. Products containing a formula with a ratio of twelve and one half (12.5) milligrams ephedrine to two hundred (200) milligrams guaifenesin or twenty-five (25) milligrams ephedrine to four hundred (400) milligrams guaifenesin; and not exceeding a maximum of twenty-five (25) milligrams of ephedrine per tablet, capsule, or dose; and in addition to such formula, may include only inert or inactive ingredients or substance. ( )

b. Provided, however, that hemorrhoidal ointments containing not more than two tenths percent (.2%) Ephedrine Sulfate and suppositories not exceeding four (4) milligrams Ephedrine Sulfate per suppository are also exempt pursuant to Subsection 158.02. ( )

**IDAPA 35 - STATE TAX COMMISSION**  
**35.01.01 - INCOME TAX ADMINISTRATIVE RULES**  
**DOCKET NO. 35-0101-9706**  
**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105 and 63-3039, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, pages 272 through 275.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Janice Boyd, (208) 334-7530.

DATED this 19th day of November, 1997.

Janice Boyd, Tax Policy Specialist  
State Tax Commission  
800 Park Blvd. Plaza IV  
P. O. Box 36, Boise, ID 83722  
(208) 334-7530, FAX (208) 334-7844

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**IDAPA 35**  
**TITLE 01**  
**Chapter 01**

**INCOME TAX ADMINISTRATIVE RULES**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-10, October 1, 1997,  
pages 272 through 275.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**

**IDAPA 35 - STATE TAX COMMISSION**  
**35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES**  
**DOCKET NO. 35-0103-9712**  
**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105A, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, pages 298 through 300.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Alan Dornfest, (208) 334-7530.

DATED this 19th day of November, 1997.

Alan Dornfest, Tax Policy Specialist  
State Tax Commission  
800 Park Blvd. Plaza IV  
P. O. Box 36, Boise, ID 83722  
(208) 334-7530, FAX (208) 334-7844

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**IDAPA 35**  
**TITLE 01**  
**Chapter 03**

**PROPERTY TAX ADMINISTRATIVE RULES**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-10, October 1, 1997,  
pages 298 through 300.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**

**IDAPA 38 - DEPARTMENT OF ADMINISTRATION**  
**38.04.04 - DIVISION OF PUBLIC WORKS - BUREAU OF BUILDING SERVICES**  
**CAPITOL MALL PARKING RULES**

**DOCKET NO. 38-0404-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5708 Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The original text of the proposed rules were published in the Idaho Administrative Bulletin, Volume 97-10, page 360.

The pending rules are being adopted as proposed. This rule is being repealed in its entirety.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfoy, Deputy Attorney General, Department of Administration, 650 W. State Street, Room 100, P.O. Box 83720-0003, (208) 334-3388.

DATED this 4th day of November 1997.

Joanna L. Guilfoy, Deputy Attorney General  
Department of Administration  
650 W. State Street, Room 100  
P.O. Box 83720  
Boise, ID 83720-0003  
Ph: (208) 334-3388  
Fx: (208) 334-2307

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**IDAPA 38**  
**TITLE 04**  
**Chapter 04**

**DIVISION OF PUBLIC WORKS - BUREAU OF BUILDING SERVICES**  
**CAPITOL MALL PARKING RULES**

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

**The original text was published in the Idaho**  
**Administrative Bulletin, Volume 97-10, October 1, 1997, page 360.**

**This rule has been adopted as Final by the Agency**  
**and is now pending review by the**  
**1998 Idaho State Legislature for final adoption.**

**IDAPA 38 - DEPARTMENT OF ADMINISTRATION**  
**38.04.04 - RULES GOVERNING CAPITOL MALL PARKING**  
**DOCKET NO. 38-0404-9702**  
**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5708 Idaho Code, and Senate Concurrent Resolution No. 135 (1976).

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

The proposed rules have been amended in response to public comment and to make organizational, transcriptional and clerical corrections to the proposed rules and are being amended pursuant to Section 67-5227, Idaho Code. The original text of the proposed rules were published in the Idaho Administrative Bulletin, Volume 97-10, pages 361 through 365.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfooy, Deputy Attorney General, Department of Administration, 650 W. State Street, Room 100, P.O. Box 83720-0003, (208) 334-3388.

DATED this 17th day of November 1997.

Joanna L. Guilfooy  
Deputy Attorney General  
Department of Administration  
650 W. State Street, Room 100  
P.O. Box 83720  
Boise, ID 83720-0003  
Ph: (208) 334-3388  
Fax: (208) 334-2307

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**IDAPA 38**  
**TITLE 04**  
**Chapter 04**

**RULES GOVERNING CAPITOL MALL PARKING**

**There are substantive changes  
from the proposed rule text.**

**All sections have some changes, therefore,  
the entire docket is being reprinted.**



The complete original text was published in the  
Idaho Administrative Bulletin, Volume 97-10, October 1, 1997,  
pages 361 through 365.

This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature  
for final adoption.

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**TEXT OF DOCKET NO. 38-0404-9702**

**IDAPA 38**  
**TITLE 04**  
**Chapter 04**

**38.04.04 - RULES GOVERNING CAPITOL MALL PARKING**

**000. LEGAL AUTHORITY.**

The following Rules are promulgated pursuant to the authority of Section 67-5708, Idaho Code, and Senate Concurrent Resolution No. 135 (1976). ( )

**001. TITLE AND SCOPE.**

01. Title. These rules shall be cited as IDAPA 38.04.04., "Rules Governing Capitol Mall Parking." ( )
02. Scope. These rules govern parking in the Capitol Mall. ( )

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, an agency 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. Any such documents are available for public inspection and copying at cost in the office of the agency. ( )

**003. ADMINISTRATIVE APPEALS.**

This chapter does not provide for administrative appeals of the procedures set forth in this chapter. ( )

**004. CITATION.**

The official citation of this chapter is IDAPA 38.04.04.000, et sequence. For example, this section's citation is IDAPA 38.04.04.004. ( )

**005. DEFINITIONS.**

01. Assigned Parking. A parking space assigned to a particular person, vehicle, or agency. ( )
02. Capitol Mall Employee. A state employee who receives a state-issued paycheck from a tenant agency. ( )
03. Delinquent Parking Permit. A parking permit on which the monthly parking fee is not paid by the 20th of any month for which the fee is due. ( )

04. Employee With a Disability. A Capitol Mall employee with a disability as defined in Section 49-117(7)(b), Idaho Code. ( )
05. Facilities Services. Facilities Services, Division of Public Works, Department of Administration. ( )
06. General Parking. A parking space used for all Capitol Mall employees registered for general parking. ( )
07. Impounded Vehicle. A vehicle to which a device has been attached to prevent the vehicle from being driven. ( )
08. Legislative Attaché. A Capitol Mall employee who works for the legislative branch during the legislative session. ( )
09. Parking Permit. The form of document or other registration method used by Facilities Services to identify Capitol Mall employees eligible to park in state lots pursuant to these rules. ( )
10. State Employee Carpool Vehicle. Any vehicle that carries, on a daily basis, three (3) or more Capitol Mall employees. ( )
11. Temporary Contract Employee. An employee of a temporary service company working temporarily at the Capitol Mall to provide services in place of a full-time Capitol Mall employee on leave or vacation. ( )
12. Tenant Agency. An agency occupying a building located in Boise and controlled and operated by Facilities Services, specifically excluding the State Insurance Fund and all agencies located at the building at Third and Main Streets in Boise. ( )
13. Visitor. Anyone visiting the Capitol Mall who is not a Capitol Mall employee, including but not limited to anyone visiting the Capitol Mall to carry out state business or attend a state sponsored event. ( )

**006. -- 009. (RESERVED).**

**010. ADMINISTRATION.**

The administration of Capitol Mall parking shall be under the direction of: ( )

01. Address. Manager, Facilities Services, Division of Public Works, Department of Administration. ( )
02. Inquiries. All inquiries relating to Capitol Mall parking should be directed to the above office. ( )
03. Hours. These rules are in effect Monday through Friday and during normal hours of operation. Parking will not be monitored during off hours except for unauthorized non-state parking. All parking lots and garages are open only to state employees and visitors. All lots and garages will be posted for state use only. ( )

**011. -- 099. (RESERVED).**

**100. CAPITOL MALL PARKING LOT LOCATIONS.**

Capitol Mall lots are all posted with green Capitol Mall parking signs, which lots are managed by Facilities Services. These lots are located in the area bounded by Hays Street on the north, Thirteenth Street on the west, Grove Street on the south and First Street on the east and that are posted with green Capitol Mall parking signs. ( )

**101. -- 199. (RESERVED).**

**200. SPACE ALLOCATION.**

01. General Parking. All Capitol Mall employees will be eligible for general parking permits. Employee general parking permits shall be valid in any general space in any Capitol Mall parking lot or garage. ( )

02. Assigned Parking. ( )

a. Assigned parking will be allotted and assigned by Facilities Services to: ( )

i. Elected state officials; ( )

ii. Directors of executive departments; ( )

iii. Employees with a disability; ( )

iv. Capitol Mall employees upon application and payment for an assigned parking space as available from the waiting list; ( )

v. State employee carpool vehicles; ( )

vi. During the legislative session, legislators; and ( )

vii. Tenant agencies demonstrating, to the satisfaction of Facilities Services, an unusual circumstance or a compelling need for assigned parking for state vehicles. ( )

b. Assigned Parking Spaces. In no event shall more than eighteen percent (18%) of total parking spaces be used for assigned parking. The following spaces shall be marked and set aside for assigned parking. Vehicles parking in these spaces shall utilize parking permits that are appropriate for assigned parking and shall park in the space assigned to that parking permit. The assigned parking spaces are the first floor of the State Parking Garage and those parking spaces clearly marked as assigned by a stenciled name or numbered block or such other place for assigned parking as designated by Facilities Services. ( )

03. Legislative Parking. ( )

a. Legislature in Session. When the Legislature is in session, Legislators shall receive, upon request and payment as provided for herein, assigned parking spaces and shall receive a "Legislator"-imprinted parking permit. During a Legislative session, vehicles parking in areas designated for Legislative parking must utilize permits imprinted "Legislator". During the time period that the Legislature is not in session, a vehicle with a "Legislator"-imprinted parking permit may park in any general parking space within the Capitol Mall. ( )

b. Only during a regular or special session of the Legislature, the following areas shall be assigned for Legislative parking: ( )

i. Those parking spaces on the third level of the State Parking Garage that are marked with gold parking blocks; and ( )

ii. Those spaces in other lots that are marked with gold parking blocks or clearly marked for legislative use. ( )

iii. During any time that the Legislature is not in session, these parking spaces will be used for general parking. ( )

c. Violations. When the Legislature is in session, it shall be a violation of these rules to park in a parking space marked for Legislative use unless the vehicle has a parking permit imprinted with "Legislator". ( )

04. Capitol Mall Disabled Employee Parking. ( )

a. Long Term Disability. Capitol Mall employees with a permanent or long term disability (i.e., six (6)

months or more) shall, upon payment of a general space monthly fee, be issued a parking permit imprinted "person with a disability" which shall allow unlimited parking in an assigned space in the Capitol Mall as close as possible to said employee's work station. ( )

b. Short Term Disability. Capitol Mall employees with a short term disability (i.e., six (6) months or less) shall, upon payment of a general space monthly fee, be issued a "Special" parking permit which will allow unlimited parking in an assigned parking space in the Capitol Mall. Said special permit shall be limited in duration to the term of the disability. ( )

c. An employee claiming a disability shall be required to submit a statement from a physician stating the duration and extent of the disability or a "person with a disability" parking permit from the Idaho Transportation Department. ( )

05. Carpools. Sufficient space in Capitol Mall lots shall be assigned and marked for state employee carpool vehicles. Upon application, spaces shall be assigned at no cost, and an appropriate permit issued, for state employee carpool vehicles. Upon the absence from work of a carpool employee, the carpool vehicle may park in its assigned space but under no circumstances may a carpool vehicle park in a carpool space when carrying less than two (2) employees. ( )

06. State Vehicles. Parking for tenant agencies' state vehicles will be on the top level of the State Parking Garage or in other Capitol Mall lots marked with green parking blocks or clearly marked for state vehicles only. State vehicles using these areas for permanent parking must have a state vehicle permit. An employee may park a private vehicle in a state vehicle space when removing a state vehicle and may use the state vehicle permit in the private vehicle. Non-Capitol Mall visiting state vehicles may park in these spots with no permit until 4 p.m. each weekday. ( )

07. Visitor Parking. Short term daily parking areas for visitors will be available in various Capitol Mall parking lots on a no-charge basis, for at least the first hour. Visitor spaces shall be clearly signed as "Capitol Mall Visitor Parking Only. No Capitol Mall Employees". Visitor parking shall be limited as posted. Non-Capitol Mall state vehicles qualify for visitor parking. It shall be a violation of these rules for a state employee working in the Capitol Mall to park in a visitor parking space for any period of time between 8 a.m. and 5 p.m., Monday through Friday. ( )

08. Special Visitor Permits. Facilities Services may issue "Special Visitor" parking permits. Vehicles displaying a valid "Special Visitor" parking permit attached as directed may park in a general parking space or as stamped on the Special Visitor parking permit. Special Visitor permits may be issued to contractors working in the Capitol Mall to allow a contractor to park a work vehicle in a visitor or general parking space. Upon application and proof of payment of the general parking fee, Facilities Services may issue a Special Visitor parking permit and allow general parking privileges to temporary contract employees and to employees of companies that provide a service to Capitol Mall employees, including but not limited to employees of the credit union and employees of vendors of the Commission for the Blind and Visually Impaired. ( )

**201. -- 299. (RESERVED).**

**300. SPACE CHARGES.**

01. Charges. The charge for a parking permit shall be established by the Department of Administration. The monthly assigned parking fee will not exceed fifty dollars (\$50); general parking fees shall not exceed fifty percent (50%) of the assigned fee. Fees will not be changed more often than annually. Capitol Mall employees obtaining a general parking permit shall be charged for such permit through a payroll deduction or other automatic deduction system. ( )

02. Elected Officials. The governor, lieutenant governor, secretary of state, attorney general, state auditor, state treasurer, superintendent of public instruction, president pro-tem of the senate and speaker of the house shall be provided assigned parking at no fee. ( )

03. Legislators. Legislators and attaches who register for a parking space shall pay the general space

fee for every month that the Legislature is in session. ( )

04. State Tenant Agency Vehicles. Vehicles belonging to state agencies leasing office space from the Department of Administration in the Capitol Mall shall receive general state vehicle parking permits for a general space monthly fee. ( )

**301. -- 399. (RESERVED).**

**400. PARKING PERMITS.**

Any Capitol Mall employee may be issued a maximum of two (2) parking permits and will be charged the appropriate parking fee for each permit. Only one (1) such permit may be used at a time. In the event that a permit is lost or destroyed, an employee must sign a statement to that effect prior to a new permit being issued. A replacement charge, not to exceed the monthly general parking fee, shall be charged for a new permit. It shall be a violation of these rules to: use an invalid parking permit; use a parking permit reported lost or stolen; improperly use a valid Capitol Mall parking permit; or, without permission of Facilities Services, transfer a general employee permit to a non-registered vehicle. ( )

**401. -- 499. (RESERVED).**

**500. TERMINATION.**

01. Delinquent Permits. Facilities Services may terminate any delinquent parking permit. ( )

02. Parking Privileges Suspension. Facilities Services may terminate parking privileges, for up to six (6) months, of any Capitol Mall employee who has been cited for three (3) violations of these rules and paid a penalty, except that a termination of a delinquent parking permit shall be effective only until the permit is reactivated as provided for herein. In addition, any Capitol Mall employee observed repeatedly by Capitol Mall security to be driving above posted speed limits or driving against posted directional arrows may have his permit suspended for a period of up to six (6) months, after receiving notice of the violations. ( )

03. Impound and Towing. Any vehicle without a valid Capitol Mall parking permit or parked in an unauthorized space or in a no parking area may be towed or impounded. There will be a service fee, not to exceed forty-five dollars (\$45), for releasing any impounded vehicle. Towing and impound fees are the responsibility of the owner. ( )

04. Reactivating Permit. A terminated parking permit may be reactivated, after any applicable termination period, by reapplication for the deduction plan through Facilities Services and payment of any delinquent parking fees. ( )

05. Parking Permit Termination Procedure. If a Capitol Mall employee wishes to terminate parking privileges, that employee must submit a request for termination to Facilities Services and surrender all parking permit(s). Facilities Services will issue an authorization for termination to the employee's payroll clerk to effect a cessation of the monthly parking fee deduction. All payroll clerks shall obtain an authorization for termination from Facilities Services prior to terminating the parking fee from the employee's payroll deduction schedule. No refund will occur after a monthly payroll deduction has been made. ( )

**501. -- 599. (RESERVED).**

**600. LOADING ZONE PARKING SPACES.**

A limited number of spaces in the Capitol Mall shall be designated and marked for short-term pick-up and delivery parking. It shall be a violation of these rules to park in these spaces for an unauthorized purpose or for longer than the designated time allowed which time shall be clearly marked. ( )

**601. -- 699. (RESERVED).**

**700. PARKING IN MARKED SPACES ONLY.**

It shall be a violation of these rules to park a motor vehicle, including a motorcycle, in a location that is not marked as

a parking space within the Capitol Mall. This shall include, but not be limited to, parking in or on a driveway, sidewalk or common driving area of any parking lot, or parking one (1) vehicle in more than one (1) space. ( )

**701. -- 799. (RESERVED).**

**800. ENFORCEMENT.**

Facilities Services may leave notice at or on any vehicle parked in violation of these rules. This notice may be in the form of a warning or violation notice and shall bear the date and hour of leaving the same at or upon the vehicle. A warning may be used only for those infractions that do not cause the loss of a parking space and do not cause a safety hazard. For all other violations, a violation notice shall be issued. If a vehicle has been issued two (2) warnings in any one (1) year period, upon a subsequent violation, a violation notice shall be issued. A violation notice shall impose a fine as permitted pursuant to Idaho Code Section 67-5708. All violation notices issued by Facilities Services shall be forwarded to the City of Boise for collection or prosecution. The authority of Facilities Services to issue warnings or violation notices is in addition to, and not in limitation of, the authority of Facilities Services to terminate parking privileges as provided for in these rules. ( )

**801. -- 899. (RESERVED).**

**900. WAIVER OF RULES.**

The administrator for the Division of Public Works may waive any or all of the provisions of these rules if the administrator determines that application could result in discrimination among employees or that application of the rules would cause hardship or an unintended result. ( )

**901. -- 999. (RESERVED).**

**IDAPA 38 - DEPARTMENT OF ADMINISTRATION**  
**38.04.05 - RULES GOVERNING THE MANAGEMENT**  
**OF STATE-OWNED DWELLINGS**

**DOCKET NO. 38-0405-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5707A Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-9, pages 228 through 231.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfooy, Deputy Attorney General, Department of Administration, 650 W. State Street, Room 100, P.O. Box 83720-0003, (208) 334-3388.

DATED this 4th day of November 1997.

Joanna L. Guilfooy  
Deputy Attorney General  
Department of Administration  
650 W. State Street, Room 100  
P.O. Box 83720  
Boise, ID 83720-0003  
Ph: (208) 334-3388  
Fx: (208) 334-2307

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**IDAPA 38**  
**TITLE 04**  
**Chapter 05**

**RULES GOVERNING THE MANAGEMENT OF STATE-OWNED DWELLINGS**

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

**The original text was published in the Idaho**  
**Administrative Bulletin, Volume 97-9, September 3, 1997,**  
**pages 228 through 231.**

**This rule has been adopted as Final by the Agency**  
**and is now pending review by the**  
**1998 Idaho State Legislature for final adoption.**

**IDAPA 44 - IDAHO STATE BOARD OF EXAMINERS**  
**44.02.01 - RULES GOVERNING ADMINISTRATIVE PROCEDURE**  
**DOCKET NO. 44-0201-9401**  
**NOTICE OF VACATION OF RULE-MAKING**

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the rule-making previously initiated under this docket. The action is authorized pursuant to section 67-2026, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a summary of the reasons for the vacation:

Pursuant to Ch. 167, 1997 Session Laws, effective July 1, 1997, the state treasurer, rather than the Board of Examiners, was granted authority to adopt procedures necessary to implement the electronic funds transfer requirements of Section 67-2026, Idaho Code.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this vacation, contact David G. High (208) 334-2400.

DATED this 19th day of November, 1997.

J. D. Williams, Secretary  
State Board of Examiners  
Controller's Office  
700 W. State St., 5th Floor  
P. O. Box 83720  
Boise, ID 83720-0011  
(208) 334-3100  
(208) 334-2671



**IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO**

**59.01.03 - CONTRIBUTION RULES OF THE PUBLIC EMPLOYEE  
RETIREMENT SYSTEM OF IDAHO**

**DOCKET NO. 59-0103-9501**

**NOTICE OF VACATION OF RULE-MAKING**

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the rule-making previously initiated under this docket. The action is authorized pursuant to Section 59-1314(1), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a summary of the reasons for the vacation:

The proposed increase to the Firefighter Retirement Fund employer contribution rate was not approved by the legislature at the time it was originally proposed in June of 1995. The changes proposed under this docket are, therefore, being vacated to terminate this rule-making. The vacation of the rulemaking shall have no effect on the current rules now in effect.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this vacation, contact Brad Goodsell at (208) 334-2451.

DATED this 7th day of November 1997.

Brad Goodsell  
Deputy Attorney General for PERSI  
Public Employee Retirement System of Idaho  
607 N. 8th, Boise, ID 83702  
P.O. Box 83720, Boise ID 83720-0078  
Phone: 208-334-2451  
FAX: 208-334-3804

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