

IDAHO ADMINISTRATIVE BULLETIN

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July 1, 1998

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Preface

The Idaho Administrative Bulletin is published once each month by the Department of Administration, Office of the Administrative Rules Coordinator, pursuant to Section 67-5203, Idaho Code. The Bulletin is a compilation of all administrative rule-making documents in Idaho. The Bulletin publishes the official text notice and full text of such actions.

The state of Idaho administrative rule-making process comprises five distinct activities; Proposed, Negotiated, Temporary, Pending, and Final rule-making. In the majority of cases, the process begins with proposed rule-making and ends with final rule-making.

State agencies are required to provide public notice of rule-making activity and invite public input. The public receives notice of a rule-making activity through the Idaho Administrative Bulletin and the Legal Notice published monthly in local newspapers. The Legal Notice provides reasonable opportunity for public input, either oral or written, which may be presented to the agency within the time and manner specified in the Legal Notice. After the comment period closes, the agency considers fully all information submitted in regard to the rule. Comment periods are not provided in temporary or final rule-making activities.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is cited by year and issue number. For example, Bulletin 97-1 refers to the first Bulletin issued in calendar year 1997, Bulletin 96-1 refers to the first Bulletin issued in calendar year 1996, etc. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 1 refers to January; Volume No. 2 refers to February; and so forth. Example: The Bulletin published in January of 1998 is cited as Volume 98-1. The December 1997 Bulletin is cited as Volume 97-12.

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

*The Idaho Administrative Code is published once a year and is a compilation or supplemental compilation of all final and enforceable administrative rules in effect in Idaho. In an effort to provide the reader with current, enforceable rules, temporary rules are also published in the Administrative Code. Temporary rules and final rules that have been approved by the legislature during the legislative session, and published in the monthly Idaho Administrative Bulletin, supplement the Administrative Code. Negotiated, proposed, and pending rules are **not** printed in the Administrative Code and are published only in the Bulletin.*

*To determine if a particular rule remains in effect, or to determine if a change has occurred, the reader should refer to the **Cumulative Index of Administrative Rule-Making**, printed in each Bulletin.*

AVAILABILITY OF THE ADMINISTRATIVE CODE AND BULLETIN

The Idaho Administrative Code and all monthly Bulletins are available for viewing and use by the public in all 44 county law libraries, state university and college and community college libraries, the state law library, the state library, the Public Libraries in Boise, Pocatello, Idaho Falls and Twin Falls, the Lewiston City Library, East Bonner County Library, Eastern Idaho Technical College Library, Ricks College Library, and Northwest Nazarene College Library.

SUBSCRIPTIONS AND DISTRIBUTION

For subscription information and costs of publications, please contact the Department of Administration, Office of the Administrative Rules Coordinator, 650 W. State Street, Room 100, Boise, Idaho 83720-0004, telephone (208) 334-3577.

The *Administrative Bulletin* is an official monthly publication of the State of Idaho. Yearly subscriptions or individual copies are available for purchase.

The Administrative Code, is an annual compilation or supplemental compilation of all final and enforceable temporary administrative rules and includes tables of contents, reference guides, and a subject index.

Individual Rule Chapters and **Individual Rule-Making Dockets**, are specific portions of the *Bulletin* and *Administrative Code* produced on demand.

Internet Access - The *Administrative Code* and *Administrative Bulletin* are available on the Internet at the following address:

<http://www.state.id.us> - from Idaho Home Page select State Agencies, then the Department of Administration link, then Administrative Rules.

EDITOR'S NOTE: All rules are subject to frequent change. Users should reference all current issues of the *Administrative Bulletin* for negotiated, temporary, proposed, pending, and final changes to all rules, or call the Office of the Administrative Rules at (208) 334-3577.

HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

Rule-making documents produced by state agencies and published in the **Idaho Administrative Bulletin** are organized by a numbering system. Each state agency has a two-digit identification code number known as the "**IDAPA**" number. (The "**IDAPA**" Codes are listed in the alphabetical/numerical index at the end of this Preface.) Within each agency there are divisions or departments to which a two-digit "**TITLE**" number is assigned. There are "**CHAPTER**" numbers assigned within the Title and the rule text is divided among major sections with a number of subsections. An example IDAPA number is as follows:

IDAPA 16.07.01.010.01.a.ii.

"**IDAPA**" refers to Administrative Rules in general that are subject to the Administrative Procedures Act and are required by this act to be published in the *Idaho Administrative Code* and the *Idaho Administrative Bulletin*.

"**IDAPA 16**" refers to the Idaho Department of Health and Welfare.

"**07.**" refers to Title 07, Division of Veterans Services within the Department.

"**01.**" refers to Chapter 01 of Title 07, "Rules Governing Eligibility For Admission into the Veterans Home for Domiciliary Care."

"**010.**" refers to Major Section 010, "Definitions."

"**01.**" refers to Subsection 010.01.

"**a.**" refers to Subsection 010.01.a.

"**ii.**" refers to Subsection 010.01.a.ii.

DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rule-making actions (documents) are assigned a "DOCKET NUMBER." The "Docket Number" is a series of numbers separated by a hyphen "-", (16-0701-9601). The docket numbers are published sequentially by IDAPA designation (e.g. the two-digit agency code). The following example is a breakdown of a typical rule docket:

"DOCKET NO. 16-0701-9601"

"16-" denotes the agency's IDAPA number; in this case the Department of Health and Welfare.

"0701-" refers to the TITLE AND CHAPTER numbers of the agency rule being changed; in this case the Division of Veteran's Services (TITLE 07), Rules Governing Eligibility For Admission into the Veterans Home for Domiciliary Care (Chapter 01).

"9601" denotes the year and sequential order of the docket received during the year; in this case the first rule-making action in calendar year 1996.

Within each Docket, only the affected sections of chapters are printed. (see **Sections Affected Index** in each Bulletin for a listing of these.) The individual sections affected are printed in the Bulletin sequentially (e.g. Section "200" appears before Section "345" and so on). Whenever the sequence of the numbering is broken the following statement will appear:

"(BREAK IN CONTINUITY OF SECTIONS)"

A typical citation to a rule or a Section or Subsection of a rule that are found with the text of a rule appear as follows:

"IDAPA 16.07.01.200"

"16." denotes the IDAPA number of the agency.

"07.01." denotes the TITLE and Chapter number of the agency rule.

"200" reference the main section number of the rule that is being amended or added.

Citations made within a rule to another rule should also include the name of the Department and the Title of the rule being referenced, as well as the IDAPA number.

BULLETIN PUBLICATION SCHEDULE FOR 1998

Volume No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date
98-1	January, 1998	November 19, 1997	January 7, 1998
98-2	February, 1998	December 24, 1997	February 4, 1998
98-3	March, 1998	January 21, 1998	March 4, 1998
98-4	April, 1998	February 25, 1998	April 1, 1998
98-5	May, 1998	March 25, 1998	May 6, 1998
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98-8	August, 1998	June 24, 1998	August 5, 1998
98-9	September, 1998	July 22, 1998	September 2, 1998
98-10	October, 1998	August 26, 1998	October 7, 1998
98-11	November, 1998	September 23, 1998	November 4, 1998
98-12	December, 1998	October 21, 1998	December 2, 1998

BULLETIN PUBLICATION SCHEDULE FOR 1999

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99-1	January, 1999	November 18, 1998	January 6, 1999
99-2	February, 1999	December 23, 1998	February 3, 1999
99-3	March, 1999	January 20, 1999	March 3, 1999
99-4	April, 1999	February 24, 1999	April 7, 1999
99-5	May, 1999	March 24, 1999	May 5, 1999
99-6	June, 1999	April 21, 1999	June 2, 1999
99-7	July, 1999	May 26, 1999	July 7, 1999
99-8	August, 1999	June 23, 1999	August 4, 1999
99-9	September, 1999	July 21, 1999	September 1, 1999
99-10	October, 1999	August 25, 1999	October 6, 1999
99-11	November, 1999	September 22, 1999	November 3, 1999
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IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.01.04 - ENVIRONMENTAL AUDIT PROTECTION RULES
DOCKET NO. 02-0104-9801

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective May 20, 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 rule-making procedures have been initiated. The action is authorized pursuant to Section 9-810, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 1998.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

To repeal the rule in its entirety.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of this rule is appropriate for the following reasons:

The Environmental Audit Protection Act, Title 9, Chapter 8, Idaho Code, became null and void on December 31, 1997; therefore it is necessary to repeal the rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Robert S. Hays at (208) 442-2803.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 20th Day of May, 1998.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500
(208) 334-4623 FAX

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.02.12 - BONDED WAREHOUSE RULES
DOCKET NO. 02-0212-9601
NOTICE OF RESCISSION OF TEMPORARY RULE-MAKING

EFFECTIVE DATE: This rule-making is effective May 20, 1998.

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has rescinded the rule-making previously initiated under this docket. The action is authorized pursuant to Section 69-257, Idaho Code.

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

It was necessary at the time this temporary rule took effect to reactivate assessments to the Commodity Indemnity Account Program (CIAP) to avoid the immediate danger of not having adequate funds available to pay producers should additional warehouse or commodity dealer failures occur. This temporary rule allowed the Director to reduce the assessment rate for the CIAP from two-tenths of one percent (.2%) to one-tenth of one percent (.1%) of the total value of the commodity at the time of sale. The assessments have ceased pursuant to Section 69-259, Idaho Code, because the \$5 million cap on the CIAP has been reached; therefore, the temporary rule is being rescinded.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rescission, contact Lane Jolliffe at (208) 332-8660.

DATED this 20th day of May, 1998.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500
(208) 334-4623 FAX

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.02.13 - COMMODITY DEALER'S RULES
DOCKET NO. 02-0213-9601
NOTICE OF RESCISSION OF TEMPORARY RULE-MAKING

EFFECTIVE DATE: This rule-making is effective May 20, 1998.

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has rescinded the rule-making previously initiated under this docket. The action is authorized pursuant to Section 69-257, Idaho Code.

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

It was necessary at the time this temporary rule took effect to reactivate assessments to the Commodity Indemnity Account Program (CIAP) to avoid the immediate danger of not having adequate funds available to pay producers should additional warehouse or commodity dealer failures occur. This temporary rule allowed the Director to reduce the assessment rate for the CIAP from two-tenths of one percent (.2%) to one-tenth of one percent (.1%) of the total value of the commodity at the time of sale. The assessments have ceased pursuant to Section 69-259, Idaho Code, because the \$5 million cap on the CIAP has been reached; therefore, the temporary rule is being rescinded.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rescission, contact Lane Jolliffe at (208) 332-8660.

DATED this 20th day of May, 1998.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500
(208) 334-4623 FAX

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.03.03 - RULES GOVERNING PESTICIDE USE AND APPLICATION
DOCKET NO. 02-0303-9801

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective May 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 rule-making procedures have been initiated. The action is authorized pursuant to Section 22-3421, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 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: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The amendment to Section 250 adds language to exempt target area from financial responsibility coverage and to clarify the exclusions and provide proper nomenclature. The amendment to Section 800 adds carrot seed as nonfood and nonfeed for the purposes of pesticide registration and use.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

In regard to the amendment to Section 250, it is necessary to have the rules in place for the 1998 growing season to assure that financial responsibility requirements can be met by professional applicators. In 1997, the Idaho State Department of Agriculture (ISDA) deleted the section of the financial responsibility requirements which exempted from coverage the immediate property being treated. During implementation of this change, the ISDA determined that many professional applicators were experiencing difficulty in obtaining target area financial responsibility coverage and many of the insurance companies who offer this type of policy did not meet the ISDA's minimum requirements. Historically, target coverage has been exempted due to care, custody and control of the target site by the growers.

In regard to the amendment to Section 800, it is necessary to have the rules in place for the 1998 growing season to establish that carrot seed crops will be labeled "not for human consumption or animal feed". This designation will allow pesticides without established residue tolerances to be registered for use on this nonfood/nonfeed crop.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Mike Everett at (208) 332-8531.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 1st day of May, 1998.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500
(208) 334-4623 FAX

TEXT OF DOCKET NO. 02-0303-9801

005. FINDINGS.

~~These rules amendments to Sections 250 and 800 are promulgated pursuant to Section 67-5226, Idaho Code. The rules confer a benefit and address public health, safety, and welfare by establishing and clarifying license periods and recertification requirements of professional and private pesticide applicators; replacing mixer-loader licensing requirement with an annual training requirement; allowing composting of alfalfa and clover seed screenings; modifying wind restrictions; clarifying aerial application over flight requirements; combining pesticide application recordkeeping and notification requirements from the Idaho Pesticide Law, the 1990 U.S.D.A. Farm Bill, and the Federal Workers Protection Standard. Additionally, financial responsibility requirements have been modified to address risk management concerns professional pesticide applicators' financial responsibility requirements related to the exclusions to coverage and the exemption of target property from damage coverage. Additionally, carrot seed fields have been declared nonfood/nonfeed pesticide application sites for the purposes of pesticide registration.~~

~~(3-23-98)(5-1-98)T~~

(BREAK IN CONTINUITY OF SECTIONS)

250. FINANCIAL RESPONSIBILITY.

01. Proof of Financial Ability. A professional applicator's license will not be issued by the Department until an applicant submits written proof of financial responsibility by any of the following methods: (3-20-97)

a. Liability insurance with an insurance company licensed to do business in Idaho and documented on a form approved by the Director; or (3-23-98)

b. A bond that is approved by the Director; or (3-20-97)

c. A cash certificate of deposit in escrow with a bank or trust company; or (3-20-97)

d. An annuity; or (3-20-97)

e. An irrevocable letter of credit. (3-20-97)

f. Any certificate of deposit, annuity, or irrevocable letter of credit must be payable to the Director as trustee and shall remain on file with the Department until it is released, canceled or discharged by the Director. Any certificate of deposit, annuity, or irrevocable letter of credit must maintain a cash value equal to the requirements of Subsection 250.02, less any penalty for early withdrawal. Accrued interest upon a certificate of deposit or annuity shall be payable to the purchaser of the certificate or annuity. (3-20-97)

g. Under the provisions of this chapter, an irrevocable letter of credit shall not be acceptable unless it is issued by a national bank in Idaho or by an Idaho state-chartered bank insured by the federal deposit insurance corporation. Under the provisions of this chapter, an annuity shall not be accepted by the Department unless it is issued by an insurance company, bank or other financial institution found acceptable by the Director. (3-20-97)

h. Exclusions. Any exclusion to liability insurance, bond, cash certificate of deposit, annuity, or irrevocable letter of credit coverage shall be listed on a form approved by the Director. (5-1-98)T

02. Minimum Coverage Required. (3-20-97)

a. Professional applicators. (3-20-97)

- i. Bodily injury - fifty thousand dollars (\$50,000) per person/one hundred thousand dollars (\$100,000) per occurrence. (3-23-98)
 - ii. Property damage - fifty thousand dollars (\$50,000) per occurrence. (3-23-98)
 - iii. Maximum deductible - five thousand dollars (\$5,000). (3-23-98)
 - iv. All new professional applicator licenses issued on or after September 1, 1997, shall require financial responsibility at or exceeding the coverage limits as specified in Subsections 250.02.a.i. and 250.02.a.ii. (3-23-98)
 - v. In order to maintain an existing professional applicator license the coverage limits specified in Subsections 250.02.a.i. and 250.02.a.ii. shall be met or exceeded on or before December 31, 1998. (3-23-98)
03. ~~Exclusions. Any exclusions to coverage by such insurance policy, bond, or cash deposit shall be listed.~~ Target Property Not Required To Be Covered. The immediate property being treated is not required to be covered as prescribed in Subsection 250.02.ii. ~~(3-23-98)~~(5-1-98)T
04. Cancellation or Reduction. The Department shall be notified by the applicator in writing immediately after cancellation or reduction of the financial coverage. (3-23-98)
05. Coverage Waived. Coverage waivers which have been issued prior to September 1, 1997, shall remain in effect until the first license expiration date subsequent to September 1, 1997. (3-23-98)

(BREAK IN CONTINUITY OF SECTIONS)

800. PESTICIDE USE ON ALFALFA SEED, CARROT SEED, AND CLOVER SEED.

01. Nonfood and Nonfeed Site Conditions. For purposes of pesticide registration, all alfalfa seed, carrot seed and clover seed crop fields are considered nonfood and nonfeed sites for pesticide use and the following conditions shall be met: ~~(3-20-97)~~(5-1-98)T
- a. No portion of the seed alfalfa, carrot seed, or seed clover plant, including but not limited to seed screenings, green chop, hay, chaff, combine tailings, pellets, meal, whole seed and cracked seed, may be grazed, used, or distributed for food or feed purposes. ~~(3-20-97)~~(5-1-98)T
 - b. The seed conditioner shall keep records of individual growers' alfalfa, carrot, and clover seed dirt weight and clean weight for three (3) years and shall furnish the records to the Director forthwith upon request. ~~(3-20-97)~~(5-1-98)T
 - c. All seed screenings shall be disposed of at a sanitary landfill, incinerator, or other equivalent disposal site or by a procedure approved by the Director. (3-23-98)
 - d. The seed conditioner shall keep seed screening disposal records for three (3) years from the date of disposal and shall furnish the records to the Director forthwith, upon request. Disposal records shall consist of documentation from the disposal site and shall show the total weight of disposed screenings and the date of disposal. ~~(3-20-97)~~
 - e. All alfalfa, carrot, or clover seed grown or conditioned in this state shall bear a tag or container label which forbids the use of the seed for human consumption or animal feed. ~~(3-20-97)~~(5-1-98)T
 - f. No alfalfa, carrot, or clover seed grown or conditioned in this state shall be distributed for human consumption or animal feed. ~~(3-20-97)~~(5-1-98)T

g. All portions of the seed alfalfa, seed carrot, or seed clover plant, including but not limited to seed screenings, pellets, meal, whole seed and cracked seed may be composted. All composted material may be applied to agricultural crop land as approved by the Director. ~~(3-20-97)~~(5-1-98)T

02. Exemption. Alfalfa seed grown for human consumption shall be exempt from the requirements of Subsection 800.01 provided: (3-20-97)

a. All pesticides used are labeled for use on alfalfa, and have established residue tolerances which allow food or feed use; and (3-20-97)

b. All producers maintain for three (3) years complete records of all pesticides applied as specified in Pesticide Use and Application Rules Subsection 150.02. These records shall be ready to be inspected, duplicated, or submitted when requested by the Director. (3-20-97)

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.04.14 - RULES GOVERNING DAIRY WASTE
DOCKET NO. 02-0414-9701

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to Docket No. 02-0414-9701 is July 1, 1998. This rule has been adopted by the agency and is now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the regular or special legislative session at which the rule is submitted for review, 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 Sections 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 Title 37, Chapter 4, 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.

Pursuant to Section 67-5227, Idaho Code, the proposed rule has been amended in response to public comment and the recommendations of the hearing officer who presided at four public hearings regarding this rule. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the proposed rule. Specifically, Section 004.10 deletes the words "other debris" and Section 004.13 deletes the word "likely" and adds the phrase "or a condition on a dairy farm that does not meet the requirements of the Idaho Waste Management Guidelines for Confined Feeding Operations". The pending rule and amendment to temporary rule also adopt by reference the corrected 1997 amended version of the 1993 Idaho Waste Management Guidelines for Confined Feeding Operations.

Only the section that has changes is printed in this bulletin. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 97-10, October 1, 1997, pages 15 and 16.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Marv Patten at (208) 332-8550.

DATED this 20th day of May, 1998.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500
(208) 334-4623 FAX

IDAPA 02
TITLE 04
Chapter 14

RULES GOVERNING DAIRY WASTE

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 15 and 16.

This rule has been adopted as Final by the Agency and is now pending review by the 1999 Idaho State Legislature for final adoption.

TEXT OF DOCKET NO. 02-0414-9701

004. DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this chapter: (3-20-97)

01. Dairy Farm. A place or premise where one (1) or more milking cows, sheep or goats are kept, and from which all or a portion of the milk produced thereon is delivered, sold or offered for sale. (3-20-97)

02. Department. The Idaho Department of Agriculture. (3-20-97)

03. Director. The Director of the Idaho Department of Agriculture. (3-20-97)

04. Discharge Violation. A practice or facility condition which has caused an unauthorized release of livestock waste into surface, ground water, or beyond the dairy farm's property boundaries or beyond the property boundary of any facility operated by the producer. Contract manure haulers, producers and other persons who haul livestock waste beyond the producer's property boundaries are responsible for releases of livestock waste between the property boundaries of the producer and the property boundaries at the point of application. (9-1-97)T

05. Farm Certification. A permit issued by the Department allowing the sale of manufacture grade milk. (3-20-97)

06. Fieldman. An individual qualified and approved by the Department to perform dairy farm inspections. (3-20-97)

07. Idaho Waste Management Guidelines for Confined Feeding Operations. A 1993 publication as amended in 1997 by the Idaho Department of Health and Welfare, Division of Environmental Quality which is hereby incorporated by reference. Copies of the guidelines are available at the Idaho Department of Agriculture, 2270 Old Penitentiary Road, Boise, Idaho 83712 and through the Department of Administration, Office of the Rules Coordinator, located at 650 West State Street, Boise, Idaho 83720. (9-1-97)T

08. Inspector. A qualified, trained person employed by the Department to perform dairy farm

- inspections. (3-20-97)
09. Livestock. For the purposes of these rules the term livestock shall include bovidae, suidae, equidae and other animals that are kept on or contiguous to a dairy farm and are owned or controlled by a dairy farm. (9-1-97)T
10. Livestock Waste. Manure that may also contain bedding, spilled feed, water or soil. It also includes wastes not particularly associated with manure, such as milking center or washing wastes; or milk or other debris. ~~(9-1-97)T~~ (7-1-98)T
11. Manufacture Grade Milk. Milk produced for processing into dairy products for human consumption but not subject to Grade A requirements. (3-20-97)
12. Memorandum Of Understanding. The Idaho Dairy Pollution Prevention Initiative Memorandum of Understanding between the Environmental Protection Agency, Division of Environmental Quality, Idaho Department of Agriculture and the Idaho Dairymen's Association. The memorandum is hereby incorporated by reference and copies of the memorandum are available at the Idaho Department of Agriculture, 2270 Old Penitentiary Road, Boise, Idaho 83712 and through the Department of Administration, Office of the Rules Coordinator, located at 650 West State Street, Boise, Idaho 83720. (3-20-97)
13. Non-Compliance. A practice or facility condition which will ~~likely~~ cause a discharge violation if left uncorrected or a condition on a dairy farm that does not meet the requirements of the Idaho Waste Management Guidelines for Confined Feeding Operations. ~~(9-1-97)T~~ (7-1-98)T
14. Permit. A permit issued by the Department allowing the sale of Grade A milk. (3-20-97)
15. Person. Any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not. (3-20-97)
16. Producer. The person who exercises control over the production of milk delivered to a plant, and who receives payment for this product. (3-20-97)

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.03.13 - RULES GOVERNING MOBILE HOME REHABILITATION
DOCKET NO. 07-0313-9801
NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: The temporary rule is effective July 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has temporary and proposed rule-making. The action is authorized pursuant to Section 39-4104, Idaho Code.

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

Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 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 at the address below.

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

This proposed rule will serve to explain the criteria and procedures associated with the rehabilitation of mobile homes intended for relocation into or within the state of Idaho after July 1, 1998.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Confers a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary and proposed rule, contact Jack Rayne, Building Programs Manager, Division of Building Safety, 277 N. 6th Street, Suite 101, P.O. Box 83720, Boise, Idaho 83720-0060, (208) 334-3896.

Anyone may submit written comments regarding this rule. All written comments and data concerning the proposed rules must be directed to the undersigned and must be postmarked or delivered on or before July 22, 1998.

DATED this 20th day of May, 1998.

Connie J Mumm
Division of Building Safety
277 N. 6th, Suite 101
P.O. Box 83720
Boise, ID 83720-0048
(208) 334-3442/fax (208) 334-2683

TEXT OF DOCKET NO. 07-0313-9801

IDAPA 07
TITLE 03
Chapter 13

07.03.13 - RULES GOVERNING MOBILE HOME REHABILITATION

000. LEGAL AUTHORITY.

In accordance with Section 44-2504, Idaho Code, the administrator of the Idaho Division of Building Safety is authorized to promulgate rules necessary to implement the provisions of Title 44, Chapter 25, Idaho Code, otherwise known as the Mobile Home Rehabilitation Act. (7-1-98)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 07.03.13, "Rules Governing Mobile Home Rehabilitation," Division of Building Safety. (7-1-98)T

02. Scope. These rules shall apply to the rehabilitation of mobile homes constructed prior to June 15, 1976, intended for relocation into a city or county requiring an installation permit pursuant to Section 44-2202, Idaho Code. (7-1-98)T

a. Before a permit for the installation of the mobile home may be issued, the home must meet the rehabilitation requirements specified in this chapter and receive a certificate of compliance from the administrator of the Idaho Division of Building Safety. (7-1-98)T

b. Upon submission of the rehabilitation form required pursuant to Section 44-2504, Idaho Code, and any other information required by the administrator to establish compliance with this chapter, the administrator shall issue a certificate of compliance to the homeowner. The certificate of compliance must be presented to the local jurisdiction before a permit for the installation of the home may be issued. (7-1-98)T

c. Upon receipt of the certificate of compliance, the local jurisdiction shall issue the installation permit in the same manner as the permit would be issued with respect to a mobile/manufactured home for which rehabilitation is not required. No zoning or other ordinance or policy of the local jurisdiction prohibiting relocation or installation of a mobile home to which this chapter applies shall be effective to prohibit the relocation or installation of a mobile home for which a certificate of compliance has been issued in accordance with this rule. (7-1-98)T

002. WRITTEN INTERPRETATIONS.

The Division may from time to time provide legal opinions regarding these rules. To the extent not privileged, these documents will be made available for inspection at the Division's main office, 277 North 6th Street, Boise, Idaho. (7-1-98)T

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for administrative relief of the provisions contained herein. (7-1-98)T

004. DEFINITIONS.

01. Administrator. The administrator of the Division of Building Safety for the state of Idaho. (7-1-98)T

02. Division. The Division of Building Safety for the state of Idaho. (7-1-98)T

03. Local Unit of Government. A city or county within Idaho which has enacted ordinances which regulate the siting or installation of mobile homes. (7-1-98)T

04. Mobile Home. A structure similar to a manufactured home, but built to a mobile home code prior to June 15, 1976, the date of enactment of the Federal Manufactured Housing and Safety Standards Act (H.U.D. code). (7-1-98)T

005. -- 010. (RESERVED).

011. REHABILITATION REQUIREMENTS.

The mobile home shall meet the following rehabilitation requirements: (7-1-98)T

01. Smoke Detectors. A smoke detector (which may be a single station alarm device) shall be installed on any wall in a hallway or space communicating with each bedroom area and the living area on the living area side and, when located in a hallway, the detector shall be between the return air intake and the living area. Each smoke detector shall be installed in accordance with its listing and the top of the detector shall be located on a wall four (4) inches to twelve (12) inches below the ceiling. The detector may be battery powered or may be connected to an electrical outlet box by a permanent wiring method into a general electrical branch circuit, without any switch between the over current protection device protecting the branch circuit and the detector. (7-1-98)T

02. Gas Furnace and Water Heater Compartment Protection. The walls, ceilings and doors of each compartment containing a gas-fired furnace or water heater shall as a minimum be lined with five-sixteenth (5/16) inch gypsum board, unless the compartment access door opens to the exterior of the home, in which case, the door may be all metal construction. All exterior compartments shall seal to the interior of the mobile home. (7-1-98)T

03. Egress From Sleeping Areas. Each room designated expressly for sleeping purposes shall have an exterior exit door or at least one (1) outside egress window or other approved exit device with a minimum clear dimension of twenty-two (22) inches and a minimum clear opening of five (5) square feet. The bottom of the exit shall not be more than thirty-six (36) inches above the floor. (7-1-98)T

04. Electrical System Testing. All electrical systems shall be tested for continuity to assure that metallic parts are properly bonded, tested for operation to demonstrate that all equipment is connected and in working order, and given a polarity check to determine that connections are proper. The electrical system shall be properly protected for the required amperage load. If the unit wiring is of aluminum conductors, all receptacles and switches rated twenty (20) amperes or less directly connected to the aluminum conductors shall be marked CO/ALR. Exterior receptacles other than heat tape receptacles shall be of the ground fault circuit interrupter (GFI) type. Conductors of dissimilar metals (copper/aluminum or copper clad aluminum) must be connected in accordance with Section 110-14 of the National Electrical Code. (7-1-98)T

05. Gas System Testing. The mobile home's gas piping shall be tested with the appliance valves removed from the piping system and piping capped at those areas. The piping system shall withstand a pressure of at least six (6) inch mercury or three (3) psi gauge for a period of not less than ten (10) minutes without showing any drop in pressure. Pressure shall be measured with a mercury manometer or a slope gauge calibrated so as to read in increments of not greater than one-tenth (1/10) pound or an equivalent device. The source of normal operating pressure shall be isolated before the pressure test is made. After the appliance connections are reinstalled, the piping system and connections shall be tested with line pressure of not less than ten (10) inches nor more than fourteen (14) inches water column air pressure. The appliance connections shall be tested for leakage with soapy water or a bubble solution. All gas furnaces and water heaters shall be vented to the exterior in accordance with the latest state adopted mechanical code. (7-1-98)T

06. Water System Testing. A full water or air pressure test will be performed on the mobile home's water and sewer system. (7-1-98)T

a. Water piping shall be tested and proven tight under a water pressure not less than the working pressure under which it is to be used. The water used for tests shall be obtained from a potable source of supply. A fifty (50) pound per square inch (344.5kPa) air pressure may be substituted for the water test. In either method of test, the piping shall withstand a test without leaking for a period of not less than fifteen (15) minutes. (7-1-98)T

b. A water test shall be applied to the drainage and vent system either in its entirety or in sections. If applied to the entire system, all openings in the piping shall be tightly closed, except at the highest opening, and the system filled with water to the point of overflow. If the system is tested in sections, each opening shall be tightly plugged except the highest opening of the section under the test and each section shall be filled with water, but no section shall be tested with less than a ten (10) foot head of water. In testing successive sections, at least the upper ten (10) feet of the next preceding section shall be tested, so that no joint or pipe in the structure, except the uppermost ten (10) feet of the system, shall have been submitted to a test of less than a ten (10) foot head of water. The water shall be kept in the system or in the portion under testing for at least fifteen (15) minutes before inspection starts. The system shall be tight at all points. (7-1-98)T

07. Requirements For Obtaining Certificates of Compliance. All repairs or other work necessary to bring the mobile home into compliance with requirements of this section shall be completed before a certificate of compliance may be issued by the Division. (7-1-98)T

012. REHABILITATION FORM AND CHECKLIST -- COMPLIANCE CERTIFICATE.

01. Rehabilitation Checklist. The rehabilitation form will be completed and signed by an authorized representative of an Idaho licensed manufactured home service company or installer or dealer holding an installer's license. Electrical, gas, water and sewer inspections and any necessary repairs must be performed by a person or company properly licensed and authorized to perform the work under Idaho law, with the person or company performing the inspections and repairs to be noted on the rehabilitation form. The term "Inspections" in the context of this section is intended to mean testing of the various electrical, gas, water and sewer systems. A properly completed rehabilitation form shall be presented to the Division of Building Safety before a certificate of compliance may be issued. (7-1-98)T

02. Rehabilitation Checklist and Compliance Certification Form. The following is the official rehabilitation checklist and compliance certificate: (7-1-98)T

DIVISION OF BUILDING SAFETY
 MANUFACTURED HOUSING SECTION
 277 N 6TH ST, SUITE 100
 BOISE, ID 83720-6001
 (208) 334-3896

FOR DIVISION USE ONLY	
Compliance Certificate Issued	
By: _____	_____
Title: _____	_____
Date: _____	_____

MOBILE HOME REHABILITATION CHECKLIST -- COMPLIANCE CERTIFICATE
(TITLE 44 CHAPTER 25 IDAHO CODE)

These rehabilitation/testing requirements are applicable only to non-HUD mobile homes manufactured prior to June 15, 1976. Separate permits and inspections are required for any repairs made to plumbing or electrical systems. Additional permits may be required by the local authority having jurisdiction in order to do any work or make any repairs on the mobile home not involving plumbing or electrical systems. You should check with your local building department to determine the need for permits and inspections before initiating any repair work or before installing your mobile home at a new site.

The undersigned installer/service company representatives, electrical or plumbing contractors attest and verify that rehabilitative repairs and testing have been completed in accordance with Title 44 - Chapter 25 Idaho Code:

1. Smoke Detection	_____	_____	_____
	Licensed Installer/Service Co. Representative	Installer/Service Co. License #	Date
2. Egress Windows/Exterior Exit Doors From All Sleeping Areas	_____	_____	_____
	Licensed Installer/Service Co. Representative	Installer/Service Co. License #	Date
3. Fire Protection of Gas Water Heater/ Furnace Compartments	Home is equipped with gas water heater or furnace. <input type="checkbox"/> Yes <input type="checkbox"/> No		
Verified or Repaired By	_____	_____	_____
	Licensed Installer/Service Co. Representative	Installer/Service Co. License #	Date
4. Gas System Testing/Repairs	Home has gas appliances. <input type="checkbox"/> Yes <input type="checkbox"/> No		
If Yes, Testing Performed By	_____	_____	_____
	Licensed Installer/Srvc Co.	License #	Date
Repairs (If Required) Made By	_____	_____	_____
	Licensed Installer/Service Co. Representative	License #	Date
5. Electrical System Testing Performed By	_____	_____	_____
	Licensed Electrical Contractor	License #	Date
Repairs (If Required) Made By	_____	_____	_____
	Licensed Electrical Contractor	License #	Permit #
Inspected By	_____	_____	_____
	State/City Inspector		Date
6. Water/DWV System Test. Performed By	_____	_____	_____
	Licensed Plumbing Contractor	License #	Date
Repairs (If Required) Made By	_____	_____	_____
	Licensed Plumbing Contractor	License #	Permit #
Inspected By	_____	_____	_____
	State/City Inspector		Date

HOMEOWNER: _____	HOME SERIAL NO: _____
HOMEOWNER BUSINESS TELEPHONE: _____	
HOMEOWNER BUSINESS ADDRESS: _____	
LOCATION OF HOME AT TIME OF REHABILITATION/TESTING: _____	

MHRF-1
5/98

RETURN ENTIRE COMPLETED FORM TO ABOVE DIVISION ADDRESS
 Original - Homeowner Yellow - Local Jurisdiction Pink - Idaho Bldg. Div.

013. -- 999. (RESERVED).

IDAPA 09 - DEPARTMENT OF LABOR
09.01.04 - RULES OF THE BENEFIT PAYMENT CONTROL UNIT
DOCKET NO. 09-0104-9801

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 rule-making procedures have been initiated. The action is authorized pursuant to Section 72-1333(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 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: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This chapter is being repealed under this Docket and rewritten under Docket No. 09-0104-9802 that is published in this Bulletin following this Notice.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in order to comply with deadlines in amendments to governing law and federal programs.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jim Richmond, Chief of Benefit Payment Control, Idaho Department of Labor, at (208) 334-6305.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 14th day of May, 1998.

Roger B. Madsen, Director
Idaho Department of Labor
317 Main St.
Boise, ID 83735
Fax #(208) 334-6430

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 09 - DEPARTMENT OF LABOR
09.01.04 - RULES OF THE BENEFIT PAYMENT CONTROL BUREAU
DOCKET NO. 09-0104-9802

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 rule-making procedures have been initiated. The action is authorized pursuant to Section 72-1333(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 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: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Idaho's Employment Security Law (Idaho Code, Section 72-1301 et seq.) was substantially amended in 1998 by House Bill 426. With minor exceptions, each statute's subparagraphs were renumbered. This rulemaking is necessary so the rules and their references to the statutes will conform to the law. Numerical references to statutes are revised, obsolete references are deleted and rules are revised to conform to the new law.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in order to comply with deadlines in amendments to governing law and federal programs.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jim Richmond, Chief of Benefit Payment Control, Idaho Department of Labor, at (208) 334-6305.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 14th day of May, 1998.

Roger B. Madsen, Director
Idaho Department of Labor
317 Main St., Boise, ID 83735
Fax #(208) 334-6430

TEXT OF DOCKET NO. 09-0104-9802

IDAPA 09
TITLE 01
Chapter 04

09.01.04 - RULES OF THE BENEFIT PAYMENT CONTROL BUREAU

000. LEGAL AUTHORITY.

These rules are promulgated under the legal authority of Section 72-1333(2), Idaho Code. (7-1-98)T

001. TITLE AND SCOPE.

These rules shall be cited as IDAPA 09.01.04, "Rules of the Benefit Payment Control Bureau". With respect to the Department's administration of the Unemployment Insurance Program, these rules address fraud prevention measures, collection of overpayments, and waivers of overpayments. (7-1-98)T

002. WRITTEN INTERPRETATIONS.

Explanations for rule changes are available for public inspection at the Idaho Department of Labor, 317 Main Street, Boise, Idaho, 83735. Brochures explaining various provisions of Idaho's Employment Security Law are also available at the above address. (7-1-98)T

003. ADMINISTRATIVE APPEALS.

Appeals shall be governed by the provisions of Section 72-1368, Idaho Code, and IDAPA 09.01.06, "Rules of the Appeals Bureau". (7-1-98)T

004. -- 009. (RESERVED).

010. MATERIALITY, FRAUD DETERMINATIONS.

For purposes of Idaho Code, Section 72-1366(12), a fact is material if it is relevant to a determination of a claimant's right to benefits. To be considered material, the fact need not actually affect the outcome of an eligibility determination. Ref. Sec. 72-1366, Idaho Code. (7-1-98)T

011. -- 039. (RESERVED).

040. RECOVERIES.

Overpayments shall be deducted from any future benefits payable. Ref. Sec. 72-1369, Idaho Code. (7-1-98)T

041. -- 049. (RESERVED).

050. WAIVER OF REPAYMENT.

A Determination of Waiver will be made upon the written request of any interested party; except that an appeals examiner or the Industrial Commission may consider the issue of waiver of repayment on their own motion. A request for a Determination of Waiver must be made within fourteen (14) days of the date of mailing of the Determination of Overpayment or Revised Determination of Overpayment. If a party establishes by a preponderance of the evidence that notice of a Determination of Overpayment or Revised Determination of Overpayment was not delivered to the party's last known address within fourteen (14) days of mailing because of delay or error by the U.S. Postal Service, the period for filing a timely request for Determination of Waiver shall be deemed to have been fourteen (14) days from the date of actual notice. Ref. Sec. 72-1369, Idaho Code. (7-1-98)T

01. Waiver Determination. A Determination of Waiver shall become final unless, within fourteen (14) days after the date of mailing, an appeal is filed with the Department of Labor. If a party establishes by a preponderance of the evidence that notice of a Determination of Waiver was not delivered to the party's last known address within fourteen (14) days of mailing because of delay or error by the U.S. Postal Service, the period for filing a timely request for an appeal shall be deemed to have been fourteen (14) days from the date of actual notice. Ref. Sec. 72-1369, Idaho Code. (7-1-98)T

051. -- 999. (RESERVED).

IDAPA 09 – DEPARTMENT OF LABOR
09.01.06 - RULES OF THE APPEALS BUREAU
DOCKET NO. 09-0106-9801

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 rule-making procedures have been initiated. The action is authorized pursuant to Section 72-1333(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 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: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Idaho's Employment Security Law (Idaho Code Section 72-1301 et seq.) was substantially amended in 1998 by House Bill 426. With minor exceptions, each statute's subparagraphs were renumbered. This rulemaking is necessary so the rules and their references to the statutes will conform to the law. Numerical references to statutes are revised, obsolete references are deleted and Subsection 066.02 regarding transcripts is amended to conform to law.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in order to comply with deadlines in amendments to governing law and federal programs.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Joseph Karpach, Jr., Appeals Bureau Chief, Idaho Department of Labor, at (208) 334-6268.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 14th day of May, 1998.

Roger B. Madsen, Director
Idaho Department of Labor
317 Main St., Boise, ID 83735
Fax # (208) 334-6430

TEXT OF DOCKET NO. 09-0106-9801

IDAPA 09
TITLE 01
Chapter 06

RULES OF THE APPEALS BUREAU

000. --005. (RESERVED) LEGAL AUTHORITY.

These rules are promulgated under the legal authority of Section 72-1333(2), Idaho Code. (7-1-98)T

001. TITLE AND SCOPE.

These rules shall be cited as IDAPA 09.01.06, "Rules of the Appeals Bureau". These rules govern the appellate procedures for programs administered by the Department of Labor unless otherwise specified by law. (7-1-98)T

002. WRITTEN INTERPRETATIONS.

Explanations for rule changes are available for public inspection at the Idaho Department of Labor, 317 Main Street, Boise, Idaho, 83735. Brochures explaining various programs administered by the Department are also available at the above address. (7-1-98)T

003. ADMINISTRATIVE APPEALS.

Appeals shall be governed by the provisions of Section 72-1368, Idaho Code, and these rules. (7-1-98)T

004. -- 005. (RESERVED).

006. GENERAL PROVISIONS.

A Department hearing officers shall be called will be an Appeals Examiners, or the Chief of the Appeals Bureau. Ref. Section, 72-1368(¶6), Idaho Code. (2-25-94)(7-1-98)T

(BREAK IN CONTINUITY OF SECTIONS)

012. FILING OF AN APPEAL.

01. Filing of an Appeal. Filing aAn appeal shall be in writing, signed by an interested party or representative, and shall contain words that, by fair interpretation, request the appeal process for a specific determination, redetermination or decision of the Department. The appeal may be filed by delivering it, or faxing it, to any Job Service office or to the Appeals Bureau of the Department, 317 Main Street, Boise, Idaho 83785. The date of personal delivery shall be noted on the appeal and shall be deemed the date of filing. A faxed appeal that is received by a Job Service office or the Appeals Bureau by 5:00 p.m. (as of the time zone of the office receiving the appeal) on a business day shall be deemed filed on that date. A faxed appeal that is received by a Job Service office or the Appeals Bureau on a weekend or holiday or after 5:00 p.m. on a business day shall be deemed filed on the next business day. An appeal may also be filed by mailing it to any Job Service office or to the Appeals Bureau, Idaho Department of Labor, 317 Main Street, Boise, Idaho 83735. If mailed, the appeal shall be deemed to be filed on the date of mailing as determined by the postmark on the request. Ref. Section, 72-1368(¶6), Idaho Code.

(7-1-98)(7-1-98)T

02. Date Of Mailing. The "Date of Mailing" or "Date Mailed". The date indicated on Department determinations, redeterminations and decisions shall be presumed to be the date the document was deposited in the United States mail, unless shown otherwise by a preponderance of competent evidence. (2-25-94)

(BREAK IN CONTINUITY OF SECTIONS)

017. EFFECT OF POSTAL SERVICE DELAY OR ERROR.

If a party establishes by a preponderance of the evidence that notice of a Department determination was not delivered to the party's last known address within fourteen (14) days of mailing, as provided in Section 72-1368(e3) and (e5), Idaho Code, because of delay or error by the U.S. Postal Service, the period for filing a timely request for redetermination appeal shall be deemed to have been fourteen (14) days from the date of actual notice.

(2-25-94)(7-1-98)T

01. Non-delivery. If a party establishes by a preponderance of the evidence that notice of a Department ~~determination or special~~ redetermination was not delivered to the party's last known address within fourteen (14) days of mailing, as provided in Section 72-1368(~~d~~5) and (~~e~~6), Idaho Code, because of delay or error by the U.S. Postal Service, the period for filing a timely appeal shall be deemed to have been fourteen (14) days from the date of actual notice. ~~(2-25-94)(7-1-98)T~~

02. Filing Timelines. If a party establishes by a preponderance of the evidence that notice of a decision by an appeals examiner was not delivered to the party's last known address within ten (10) days of mailing, as provided in Section 72-1368(~~f~~5) and (~~e~~6), Idaho Code, because of delay or error by the U.S. Postal Service, the period for filing a timely application for rehearing shall be deemed to have been ten (10) days from the date of actual notice. If it is established by a preponderance of the evidence that notice of a decision was not delivered to the party's last known address within fourteen (14) days of mailing because of delay or error by the U.S. Postal Service, the period for filing a timely claim for review with the Industrial Commission shall be deemed to have been fourteen (14) days from the date of actual notice. Ref. Sec. 72-1368(~~e~~3), (~~d~~4), (~~e~~5) and (~~f~~6), Idaho Code. ~~(2-25-94)(7-1-98)T~~

(BREAK IN CONTINUITY OF SECTIONS)

020. COMMUNICATION WITH APPEALS STAFF.

No party involved in an appeal shall communicate, either directly or indirectly, with ~~A~~appeals ~~E~~xaminers, the Chief of the Appeals Bureau, or clerical staff of the Appeals Bureau, regarding any issue of fact or law relevant to an appeal, unless all parties involved in an appeal have been provided notice and an opportunity to participate in such communication. No person acting on behalf of any party, including the Idaho Department of Employment Labor, shall attempt to influence the disposition of an appeal through such communications. No Appeals Examiner shall knowingly cause a communication prohibited by this section to be made. ~~(2-25-94)(7-1-98)T~~

01. Prohibition Of Ex Parte Contacts. The prohibition on ex parte contacts contained in IDAPA 09.01.06.020 applies from the time an appeal is filed pursuant to IDAPA 09.01.06.012 until the appeal becomes final and conclusive pursuant to Section 72-1368, Idaho Code. (2-25-94)

02. Issues Of Fact. As used in IDAPA 09.01.06.020, the term "issue of fact or law relevant to an appeal" includes any matter relating to the merits of an appeal but does not include questions of appeals procedure or case status inquiries. Parties shall not direct questions of appeals procedure or case status inquiries to the ~~A~~appeals ~~E~~xaminer assigned to their case but rather to other ~~A~~appeals ~~E~~xaminers, the Chief of the Appeals Bureau (unless he or she is functioning as the ~~A~~appeals ~~E~~xaminer in the case), or to clerical staff of the Appeals Bureau. ~~(2-25-94)(7-1-98)T~~

03. Reporting Prohibited Contacts. An ~~A~~appeals ~~E~~xaminer or other employee of the Appeals Bureau who receives a communication prohibited by IDAPA 09.01.06.020 shall place in the record of the case all such written communications or a memorandum stating the substance of all such oral communications. The Appeals Bureau shall send a full copy of the communication to the other interested parties to the appeal and allow an appropriate time for the parties to respond to the communication. ~~(2-25-94)(7-1-98)T~~

(BREAK IN CONTINUITY OF SECTIONS)

026. CONDUCT OF HEARING.

Upon request for appeal, a hearing shall be set and written notice of the time and place of hearing shall be mailed to each interested party not less that seven (7) days prior to the hearing date. (2-25-94)

01. Telephone Hearings. Hearings will be held by telephone unless, in the sole discretion of the ~~hearing officer~~ appeals examiner, a personal hearing should be set. In deciding the manner in which to conduct the hearing, the ~~hearing officer~~ appeals examiner shall consider factors, including but not limited to the desires of the parties, possible delay and expense, the burden of proof, the complexity of the issues, and the number and location of

witnesses.

~~(2-25-94)~~(7-1-98)T

02. Continuance. The ~~hearing officer~~ appeals examiner may postpone or continue a hearing for good cause on the ~~officer's~~ examiner's own motion or that of any party, before a hearing is concluded. The ~~hearing officer~~ appeals examiner may order the dismissal of an appeal for good cause, such as abandonment of the appeal.

~~(2-25-94)~~(7-1-98)T

03. Rehearing. An application for rehearing shall be in writing and filed in person or postmarked within ten (10) days after the ~~Appeals E~~xaminer's decision is served.

~~(2-25-94)~~(7-1-98)T

04. No Appearance Hearings. If no party appears to present additional evidence, a decision will then be based on the available evidence.

(2-25-94)

05. Exhibits And Recordings. The exhibits and tape recordings from a hearing may be destroyed, reused, or otherwise disposed of after the expiration of the time period for appeal from the decisions of the ~~hearing officer~~ appeals examiner.

~~(2-25-94)~~(7-1-98)T

06. Subpoenas. After determining that a subpoena of a witness or records is necessary and reasonable, the ~~hearing officer~~ appeals examiner shall issue the subpoena, which may be served by mail or in person.

~~(2-25-94)~~(7-1-98)T

07. Failure To Respond To Subpoena. If a person fails to respond to a subpoena issued by mail, the ~~hearing officer~~ appeals examiner will proceed with the scheduled hearing and determine, after hearing the available testimony, whether the subpoena is still necessary and reasonable. If so, the hearing will be continued and a second subpoena will be issued and personally served.

~~(2-25-94)~~(7-1-98)T

08. Witness Fees. Individuals who attend hearings before the ~~A~~ppeals E~~xaminer~~ as subpoenaed witnesses, not parties, shall be entitled to receive a fee of seven dollars and fifty cents (\$7.50) for each day or portion thereof for attendance. In no case shall a witness be paid more than seven dollars and fifty cents (\$7.50) for any one (1) day. Subpoenaed witnesses shall also be entitled to mileage expense at the current allowable mileage reimbursement rate as determined by the Idaho State Board of Examiners. Such witness fees and mileage expenses shall be paid from the Employment Security Administration fund. Under no circumstances shall interested parties to a hearing be granted witness fees or mileage expenses. Mileage fees are not allowed for vicinity travel.

~~(2-25-94)~~(7-1-98)T

09. Undecided Issues. When it is apparent that there is no prior ruling on an issue which must be decided under the Act, the ~~A~~ppeals E~~xaminer~~ may hear and decide the issue.

~~(2-25-94)~~(7-1-98)T

10. Type of Hearing. The proceeding before a ~~hearing officer~~ an appeals examiner will be a hearing "de novo" or original hearing and not solely a review proceeding. Ref. Section, 72-1368(~~6~~), Idaho Code.

~~(2-25-94)~~(7-1-98)T

11. Role of Appeals Examiner. The ~~appeals examiner/hearing officer~~ hearing officer will function as a fact finder and not solely as a judge. The ~~appeals examiner/hearing officer~~ hearing officer will have the responsibility of developing all the evidence that is reasonably available. Ref. Section, 72-1368(~~6~~), Idaho Code.

~~(2-25-94)~~(7-1-98)T

12. Order Of Witnesses. The ~~appeals examiner/hearing officer~~ hearing officer will direct the order of witnesses and develop evidence in a logical and orderly manner to move the hearing along as expeditiously as possible. Therefore, as a general rule, the party who bears the burden of proof will be called to testify first. The ~~appeals examiner/hearing officer~~ hearing officer will exercise reasonable discretion in directing the order, which must be flexible and dependent upon the particular circumstances of each case and which party has the most information. Ref. Section, 72-1368(~~6~~), Idaho Code.

~~(2-25-94)~~(7-1-98)T

13. Exclusion Of Irrelevant Testimony. The ~~appeals examiner/hearing officer~~ hearing officer will control the undue extension of the hearing by excluding repetitious or irrelevant testimony. Ref. Section, 72-1368(~~6~~), Idaho Code.

~~(2-25-94)~~(7-1-98)T

14. Disruptive Individuals. The appeals examiner/~~hearing officer~~ may exclude disruptive individuals from the hearing or may postpone the hearing if the integrity of the proceedings is being compromised. If an interested party is excluded, he will be provided a copy of the tape recording of the proceedings and given an opportunity to submit written evidence and argument prior to the issuance of the decision and the opposing party will be given an opportunity to respond. Ref. ~~Section, 72-1368(f),~~ Idaho Code. ~~(2-25-94)(7-1-98)T~~

15. Challenge Of General Knowledge. If judicially cognizable facts or general, technical, or scientific facts within the appeals examiner's specialized knowledge are used in the decision, the parties will be given an opportunity to challenge them either at the time of the hearing or prior to or at the time of the issuance of the decision. Ref. ~~Section, 72-1368(f),~~ Idaho Code. ~~(2-25-94)(7-1-98)T~~

16. Closing Arguments. Closing arguments including response in an appeals hearing will be limited to a total of five (5) minutes for each party unless the appeals examiner/~~hearing officer~~ grants an exception. Ref. ~~Section, 72-1368(f),~~ Idaho Code. ~~(6-1-93)(7-1-98)T~~

(BREAK IN CONTINUITY OF SECTIONS)

066. CLAIMS FOR REVIEW.

01. Claim for Review. A claim for review of the ~~hearing officer's~~ appeals examiner's decision, as provided in Section 72- 1368, Idaho Code, shall be made in writing, signed by the person claiming the review or by his attorney or agent, and filed with the Idaho Industrial Commission in accordance with rules adopted by them. Ref. ~~Section, 72-1368(g),~~ Idaho Code. ~~(2-25-94)(7-1-98)T~~

02. Transcripts. Upon receipt of a notice that a claim for review has been filed with the Industrial Commission, a true and correct transcript of the recorded proceedings shall be prepared if ordered by the Commission. Copies of the transcript or the tape recording of the proceeding, together with the exhibits received in ~~said cause the case~~, shall be transmitted by the Department to the Commission and provided to all interested parties without charge. ~~(2-25-94)(7-1-98)T~~

(BREAK IN CONTINUITY OF SECTIONS)

090. DISMISSAL IF FILING IS LATE.

Where it appears that any appeal (request for hearing) to the ~~Appeals Examiner~~, or claim, or any other request or application, may not have been filed within the period of time prescribed for filing, the appellant, claimant, petitioner, or applicant (as the case may be) shall be notified and be given an opportunity to show that such appeal, claim for review, petition, or other request was timely. In computing any period of time prescribed or allowed by the Idaho Code, the day of the act, event, or default is not to be included. Sundays and holidays shall be counted during the period unless the last day of the period is a Sunday or legal holiday in which event the period shall not expire until the day following the Sunday or legal holiday. If it is found that such appeal, claim for review, petition or other request or application was not filed within the applicable time limit, it shall be dismissed on such grounds. If it is found that such appeal, claim for review, petition, or other request or application was timely, the matter shall be decided on the merits. Copies of a decision under this section shall be given or mailed to all interested parties, together with a clear statement of right of appeal or review. Ref. ~~Section, 72-1368,~~ Idaho Code. ~~(2-25-94)(7-1-98)T~~

091. -- 999. (RESERVED).

~~999. ADOPTION, INCORPORATION BY REFERENCE, EFFECTIVE DATES.~~

~~The rules previously adopted in Docket No. 09-0000-9401 as published in the Idaho Administrative Bulletin, April 6, 1994, Volume 94-4, at pages 9-12, are hereby incorporated by reference and adopted as final rules, effective February 25, 1994. (2-25-94)~~

IDAPA 09 - DEPARTMENT OF LABOR
09.01.30 - RULES OF UNEMPLOYMENT INSURANCE BENEFIT CLAIMS
DOCKET NO. 09-0130-9801

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 rule-making procedures have been initiated. The action is authorized pursuant to Section 72-1333(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 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: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This chapter is being repealed under this Docket and rewritten under Docket No. 09-0130-9802 that is published in this Bulletin immediately following this Notice.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in order to comply with deadlines in amendments to governing law and federal programs.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jean Hull, Benefits Bureau Chief, Idaho Department of Labor, at (208) 334-6317.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 14th day of May, 1998.

Roger B. Madsen, Director
Idaho Department of Labor
317 Main St.
Boise, ID 83735
Fax # (208) 334-6430

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 09 - DEPARTMENT OF LABOR
09.01.30 - RULES OF THE BENEFITS BUREAU
DOCKET NO. 09-0130-9802

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 rule-making procedures have been initiated. The action is authorized pursuant to Section 72-1333(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 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: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Idaho's Employment Security Law (Idaho Code, Section 72-1301 et seq.) was substantially amended in 1998 by House Bill 426. With minor exceptions, each statute's subparagraphs were renumbered. This rulemaking is necessary so the rules and their references to the statutes will conform to the law. Numerical references to statutes are revised, obsolete references and rules are deleted and certain terms are defined. The only substantive changes are those required to conform to the new law.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in order to comply with deadlines in amendments to governing law and federal programs.

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Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 14th day of May, 1998.

Roger B. Madsen, Director
Idaho Department of Labor
317 Main St., Boise, ID 83735
Fax # (208) 334-6430

TEXT OF DOCKET NO. 09-0130-9802

IDAPA 09
TITLE 01
CHAPTER 30

09.01.30 – RULES OF THE BENEFITS BUREAU

000. LEGAL AUTHORITY.

These rules are promulgated under the legal authority of Section 72-1333(2), Idaho Code. (7-1-98)T

001. TITLE AND SCOPE.

These rules shall be cited as IDAPA 09.01.30, "Rules of the Benefits Bureau". These rules govern claims for unemployment insurance benefits. (7-1-98)T

002. WRITTEN INTERPRETATIONS.

Explanations for rule changes are available for public inspection at the Idaho Department of Labor, 317 Main Street, Boise, Idaho, 83735. Brochures explaining various provisions of Idaho's Employment Security Law are also available at the above address. (7-1-98)T

003. ADMINISTRATIVE APPEALS.

Appeals shall be governed by the provisions of Section 72-1368, Idaho Code and IDAPA 09.01.06, "Rules of the Appeal Bureau". (7-1-98)T

004. -- 009. (RESERVED).

010. DEFINITIONS.

Unless the context clearly requires otherwise, these terms shall have the following meanings when used in these Rules, in interpretations, in forms, and in other official documents issued by the Director of the Department of Labor. (7-1-98)T

01. Additional Claim. An initial claim made after a period of employment subsequent to a new claim in the same benefit year. (7-1-98)T

02. Administrative Office. The main office in Boise, Idaho, wherein the administrative functions of the Department of Labor are performed. (7-1-98)T

03. Appealed Claim. An interested party's appeal to the Appeals Bureau of a claims examiner's decision on a claim or a request for review by the Industrial Commission of a decision made by an appeals examiner. (7-1-98)T

04. Average Annual Wage. For the purpose of determining the taxable wage base, under Section 72-1350(1), Idaho Code, the average annual wage shall be computed by dividing that calendar year's total wages in covered employment, excluding State government and cost reimbursement employers, by the average number of workers in covered employment for that calendar year as derived from data reported to the Department of Labor by covered employers. (7-1-98)T

05. Average Weekly Wage. For the purpose of establishing the maximum weekly benefit amount, under Section 72-1367(2)(a), Idaho Code, the average weekly wage shall be computed by dividing the total wages paid in covered employment (including State government employment) for the preceding calendar year, as computed from data reported to the Department of Labor by covered employers, by the monthly average number of workers in covered employment for the calendar year and then dividing the resulting figure by fifty-two (52). (7-1-98)T

06. Benefit Balance. The unpaid portion of the total benefits payable with respect to a claimant's unemployment during a given benefit year. (7-1-98)T

07. Chargeability Determination. A determination issued by the Director or his authorized agent with respect to whether a covered employer's account shall be charged for benefits paid on a claim. (7-1-98)T

08. Claim. An application for unemployment insurance or "benefits". (7-1-98)T

09. Combined Wage Claim. A claim filed under any interstate agreement whereby an unemployed worker with covered wages in more than one (1) state may combine such wages. (7-1-98)T

10. Compensable Claim. An application for benefits which certifies to the completion of a benefit

- period (one (1) or more weeks). (7-1-98)T
11. Contested Claim. A claim in which an interested party disputes the claimant's right to benefits. (7-1-98)T
12. Continued Claim. An application for waiting-week credit or for benefits for specific compensable weeks. (7-1-98)T
13. Employment. For the purpose of the personal eligibility conditions of Section 72-1366(5), Idaho Code, "employment" means that employment subsequent to which a claimant has not earned twelve (12) times his weekly benefit amount. (7-1-98)T
14. Full-time Employment. A week of full-time employment for a claimant is one (1) in which he has worked his normal customary full-time hours or in which the earnings are more than one and one-half (1-1/2) times his weekly benefit amount. (7-1-98)T
15. Initial Claim. The first claim for benefits made by an unemployed individual during a continuous period of unemployment. An initial claim may be either new or additional. (7-1-98)T
16. Interstate Claim. A claim filed by a worker who resides in a state other than the state (or states) in which he has earned wages in covered employment. (7-1-98)T
17. Intrastate Claim. A claim filed by a worker who has earned wages within that state or who has federal wages assigned to that state. (7-1-98)T
18. Itinerant Point. A place where claims-taking services are regularly provided for less than four (4) days a week by a local office which carries on its primary operations at another point. (7-1-98)T
19. Liability Determination. A determination issued by the Director or his authorized agent with respect to whether a cost reimbursement employer shall be charged for benefits paid on a claim. (7-1-98)T
20. Local Office. A community office of the Department of Labor at which claims are taken and job placement services are provided to applicants and employers. (7-1-98)T
21. Mail Claim. A claim filed by mail rather than in person at a local office. (7-1-98)T
22. Monetary Determination. A determination of eligibility which lists a claimant's base period employer(s) and wages and establishes, if the claimant is eligible, his benefit year, his weekly benefit amount, and his total benefit amount. (7-1-98)T
23. New Claim. The first initial claim made in a benefit year. (7-1-98)T
24. Non-monetary Determination. A determination issued by a claims examiner with respect to the personal eligibility conditions of a claimant. (7-1-98)T
25. Regular Claim. A claim based on wages earned during a base period, excluding extended benefit claims. (7-1-98)T
26. Telephone Claim. A claim filed by telephone rather than in person at a local office. (7-1-98)T
27. Total Benefit Amount. The full amount of benefits to which a claimant may be entitled during a benefit year on his regular claim. (7-1-98)T
28. Unemployment. An individual shall be deemed "unemployed" in any week during which he performs no services and with respect to which no wages are allocable, or in any week in which the total wages payable to him for less than full-time work performed in such week amounted to less than one and one-half (1-1/2) times his weekly benefit amount. (7-1-98)T

29. Weekly Benefit Amount. The full amount of benefits to which a claimant may be entitled for one (1) week of total unemployment. (7-1-98)T

011. -- 099. (RESERVED).

100. ABLE TO WORK.

"Able to work" is defined as the physical and mental ability to perform work under conditions ordinarily existing during a normal workweek. It does not mean that a person must be able to perform work in his customary occupation or the same kind of work he last performed. Ref. Sec. 72-1366(4), Idaho Code. (7-1-98)T

01. Able To Perform Some Type Of Work. A person must be able to perform work of some type for which he can qualify at the time he files an initial claim for unemployment insurance. If he becomes ill or disabled after he has filed an initial claim, the claim may be continued under the illness provision if no suitable work is available. If suitable work is offered or becomes available which would have provided wages greater than one half (1/2) his weekly benefit amount and cannot be accepted because of the illness or disability, the claimant shall be ineligible for benefits. (7-1-98)T

02. Able To Work Part-time. A person who is able to work only part of the workday or part of the workweek is not considered "able to work" for the purposes of Section 72-1366(4), Idaho Code. This rule does not apply to claimants who establish eligibility under the Americans with Disabilities Act. (7-1-98)T

03. Disability Compensation. A claimant's receipt of disability compensation shall not in itself establish that he is unable to work or unavailable for work, even though the payee has been declared totally disabled. (7-1-98)T

04. Illness Provision. A person who claims benefits under the illness provision must remain available for local office job referral, however, he may leave the area for treatment of the illness and continue to be eligible under the illness provision. The claimant may continue reporting through the local office near his residence. If suitable work becomes available and is refused or missed because of the illness, or the claimant is unable to respond to a referral because of the illness, the claimant shall be ineligible if the work would have provided wages greater than one-half (1/2) his weekly benefit amount. (7-1-98)T

05. Illness Provision As Applied To Transitional Or Reopened Claim. Receipt of benefits during the same illness continues throughout a spell of unemployment, even though the current benefit year has ended and a transitional claim is filed the following year or the claim is reopened after a period of not filing with no intervening employment. (7-1-98)T

06. Mental Illness. A person who, after filing a valid claim, becomes unable to work because of mental illness is entitled to the same benefits under the illness provision as claimants who suffer from other types of illness or disability. (7-1-98)T

07. Withdrawing From Labor Market Because Of Illness. A claimant who withdraws from the labor market because of illness or injury prior to filing a claim is not eligible until he is able to work and available for work. (7-1-98)T

101. -- 124. (RESERVED).

125. ALIEN ELIGIBILITY.

01. Alien Eligibility. Benefits shall not be payable based on services performed by an alien unless the alien was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time the services were performed. Ref. Sec. 72-1366(19), Idaho Code. (7-1-98)T

02. Benefit Eligibility. To be eligible for benefits, an alien must fall within one (1) of the following three (3) categories at the time the work on which the claim is based was performed. In addition, at the time benefits

are claimed, the alien must have current, valid authorization to work from the Immigration & Naturalization Service in order to meet the continuing eligibility requirement of being able and available to work (unless the alien claimant is a Canadian resident who is claiming benefits under the Interstate Benefit Payment Plan, in which case the claimant must satisfy only Canadian availability requirements). Ref. Sec. 72-1366(4), (19), Idaho Code. (7-1-98)T

a. Permanent residence. The category of individuals who are "lawfully admitted for permanent residence", includes aliens who have been lawfully admitted to the United States as "immigrants" and those whose status has been adjusted from that of "non-immigrant" under the Immigration and Nationality Act. Evidence of this status is the Alien Registration Receipt Card, or "green card," issued to each lawful permanent resident by the Immigration and Naturalization Service. (7-1-98)T

b. Performing services. The category of individuals who are "lawfully present for purposes of performing services," includes three (3) groups of aliens: (7-1-98)T

i. Canadian and Mexican residents who commute daily or seasonally and are authorized to work in the United States; (7-1-98)T

ii. Legally-admitted non-immigrants who are granted a status by the Immigration and Naturalization Service which authorizes them to work in the United States during their stay; and (7-1-98)T

iii. Other aliens with Immigration and Naturalization Service authorization to work in the United States regardless of their status. (7-1-98)T

c. Permanently residing under color of law. The category of individuals who are "permanently residing in the United States under color of law," includes the following groups of aliens: (7-1-98)T

i. Refugees and parolees, as identified in the Immigration and Nationality Act; (7-1-98)T

ii. Aliens presumed by the Immigration and Naturalization Service to be lawfully admitted for permanent residence; and (7-1-98)T

iii. Aliens who, after review of their particular circumstances under INS statutory or regulatory procedures, have been granted a status which allows them to remain in the United States for an indefinite period of time. For informal Immigration and Naturalization Service action to authorize an alien's residence under "color of law", the Immigration and Naturalization Service must know of the alien's presence, and must provide the alien with official, documented assurance that enforcement of deportation is not planned. (7-1-98)T

126. -- 149. (RESERVED).

150. AMERICANS WITH DISABILITIES ACT (ADA).

An individual with a medically verifiable long term or permanent physical or mental disability (as defined at 29 C.F.R. Sec 1623.2(g)) which prevents the individual from working full time or during particular shifts shall not be deemed unable to work or unavailable for work for so long as he is able to perform some work and remains available for work to the full extent of his ability. Claimants meeting the above criteria shall be exempt from complying with eligibility requirements found elsewhere in these Rules which would be in conflict with the intent of this provision. (7-1-98)T

01. Availability Requirement. For purposes of this rule, a claimant with a disability will be considered as having complied with the requirement of being available for work if he is willing to work the maximum number of hours that he has established through medically verifiable evidence that he is able to work. (7-1-98)T

02. Full-time Employment. An individual claiming benefits under this provision will be considered fully employed and ineligible to receive benefits in any week that the individual works the maximum number of hours that he is able to work. (7-1-98)T

03. Long Term. For purposes of this rule, "long term" is defined as twelve (12) months or longer. (7-1-98)T

151. -- 174. (RESERVED).

175. AVAILABLE FOR WORK.

The phrase "available for work" is defined as a state of mind which involves a readiness and willingness to work, and a desire to find a job, including the possibility of marketing one's services in the claimant's area of availability. There must remain a reasonable possibility of a claimant finding and obtaining, or being referred and hired for, suitable work. Ref. Sec. 72-1366(4), Idaho Code. (7-1-98)T

01. **Alternate Permanent Work.** A claimant laid off from regular employment for a short period and who expects to be called back at any moment does not need to be available for alternate permanent work to be eligible for benefits. (7-1-98)T

02. **Availability Requirements.** The type of work for which the claimant is available must exist in the claimant's area to the extent that a normal unemployed person would generally find work within a reasonable period of time. (7-1-98)T

03. **Child Care.** Child care must be arranged so as not to restrict a claimant's availability for work or for seeking work. (7-1-98)T

04. **Compelling Personal Circumstances.** A claimant must be available for the whole of the workweek for which he claims benefits except if he is out of his normal labor market area due to compelling personal circumstances and the absence does not exceed a minor portion of the workweek. To be "compelling", the circumstances must be caused by factors over which the claimant has no control. (7-1-98)T

05. **Conscientious Objection.** No person shall be held to be unavailable for work solely because of religious convictions not permitting work on a certain day. (7-1-98)T

06. **Contract Obligation.** A person who is bound by a contract which prevents him from accepting other employment shall not be eligible for benefits. (7-1-98)T

07. **Distance To Work.** A claimant seeking work must be willing to travel the distance normally traveled by other workers in his area and occupation. (7-1-98)T

08. **Domestic Circumstances.** A claimant is not eligible for benefits if domestic circumstances take precedence over the claimant's availability for work or for seeking work. (7-1-98)T

09. **Equipment.** Claimants will be required to provide necessary tools or equipment in certain occupations. The lack of these tools or equipment will directly affect a claimant's availability for work, unless he will accept other work. (7-1-98)T

10. **Evidence.** A claimant is responsible for providing proof of his availability for work and for seeking work if his availability is questioned or proof is required by these Rules. (7-1-98)T

11. **Experience Or Training.** A claimant is expected to be available for work consistent with his past experience or training, provided there is no change in his ability to perform that work. (7-1-98)T

12. **Full-time/Part-time Work.** A claimant must be available for a full workweek and a full, normal workday to be eligible for benefits. A claimant restricting his availability to only part-time work shall be ineligible for benefits. This rule does not apply to claimants who establish eligibility under the Americans with Disabilities Act. Ref. Sec. 72-1366(6), Idaho Code. (7-1-98)T

13. **Incarceration/Work Release.** A claimant who is incarcerated for any part of the claimant's normal workweek is not eligible for benefits for that week, unless the claimant can establish he has work release privileges which would provide him a reasonable opportunity to meet his work search requirements and obtain full-time employment. (7-1-98)T

14. Jury Duty/Subpoenas. A claimant serving on jury duty or subpoenaed is excused from the availability and work-seeking requirements of the law for that time period. A claimant is not ineligible if he must refuse work because of the jury duty or subpoena. (7-1-98)T

15. Licensing Or Government Restrictions. A claimant prohibited by law from engaging in certain work must be available for other employment to be eligible for benefits. (7-1-98)T

16. Moving To Remote Area. A claimant who moves to a remote locality where there is very little possibility of obtaining work will be ineligible for benefits. (7-1-98)T

17. Prospects for Work. A claimant who is unemployed for a long period of time is expected to lower his expectations for employment and become available for work which may not have been previously considered suitable. (7-1-98)T

18. Public Official. A public official who receives pay and performs "full-time" service is not unemployed or eligible for benefits. Part-time officials, even though receiving pay, may be considered available for work the same as any other individual employed on a part-time basis. Ref. Sec. 72-1312(1), Idaho Code. (7-1-98)T

19. Public Service. Performing public service, including voluntary non-remunerated service, does not disqualify an individual for benefits as long as he is meeting the availability and work-seeking requirements. (7-1-98)T

20. Questionable Availability. A claimant must be notified of his questionable availability status and given an opportunity to provide proof of his availability before a determination is made on the issue. (7-1-98)T

21. Restricting Work To Within The Home. A claimant who restricts his availability to only work done within the home which severely limits the work available to him is ineligible for benefits. (7-1-98)T

22. School Attendance Or A Training Course. A person who is attending school or a training course may be eligible for benefits if the attendance does not conflict in any way with that person's availability for work or for seeking work and if he will discontinue attendance upon receipt of an offer of employment if there is a conflict between employment and the schooling or training. (7-1-98)T

23. Temporary Absence From Local Labor Market To Seek Work. All claimants, regardless of their attachment to an industry or employer, must meet the same standard of remaining within their local labor market area during the workweek in order to be considered available for work, unless the primary purpose of a temporary absence is to seek work in another labor market. (7-1-98)T

24. Time. A claimant shall not impose restrictions on his time, including either hours of the day or days of the week, which will limit his availability to seek or accept suitable work. (7-1-98)T

a. Shift restrictions. A claimant who restricts his availability to a single shift may not be fully available for work if the restriction significantly reduces his chances of becoming employed. (7-1-98)T

25. Transportation Difficulties. Lack of transportation is not a bona fide reason for a claimant to fail to be available for or to seek work. Transportation is the responsibility of the claimant. (7-1-98)T

26. Unreasonable Restrictions On Working Conditions. A claimant who places unreasonable restrictions on working conditions so as to seriously hinder his availability and search for work is ineligible for benefits. (7-1-98)T

27. Vacation. A person on a vacation approved by his employer during time when work is available is not considered available for work nor eligible for benefits. (7-1-98)T

28. Wages. A claimant shall not be ineligible for benefits if the wages or other conditions of available work are substantially less favorable to the claimant than those prevailing for similar work in the local area. Ref. Sec. 72-1366(7)(b), Idaho Code. (7-1-98)T

a. Demanding higher wages. A claimant shall be ineligible for benefits if he unduly restricts his availability for work by insisting on a wage rate that is higher than the prevailing wage for similar work in that area. (7-1-98)T

b. Prior earnings. The claimant's prior earnings and past experience shall be considered in determining whether he is available for suitable work. (7-1-98)T

29. Waiver Of One-Year Training Limitation. For purposes of approving a waiver of the one (1) year limitation on school or training courses, specified by Idaho Code Section 72-1366(8)(c)(ii), for claimants who lack skills to compete in the labor market, the following criteria must be met: (7-1-98)T

a. Financial plan. The claimant must demonstrate a workable financial plan for completing the school or training course after his benefits have been exhausted. (7-1-98)T

b. Demand for occupation. The claimant must establish there is a demand for the occupation in which the claimant will be trained. A "demand occupation" is one in which work opportunities are available and there is not a surplus of qualified applicants. (7-1-98)T

c. Duration of training. At the time that the claimant applies for the waiver, the duration of the school or training course is no longer than two (2) years to completion. (7-1-89)T

d. Denial. No claimant shall be denied a waiver of the one (1) year limitation on school or training because the claimant is already enrolled or participating in the school or training at the time he requests the waiver. (7-1-98)T

176. -- 199. (RESERVED).

200. CANCELLING CLAIMS.

Upon the written request of a claimant, a claim may be canceled at any time, provided that the claimant did not misrepresent or fail to report a material fact in making the claim and the claimant has repaid any benefits received on the claim, unless the benefits received will be offset from a new claim the claimant is filing. Ref. Sec. 72-1327A, Idaho Code. (7-1-98)T

201. -- 224. (RESERVED).

225. DECEASED CLAIMANTS.

Upon the death of a benefit claimant who has completed a compensable period prior to his death, distribution of benefits due him shall be made to the surviving spouse or, if none, to the dependent child or children. If there is no surviving spouse nor dependent child or children, the benefits shall become payable to the administrator of the estate. An administrator of the estate may include children other than dependent children, surviving parents, the personal representative named in a will, or the personal representative appointed by a court. Ref. Sec. 72-1370, Idaho Code. (7-1-98)T

226. -- 249. (RESERVED).

250. DETERMINATIONS/APPELLATE PROCESSES.

01. Chargeability Determination. The Department will issue a determination of chargeability to the major base period employer and include the right to protest the determination within fourteen (14) days of the date of service. Ref. Sec. 72-1351(2), Idaho Code. (7-1-98)T

02. Continuing A Claim During Appellate Procedures. While a decision concerning eligibility on a claim is pending at any appellate stage of review, claimants shall be advised to continue the regular filing of claims during any week in which they may be eligible to receive benefits. Ref. Sec. 72-1368(1), Idaho Code. (7-1-98)T

03. Corrected Monetary Determination. The Department shall issue a corrected monetary

determination when there is a change in base period wages which occurs within a year from the date of the last monetary determination based on such base period wages. Ref. Sec. 72-1367, 72-1368(4), Idaho Code. (7-1-98)T

04. Non-Monetary Determination. A non-monetary determination shall be made in writing and served on the interested parties when there is an issue as to whether a claimant meets the personal eligibility conditions of Section 72-1366, Idaho Code. Ref. Sec. 72-1368(3), Idaho Code. (7-1-98)T

05. Rebuttal Procedure. Whenever any information is provided in response to a claim, and the information contradicts a statement made previously, all interested parties shall be given an opportunity for rebuttal. Ref. Sec. 72-1368(3), Idaho Code. (7-1-98)T

06. Reestablishing Eligibility After A Determination Of Ineligibility. An individual who previously was found ineligible for benefits has the burden of proving he has reestablished his eligibility by having obtained bona fide work and received wages therefor in an amount of at least twelve (12) times his weekly benefit amount. Evidence of requalifying wages includes, but is not limited to, the name of the employer, the mailing address, the dates of employment, the type of employment performed, and the claimant's gross earnings. Ref. Sec 72-1366(14), Idaho Code. (7-1-98)T

251. -- 274. (RESERVED).

275. DISCHARGE.

A claimant who has been discharged for misconduct in connection with his employment is ineligible. Ref. Sec. 72-1366(5), Idaho Code. (7-1-98)T

01. Burden Of Proof. The burden of proving that a claimant was discharged for employment-related misconduct rests with the employer. (7-1-98)T

02. Disqualifying Misconduct. Misconduct that disqualifies a claimant for benefits must be connected with the claimant's employment and involve one of the following: (7-1-98)T

a. Disregard of employer's interest. A willful, intentional disregard of the employer's interest. (7-1-98)T

b. Violation of reasonable rules. A deliberate violation of the employer's reasonable rules. (7-1-98)T

c. Disregard of standards of behavior. If the alleged misconduct involves a disregard of a standard of behavior which the employer has a right to expect of his employees, there is no requirement that the claimant's conduct be willful, intentional, or deliberate. The claimant's subjective state of mind is irrelevant. The test for misconduct in "standard of behavior cases" is as follows: (7-1-98)T

i. Whether the claimant's conduct fell below the standard of behavior expected by the employer; and (7-1-98)T

ii. Whether the employer's expectation was objectively reasonable in the particular case. (7-1-98)T

03. Inability To Perform Or Ordinary Negligence. Mere inefficiency, unsatisfactory conduct, failure of good performance as the result of inability or incapacity, inadvertencies, isolated instances of ordinary negligence, or good faith errors in judgment or discretion are not considered misconduct connected with employment. (7-1-98)T

04. Non-job Related Conduct. If the claimant has been discharged for conduct involving personal, non-job related behavior, the discharge is not for misconduct connected with employment. (7-1-98)T

05. When Notice Of Discharge Prompts A Resignation. If a claimant has resigned after receiving a notice of discharge (or lay off due to a lack of work), but before the effective date of the discharge, both "separations" must be considered. The following three elements should be present for both actions to affect the claimant's eligibility: (7-1-98)T

- a. The employee was given notice by the employer of a specific separation date; (7-1-98)T
- b. The employee's decision to quit before the effective date of the termination was a consequence of the pending separation; and (7-1-98)T
- c. The voluntary quit occurred a short time prior to the effective date of the termination. (7-1-98)T

276. -- 324. (RESERVED).

325. EMPLOYEES OF EDUCATIONAL INSTITUTIONS.

Benefits based on wages earned for services performed for an educational institution or educational service agency shall not be paid for any week which commences during a period between two (2) successive school years or terms, or during vacation periods and holiday recesses within terms, if an individual performs services in the first year or term and there is a contract or reasonable assurance that the individual will perform such services in the second year or term. Ref. Sec. 72-1366(17)(a), (b), (c), (d), Idaho Code. (7-1-98)T

01. Possibility of Employment. An offer of employment by an educational institution or service agency is not "bona fide" if merely a possibility of employment exists. A possibility of employment, rather than a reasonable assurance, exists when: (7-1-98)T

a. The circumstances under which the claimant would be employed are not within the control of the educational institution; and (7-1-98)T

b. The educational institution does not provide evidence that such an individual normally would perform services the following academic year. (7-1-98)T

02. Reasonable Assurance. "Reasonable assurance" of continuing employment exists when an educational institution or service agency provides written evidence to the Department indicating that the claimant has been given a bona fide offer of a specific job in the second academic period. In addition, for such "reasonable assurance" to exist, the terms and conditions of the job offered in the second period must not be substantially less favorable than the terms and conditions of the job performed in the first period. (7-1-98)T

03. Reasonable Assurance Later Given. A claimant who initially has been determined not to have a reasonable assurance of continuing employment, will subsequently become disqualified for benefits under Sections 72-1366(17)(a), (b), or (c), Idaho Code, when an educational institution or service agency gives the claimant such reasonable assurance. (7-1-98)T

04. Retroactive Payments. As provided in Section 72-1366(17)(b), Idaho Code, retroactive payment of benefits will be made to claimants who were denied solely by reason of having reasonable assurance of continuing employment and who were not offered an opportunity to perform services in the second school year or term. Such individuals must file a written application for the retroactive payment with the Department no later than thirty (30) days after the beginning of the second school year or term or retroactive payment will not be made. In addition, the claimant must provide written evidence from the employer who previously provided reasonable assurance of continuing work, that the claimant was not offered an opportunity to return to work in the second of two (2) successive school years or terms. (7-1-98)T

05. Under Contract, But Between School Terms. Employees of educational institutions who are hired under contract for the school term, shall be considered unemployed between school terms even though they may receive their salary in twelve (12) monthly payments. (7-1-98)T

326. -- 349. (RESERVED).

350. EXTENDED BENEFITS.

Ref. Sec. 72-1367A(3)(d), Idaho Code. (7-1-98)T

- 01. Evidence Of Employment For Extended Benefits. Satisfactory evidence that an individual's

prospects for obtaining work in his customary occupation within a reasonably short period includes: (7-1-98)T

or a. A letter signed by a prospective employer giving assurances of work within the next four (4) weeks; (7-1-98)T

b. A verifiable, written statement by the claimant that he will have work within the next four (4) weeks. (7-1-98)T

02. Remuneration Earned. Remuneration earned must be in employment where an employee-employer relationship exists to satisfy requalification requirements for Extended Benefits. (7-1-98)T

351. -- 374. (RESERVED).

375. FULLY EMPLOYED/NOT UNEMPLOYED.

Ref. Sec. 72-1312(1), Idaho Code. (7-1-98)T

01. Excessive Earnings Week. An excessive earnings week is a week in which the claimant's wages allocable to that week are more than one and one-half (1-1/2) times the claimant's weekly benefit amount. (7-1-98)T

02. Leave Of Absence. A claimant who is on a mutually agreed upon leave of absence is employed and not eligible for benefits. In order to meet the definition of "leave of absence", the employer must have committed to the claimant's return to work at the end of the leave. (7-1-98)T

03. Suspension. If a claimant is suspended without pay for a specific number of days he is not considered unemployed nor eligible for benefits. However, a person suspended without pay for an indefinite period of time is considered discharged and a determination will be made as to whether the discharge was for misconduct. (7-1-98)T

376. -- 399. (RESERVED).

400. LABOR DISPUTE/UNION RULES.

A "labor dispute" is defined as a controversy with respect to one (1) or more of the following: wages, hours, working conditions; or right of representation affecting the work or employment of a number of individuals employed for hire which results in a deadlock or impasse between the contending parties. Ref. Sec. 72-1366(7), (10), Idaho Code. (7-1-98)T

01. Burden Of Proving Nonparticipation. The burden of proving nonparticipation, lack of financing and similar factors is upon the claimant who is seeking to avoid being found ineligible on the basis that his unemployment is due to a labor dispute. (7-1-98)T

02. Involvement Of Work Site In Labor Dispute. A claimant shall not be denied benefits because of a labor dispute if the dispute is not in any way directly connected with the factory, the establishment, or the premises at which the individual is or was last employed. (7-1-98)T

03. Lack Of Work. A claimant's unemployment shall be deemed due to lack of available, suitable work and not due to a labor dispute if it is shown that because of the labor dispute the employer's business has fallen off to the extent that he can no longer utilize the services of the claimant due to the drop in business. (7-1-98)T

04. Laid Off Before Labor Dispute. A claimant laid off because of lack of work from an employer where a labor dispute later occurred shall not be considered unemployed due to the labor dispute. (7-1-98)T

05. Merits Of Labor Dispute. The Department shall not make a determination on the merits of a labor dispute. (7-1-98)T

06. Period Of Ineligibility. The period of ineligibility applies for the whole of any week in which any part of a claimant's unemployment is due to a labor dispute. (7-1-98)T

07. Picketing Work Site. The act of picketing the work site of a labor dispute constitutes participation in the labor dispute, whether or not payment is made for such services. (7-1-98)T

08. Refusal To Cross Picket Line. Voluntary refusal to cross a peaceable picket line to work constitutes participation in the labor dispute. (7-1-98)T

09. Subsequent Employment. Subsequent employment does not make the claimant eligible for benefits if his unemployment is still due to the labor dispute. As long as the claimant intends to return to the employer where the labor dispute exists, his unemployment is due to the labor dispute regardless of any intervening employment. (7-1-98)T

10. Termination Of Labor Dispute. The period of ineligibility due to the labor dispute terminates at the end of the calendar week in which the labor dispute no longer exists. The termination of the dispute does not automatically make a claimant eligible for benefits. (7-1-98)T

11. Union Member. The fact that an individual is a dues-paying union member alone does not constitute financing a labor dispute. Nor does the fact that he is not a union member establish that he is not financing or participating in the dispute. (7-1-98)T

12. Union Requirements. Union rules and requirements do not supersede the Employment Security law. (7-1-98)T

401. -- 424. (RESERVED).

425. NEW CLAIMS/ADDITIONAL CLAIMS.

Ref. Sec. 72-1308, Idaho Code.

(7-1-98)T

01. Claims For Benefits, Delayed Filing. When any claims taking office has reason to believe there will be more claimants than can be served on any given day, an appointment slip must be used to adjust the claims load for the filing of new claims. Appointment slips shall be issued to potential claimants who cannot be served on the date they first make contact with the office. A claimant who receives an appointment slip does not forfeit any benefit rights provided, however, that he subsequently files his claim on the day assigned. (7-1-98)T

02. Effective Date -- New Claims. A new claim for benefits is effective on the Sunday of the week in which it is filed unless it is backdated due to local office scheduling problems or filed on an itinerant basis. (7-1-98)T

03. Effective Date Of Mail Claims/Itinerant Claims. A claim for benefits filed at an itinerant point on the first regular itinerant visit after the claimant's separation will be effective as of the Sunday preceding the first business day of the period of unemployment. If filed at a date later than the first regular itinerant visit, the claim shall be effective as of the Sunday preceding the date the claim is actually filed. If a claimant has been granted permission to file his initial claim by mail, and he completes and returns the claim form within seven (7) days of the date the form was mailed to him from the local office, the effective date of the claim shall be the Sunday preceding the date of his original request to file the claim. If the claimant fails to mail the claim form within the seven (7) day period, and mail facilities would have permitted such mailing within the period, the effective date of the claim shall be the Sunday preceding the date he mails the claim form. Ref. Sec. 72-1308, Idaho Code. (7-1-98)T

a. Taking new claims by mail. A claims examiner may allow a claimant to file an initial claim by mail when in-person filing would cause undue hardship. (7-1-98)T

b. Interstate claimant mail claims. Any claim filed by mail by an interstate claimant shall be accepted in the same manner and under the same conditions for which mail claims are accepted from intrastate claimants. Ref. Sec. 72-1368(1), Idaho Code. (7-1-98)T

04. Itinerant Claims. Itinerant points for the taking of unemployment insurance claims may be established, changed, or discontinued at administrative discretion. Where itinerant service is being inaugurated, changed, or discontinued for a particular community, public notice of such inauguration, change, or discontinuance shall be conspicuously posted and public notification placed in a daily or weekly newspaper of general distribution

for the affected community two (2) weeks prior to such inauguration, change or discontinuance. Ref. Sec. 72-1368(1), Idaho Code. (7-1-98)T

05. Registration For Work. All claimants who cannot demonstrate a firm attachment to an employer, industry, or union will be required to register for employment. Unless otherwise requested by the claimant, such registration should apply only to the days or parts of the days that the claimant is in fact unemployed and available for employment. The work history of each claimant shall be recorded, and a work application completed and filed. Ref. Sec. 72-1366(2), Idaho Code. (7-1-98)T

06. Registration/Reporting Requirements – Interstate Claimants. Interstate claimants shall be required to register for work in the same manner and to comply with the same reporting requirements prescribed for regular Idaho intrastate claimants at either a local office or an itinerant point. Ref. Sec. 72-1366(1), (2), Idaho Code. (7-1-98)T

07. Requirement To Provide Information. Any individual wishing to claim benefits shall file a claim through the local office serving his area of residence and shall provide the local office with his legal name, his address where mail is delivered to him, his place of last employment, the employer's correct address, a list of all other employment in the past eighteen (18) months, his Social Security Number, the reason for separation from all applicable employers, and his plans for finding other employment at the earliest possible time. Failure to provide this information may result in ineligibility for benefits until the information is provided. Ref. Sec. 72-1366(1), Idaho Code. (7-1-98)T

08. Right To Claim Benefits. In no instance, under any circumstances or conditions, shall an individual be denied the right to file a claim and to receive in writing a decision regarding his eligibility. Ref. Sec. 72-1366(1), Idaho Code. (7-1-98)T

09. Separation Information. Unless separation information has been provided by other means, such as a mass layoff list, a notice of the filing of a claim and a request for separation information must be completed and mailed to the claimant's last employer and each next preceding employer until the wages received by the claimant equal or exceed twelve (12) times his weekly benefit amount. For all such employers, the claimant must provide the Department with the employer's name and correct mailing address, the claimant's dates of employment, the type of employment performed, and the claimant's gross earnings from each employment. Ref. Sec. 72-1366 (1), (5) and (14), Idaho Code. (7-1-98)T

10. Separation Notice. Every employer (including employers not subject to Title 72, Chapter 13, Idaho Code), after having been notified by the Department that an individual has filed a claim for benefits listing him as the claimant's last employer, shall submit a report of the reasons for the separation on a form furnished for this purpose by the Department. The statement shall be given in accordance with instructions printed on the form and returned within the time period specified. The form must be signed by the employer or on the employer's behalf by someone having personal knowledge of the facts therein stated. The employer shall submit a report of the reasons for the separation whenever such claimant: (7-1-98)T

- a. Left his employment voluntarily; (7-1-98)T
- b. Was discharged from his employment due to misconduct; (7-1-98)T
- c. Is unemployed due to a strike, lockout, or other labor dispute; or (7-1-98)T
- d. Was separated for any other reason except lack of available work. Ref. Sec. 72-1337, 72-1368, Idaho Code. (7-1-98)T

11. Taking An Additional Claim Or Reopening A Claim. A claim series may be reestablished, subsequent to the filing of a new claim, in person, by mail, or by telephone. Ref. Sec. 72-1368(1), Idaho Code. (7-1-98)T

a. Effective date of AC/RO. An additional or reopened claim shall be effective on the Sunday of the first week in which the claimant contacts a local office to reestablish the claim. Ref. Sec. 72-1368(1), Idaho Code.

(7-1-98)T

i. AC/RO filing. If a claimant chooses to use a reopen/additional claim form rather than file by telephone, the form may be mailed or personally delivered to a local office. The claim must be filed during a week in which the claimant becomes unemployed and/or wants to reestablish the claim. The postmark of a mailed reopen/additional claim form establishes the date of filing. (7-1-98)T

ii. Backdated claim. When a claim is backdated, the continued claim report for the period of time involved will be considered timely if filed during the same week or the next week after the reopen/additional claim is filed. (7-1-98)T

b. Reestablished claim. A claim must be reestablished after a claimant has failed to report or has reported excessive earnings for two (2) or more consecutive weeks. Claims shall be reestablished as follows: (7-1-98)T

i. If the break in the claim series is two (2) weeks or longer, the claim must be reestablished by filing a reopen or additional claim; or (7-1-98)T

ii. If the claimant is reporting excessive earnings for no more than two (2) consecutive weeks, the claim may be automatically reestablished if the claimant notifies the local office at the time of or prior to filing the report for the second week that he has become unemployed. Otherwise, the claim must be reestablished by filing a reopen/additional claim. (7-1-98)T

12. Use Of Wage Credits. All unemployment insurance wage credits from any source which are assignable to the state of Idaho shall be used in establishing a claim and determining the claimant's monetary eligibility. Ref. Sec. 72-1367(1), Idaho Code. (7-1-98)T

13. Valid Claim. To be a valid claim for benefits, a claim must be filed during a week of no work, a week of less than full-time work in which the total wages payable to the claimant for work performed in such week amount to less than one and one-half (1-1/2) times the claimant's weekly benefit amount, or a week in which the claimant is separated from employment. Ref. Sec. 72-1327A, Idaho Code. (7-1-98)T

426. -- 449. (RESERVED).

450. QUIT.
Ref. Sec. 72-1366(5), Idaho Code. (7-1-98)T

01. Burden Of Proof. The claimant has the burden of proof to establish that he voluntarily left his employment with good cause in connection with the employment to be eligible for benefits. (7-1-98)T

02. Cause Connected With Employment. To be connected with employment, a claimant's reason(s) for leaving the employment must arise from the working conditions, job tasks, or employment agreement. If the claimant's reason(s) for leaving the employment arise from personal/non job-related matters, the reasons are not connected with the claimant's employment. (7-1-98)T

03. Good Cause. The standard of what constitutes good cause is the standard of reasonableness as applied to the average man or woman. Whether good cause is present depends upon whether a reasonable person would consider the circumstances resulting in the claimant's unemployment to be real, substantial, and compelling. (7-1-98)T

04. Moral Or Ethical Quit. A claimant who leaves a job because of a reasonable and serious objection to the work requirements of the employer on moral or ethical grounds and is otherwise eligible, shall not be denied benefits. (7-1-98)T

05. Quit Due To Health Or Physical Condition. A claimant whose unemployment is due to his health or physical condition which makes it impossible for him to continue to perform the duties of the job shall be deemed to have quit work with good cause connected with employment. (7-1-98)T

06. Quit For Permanent Work Or Quit Part-time Work For Increase In Work Hours. A claimant who quits a temporary job for a permanent job or who quits part-time employment for employment with an increase in the number of hours of work shall be deemed to have quit work with good cause connected with employment. (7-1-98)T

07. Quit Or Retirement During Employer Downsizing. An individual who has continuing suitable work available and who voluntarily elects to retire or to terminate employment during a period of reorganization or downsizing will be considered to have voluntarily quit the employment for personal reasons. (7-1-98)T

08. Unrelated Discharge Prior To Pending Resignation. A claimant, discharged before a pending resignation has occurred, for reasons not related to the pending resignation, shall have his eligibility determined on the basis of the discharge, not on the pending resignation. (7-1-98)T

09. When Notice Of Resignation Prompts A Discharge. If a claimant had given notice of a pending resignation, but was discharged before the effective date of the resignation, both "separations" must be considered. The following three (3) elements should be present for both actions to affect the claimant's eligibility: (7-1-98)T

- a. The employee gave notice to the employer of a specific separation date; (7-1-98)T
- b. The employer's decision to discharge the claimant before the effective date of the resignation was a consequence of the pending separation; and (7-1-98)T
- c. The discharge occurred a short time prior to the effective date of the resignation. (7-1-98)T

451. -- 474. (RESERVED).

475. REFUSAL OF WORK/FAILURE TO APPLY.

Ref. Sec. 72-1366(6), (7), Idaho Code. (7-1-98)T

01. Citizenship Or Residency Requirements. An employer's restrictions on citizenship or residency shall be deemed good cause for a claimant's failure to apply for available work if he does not meet the requirements. (7-1-98)T

02. Claimant Conduct. A claimant who, by his conduct, causes an employer to withdraw an offer of suitable work or terminate the offer after the claimant has accepted it shall be ineligible. (7-1-98)T

03. Claimant Responsibility. A claimant has the responsibility to apply for and accept suitable work. (7-1-98)T

04. Conscientious Objection. A claimant may refuse employment that requires him to work on his Sabbath if his religious convictions do not permit him to work on that day. (7-1-98)T

05. Employer Requirements. Claimants are expected to comply with reasonable, lawful requirements that are typical of certain occupations, such as a requirement that a worker be bonded. Unreasonable requirements by employers shall not be used as a basis to deny benefits. However, a claimant must have good cause to refuse or fail to meet an employer's reasonable, lawful employment requirements to be eligible for benefits. (7-1-98)T

06. Failure To Report. A claimant who fails to report to a local office when so directed, fails to follow explicit instructions for applying for suitable, available work, or fails to report to work after accepting employment, without good cause, shall be ineligible. Ref. Sec. 72-1366(2), (6), Idaho Code. (7-1-98)T

07. Failure To Return To Work. A claimant who has been laid off, but fails to return to work on the date specified by the employer at the time of layoff, or who fails to respond to a callback after a layoff, shall be considered to have refused an offer of work. Whether the work was suitable and whether there was good cause for the refusal will be decided on the merits of the case. (7-1-98)T

08. Government Requirements. A claimant who cannot meet government requirements (such as

obtaining a civil service rating) within a reasonable period of time shall have good cause for refusing that opportunity to work. (7-1-98)T

09. License Or Permits. A claimant must provide or be capable of obtaining a license or permit if required by law for performance of the work. (7-1-98)T

10. Moral Objections. A claimant shall not be ineligible for failing to apply for or accept employment if the claimant has reasonable, serious objections to the work or the workplace on moral or ethical grounds. (7-1-98)T

11. Offer Of Work. A claimant whose unemployment is due to his failure without good cause to accept available, suitable work shall be ineligible. The job offer must have been genuine and known to the claimant. (7-1-98)T

12. Part-time Work. A claimant must be available for and willing to accept suitable part-time work in the absence of suitable full-time work. (7-1-98)T

13. Personal Circumstances. To have good cause to refuse to apply for or accept available, suitable work because of personal circumstances, a claimant must show that his circumstances were so compelling that a reasonably prudent individual would have acted in the same manner under the same circumstances. (7-1-98)T

14. Prospect Of More Suitable Work. A claimant shall not be ineligible for failing to accept employment if he has excellent prospects for more suitable work with his former employer or in his regular occupation. (7-1-98)T

15. Suitable Work. Every claimant has the right to restrict his availability to suitable work. (7-1-98)T

16. Travel Distance. A claimant shall not be ineligible if the travel distance to available work is excessive or unreasonable. A claimant shall be ineligible if he fails to apply for and accept suitable work within a commuting area similar to other workers in his area and occupation. (7-1-98)T

17. Working Conditions. Employment shall be considered suitable if the working conditions are as favorable as those prevailing for similar work in the same locality. (7-1-98)T

476. -- 499. (RESERVED).

500. REISSUING CHECKS.

Whenever a benefit check is lost, stolen, destroyed, or forged, the claimant shall be issued a new check upon his proper presentation of the facts and submission of an affidavit, in a form prescribed by the Department, for the issuance of a new check. Ref. Sec. 72-1368(1), Idaho Code. (7-1-98)T

01. Affidavit For Issuance Of New Check. A claimant's affidavit filed for the issuance of a new check must be signed before a notary public or an authorized representative of the Department. If a claimant completes an affidavit and submits the remaining portions of a partially destroyed or mutilated check, the Department will waive any waiting period for reissuance of the check. (7-1-98)T

02. Reissuance Of Stolen Checks. If a claimant knows who took a check, he must provide evidence that he has taken all reasonably available legal steps and been unsuccessful in recovering the check before the Department will consider reissuing the check. (7-1-98)T

501. -- 524. (RESERVED).

525. REPORTABLE INCOME.

Ref. Sec. 72-1312, 72-1328, Idaho Code. (7-1-98)T

01. Back Pay Or Disputed Wages. Amounts received as a result of labor relations awards or judgments for back pay, or for disputed wages, constitute wages for the weeks in which the claimant would have earned them, or are assignable to the weeks stipulated in the award or judgment. If the claimant received waiting week credit for a

week in which the award or judgment is reported or assigned, the waiting week will be denied if the amount of the award or judgment for the week renders the claimant ineligible for such credit. If the claimant received benefits for the weeks in which the award or judgment is reported or assigned, such benefits are overpaid to the extent that the weekly amount of the award or judgment affects the claimant's eligibility. (7-1-98)T

02. Disability/Injury Compensation. Injury or disability compensation payments are not considered wages and are not reportable income for unemployment insurance purposes. (7-1-98)T

03. Disability Retirement Payments. Retirement payments as a result of disability shall be treated the same as other types of retirement payments. Ref. Sec. 72-1312(4), Idaho Code. (7-1-98)T

04. Gratuities Or Tips. Gratuities or tips must be reported by a claimant for the week in which each gratuity or tip is earned. (7-1-98)T

05. Holiday Pay. Holiday pay must be reported as though earned in the week in which the holiday occurs. Holiday pay that is contingent upon an employee's return to work after the holiday is considered a bonus and is reportable when paid. (7-1-98)T

06. Non-periodic Remuneration. All non-periodic remuneration such as one-time severance pay, profit sharing, and bonus pay is reportable for the week in which paid. (7-1-98)T

07. Penalty Or Damage Awards. Amounts awarded to a claimant as a penalty or damages against an employer, other than for lost wages, do not constitute wages. (7-1-98)T

08. Pension, Retirement, Or Annuity Payments. The pension deduction provision of Section 72-1312(4), Idaho Code, only applies if the pension, retirement pay, annuity, or other similar periodic payment is made under a plan maintained or contributed to by a base period employer. The dollar amount of the weekly pension shall be deducted from the claimant's weekly benefit amount unless the claimant has made contributions toward the pension. If the claimant has made contributions toward the pension plan, the pension offset shall be reduced one hundred percent (100%), and no deduction for the pension shall be made from the claimant's weekly benefit amount. Ref. Sec. 72-1312(4), Idaho Code. (7-1-98)T

a. Pension contributions. The burden shall be on the claimant to establish by substantial, competent evidence that he has made contributions toward the pension, retirement pay, annuity or other similar payment plan. (7-1-98)T

b. Pension payment changes. Any change in the amount of the pension, retirement, or annuity payments which affects the deduction from the claimant's weekly benefit amount shall be applied in the first full week after the effective date of the change. (7-1-98)T

09. Relief Work Or Public Assistance. Remuneration received for relief work or public service work will be considered wages on the same basis as any other employment. (7-1-98)T

a. Eligibility when public assistance received. A person receiving public assistance shall be eligible for benefits if no work is involved and the claimant is otherwise eligible. (7-1-98)T

10. Self-employment Earnings. When reporting earnings, a claimant must report gross earnings from self-employment unless the claimant can prove that certain expenditures, which are not commonly associated with working for wages, were necessary in order to accomplish the work. Such expenditures may include, but are not limited to, buying products wholesale for resale and renting equipment to accomplish a task. Expenditures which are not deductible include, but are not limited to, transportation costs, uniforms, and depreciation of equipment. (7-1-98)T

11. Severance Pay. An equal portion of a periodic severance payment must be reported in each week of the period covered by the payment. However, severance pay received in a lump sum payment at the time of severance of the employment relationship must be reported when paid. (7-1-98)T

12. Vacation Pay. Vacation pay allocable to a certain period of time in accordance with an employment agreement must be reported in the week to which it is allocable. However, vacation pay received in a lump-sum payment at the time of severance of the employment relationship must be reported when paid. (7-1-98)T

13. Verification Of Earnings On Claim Reports. The Department may verify the earnings and/or reasons for separation reported by claimants on claim reports filed for benefit payments. Ref. Sec. 72-1368(1), Idaho Code. (7-1-98)T

14. Wages For Contract Services. A person who is bound by a contract which does not prevent him from accepting other employment but who receives pay for a period of not working, is required to report the contract payments as earnings in equal portions in each week of the period covered by the contract. This rule does not apply to employees of educational institutions. (7-1-98)T

15. Wages For Services Performed Prior To Separation. Wages for services performed prior to a claimant's separation are reportable for the week in which earned. (7-1-98)T

526. -- 549. (RESERVED).

550. REPORTING REQUIREMENTS.

Each claimant shall report weekly or biweekly for benefits as directed. Failure to file timely reports shall result in ineligibility for benefits for the week(s) claimed. Ref. Sec. 72-1366(1), Idaho Code. (7-1-98)T

01. In-person Reports. A claimant reporting in person must hand the report to an authorized employee of the local office or place it in a receptacle identified for that purpose. The Department will not accept reports deposited under or through the doors of the office. Reports filed in person at a local office shall be considered timely when filed within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the reporting period shall be extended to include the following working day. (7-1-98)T

02. Mailed Reports. Reports that are mailed shall be considered timely when the envelope containing the report is postmarked within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the report period shall be extended to include the following working day. (7-1-98)T

03. Telephone Reports. Reports filed by telephone to the Idaho Tel A Claim system must be made between 12:01 A.M. Mountain Time of the Sunday following the week being claimed and midnight Mountain Time of the Saturday following the week being claimed. (7-1-98)T

04. When Report Missing. If a claimant establishes, by credible and corroborated evidence, that a missing report was personally delivered to a local office or mailed within the filing period, a replacement report shall be considered timely. (7-1-98)T

551. -- 574. (RESERVED).

575. SEEKING WORK.

Ref. Sec. 72-1366(4), (6), Idaho Code. (7-1-98)T

01. Attitude And Behavior. A claimant's attitude and behavior must be conducive to a positive reaction by employers to his job search. (7-1-98)T

02. Effort To Secure Employment. A claimant will be expected to do what is normally done by unemployed persons that are seeking work. (7-1-98)T

03. Employer's Hiring Practices. An employer's reluctance to hire a claimant because of his appearance or physical condition is not a determining factor in ruling on the claimant's eligibility. (7-1-98)T

04. Job Attachment Classifications. For the purpose of administering the work search requirements of Section 72-1366(4) and (6), Idaho Code, claimants will be classified according to their attachment to an employer or industry, as follows: (7-1-98)T

a. Code R-Recall, U-Union or X-Both. Claimants who have a firm attachment to an employer, industry or union, or who are temporarily or seasonally unemployed, and expect to return to their former jobs or employers in a reasonable length of time. (7-1-98)T

b. Code B. Claimants who possess marketable skills in an occupation, but have no immediate prospects for reemployment, and whose employment expectations (i.e., wages, hours, etc.) are realistic in relation to the normal labor market supply and demand in their areas of availability. (7-1-98)T

c. Code C. Claimants who have no marketable skills or whose skills have become obsolete and who are unable to return to their former occupations, or who have a special need for employment-related services. (7-1-98)T

d. Code D. Claimants who are assigned to a training course under the provisions of Section 72-1366(8), Idaho Code. (7-1-98)T

05. Jobs Availability. A claimant will not be required to make useless employer contacts if there are no jobs available in the area due to seasonal factors. (7-1-98)T

06. No Employment Prospects. A claimant shall apply for and accept a lower or beginning pay rate for employment if he has no prospects for a better paying job in the locality. (7-1-98)T

07. Register For Work. A claimant must register for work and report as required to be eligible for benefits. Ref. Sec. 72-1366(1), (2), Idaho Code. (7-1-98)T

08. Seasonal Availability. A claimant who is regularly employed on a seasonal basis shall be available for other types of work in the off-season to be eligible for benefits. (7-1-98)T

09. Work-seeking Requirement Categories. Claimants shall seek work in accordance with the following categories of work-seeking activity, as instructed by a Department representative. A claimant's category of work-seeking activity will be determined and modified based on the claimant's length of unemployment, the prevailing local labor market conditions, and/or the average county unemployment rates. (7-1-98)T

a. Code O: Claimants who are required to do at least one (1) of the following: (7-1-98)T

i. Maintain regular contact with their employers; (7-1-98)T

ii. Make local inquiries; (7-1-98)T

iii. Maintain contact with the local office; or (7-1-98)T

iv. Check "help-wanted" ads in newspapers or trade publications. (7-1-98)T

b. Code 1: Claimants who are required to do at least one (1) of the following: (7-1-98)T

i. Send resumes to firms/businesses that hire people with their skills; (7-1-98)T

ii. Make at least one (1) employer contact each week either in person or by phone; or (7-1-98)T

iii. Attend a Job Search Workshop. (7-1-98)T

c. Code 2: Claimants who are required to do at least one (1) of the following: (7-1-98)T

i. Make at least two (2) employer contacts per week in the manner prescribed by the local office; (7-1-98)T

ii. Expand work search efforts to surrounding areas or states; or (7-1-98)T

- iii. Attend a Job Search Workshop. (7-1-98)T
- d. Code 3: Claimants who are required to do at least one (1) of the following: (7-1-98)T
 - i. Make at least three (3) employer contacts per week in the manner prescribed by the local office; or (7-1-98)T
 - ii. Enroll and attend a specific training program to meet the requirements of the employment plan. (7-1-98)T

576. -- 599. (RESERVED).

600. SELF-EMPLOYMENT.

A claimant shall not be eligible when his self-employment is of such size and nature that the operation of it is his principal duty and working for an employer is merely incidental. Ref. Sec. 72-1366(13), Idaho Code. (7-1-98)T

01. Occupational Conflicts. Agricultural activities, commercial enterprises, family enterprises, and commission sales work are examples of self-employment which may render a claimant ineligible unless he can show he is seeking employment and is available for suitable work. (7-1-98)T

02. Potential Employability. A claimant would be eligible if his self-employment in no way interferes with his potential employability and work schedule. (7-1-98)T

601. -- 624. (RESERVED).

625. SEXUAL HARASSMENT.

For purposes of Section 72-1366(5), Idaho Code, when a party asserts that sexual harassment was a reason for a claimant's separation from employment, "sexual harassment" is defined as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when: (7-1-98)T

01. Condition Of Employment. Submission to such conduct was made either explicitly or implicitly a term or condition of an individual's employment. (7-1-98)T

02. Employment Decisions. Submission to or rejection of such conduct by an individual was used as the basis for employment decisions affecting such individual. (7-1-98)T

03. Interference With Performance/Work Environment. Such conduct had the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. (7-1-98)T

626. -- 649. (RESERVED).

650. SIGNATURES OF ILLITERATES AND WITNESSES.

If a claimant is unable to write his name, he shall instead use the mark (X). The mark must be witnessed by a Department representative or an individual who shall enter, immediately after the mark (X), the words "His Mark". Next, the name of the claimant shall be printed, followed by the signature of the Department representative or the individual who witnessed the mark. Ref. Sec. 72-1366 (1), Idaho Code. (7-1-98)T

651. -- 674. (RESERVED).

675. TOTAL TEMPORARY DISABILITY ALTERNATE BASE PERIOD (TTD).

The alternate base period provision shall apply only if the claimant cannot establish monetary eligibility by using the regular base period consisting of the first four (4) of the last five (5) completed calendar quarters immediately preceding the beginning of a benefit year. Ref. Sec. 72-1306(2), Idaho Code. (7-1-98)T

676. -- 999. (RESERVED).

IDAPA 09 - DEPARTMENT OF LABOR
09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU
DOCKET NO. 09-0135-9801
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 rule-making procedures have been initiated. The action is authorized pursuant to Section 72-1333(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 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: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This chapter is being repealed under this Docket and rewritten under Docket No. 09-0135-9802 that is published in this Bulletin immediately following this Notice.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in order to comply with deadlines in amendments to governing law and federal programs.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Mark Whitworth, Chief of Employer Accounts, Idaho Department of Labor, at (208) 334-6385.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 14th day of May, 1998.

Roger B. Madsen, Director
Idaho Department of Labor
317 Main St.
Boise, ID 83735
Fax # (208) 334-6430

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 09 - DEPARTMENT OF LABOR
09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU
DOCKET NO. 09-0135-9802
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The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

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

Idaho's Employment Security Law (Idaho Code Section 72-1301 et seq.) was substantially amended in 1998 by House Bill 426. With minor exceptions, each statute's subparagraphs were renumbered. This rulemaking is necessary so the rules and their references to the statutes will conform to the law. Numerical references to statutes are revised and obsolete rules are repealed. The only substantive changes are those required to conform to the new law or to Idaho Supreme Court case law.

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DATED this 14th day of May, 1998.

Roger B. Madsen, Director
Idaho Department of Labor
317 Main St.
Boise, ID 83735
Fax # (208) 334-6430

TEXT OF DOCKET NO. 09-0135-9802

IDAPA 09
TITLE 01
Chapter 35

09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU

000. LEGAL AUTHORITY.

These rules are promulgated under the legal authority of Section 72-1333(2), Idaho Code. (7-1-98)T

001. TITLE AND SCOPE.

These rules shall be cited as IDAPA 09.01.35, "Rules of the Employer Accounts Bureau". These rules govern Department procedures and the rights and duties of employers under the Unemployment Insurance Program. (7-1-98)T

002. WRITTEN INTERPRETATIONS.

Explanations for rule changes are available for public inspection at the Idaho Department of Labor, 317 Main Street, Boise, Idaho, 83735. Brochures explaining various provisions of Idaho's Employment Security Law are also available at the above address. (7-1-98)T

003. ADMINISTRATIVE APPEALS.

Appeals shall be governed by the provisions of Sections 72-1361 and 72-1368, Idaho Code and IDAPA 09.01.06, "Rules of the Appeals Bureau". (7-1-98)T

004. -- 010. (RESERVED).

011. GENERAL PROVISIONS.

The following Rules for Employer Contributions are adopted pursuant to Section 72-1333(2), Idaho Code. (7-1-98)T

01. Quarterly Reporting. Subject employers shall report all wages paid for services in covered employment each calendar quarter. Ref. Sec. 72-1337, Idaho Code. (7-1-98)T

02. Contribution Due Date. Contributions are due on or before the last day of the month following the calendar quarter except if the last day of the month falls on a weekend or holiday, in which case the next workday is the due date. Ref. Sec. 72-1349, Idaho Code. (7-1-98)T

03. Penalties And Interest On Bankruptcy. Penalty and/or interest shall not be assessed on amounts covered in the Department's Proof of Claim with the Bankruptcy Court for the period after the filing date of the Bankruptcy Petition and ending with the conclusion of bankruptcy proceedings and distribution of assets. Post petition penalty and interest shall be compromised, provided the amount due is paid in full by a date established after the termination of the bankruptcy proceedings. Ref. Sec. 72-1356, Idaho Code. (7-1-98)T

04. Late Penalty. Penalty shall be calculated on the unpaid balance for any amount not secured by a lien. Ref. Sec. 72-1354, Idaho Code. (7-1-98)T

05. Lien Interest. Lien interest on a delinquent account shall be assessed against the remaining unpaid balance computed from the day following the recording of a tax lien, at a rate established by law. (See Section 056.) Ref. Sec. 72-1360, Idaho Code. (7-1-98)T

06. Penalty And Interest During Controversy. Penalty and/or interest shall be compromised for periods when a valid controversy exists if amounts determined to be due are paid in full by a date established at the conclusion of the issue. Ref. Sec. 72-1354 and 72-1360, Idaho Code. (7-1-98)T

07. Confidential Information. Information obtained from an employer shall be held as confidential and shall not be released without the consent of the employer except as provided in IDAPA 09.01.08, "Rules of Disclosure

of Information," Section 011, or when disclosure is necessary for collection of any amount due under the employment security law, or as otherwise provided by law or these rules. Ref. Sec. 9-340 and 72-1342, Idaho Code. (7-1-98)T

08. Employer Protest Or Appeal. A protest or appeal may be filed by an employer or his authorized representative. Ref. Sec. 72-1361, Idaho Code. (7-1-98)T

09. Request For Special Redetermination. A request for a special redetermination shall be in writing, signed by an interested party or representative. It must include an explanation as to why the protesting party disagrees with the original determination. The request may be delivered in person or mailed to the Department of Labor. A request for redetermination delivered in person shall be considered filed when received by a representative of the Department of Labor. A request for redetermination that is mailed shall be considered filed as of the date of the postmark on the envelope. A denial of a request for a special redetermination may not be appealed. Ref. Sec. 72-1368, Idaho Code. (7-1-98)T

10. Determination Of Payment Date. Each amount shall be deemed to have been paid on the date that the Department receives payment thereof in cash or by check or other order for the payment of money honored by the drawer on presentment; provided, that if sent through the mail, it shall be deemed to have been paid as of the date mailed as determined by the postmark on the envelope containing same, or the date of the check in lieu of a postmark. Provided further, that in the case of payments received by means of garnishment, execution, or levy, the amount received shall be deemed to have been paid as of the date that the order of garnishment, execution, or levy is served. Ref. Sec. 72-1349, Idaho Code. (7-1-98)T

11. Release Of Lien Upon Payment In Full. An amount secured by a lien shall be deemed to be satisfied when payment in full is received by the Department in the form of cash, money order, or other certified funds, or proof presented that a check or other negotiable instrument has been honored by its drawer upon presentment. Ref. Sec. 45-1908, Idaho Code. (7-1-98)T

12. Contribution Reports. Each contribution shall be accompanied by an employer's contribution report in a form or medium prescribed and furnished or approved for such purpose, giving such information as may be required, including number of individuals employed and wages paid or payable to each, which must be signed or furnished by the covered employer or, on his behalf by someone having personal knowledge of the facts therein stated, and who has been authorized by the covered employer to submit the information. Ref. Sec. 72-1349, Idaho Code. (7-1-98)T

012. -- 039. (RESERVED).

040. COMPROMISE OF PENALTY.

Pursuant to Section 72-1354, Idaho Code, the Director or his authorized representative may, for good cause shown, compromise the amount of penalties owed on an employer account. An employer shall submit a request in writing for compromise of penalties, setting forth the reason(s) for the delinquency, and attaching any available evidence supporting the request. (7-1-98)T

01. Good Cause. An employer has good cause for the failure to timely pay contributions when, in the opinion of the Director or his authorized representative, the employer has established that one (1) of the following criteria has been met: (7-1-98)T

a. The reason for the delinquency was beyond the reasonable control of the employer. Examples of circumstances that are beyond the reasonable control of the employer include, but are not limited to, the following: (7-1-98)T

i. Departmental error, including but not limited to providing incorrect information to the employer or not furnishing proper forms in sufficient time to permit timely payment of contributions; (7-1-98)T

ii. Death or serious illness or injury of the employer or the employer's accountant or members of their immediate families; (7-1-98)T

iii. Destruction by fire or other casualty of the employer's place of business or business records; or

(7-1-98)T

iv. Postal service delays.

(7-1-98)T

b. The delinquency was due to circumstances for which the imposition of penalties would be inequitable. (7-1-98)T

c. Good cause is also established in the case of an employer who has never received a status determination, who has never paid any contributions to the director, and the failure to pay contributions was due to the employer's good faith belief that the employer was not a covered employer pursuant to the provisions of Idaho Employment Security Law. Ref. Sec. 72-1354, Idaho Code. (7-1-98)T

041. -- 050. (RESERVED).

051. ROUNDING WAGES REPORTED ON CONTRIBUTION REPORT TO NEXT LOWER DOLLAR AMOUNT.

The total wages and taxable wages shown on the contribution report which are to be used in computing contributions due shall be reduced to the next lower dollar amount. Ref. Sec. 72-1349, Idaho Code. (7-1-98)T

052. -- 055. (RESERVED).

056. APPLICATION OF PAYMENTS ON DELINQUENT ACCOUNTS.

Whenever and if a delinquency exists in the account of an employer, and payment in an amount less than the total delinquency is submitted to the Department upon said account, the Department shall, unless other arrangements have been made and approved by the Department, apply payment as follows: (7-1-98)T

01. First Application. First, credit such payment in satisfaction of interest due for the calendar quarter or period most delinquent in point of time; (7-1-98)T

02. Second Application. Next, credit the remainder of such payment in satisfaction of penalty due for such calendar quarter or period most delinquent in point of time; (7-1-98)T

03. Third Application. Next, credit the remainder of such payment in satisfaction of contributions due for the calendar quarter or period most delinquent in point of time; (7-1-98)T

04. Subsequent Applications. Such applications shall be applied in a like manner for each remaining delinquent quarter until the amount of payment is exhausted. Ref. Sec. 72-1354, Idaho Code. (7-1-98)T

057. -- 060. (RESERVED).

061. DEFINITIONS.

The definitions listed in IDAPA 09.01.35, "Rules of the Employer Accounts Bureau," Section 011 and the following are applicable to this Bureau. (7-1-98)T

01. Tolerance Amount. A tolerance of four dollars and ninety-nine cents (\$4.99) is established in connection with collection of amounts due; and under normal circumstances, no delinquency or credit will be issued or carried on the books of accounts for this amount or less. Ref. Sec. 72-1349, Idaho Code. (7-1-98)T

02. Wages. The term "wages" includes all remuneration from whatever source, paid or given in exchange for services performed or to be performed, including the cash value of remuneration in any medium other than cash. "Wages" in covered employment, and subject to unemployment insurance reporting, include, but are not limited to: (7-1-98)T

a. Commissions, bonuses, draws, distributions, dividends and any other forms or types of payments made by corporations, limited liability companies, or other similar entities if paid in exchange for services; (7-1-98)T

b. Bonuses, prizes, and gifts given to an employee in recognition of services, sales, or production;

- (7-1-98)T
- c. Commissions for past services in covered employment; (7-1-98)T
 - d. Remuneration paid to corporate officers, members and managers of a limited liability company, which is paid in exchange for services performed or to be performed for or on behalf of the corporation, or limited liability company; (7-1-98)T
 - e. Salary advances against commissions; (7-1-98)T
 - f. All forms of profit sharing for services rendered unless specifically exempt under Section 72-1328, Idaho Code; (7-1-98)T
 - g. Excess travel or employer business allowances over actual expense, or over the federal allowance per diem rate for the area of travel, unless returned to the employer; (7-1-98)T
 - h. Vacation or "idle-time" pay, no matter when paid; (7-1-98)T
 - i. Personal expense reimbursement, not gifts, i.e., clothing, family expenses, rent. (7-1-98)T
 - j. The director or his authorized representative shall determine the fair market value of any other remuneration, regardless of its classification, form, or label, which is paid to a worker in exchange for services. In making such determination, consideration will be given to the prevailing wage for similar services. Ref. Sec. 72-1328, Idaho Code. (7-1-98)T
03. Exclusions From Wages. The term "wages" described in Section 72-1328, Idaho Code, does not include the following: (7-1-98)T
- a. Prizes or gifts for special occasions which are expressions of good will; (7-1-98)T
 - b. Bonuses paid for signing a contract; (7-1-98)T
 - c. Fees paid to participate periodically in meetings of boards of directors unless exceedingly high; i.e., amounts comparable to other employers in the same industry, of relatively the same size; (7-1-98)T
 - d. Drawings or advances by partners against the distribution of profits; (7-1-98)T
 - e. Rental charge for personal equipment provided by the employee on the job, if: (7-1-98)T
 - i. There is a rental agreement; and (7-1-98)T
 - ii. The worker has received a reasonable wage for services performed; and (7-1-98)T
 - iii. The fees are held separately on the employer's records. (7-1-98)T
 - f. Stock or membership interests issued for purposes other than services performed or to be performed; (7-1-98)T
 - g. Reimbursement for actual employee expense, or business allowance arrangements with employees that requires them: (7-1-98)T
 - i. To have paid or incurred reasonable job related expenses while performing services as employees; and (7-1-98)T
 - ii. To account adequately to the employer for these expenses; and (7-1-98)T
 - iii. To return any excess reimbursement or allowance. (7-1-98)T

- h. Payments for employee travel expenses, provided: (7-1-98)T
- i. Payments are job related expenses while performing services; and (7-1-98)T
- ii. Payments do not exceed actual expenses or the federal allowance per diem rate for the area of travel; and (7-1-98)T
- iii. Records for days of travel pertaining to per diem payments are verifiable. (7-1-98)T
- i. Employee fringe benefits as set forth in Section 132 of the Internal Revenue Code, which are excluded from an employee's gross income and which are not subject to federal unemployment taxes. (7-1-98)T

062. -- 080. (RESERVED).

081. EMPLOYER RECORDS.

Each person hiring one (1) or more individuals, whether or not such employment is sufficient to create the status of a covered employer, shall establish and maintain records to show the information hereinafter indicated. Such records shall be kept for a period of three (3) years after the calendar year in which the remuneration was due. Ref. Sec. 72-1337, Idaho Code. (7-1-98)T

- 01. Required Information. Such records shall show with respect to each employee unless the Department has ruled that his services do not constitute covered employment: (7-1-98)T
 - a. Full name and home address of worker; (7-1-98)T
 - b. Social Security account number; (7-1-98)T
 - c. His place of work within this State; (7-1-98)T
 - d. Date on which employee was hired, rehired, or returned to work after temporary or partial layoff; (7-1-98)T
 - e. Date employment was terminated; whether the termination occurred by voluntary action of the individual and the reason given, or by discharge or death, and the reason for discharge; (7-1-98)T
 - f. Wages paid for employment in each pay period and total wages for all pay periods ending in each quarter of the year, showing separately: (7-1-98)T
 - i. Money wages; (7-1-98)T
 - ii. The cash value of other remuneration; and (7-1-98)T
 - iii. The amount of all bonuses or special commissions. (7-1-98)T
- 02. Special Remuneration. Any special remuneration paid for services performed in more than one quarter (1/4) of the year, such as annual commissions or bonuses, gifts and prizes, showing separately: (7-1-98)T
 - a. Money payments; and (7-1-98)T
 - b. The cash value of other remuneration and the nature thereof. (7-1-98)T
- 03. Travel Or Employee Business Expenses. Amounts paid to employees as allowances or reimbursement for travel and employee business expenses and the amounts of such expenditures actually incurred and accounted for by them. (7-1-98)T
- 04. Records To Be Made Available. The records to be made available to the director or his authorized

representative, in accordance with the provisions of Section 72-1337, Idaho Code, shall include all of the business records, such as journals, ledgers, time books, minute books, or any other records or information which would tend to establish the existence of and/or amounts paid for services performed, whether or not in covered employment, and for information necessary to assist in or enable collection efforts. (7-1-98)T

082. -- 095. (RESERVED).

096. EMPLOYER STATUS REPORT.

01. Status Report. Each employer shall report on such form or forms as may be prescribed and furnished, such information as may be necessary to make an initial or subsequent determination of his status under the Idaho Code. Said reports shall be signed by the person making the same if he is the employer, or on behalf of the employer by his duly authorized representative for such purpose. Ref. Sec. 72-1337, Idaho Code. (7-1-98)T

02. Exceptions. The provisions of this Rule shall not apply to any employer for whom the services performed do not, by virtue of the provisions of Section 72-1316, Idaho Code, constitute covered employment, except that the director reserves the right, in his discretion, to require any such employer at any time to make the reports mentioned in Section 096 of this Rule. Ref. Sec. 72-1337, Idaho Code. (7-1-98)T

097. -- 105. (RESERVED).

106. CLAIMS OF EXEMPTION.

Any employer claiming that services performed for him or remuneration paid by him does not constitute covered employment or covered wages, as defined in Section 72-1316 and 72-1328, Idaho Code, shall make a report to the Department of Labor of all pertinent facts upon which said claim is based, which report shall be signed by the person making the claim, if he be the employer, or on behalf of the employer by an authorized representative. Ref. Sec. 72-1337, Idaho Code. (7-1-98)T

107. REMUNERATION PAID CONSTITUTES BOTH TAXABLE WAGES AND EXCLUDED AMOUNTS.

When remuneration paid includes payment for other than wages for services performed in covered employment, the employer's records must account for wages and other remuneration separately. When this distribution is not shown on the records, the employee's entire remuneration will be deemed to be wages. Ref. Sec. 72-1337, Idaho Code. (7-1-98)T

108. -- 110. (RESERVED).

111. SERVICES PERFORMED PART IN COVERED EMPLOYMENT AND PART IN EXCLUDED EMPLOYMENT.

When wages paid cover services performed both in covered employment and excluded employment, the employer's records must show the hours and wages for covered employment and also hours and wages for excluded employment. When this distribution is not shown on the records, the employee's entire wage will be deemed to have been earned in covered employment. Ref. Sec. 72-1337, Idaho Code. (7-1-98)T

112. DETERMINING STATUS OF WORKER.

01. Determining If Worker Is An Employee. In making a determination as to whether a worker is performing services in covered employment, it shall be determined whether the worker is an employee. To determine whether a worker is an employee, the following factors shall be considered: (7-1-98)T

a. The way in which the business entity represented its relationship with the worker prior to the investigation or litigation, including representations to the Internal Revenue Service; (7-1-98)T

b. Statements made to the department; (7-1-98)T

c. Method of payment to the worker, in particular whether federal, state, and FICA taxes are withheld from paychecks; and (7-1-98)T

- d. Whether life, health, or other benefits are provided to the worker at the business entity's expense. (7-1-98)T

02. **Determining If Worker Is An Independent Contractor.** If it cannot be determined that a worker is an employee pursuant to Subsection 112.01 above, then a determination shall be made whether the worker is an "independent contractor" pursuant to the terms of Section 72-1316(4), Idaho Code. For the purposes of that section and these rules, an independent contractor is a worker who meets the requirements of both Sections 72-1316(4)(a) and (b), Idaho Code. (7-1-98)T

03. **Proving Worker Is Free From Control Or Direction In His Work.** To meet the requirement of Section 72-1316(4)(a), Idaho Code, it must be proven that a worker has been and will continue to be free from control or direction in the performance of his work, both under his contract of service and in fact. The following factors shall be considered in this determination: (7-1-98)T

- a. Whether the alleged employer has control over: (7-1-98)T
- i. The details of the work; (7-1-98)T
 - ii. The manner, method or mode of doing the work; and (7-1-98)T
 - iii. The means by which the work is to be accomplished, but without reference to having control over the results of the work. (7-1-98)T
- b. The freedom from direction and control must exist in theory (under a contract of service) and in fact; (7-1-98)T
- c. The employer must demonstrate that it lacked a right to control the worker; and (7-1-98)T
- d. Whether either of the parties could summarily terminate or be terminated during the progress of the work without resulting contractual liability or rights. (7-1-98)T

04. **Proving Worker Is Engaged In Independently Established Business.** To meet the requirement of Section 72-1316(4)(b), Idaho Code, it must be proven that a worker is engaged in an independently established trade, occupation, profession or business. The following factors shall be considered in this determination: (7-1-98)T

- a. Skills, qualifications, and training required for the job; (7-1-98)T
- b. Method of payment, benefits, and tax withholding; (7-1-98)T
- c. Right to negotiate agreements with other workers; (7-1-98)T
- d. Right to choose sales techniques or other business techniques; (7-1-98)T
- e. Right to determine hours; (7-1-98)T
- f. Existence of outside businesses or occupations; (7-1-98)T
- g. Special licensing or regulatory requirements for performance of work; (7-1-98)T
- h. Whether the work is part of the employer's general business; (7-1-98)T
- i. The nature and extent of the work; (7-1-98)T
- j. The term and duration of the relationship; (7-1-98)T
- k. The control of the premises; (7-1-98)T

- l. Whether the worker has the authority to hire subordinates; (7-1-98)T
- m. Whether the worker owns or leases major items of equipment or incurs substantial unreimbursed expenses, provided, that in a case where a worker leases major items of equipment from the alleged employer: (7-1-98)T
 - i. The terms of the lease; and (7-1-98)T
 - ii. The actions of the parties pursuant to those terms must be commercially reasonable as measured by applicable industry standards. (7-1-98)T
- n. Whether either party would be liable to the other party upon peremptory or unilateral termination of the business relationship; and (7-1-98)T
- o. Other factors which, viewed fairly in light of all the circumstances in a given case, may indicate the existence or lack of an independently established trade occupation, profession or business. (7-1-98)T

05. Meeting Criteria For Covered Employment. A worker who meets one (1), but not both, of the tests in Subsections 112.03 and 112.04 above shall be found to perform services in covered employment. (7-1-98)T

06. Evidence Of Contractual Liability For Termination. For purposes of making a determination under Section 72-1316(4), Idaho Code, and this rule, the party alleging that summary termination by either party would result in contractual liability must present some evidence upon which to base such allegation. Ref. Sec. 72-1316(4), Idaho Code. (7-1-98)T

113. -- 130. (RESERVED).

131. FARM COMMODITY OWNERSHIP.

In determining if the farm operator-processor produced more than fifty percent (50%) of the commodities being processed, the following shall apply: (7-1-98)T

01. Quantity. It will be determined on a quantity basis where the farm operator processes only one (1) commodity. (7-1-98)T

02. Wages. It will be determined on the basis of the relationship between wages paid for processing commodities raised by the farm operator-processor and total wages paid for processing where the farm operator processes several commodities. Wages paid for processing each commodity will be determined. The proportionate share of such wages paid for processing that portion of the commodity raised by the farm operator-processor will be ascertained on the basis of the percentage of such commodity which was produced by the farm operator. This will be done for each commodity processed so as to ascertain total wages paid for processing commodities produced by the farm operator-processor. If such total is more than fifty percent (50%) of the total wages paid for processing all commodities, the activity will be exempt but if it is fifty percent (50%) or less, it will not be exempt. Ref. Sec. 72-1304, Idaho Code. (7-1-98)T

132. STATUS.

01. Status Information Required. To determine the taxable status of an employer, detailed information regarding the business activities of any person engaged in business in Idaho shall be submitted as required, including articles of incorporation, articles of organization, minutes of boards of directors, financial reports, partnership agreements, number of employees, wages paid, employment contracts, income tax records, and any other records or other information which may tend to establish such person's status. Ref. Sec. 72-1337, Idaho Code. (7-1-98)T

02. Notification To Liable Employers. Employers who are determined liable for contributions shall be notified by letter of their status as a covered employer. The employer's appeals rights to the determination shall also be explained in the letter. Ref. Sec. 72-1353 and 72-1361, Idaho Code. (7-1-98)T

03. Status Determination. A formal determination of status shall be prepared if an employer questions his liability. This status determination shall state the received facts and arrive at a logical conclusion based on these facts and precedent appeals decisions or legal opinions. Ref. Sec. 72-1353, Idaho Code. (7-1-98)T

04. Ineligible To Assume Experience Rating Record. Upon the determination that the successor to a business is ineligible to assume the predecessor's experience rating, a formal determination to this effect, explaining the reason for the decision and outlining the appeal rights, shall be mailed to that employer. Ref. Sec. 72-1351, Idaho Code. (7-1-98)T

05. Employer Quarterly Report Forms. Employers who are liable to pay tax contributions, or who have elected a cost reimbursement option in lieu of tax contributions, shall submit quarterly report forms in any form or medium designated by the director or his authorized representative. Ref. Sec. 72-1333, Idaho Code. (7-1-98)T

06. Update Requirements. Covered employers shall furnish the Department with pertinent status data when new or additional information is available. Ref. Sec. 72-1337, Idaho Code. (7-1-98)T

133. -- 165. (RESERVED).

166. FIELD OPERATIONS CONTROL.

When circumstances dictate, and as a result of nonpayment of liabilities, the employer shall be notified by mail to his last known address of lien proceedings against his interests, with an explanation of the amounts due, and the accrual of interest at the proper rate until the lien is satisfied. Ref. Sec. 72-1360, Idaho Code. (7-1-98)T

01. Execution Against Assets. The Department of Labor, when the situation warrants, shall levy upon or execute against any real or personal property, both tangible and intangible, in which an indebted person has an interest, including any offsets, as allowed by Section 67-1026, Idaho Code. Ref. Sec. 72-1360, Idaho Code. (7-1-98)T

02. Frequency Of Audits. The frequency of audits of an employer's payroll records shall be determined by the size and scope of the employer's operation and the number of errors discovered in previous audits. Ref. Sec. 72-1337, Idaho Code. (7-1-98)T

03. Notification Of Audits. Employers shall be notified as soon as practicable of an impending payroll records audit for tax liability purposes. This shall allow time in which to agree as to a convenient time and place for audit. Ref. Sec. 72-1337, Idaho Code. (7-1-98)T

04. Statute Of Limitations. In the absence of fraudulent practices, the department shall not audit an employer's records for a period greater than three (3) years for purposes of establishing a tax liability. The three (3) year period shall be determined by, and extend three (3) years back from, the date that the employer is notified, orally or in writing by any representative of the department, of an intent to perform an audit of the records, and shall be deemed to include every quarter which, in whole or in part, falls within the three (3) year period. This statute of limitations shall not apply in any case in which an employer has engaged in fraudulent practice: (7-1-98)T

a. The three (3) year statute of limitations is tolled for any period in which the employer does not reside within the state. (7-1-98)T

b. If the employer or his representative acknowledges the indebtedness or makes a partial payment thereon, the statute of limitations shall be extended an additional three (3) years from the date of such payment or acknowledgment. (7-1-98)T

c. Administrative proceedings for collection of taxes from subject employers shall be instituted within five (5) years from the date that a subject employer receives notice that he owes any amount to the department. (7-1-98)T

d. The time limits contained in Subsection 166.04.c. shall not apply once a tax liability is recorded as a lien against the property of an employer. (7-1-98)T

05. Relief Of Indebtedness. Neither the full running of the statute of limitations nor the writing off of

the account as uncollectable relieves an employer of tax indebtedness. Ref. Sec. 72-1364, Idaho Code. (7-1-98)T

167. -- 185. (RESERVED).

186. ACCOUNTING AND DELINQUENCY CONTROL.

Overpayments on employer accounts may be refunded without written application by the employer. Credits resulting from overpayments or adjustments to an employer's account shall be refunded periodically unless such credit is applied to a subsequent balance due. Ref. Sec. 72-1357, Idaho Code. (7-1-98)T

01. Erroneous Wage Reports. An employer submitting an erroneous report of employee wages resulting in payment of unearned unemployment insurance benefits shall have said benefit payments subtracted from any refund due that employer, if such employer benefited from the unearned benefit payments. Ref. Sec. 72-1333, Idaho Code. (7-1-98)T

02. Notification Of Underpayments. Employers shall be notified periodically of any taxes, penalties, or lien interest due on their tax account. Ref. Sec. 72-1349, Idaho Code. (7-1-98)T

03. Cancellation Of Refund Warrants. Refund warrants, outstanding after the validity date, shall be canceled, stop-payment procedures initiated, and then reissued only upon completion of an affidavit for the replacement of the lost or destroyed warrant. Ref. Sec. 72-1333, Idaho Code. (7-1-98)T

187. -- 220. (RESERVED).

221. TRANSFER OF EXPERIENCE RATING.

Upon request, employers shall be informed of the requirements for transferring an experience rating record. Employers will be notified of any changes in rating, occurring as a result of transfers. A status determination will be issued to interested parties when an experience rating record transfer request is denied. Ref. Sec. 72-1351, Idaho Code. (7-1-98)T

01. Mandatory Transfer Of Deficit Rate. An experience rating record transfer shall be mandatory if: There is a continuity of ownership or management between the predecessor and successor, and the predecessor covered employer had a deficit experience rating record as of the last computation date. The parties in interest shall be notified of such transfer of deficit experience as determined from the facts applicable to the case. Such determination may be appealed as provided in Ref. Sec. 72-1351, 72-1361, Idaho Code. (7-1-98)T

02. Continued Predecessor Employment For Liquidation. When a total transfer of experience rating record has been completed and it is found that the predecessor employer continues to have employment in connection with the liquidation of his business, such employer shall continue to pay contributions at the assigned rate for the period of liquidation but not to extend beyond the balance of the rate year. Ref. Sec. 72-1351, Idaho Code. (7-1-98)T

03. Management To Ownership Unchanged. For the purposes of Sections 72-1351(4)(a) and (b), Idaho Code, management and/or ownership shall be considered substantially the same if at least fifty percent (50%) of the business enterprise of the successor is owned or controlled by individuals who, immediately preceding the change in the legal entity, owned or controlled fifty percent (50%) or more of the enterprise. Ref. Sec. 72-1351, Idaho Code. (7-1-98)T

222. -- 230. (RESERVED).

231. EXPERIENCE RATING - QUALIFYING PERIOD.

When an eligible employer ceases to have covered employment for a period of six (6) consecutive quarters or more, he must complete another qualifying period in order to again be eligible for consideration for a reduced contribution rate. Ref. Sec. 72-1319, Idaho Code. (7-1-98)T

232. -- 240. (RESERVED).

241. BOARD, LODGING, MEALS.

When board, lodging, meals, or any other payment in kind considered as payment for services performed by an

employee constitute a part of wages or wholly comprise an employee's wages, the value of such board, lodging, or other payment shall be determined as follows: (7-1-98)T

01. Cash Value. If a cash value for such board, lodging, or other payment is agreed upon in any contract of hire, the amount so agreed upon shall be used provided it is reasonable value. If there is no agreement, or if the contract of hire states an amount less than reasonable value, the Department of Labor shall determine the reasonable value to be used. In no event shall the value used be less than the value listed below. Ref. Sec. 72-1328, Idaho Code.

Full Board and Room, weekly	\$90.00
Meals per week	\$60.00
Meals per meal	\$ 3.00
Lodging per week	\$30.00
Lodging per day	\$ 4.50

(7-1-98)T

02. Meals And Lodging Not Included In Gross Wages. The value of meals and lodging furnished by an employer to his employee will not be included in the employee's gross income if it meets the following tests: (7-1-98)T

a. The meals or lodging are furnished on the employer's business premises; (7-1-98)T

b. The meals or lodging are furnished for the employer's convenience; and (7-1-98)T

c. In the case of lodging (but not meals), the employees must be required to accept the lodging as a condition of their employment. This means that they must accept the lodging to allow them to properly perform their duties. In addition, in order to exclude the value of lodging from an employee's gross wages, the employer must show that the wages paid to the employee for services performed meets the prevailing wage for those services. If the employer's records do not show or establish that the employee received the prevailing wage for services performed, then the reasonable or fair market value of the lodging will be included in the employee's gross income as wages. Ref. Sec 72-1328, Idaho Code. (7-1-98)T

03. Meals Or Lodging For Employer Convenience. Meals or lodging furnished will be considered for the employer's convenience if the employer has a substantial business reason other than providing additional pay to the worker. A statement that the meals or lodging are not intended as pay is not enough to prove that either meals or lodging are furnished for the employer's convenience. Ref. Sec. 72-1328, Idaho Code. (7-1-98)T

04. Subsistence Remuneration. In the case of employees who receive remuneration in the form of subsistence, such as groceries, staples, and fundamental shelter, the fair value of such subsistence will be determined by the Director. Ref. Sec. 72-1328, Idaho Code. (7-1-98)T

242. -- 255. (RESERVED).

256. DETERMINATION OF FAIR VALUE OF REMUNERATION FOR PERSONAL SERVICES.

When the amount paid to an employee by an employer includes remuneration for other than personal services such as equipment use, travel costs, etc., the Director shall determine the fair value of the remuneration for the employee's personal services. In making such determination, the Director shall consider the wages specified in the contract of hire, the prevailing wages for similar work under comparable conditions, and other pertinent factors. The wages so determined by the Director shall be reported by the employer. Ref. Sec. 72-1328, Idaho Code. (7-1-98)T

257. -- 261. (RESERVED).

262. DETERMINATION OF PROPER QUARTER IN WHICH TO ASSIGN AND REPORT WAGES.

01. Wage Assignment To Proper Calendar Quarter. Wages shall be assigned to the calendar quarter in which the wages were: (7-1-98)T

a. Actually paid to the employee in accordance with the employer's usual and customary payday as established by law or past practice; (7-1-98)T

b. Due the employee in accordance with the employer's usual and customary payday as established by law or past practice but not actually paid on such date because of circumstances beyond the control of the employer and/or the employee; and (7-1-98)T

c. Not paid on the usual or customary payday as established by law or past practice but set apart on the employer's books as an amount due and payable or otherwise recognized as a specific and ascertainable amount due and payable to the worker in accordance with an agreement or contract of hire under which services were rendered. Ref. Sec. 72-1367, Idaho Code. (7-1-98)T

02. Draws And Advances On Wages. Payments to employees made prior to regular or established paydays will be assignable and reportable during the quarter in which they would have been paid unless a practice is established whereby all employees or a class of employees are given an opportunity to take a "draw" by which such action, another "regular" payday appears to have been created. (7-1-98)T

03. Judgments Of Wages. Amounts received as a result of labor relations awards or judgments for back pay, or for disputed wages, constitute wages and will be assigned to the quarter or quarters in which the employer would have reported such wages or as stipulated in the award or judgment. Ref. Sec. 72-1328, Idaho Code. (7-1-98)T

04. Awarded Damages Against Employers. Amounts awarded to the claimant as a penalty or damages against the employer, other than for lost wages, do not constitute wages. Ref. Sec. 72-1328, Idaho Code. (7-1-98)T

263. -- 274. (RESERVED).

275. UI DELIVERY SYSTEMS.

The Department of Labor shall be responsible for analyzing, designing, testing, and assisting in implementing new and improved UI delivery systems for claimants and employers. Ref. Sec. 72-1333, Idaho Code. (7-1-98)T

01. Testing. The testing of new or improved UI delivery systems in Idaho shall be accomplished at various selected locations with selected claimants and/or employers as pilot projects. Ref. Sec. 72-1333, Idaho Code. (7-1-98)T

02. Inclusion In Testing Or Development. The development or testing of a UI delivery system shall not necessarily include all claimants or employers at a location or at all locations serving the public. Ref. Sec. 72-1333, Idaho Code. (7-1-98)T

03. Advisement Of Changes. All claimants and employers included in a test system shall be advised of any changes which may occur and which may affect their eligibility for benefits or the amount of taxes which they must pay. Ref. Sec. 72-1333, Idaho Code. (7-1-98)T

276. -- 999. (RESERVED).

IDAPA 09 - DEPARTMENT OF LABOR
09.05.01 - RULES GOVERNING WAGE COLLECTION PROCEEDINGS
DOCKET NO. 09-0501-9801
NOTICE OF TEMPORARY AND PROPOSED RULES

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

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency proposed rule-making. This action is authorized pursuant to Section 72-1333(2), Idaho Code, and Title 67, Chapter 52, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 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: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

Repeal of IDAPA 09.05.01. The Administrative Rules governing the Wage Collection Proceedings of the Wage and Hour Section of the Department of Labor were superseded by operation of Idaho Code Section 67-5206(5)(a) and are no longer valid.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The repeal of this rule confers a cost savings benefit to the public and the State.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Kenneth R. Flatt, Labor Relations Supervisor, Department of Labor, (208) 332-7452.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this May 20, 1998.

Roger B. Madsen, Director
Department of Labor
317 Main Street
Boise, Idaho 83735
Fax: (208) 334-6430

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 09 - DEPARTMENT OF LABOR
09.05.02 - RULES GOVERNING PRACTICE AND PROCEDURE
BEFORE THE WAGE AND HOUR SECTION

DOCKET NO. 09-0502-9801

NOTICE OF TEMPORARY AND PROPOSED RULES

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

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency proposed rule-making. This action is authorized pursuant to Section 72-1333(2), Idaho Code, and Title 67, Chapter 52, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 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: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

Repeal of IDAPA 09.05.02. The Administrative Rules Governing Practice and Procedure Before the Wage and Hour Section of the Department of Labor were superseded by operation of Idaho Code Section 67-5206(5)(a) and are no longer valid.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The repeal of this rule confers a cost savings benefit to the public and the State.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Kenneth R. Flatt, Labor Relations Supervisor, Department of Labor, 208/332-7452.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this May 20, 1998.

Roger B. Madsen, Director
Department of Labor
317 Main Street
Boise, Idaho 83735
Fax: 208/334-6430

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT

11.04.01 - RULES GOVERNING HORSE RACING

DOCKET NO. 11-0401-9804

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective January 27, 1998.

AUTHORITY: In compliance with Section 67-5221(1), and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Section 54-2506, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 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: The following is a nontechnical explanation of the substance and purpose of the proposed rule making:

The proposed rule change will give occupational license applicants the option to purchase a three (3) year license.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Protection of the public health safety, or welfare and compliance with deadlines in amendments to governing law or federal programs.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because an open Commission Meeting was held on January 27, 1998 for discussion and voted on by the Commission.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the pending rule, contact Eugene O. "Jack" Baker, telephone (208) 884-7080.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 30th day of March, 1998.

Eugene O. "Jack" Baker
Executive Director
Idaho State Racing Commission
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7050
(208) 884-7090 (FAX)

TEXT OF DOCKET NO. 11-0401-9804

~~001.---003.~~ **(RESERVED).**

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 11.04.01, "Rules Governing Horse Racing," of the Idaho State Racing Commission. (1-27-98)T

02. Scope. All aspects of occupational licensing are addressed in these rules. This includes licensing for any person who takes part in or officiates in any way or serves in any capacity at any licensed race meet. (1-27-98)T

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(16)(b)(iv), Idaho Code, this agency has written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. The document is available for public inspection and copying at cost at the Idaho State Racing Commission, 700 South Stratford Drive, P.O. Box 700, Meridian, Idaho, 83642. (1-27-98)T

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal of the administrative appeals. (1-27-98)T

(BREAK IN CONTINUITY OF SECTIONS)

040. **LICENSES.**

01. Names of Proposed Officials. Thirty (30) days prior to the first day of a race meeting the licensee shall submit in writing to the Commission all names and personal data of proposed officials for processing for licensing. No official shall act until approved by the Commission. A Commission representative at the track will process substitutions. The required form will be provided by the Commission. (7-1-93)

02. Officials. Officials of a race meeting may include, but are not limited to, the following: Secretary, Stewards, Placing Judges, Patrol Judges, Paddock Judge, Starters, Mutuel Managers and Track Veterinarian. To avoid undue hardship the Commission may authorize Associations to allow officials other than Stewards to act in dual capacities. Stewards may act as Placing Judges and Timer. The Commission may require that additional officials be present at meets. (7-1-93)

03. Restrictions of Officials. A racing official appointed, or whose appointment is approved by the Commission, shall not, directly or indirectly, for a commission or gratuity or otherwise, sell or buy at private sale for himself or another any thoroughbred, purebred and/or registered horse or own any interest in a horse at a race meet where such person is an official; nor shall the official, directly or indirectly, buy or sell any contract upon any Jockey or apprentice for himself or another; nor shall the official write or solicit horse insurance. (7-1-93)

04. Age. No person under sixteen (16) years of age shall be employed or licensed in or about the track of an Association. (7-1-93)

05. Personnel Registered. The personnel of every stable and changes thereof shall be registered by the owner and/or Trainer with the Racing Commission. (7-1-93)

06. Age, Other. No person under eighteen (18) years of age will be licensed in any capacity unless properly endorsed by their parent or guardian, who assumes complete responsibility and liability for the acts of such minor and verifies the information contained in said minor's application. (7-1-93)

07. Registration with Racing Commission. Any person acting in an official capacity or any person

employed on a race track shall register with and be licensed by the Idaho State Racing Commission. (7-1-93)

08. Duplicate Licenses. In the event of the loss of a license, the Commission may issue a duplicate, the fee for which shall be five dollars (\$5). (7-1-93)

09. ~~Duration of License. Every license shall be for not more than on (1) year and shall expire on December 31 of each year. Individual Applicants Will Have the Option of a One or Three Year License. The license fee for a one (1) year license shall be the annual fee for each category in which the person is licensed, the fee for a three (3) year license shall be three (3) times the annual fee for each category in which the person is licensed. Individual licenses shall expire on December 31 of the year listed on their license. Association and stable licenses shall expire on December 31 of the year issued..~~ (7-1-93)(1-27-98)T

10. Temporary. All licenses are temporary when issued and subject to final approval by the Commission. (7-1-93)

11. Deny or Revoke. The Commission may deny or revoke a license to any person who shall have been refused a license by any other jurisdiction. (11-1-97)T

12. License Mandatory. It shall be unlawful for any person to take part in or officiate in any way or to serve in any capacity at any licensed race meet without first having secured a license. (7-1-93)

13. Finger Prints - Photograph. Every person holding a license to conduct pari-mutuel wagering in this State, and every person who is a member of an Association or Corporation holding such a license, and every person who is an officer or director of an Association or Corporation which holds such a license in any capacity connected to any extent with the pari-mutuel wagering business in this State, and all owners, Trainers, Jockeys, apprentices, grooms, exercise persons, managers, agents, platers, Veterinarians and like persons who actively participate in the racing activities of any such license holders, shall furnish the Commission on demand for its files his fingerprints and photograph, which fingerprints and photograph shall be taken at such time and places and in such manner as the Commission may from time to time direct and prescribe. (7-1-93)

14. No Dual Licenses. No dual licenses will be issued if, in the opinion of the Stewards or the Commission, there is a conflict of interest in holding more than one (1) license. (7-1-93)

15. License Application Forms. All applications for license to participate in racing shall be made to the Commission on forms supplied by the Commission. (7-1-93)

16. Submission of Applications. Applications for license filed by owners, Trainers, Jockeys, Jockey apprentices and agents must be submitted to the Board of Stewards. (7-1-93)

17. Approval. All applications for such licenses must be approved by the Board of Stewards before action will be taken by the Commission. (7-1-93)

18. Board of Stewards - Qualifications. Before approving an application for a license, it shall be the duty of the Board of Stewards individually and/or collectively to ascertain if the applicant is qualified as to ability, integrity and right to the license applied for. (7-1-93)

19. Appearance Before the Board of Stewards. In considering each application for a license the Board of Stewards may require the applicant, as well as his endorsers, to appear before them and show that said applicant is qualified to receive the license requested. Ability as well as integrity must be clearly shown by the applicant in order to receive recommendation for the granting of the license. (7-1-93)

20. Credentials. Any licensee who harbors anyone not so provided with credentials shall be immediately reported to the Stewards of the meeting so that they may make investigation thereof and report the fact to the Commission. (7-1-93)

21. Suspension. Any Racing Association, owner, Trainer or other licensee licensed by the Commission who shall employ an exercise person, groom or other employee who is not licensed by the Commission shall be

subject to suspension, fine or both. The extent of said suspension, fine or both, to be determined by the Board of Stewards. (7-1-93)

22. Additions Reported. All additions made to or changes in the list of employees of any Association must be reported promptly to the Commission in writing. (7-1-93)

23. Fee. Every Association conducting a race meet shall pay a fee of twenty-five dollars (\$25) for each day of racing, except as otherwise provided in Title 54, Chapter 25, Idaho Code. All other licensees shall pay annual fees set by the Commission. (7-1-93)

24. Registration. Each stable name must be duly registered with the Commission: (7-1-93)

a. The annual fee shall be specified by the Commission. (7-1-93)

b. In applying to race under a stable name, the applicant must disclose the identity or identities of the ownership interests involved. If a partnership or corporation is involved, the Rules governing partnerships or corporations must be complied with. (7-1-93)

c. Changes in identities must be reported immediately to and approval obtained from the Commission. (7-1-93)

d. A Trainer who is licensed owner or part owner may use a stable name as owner or part owner. However, no Trainer may be licensed as a Trainer other than in his legal name. (7-1-93)

e. Any person who has been registered under a stable name may at anytime cancel the registration after written notice to and approval of the Idaho State Racing Commission has been obtained. (7-1-93)

f. A stable name may be changed at anytime by registering a new stable name and by paying a fee as required above. (7-1-93)

g. A person cannot register a stable name which has been registered by any other person with an Association conducting a recognized meeting, or the Jockey Club (N.Y.) or with another racing authority. (7-1-93)

h. A person may not register as a stable name one which is the real name of any owner of race horses nor one which is the real or assumed name of any prominent person not owning race horses. (7-1-93)

i. A stable name shall be plainly distinguishable from that of other duly registered stable names. (7-1-93)

j. No more than one (1) stable name may be registered under the same name. The Commission may reject any name which is misleading to the public or unbecoming to the sport. (7-1-93)

k. All persons interested in a stable or operating thereunder, whether incorporated or not, shall be liable for all entry fees and penalties against the stable. If one (1) of such persons is suspended or refused a license, all the horses in such stable may be excluded from racing. (7-1-93)

25. Interest. All partnerships and the name and address of every individual having any interest in a horse, the relative proportions of such interest and the terms of any sale with contingencies of any lease or of any arrangement, must be signed by all the parties or by their authorized agents and be lodged at the office of the Board of Stewards before any horse which is a joint property or which is sold with contingencies or is leased can start in any race and all the partners, and each of them, shall be jointly and severally liable for all stakes and obligations. All statements of partnerships, of sales with contingencies, of leases or of arrangements, shall declare to whom winnings are payable (which must be the name of the nominator), in whose name the horse will run and with whom rests the power of entry or of declaration of forfeit. (7-1-93)

26. Emergencies. In case of emergency, authority to sign declarations of partnership may be given to the Board of Stewards by telegram promptly confirmed in writing. (7-1-93)

27. Part Owners. A part owner of any horse cannot assign his share or any part of it without the written consent of the other partners. This consent to be lodged with the Board of Stewards. (7-1-93)

28. Refusal. The Commission or its designate may refuse to issue a license and may revoke any license already issued to any person; (7-1-93)

a. Who has been convicted of any felony and whose civil rights have not yet been restored pursuant to Section 18-310(2), Idaho Code. (7-1-93)

b. Who is on probation, or parole for a conviction or withheld judgement for any felony. (7-1-93)

c. Who has made any material misrepresentation or false statement to the Commission or its agents in his application for license or otherwise, or who fails to answer any material question on any application for a license. (7-1-93)

d. Who is unqualified by age, skill, knowledge or ability to engage in the activities for which a license is required. (7-1-93)

e. Who fails to disclose the true ownership or interest in any or all horses as required by any application. (7-1-93)

f. Who is subject to exclusion or ejection from the racing enclosure or is within the classes of persons prohibited from participating in pari-mutuel wagering. (7-1-93)

g. Who has committed an act or acts demonstrating financial instability, intemperate habits or has a bad reputation for truth, honesty and integrity, or other similar conduct contrary to the best interest of racing. (7-1-93)

h. Who has been convicted of possession, use or sale of any narcotic, dangerous drug or marijuana if such conviction was a misdemeanor, within two (2) years prior to the date of making application for any license. (7-1-93)

i. Who is on probation or parole for a conviction or withheld judgement for misdemeanor possession, use or sale of any narcotic, dangerous drug or marijuana. (7-1-93)

j. Who is not permitted by law or statute to engage in the occupation for which the license is sought. (7-1-93)

k. Who has violated or who aids or abets or conspires with any person to violate any provision of the Rules or of Sections 54-2501 through 54-2516, Idaho Code. (7-1-93)

29. License Granted Upon Conditions. Every license to hold a meeting is granted upon the condition that the licensee shall accept, observe and enforce the Rules Governing Horse Racing. Furthermore, it shall be the duty of each and every officer to observe and enforce the Rules. The Commission may require background investigations, fingerprints and photographs of Association officers, stockholders or employees and of any license official. (7-1-93)

30. Applications for Succeeding Season. Applications for a license to conduct a race meeting during the next succeeding season must be filed with the Commission over the signature of an executive officer of the Association. The Commission shall set the application date. (7-1-93)

31. Racing Dates. Application for racing dates shall not commit the Commission to the granting of a license to conduct race meetings upon the dates requested. (7-1-93)

32. Refusal to Issue. The Commission may refuse to issue a license to conduct a race meeting when such refusal appears to be for the best interest of racing and of the public. The Commission will, in deciding upon applications for licenses, consider the following matters: (7-1-93)

- a. The opportunity for the sport to properly develop. (7-1-93)
 - b. The avoidance of competition with established tracks in Idaho. (7-1-93)
 - c. The extent of community support for the promotion and continuance of the tracks. (7-1-93)
 - d. The character and reputation of the persons identified with the undertaking. (7-1-93)
 - e. The general conditions and safety of the facilities. (7-1-93)
33. Not Transferable. No license or any part thereof shall be transferable or assignable without the consent of the Commission and said license shall not be valid for any racing days other than those set out therein. (7-1-93)
34. Laws and Rules. The Laws of Idaho and the rules promulgated the by Commission supersede the conditions of race or the regulations of a race meeting. (7-1-93)

IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT
11.07.04 - ENVIRONMENTAL AUDIT PROTECTION RULES
DOCKET NO. 11-0704-9801
NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency is adopting a temporary rule and proposing rule making. The rules for the Idaho Department of Law Enforcement, "Environmental Audit Protection Rules," IDAPA 11.07.04, are hereby repealed in their entirety.

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

Public Hearing(s) concerning the rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 1998.

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

DESCRIPTIVE SUMMARY: The Idaho Department of Law Enforcement has adopted temporary rules repealing the rules under IDAPA 11.07.04, Idaho Department of Law Enforcement Environmental Audit Protection Act, which required agencies with authority to enforce environmental laws to promulgate rules implementing the Act under Idaho Code, Section 9-810. These rules provided that Environmental Audit Reports be submitted by the Department of Law Enforcement and would be governed by the Environmental Audit Rules of the Department of Health and Welfare. This statute has become null and void. The rule, therefore, has no authority and must be repealed, as it is no longer enforceable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this repeal, contact R.A. Coulter, (208) 884-7050.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before July 22, 1998.

DATED this 19th day of May, 1998.

R.A. Coulter
Deputy Attorney General
Department of Law Enforcement
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7050 (208) 884-7090 (FAX)

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 13 - IDAHO FISH AND GAME COMMISSION
13.01.03 - PUBLIC USE OF THE LANDS OWNED OR CONTROLLED
BY THE DEPARTMENT OF FISH AND GAME

DOCKET NO. 13-0103-9801

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective May 25, 1998.

AUTHORITY: In compliance with Section 67-5226(1), Idaho Code, notice is hereby given this agency has adopted temporary rules. The action is authorized pursuant to Section(s) 36-104(b).

PUBLIC HEARING SCHEDULE: Public Hearing(s) concerning the rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 1998.

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of the supporting reasons for proposed rule-making:

To clarify length of stay restriction and regional supervisor authority.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Confers a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Tom Parker at (208) 334-2920.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 20th day of May 1998.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 South Walnut
PO Box 25
Boise, ID 83707
(208) 334-3715/FAX: (208) 334-3148

TEXT OF DOCKET NO. 13-0103-9801

100. PUBLIC USE RESTRICTIONS.

01. Activities Prohibited Without Director Authorization. Except as specifically approved by the Director as an exception or for administrative purposes, the following activities are PROHIBITED on all lands, waters, and roads under control or administration of the Department: (7-1-93)

- a. To enter, use, or occupy lands or water when said lands are posted against such entry, use, or occupancy. (7-1-93)
- b. To camp, park a vehicle and/or a trailer in any area posted against such use or to leave unattended a camp, vehicle, and/or trailer for more than forty-eight (48) hours or to camp or park a vehicle and/or trailer for more than ten (10) consecutive days in any thirty (30) day period in any designated area; except shorter periods may be set and posted for specific areas by the appropriate regional supervisor. (~~7-1-93~~)(5-25-98)T
- c. To operate any motorized vehicles, including snow machines, except on established roads. Operation of vehicles on established roads is prohibited when posted against such use. (7-1-93)
- d. To use floating devices, with or without motors, on any waters which are posted against such use. (7-1-93)
- e. To start a fire without taking necessary measures to prevent its spreading or to leave a fire unattended. All fires are prohibited in areas posted against their use. (7-1-93)
- f. To use any form of fireworks or explosives at any time. (7-1-93)
- g. To permit dogs or other domestic animals to run at large when the owner or guardian is not present to control or care for them. (7-1-93)
- h. To conduct dog field trials of any type during the period October 1 through July 31. (A specific permit from the Department is required to conduct any dog field trial during the period August 1 through September 30.) (7-1-93)
- i. To construct blinds, pits, platforms, or tree stands where the soil is disturbed, trees are cut or altered, and artificial fasteners, such as wire, rope, or nails are use. All blinds shall be available to the public on a "first-come - first-served" basis. (7-1-93)
- j. To release or abandon any domestic or exotic fish, birds, mammals, amphibians, or reptiles. (7-1-93)
- k. To adjust, open, close, tamper with, or manipulate in any manner, any diversion structure, headgate, flume, recorded or flow dock or any device for water control. This shall not be construed as limiting the powers of other agencies or irrigation districts as provided by statutory law or rule. (7-1-93)
- l. To discard dead fish, birds, animals, or parts thereof, human excrement, waste water, metallic cans, bottles, plastic or paper cartons, yard and agricultural wastes, garbage, machines, appliances, or other litter on or in any lands or waters. (7-1-93)
- m. To remove, destroy, mutilate, modify, or deface any building or other structure, water control device, fence, gate, poster, notice, sign, survey or section marker, or any object of archaeological, geological, or historical value or interest. (7-1-93)
- n. To discharge any firearm within, across, or into posted safety zones. (7-1-93)
- o. To leave decoys unattended. Decoys cannot be put in place any earlier than two (2) hours prior to official shooting hours for waterfowl and all decoys must be picked up and removed from the hunting site no later than two (2) hours after official shooting hours for waterfowl that particular day. (7-1-93)
02. Activities Prohibited Without Other Authorization. Unless specifically authorized by the Commission, or under lease, permit, contract, or agreement, issued by the Director, Regional Supervisor, or authorized agent, the following activities are PROHIBITED: (7-1-93)
- a. To disturb or remove any soils, gravel, or minerals. (7-1-93)

- b. To turn domestic livestock into, or allow said animals to graze or trail on or across Department lands, except riding and pack animals may be used in association with hunting and for recreational uses or as posted. (7-1-93)
- c. To cut, dig, or remove any crops, trees, shrubs, grasses, forbs, logs, or fuel wood. (7-1-93)
- d. To place, maintain, or store any beehives or bee boards. (7-1-93)
- e. To use lands for any commercial purpose. (7-1-93)
- f. To exercise or train any dogs in posted areas or during periods closed to such uses. In conjunction with authorized field trials, participants may train dogs in the designated area one (1) day prior to and one (1) day following the trial. (7-1-93)
- g. To prospect or drill for oil and gas on any state owned Wildlife Management Area or other property under the supervision of the Fish and Game Department. (7-1-93)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION
13.01.09 - RULES GOVERNING THE TAKING OF GAME BIRDS IN THE STATE OF IDAHO
DOCKET NO. 13-0109-9803

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective May 25, 1998.

AUTHORITY: In compliance with Sections 67-5226(1), Idaho Code, notice is hereby given this agency has adopted temporary rules. The action is authorized pursuant to Section(s) 36-104(b).

PUBLIC HEARING SCHEDULE: Public Hearing(s) concerning the rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 1998.

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of the supporting reasons for proposed rule-making:

Establishes upland game bird seasons for 1997-98 and 1998-99, and crane and early September Canada goose seasons for 1997-98.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Confers a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Gary Will at 208-334-2920.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 20th day of May 1998.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 South Walnut
PO Box 25
Boise, ID 83707
(208) 334-3715/FAX: (208) 334-3148

TEXT OF DOCKET NO. 13-0109-9803

600. PHEASANT SEASONS, BAG AND POSSESSION LIMITS.

The following seasons, bag and possession limits shall apply: (10-26-94)

01. Area 1. Area 1 includes Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties. (7-1-93)

- a. Area 1 annual season begins the second Saturday of October and lasts through December 31. (7-31-96)T
- b. Area 1 daily bag limit is three (3) cocks. (7-1-93)
- c. Area 1 possession limit after the first day of the season is six (6) cocks. (7-1-93)
02. Area 2. Area 2 includes Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Camas, Caribou, Cassia, Clark, Custer, Franklin, Fremont, Gooding, Jefferson, Jerome, Lemhi, Lincoln, Madison, Minidoka, Oneida, Power, Teton, and Twin Falls Counties. (7-1-93)
- a. Area 2 annual season begins at noon on the third Saturday of October and lasts ~~forty-four (44) days through November 30.~~ (10-26-94)
- b. Area 2 daily bag limit is three (3) cocks. EXCEPT Market Lake Wildlife Management Area and Mud Lake Wildlife Management Area in Jefferson County and Sterling Wildlife Management Area in Bingham County is two (2) cocks. (7-1-93)
- c. Area 2 possession limit after the first day of the season is six (6) cocks. EXCEPT Market Lake Wildlife Management Area and Mud Lake Wildlife Management Area in Jefferson County and Sterling Wildlife Management Area in Bingham County is four (4) cocks. (7-1-93)
03. Area 3. Area 3 includes Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, and Washington Counties (including all islands in the Snake River EXCEPT PATCH AND PORTER ISLANDS). (7-1-93)
- a. Area 3 annual season begins at noon (12:00 pm) on opening day, the third Saturday of October, and lasts ~~fifty-eight (58) days through December 31.~~ (10-26-94)(5-25-98)T
- b. Area 2 daily bag limit is three (3) cocks. EXCEPT Market Lake Wildlife Management Area and Mud Lake Wildlife Management Area in Jefferson County and Sterling Wildlife Management Area in Bingham County is two (2) cocks. (7-1-93)
- c. Area 2 possession limit after the first day of the season is six (6) cocks. EXCEPT Market Lake Wildlife Management Area and Mud Lake Wildlife Management Area in Jefferson County and Sterling Wildlife Management Area in Bingham County is four (4) cocks. (7-1-93)
- d. Area 3 possession limit after the first day of the season is six (6) cocks. EXCEPT Fort Boise Wildlife Management Area (including Gold Island) in Canyon County, C.J. Strike Wildlife Management Area in Owyhee County, Kennedy-Keifer segment of the Lower Payette River Wildlife Management Area in Payette County and Montour Management Area in Gem County is four (4) cocks. (7-1-93)
04. WMA Pheasant Permit. (10-26-94)
- a. Permit Requirement. Any person hunting for or having a pheasant in his or her possession on any of the Wildlife Management Areas listed in Subsections 600.02 and 600.03 must have a valid WMA Pheasant Permit in his or her possession. (10-26-94)
- b. Bag limit. The annual bag limit under this permit is ten (10) cocks. (10-26-94)
- c. Reporting. Any person issued a WMA Pheasant Permit must file a hunting report with the Department on a form prescribed by the Department not later than December 31 of the year that the permit is issued. (10-26-94)
05. Youth Pheasant Season. This season shall be open statewide. (5-25-98)T
- a. The Youth Pheasant Season begins on the first weekend of October and lasts two (2) days. In Areas

2 and 3 listed under this section, the season begins at noon. (5-25-98)T

b. The Youth Pheasant Season shall be open for all licensed hunters fifteen (15) years of age or younger. All youth hunters must be accompanied by an adult eighteen (18) years or older. (5-25-98)T

c. The Youth Pheasant Season daily bag is one (1) cock. (5-25-98)T

d. The Youth Pheasant Season possession limit after the first day of the season is two (2) cocks. (5-25-98)T

601. CHUKAR PARTRIDGE SEASONS, BAG AND POSSESSION LIMITS.

The following seasons, bag and possession limits shall apply: (10-26-94)

01. Area 1. Area 1 includes Ada, Adams, Benewah, Blaine, Boise, Bonner, Boundary, Camas, Canyon, Cassia, Clearwater, Elmore, Gem, Gooding, Idaho, Jerome, Kootenai, Latah, Lewis, Lincoln, Minidoka, Nez Perce, Owyhee, Payette, Shoshone, Twin Falls, Valley, and Washington Counties. (7-1-93)

a. Area 1 annual season begins the third Saturday of September and lasts through ~~December 31~~ ~~(10-26-94)~~ January 15. (5-25-98)T

b. Area 1 daily bag limit is eight (8). (7-1-93)

c. Area 1 possession limit after the first day of the season is sixteen (16). (7-1-93)

02. Area 2. Area 2 includes Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power, and Teton Counties. (7-1-93)

a. Area 2 annual season begins the third Saturday of September and lasts ~~eighty six (86) days through~~ ~~(10-26-94)~~ December 15. (5-25-98)T

b. Area 2 daily bag limit is eight (8). (7-1-93)

c. Area 2 possession limit after the first day of the season is sixteen (16). (7-1-93)

602. GRAY PARTRIDGE SEASONS, BAG AND POSSESSION LIMITS.

The following seasons, bag and possession limits shall apply: (10-26-94)

01. Area 1. Area 1 includes Ada, Adams, Benewah, Blaine, Boise, Bonner, Boundary, Camas, Canyon, Cassia, Clearwater, Elmore, Gem, Gooding, Idaho, Jerome, Kootenai, Latah, Lewis, Lincoln, Minidoka, Nez Perce, Owyhee, Payette, Shoshone, Twin Falls, Valley, and Washington Counties. (7-1-93)

a. Area 1 annual season begins the third Saturday of September and lasts through ~~December 31~~ ~~(10-26-94)~~ January 15. (5-25-98)T

b. Area 1 daily bag limit is eight (8). (7-1-93)

c. Area 1 possession limit after the first day of the season is sixteen (16). (7-1-93)

02. Area 2. Area 2 includes Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power, and Teton Counties. (7-1-93)

a. Area 2 annual season begins the third Saturday of September and lasts ~~eighty six (86) days through~~ ~~(10-26-94)~~ December 15. (5-25-98)T

b. Area 2 daily bag limit is eight (8). (7-1-93)

c. Area 2 possession limit after the first day of the season is sixteen (16). (10-26-94)

603. BOBWHITE QUAIL AND CALIFORNIA QUAIL SEASONS, BAG AND POSSESSION LIMITS.

The following seasons, bag and possession limits shall apply: (10-26-94)

01. Area 1. Area 1 includes Bannock, Bear Lake, Benewah, Bingham, Bonner, Bonneville, Boundary, Butte, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, Kootenai, Lemhi, Madison, Oneida, Power, Shoshone, and Teton Counties. Season for quail in Area 1 is CLOSED. (7-1-93)

02. Area 2. Area 2 includes Ada, Adams, Blaine, Boise, Camas, Canyon, Cassia, Clearwater, Elmore, Gem, Gooding, Idaho, Jerome, Latah, Lewis, Lincoln, Minidoka, Nez Perce, Owyhee, Payette, Twin Falls, Valley, and Washington Counties. (7-1-93)

- a. Area 2 annual seasons begins the third Saturday of September and lasts through December 31. (10-26-94)(5-25-98)T
- b. Area 2 daily bag limit is ten (10) of any kind. (7-31-96)T
- c. Area 2 possession limit after the first day of the season is twenty (20) of any kind. (7-31-96)T

(BREAK IN CONTINUITY OF SECTIONS)

605. SAGE GROUSE SEASONS, BAG AND POSSESSION LIMITS.

The following seasons, bag and possession limits shall apply: (5-16-94)

01. Area 1. Includes the following counties or portions of counties. Ada, Adams, Bannock north of Interstate 86 and west of Interstate 15, Benewah, Bingham, and Bonneville west of Interstate 15, Blaine County within the Salmon River drainage and east ~~and south~~ of the ~~Great Rift~~ Arco-Minidoka Road, Boise, Bonner, Boundary, Butte that part south of US Highways 20/26 and 22/33 between Mud Lake and Craters of the Moon National Monument and the entire Birch Creek drainage, Canyon, Clark within the Birch Creek drainage, Clearwater, Custer County within the Salmon River drainage upstream from and including Valley Creek, Elmore EXCEPT that portion south and east of US Highway 20 and north of Interstate 84, Gem, Idaho, Jefferson west of Interstate 15 and south of State Highway 33, Kootenai, Latah, Lemhi within the Birch Creek drainage, Lewis, Nez Perce, Payette, Power north of Interstate 86, Shoshone, Valley, and Washington Counties. Season for sage grouse in Area 1 is CLOSED. (7-31-96)(5-25-98)T

02. Area 2. Includes the following counties or portions of counties. Bannock EXCEPT that portion north of Interstate 86 and west of Interstate 15, Bear Lake, Bingham, and Bonneville east of Interstate 15, Caribou, Cassia, Clark EXCEPT that portion within the Birch Creek drainage, Franklin, Fremont, Jefferson east of Interstate 15 and that part north of State Highway 33 and west of Interstate 15, Madison, Oneida, Owyhee north of the Juniper Mountain/Mud Flat/Poison Creek roads and Highway 78 to Grandview and the Snake River, Owyhee east of the Bruneau River, Power south of Interstate 86, Twin Falls, and Teton Counties. (7-31-96)T

- a. Area 2 annual season begins the third Saturday of September and lasts seven (7) days. (7-31-96)T
- b. Area 2 daily bag limit is one (1). (7-31-96)T
- c. Area 2 possession limit after the first day of the season is two (2). (7-31-96)T

03. Area 3 Includes the following counties or portions of counties. Blaine EXCEPT that part within the Salmon River drainage and that part ~~and south~~ of the ~~Great Rift~~ Arco-Minidoka Road, that part of Butte north of US Highway 20/26 and State Highway 33 not within the Birch Creek drainage, Camas, Custer EXCEPT that portion within the Salmon River drainage upstream from and including Valley Creek, Elmore south and east of US Highway 20 and north of Interstate 84, Gooding, Jerome, Lemhi EXCEPT that portion within the Birch Creek drainage, Lincoln, Minidoka, Owyhee south of the Juniper Mountain/Mud Flat/Poison Creek roads and Highway 78 to

Grandview and the Snake River and west of the Bruneau River. ~~(7-31-96)T~~(5-25-98)T

- a. Area 3 annual season begins the third Saturday of September and lasts twenty-three (23) days. (7-31-96)T
- b. Area 3 daily bag limit is two (2). (7-31-96)T
- c. Area 3 possession limit after the first day of the season is four (4). (7-31-96)T

606. SHARP-TAILED GROUSE SEASONS, BAG AND POSSESSION LIMITS.

The following seasons, bag and possession limits shall apply: (5-16-94)

01. Area 1. Area 1 includes the following counties or portions of counties: Ada, Adams, Bannock County west of Interstate 15 and north of Interstate 86, Benewah, Bingham County west of Interstate 15, Blaine, Boise, Bonner, Bonneville County west of Interstate 15, Boundary, Butte, Camas, Canyon, Cassia County west of Interstate 84 north of the Malta-Sublett Road and west of the Malta-Strevell Road, Clark County west of Interstate 15, Clearwater, Custer, Elmore, Gem, Gooding, Idaho, Jefferson County west of Interstate 15, Jerome, Kootenai, Latah, Lemhi, Lewis, Lincoln, Minidoka, Nez Perce, Owyhee, Payette, Power County north of Interstate 86, Shoshone, Twin Falls, Valley, and Washington County. (5-16-94)

- a. Season for sharp-tailed grouse in Area 1 is CLOSED. (5-16-94)

02. Area 2. Area 2 includes the following counties or portions of counties: Bingham County east of Interstate 15, Bonneville County east of Interstate 15, Clark County east of Interstate 15, Fremont, Jefferson County east of Interstate 15, Madison, and Teton County. (5-16-94)

a. Area 2 annual season begins ~~the third Saturday of September~~ October 1 and lasts ~~sixteen (16) days through October 16.~~ ~~(5-16-94)~~(5-25-98)T

- b. Area 2 daily bag limit is two (2). (5-16-94)
- c. Area 2 possession limit after the first day of the season is four (4). (5-16-94)

03. Area 3. Area 3 includes the following counties or portions of counties: Bannock County east of Interstate 15 and south of Interstate 86, Bear Lake County, Caribou County, Cassia County east of Interstate 84 and that portion west of Interstate 84 south of the Malta-Sublett Road and east of the Malta-Strevell Road, Franklin County, Oneida County, and Power County south of Interstate 86. (5-16-94)

a. Area 3 annual season begins ~~the third Saturday of September~~ October 1 and lasts ~~sixteen (16) days through October 31.~~ ~~(7-31-96)T~~(5-25-98)T

- b. Area 3 daily bag limit is two (2). (5-16-94)
- c. Area 3 possession limit after the first day of the season is four (4). (5-16-94)

(BREAK IN CONTINUITY OF SECTIONS)

616. SANDHILL CRANE SEASONS AND BAG AND POSSESSION LIMITS.

The following seasons, bag and possession limits, and permits shall apply: (8-19-96)T

- 01. Controlled Hunts. Controlled hunt areas include the following: (8-19-96)T

a. Area 1 includes that portion of Caribou County north of U.S. Highway 30. ~~Bonneville County northwest of Grays Lake National Wildlife Refuge within the following boundary: Township 3 South, Range 42 East,~~

Sections 10, 11, 12, 13, 14, 15, 22, and 23; and Township 3 South, Range 43 East, Sections 7 and 18.

(8-19-96)F(5-25-98)T

b. ~~Area 2 includes that portion Caribou County within the following boundary: beginning at the junction of Government Dam Road and State Highway 34, then north along Government Dam Road to North Reservoir Road, then east along North Reservoir Road to Poison Creek, then south along Poison Creek to the edge of Blackfoot Reservoir, then south along the western, southern, and eastern edge of Blackfoot Reservoir to Meadow Creek north of Henry, then east along Meadow Creek to North Reservoir Road, then east along North Reservoir Road to State Highway 34, then south along State Highway 34 to the junction of the Blackfoot River Road, then east along the Blackfoot River Road to the Monsanto Haul Road, then southwest along the Monsanto Haul Road to State Highway 34, then south along State Highway 34 to its junction with Government Dam Road, the point of beginning; and that portion of Caribou County within Sections 1, 2, 10, 11, 12, and 15 of Township 34 North, Range 42 East, which is east of State Highway 34.~~

(8-19-96)T

eb. Area 32 includes that portion of Teton County south and west of State Highway 33 and north of State Highway 31 within two (2) miles of the Teton River.

(8-19-96)F(5-25-98)T

02. Controlled Hunt Seasons, Bag and Possession Limits, and Permits.

(8-19-96)T

HUNT AREA	HUNT NUMBER	SEASON	PERMITS
1	9501	September 1-4 2	1530
1	9502	September 63-94	1530
1	9503	September 125-156	1530
21	9504	September 17-48	430
21	9505	September 69-910	430
21	9506	September 121-152	430
31	9507	September 1, 2, 6, 7, 10, 13, 145	530
2	<u>9508</u>	<u>September 1, 2, 5, 6, 7, 12, 13</u>	<u>50</u>

NOTE: Daily limit, possession limit, season limit - are all 1.

(8-1-97)F(5-25-98)T

03. Mandatory Check and Report. Any person taking a sandhill crane must comply with the following mandatory check and report requirements by:

(8-19-96)T

a. Presenting the whole carcass of every sandhill crane taken to the Department's Southeast Regional Office (Pocatello), Upper Snake Regional Office (Idaho Falls), or official check point within seventy two (72) hours of the time of kill and completing the relevant harvest report.

(8-19-96)T

(BREAK IN CONTINUITY OF SECTIONS)

620. EARLY SEPTEMBER CANADA GOOSE SEASONS AND BAG AND POSSESSION LIMITS.

01. General Hunts. General hunts include the following: (8-1-97)T

a. Nez Perce County. Nez Perce County within the following boundary: beginning at the Snake River at the Idaho-Washington state line, then north along the Idaho-Washington state line to the Nez Perce-Latah county line, then east along the Nez Perce county line to the Potlatch River, then south along the east bank of the Potlatch River to the Clearwater River, then west along the south bank of the Clearwater River to Lapwai Creek, then south along Lapwai Creek to Webb Creek Road, then west along Webb Creek Road to Waha Road, then south along Waha Road to Ten-Mile Creek, then northwest along Ten-Mile Creek to the Snake River, the point of beginning. (8-1-97)T

02. General Hunt Seasons, Bag and Possession Limits, and Permits. (8-1-97)T

a. Season: September ~~6~~5, 1997~~8~~ through September ~~12~~1, 1997~~8~~. (~~8-1-97~~)T(5-25-98)T

b. Possession limit after the first day of the season: Eight (8). (8-1-97)T

c. Daily bag limit: Four (4). (8-1-97)T

03. Controlled Hunts. Controlled hunt areas include the following: (8-1-97)T

a. ~~Area 1 includes that portion of Caribou County within the following boundary: beginning at Baneroff and Old State Highway 30, then northwest along Old State Highway 30 to the junction with Nipper Road, then north along Nipper Road to the junction with Miles Road, then west along Miles Road to Kelley Toponee Road, then north on Kelley Toponee Road to Reservation Road, then north along Reservation Road to the West Side Road, then east and south on West Side Road to Kelley Toponee Road, then east along Kelly Toponee Road to Chesterfield Road, then south on Chesterfield Road to Hatch Loop Road, then east, south, and west on Hatch Loop Road to Chesterfield Road, then south on Chesterfield Road to Baneroff and Old State Highway 30, the point of beginning. That portion of Caribou County within the following boundary: beginning at the junction of Government Dam Road and State Highway 34, then north along Government Dam Road to North Reservoir Road, then east along North Reservoir Road to Poison Creek, then south along Poison Creek to the edge of Blackfoot Reservoir, then south along the western, southern, and eastern edge of Blackfoot Reservoir to Meadow Creek north of Henry, then east along Meadow Creek to North Reservoir Road, then east along North Reservoir Road to State Highway 34, then south along State Highway 34 to the junction of the Blackfoot River Road, then east along the Blackfoot River Road to the Monsanto Haul Road, then southwest along the Monsanto Haul Road to State Highway 34, then south along State Highway 34 to its junction with Government Dam Road, the point of beginning; and that portion of Caribou County within Sections 1, 2, 10, 11, 12, and 15 of Township 34 North, Range 42 East, which is east of State Highway 34. And, that portion of Bonneville County northwest of Grays Lake National Wildlife Refuge within the following boundary: Township 3 South, Range 42 East, Sections 10, 11, 12, 13, 14, 15, 22, and 23; and Township 3 South, Range 43 East, Sections 7 and 18.~~ (8-1-97)T

~~b~~a. Area ~~2~~1 includes that portion of Fremont County within Township 9 North, Range 42 East, and that portion within Township 8 North, Range 42 East north of the Falls River. (~~8-1-97~~)T(5-25-98)T

~~e~~b. Area ~~3~~2 includes that portion of Teton County south and west of State Highway 33 and north of State Highway 31 within two (~~2~~) miles of the Teton River. (~~8-1-97~~)T(5-25-98)T

04. Controlled Hunt Seasons, Bag and Possession Limits, and Permits. (8-1-97)T

Hunt Area	Hunt Number	Season	Daily Bag Limit	Possession Limit After the First Day of the Season	Permits
1	9601	September 1, 2, 6, 7, 12, 13, and 14	2	4	50

Hunt Area	Hunt Number	Season	Daily Bag Limit	Possession Limit After the First Day of the Season	Permits
<u>21</u>	960 <u>21</u>	September 1, 2, <u>5</u> , 6, 7, 10 <u>2</u> , <u>and</u> 13, <u>and</u> 14	2	4	30
<u>32</u>	960 <u>32</u>	September 1, 2, <u>5</u> , 6, 7, 10 <u>2</u> , <u>and</u> 13, <u>and</u> 14	2	4	30

(8-1-97)T(5-25-98)T

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.11 - RULES GOVERNING FISH

DOCKET NO. 13-0111-9802

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective May 25, 1998.

AUTHORITY: In compliance with Sections 67-5226(1), Idaho Code, notice is hereby given this agency has adopted temporary rules. The action is authorized pursuant to Section(s) 36-104(b).

PUBLIC HEARING SCHEDULE: Public Hearing(s) concerning the rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 1998.

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of the supporting reasons for proposed rule-making:

House Bill 630 created a two fishing pole license validation on waters designated by Commission rule. The rule change identifies those waters where two pole fishing will be allowed.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Confers a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Bill Horton at 208-334-3791.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 20th day of May 1998.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 South Walnut
PO Box 25
Boise, ID 83707
208-334-3715/FAX: 208-334-3148

TEXT OF DOCKET NO. 13-0111-9802

106. -- 1998. (RESERVED).

199. TWO POLE VALIDATION.

A person who has a valid resident or nonresident fishing license may purchase a two (2) pole validation. The two (2) pole validation authorizes the license holder to use two (2) fishing poles or rods at the same time on waters and during seasons specified by Commission Rule, IDAPA 13.01.11, "Rules Governing Fish". (5-25-98)T

(BREAK IN CONTINUITY OF SECTIONS)

203. -- 2998. (RESERVED).

299. TWO POLE BAG AND POSSESSION LIMITS, SEASONS, WATERS, AND METHODS OF GEAR.

01. Bag and Possession Limits. Holders of the two (2) pole validation shall have the same bag and possession limit as the general bag and possession limits and regional exceptions (see Sections 202, 310, 315, 320, 325, 330, 335, and 340) whether using one (1) or two (2) poles. (5-25-98)T

02. Seasons. The two (2) pole validation shall only be valid on waters which are open to fishing under the general fishing seasons and regional exception, except two (2) poles or rods shall not be used to fish for adult anadromous fish (salmon or steelhead). (5-25-98)T

03. Waters. The two (2) pole validation is valid on all waters open to fishing under general rules and regional exceptions, except not valid for adult anadromous fish. (5-25-98)T

04. Methods and Gear. The restrictions of Section 201 shall apply to the use of two (2) poles under the two (2) pole validation, except for the number of handlines or poles. (5-25-98)T

IDAPA 13 - IDAHO FISH AND GAME COMMISSION
13.01.16 - THE TRAPPING OF PREDATORY AND UNPROTECTED WILDLIFE
AND THE TAKING OF FURBEARING ANIMALS

DOCKET NO. 13-0116-9801

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective May 25, 1998.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules. The action is authorized pursuant to Section(s) 36-104(b).

PUBLIC HEARING SCHEDULE: Public Hearing(s) concerning the rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 1998.

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of the supporting reasons for proposed rule-making:

To establish furbearer seasons for 1997-98 and 1998-99.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Confers a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Wayne Melquist at (208) 334-2920.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 20th day of May 1998.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 South Walnut
PO Box 25
Boise, ID 83707
(208) 334-3715/FAX: (208) 334-3148

TEXT OF DOCKET NO. 13-0116-9801

200. TRAPS.

01. Checking Traps. (7-1-93)

a. No person shall place snares or traps for furbearing animals, predatory or unprotected wildlife, EXCEPT pocket gophers, ground squirrels and other unprotected rodents, without visiting every trap or snare once

every seventy-two (72) hours and removing any catch therein. (7-1-93)

b. Trappers acting under authority of the U.S. Department of Agriculture, Animal Plant Health Inspection Service, ~~Animal Damage Control~~ Wildlife Services are exempt from this rule. (~~7-1-93~~)(5-25-98)T

02. Removing Trapped Animals of Another. No person shall remove wildlife from the trap or snare of another EXCEPT licensed trappers with written permission from the owner. (7-1-93)

03. Release of Non-Target Catches. (7-1-93)

a. All non-target species caught alive shall be released immediately. Non-target species are defined as any species caught for which the season is closed. (7-1-93)

b. Any trapper who catches a non-target species that is dead shall: (7-1-93)

i. Prior to removing the animal, note on the back of the trapping license, the species of animal caught, the date and shall sign his or her name. This information must be included in the mandatory trapping report. (~~7-1-93~~)(5-25-98)T

ii. Remove the animal from the trap and take it into possession. (7-1-93)

iii. Notify the Department of Fish and Game through the local Conservation Officer, Subregional or Regional office within seventy-two (72) hours to make arrangements to transfer the animal to the Department. (10-26-94)

iv. The Department will reimburse trappers five dollars (\$5) for each lynx, otter, or fisher caught accidentally and ~~turned in~~ turned in. (~~7-31-96~~)(5-25-98)T

(BREAK IN CONTINUITY OF SECTIONS)

400. METHODS OF TAKE.

01. Furbearing Animals. No person shall take beaver, muskrat, mink or marten by any method other than trapping. In Valley County and portions of Adams County in the Little Salmon River drainage, red fox may be taken only by trapping. (~~7-1-93~~)(5-25-98)T

02. Hunting. No person hunting permissible furbearing animals or predatory or unprotected wildlife shall: (7-1-93)

a. Hunt with any weapon the possession of which is prohibited by state or federal law. (7-1-93)

b. Hunt with dogs unless they comply with IDAPA 13.01.15, "Rules Governing the Use of Dogs". (7-1-93)

c. Hunt any furbearing animal, except raccoon, with or by the aid of artificial light. (7-1-93)

d. No person hunting raccoon at night shall: (7-1-93)

i. Hunt from a motorized vehicle. (7-1-93)

ii. Use any light ~~utilizing~~ using more than four and one-half (4.5) volts of electricity. (~~7-1-93~~)(5-25-98)T

iii. Use any light attached to any motor vehicle. (7-1-93)

- iv. Hunt on private land without obtaining written permission from the landowner or lessee. (7-1-93)
- 03. Trapping. No person trapping furbearing animals or predatory or unprotected wildlife shall: (7-1-93)
 - a. Use for bait or scent, any part of any game bird, game animal, game fish, or protected nongame wildlife. (7-1-93)
 - b. Use any dry land set within thirty (30) feet of any visible bait except bleached bones of: furbearers, unprotected or predatory wildlife. (7-1-93)
 - c. Use a dirt hole set with bait unless the person ensures that the bait remains covered at all times to protect raptors and other meat-eating birds from being caught accidentally. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

500. MANDATORY CHECK AND REPORT - PELT TAG REQUIREMENTS.

- 01. Mandatory Check and Report. Any person taking bobcat ~~or lynx~~ whether by hunting or trapping must comply with the mandatory check and report and pelt tag requirements by: ~~(7-1-93)~~(5-25-98)T
 - a. Presenting the lower jaw of all bobcat taken to a regional office, subregional office or official check point and completing the relevant harvest report. (7-1-93)
 - b. Presenting the pelts of all bobcat taken to a regional office, subregional office or official check point to obtain the appropriate pelt tag. (7-1-98)
- 02. Pelt Tags. A fee of two dollars (\$2) will be charged for each pelt tag. (7-1-93)
 - a. No person shall have in possession, except during the open season and for ten (10) days after the close of the season, any raw bobcat pelt which does not have an official state export tag attached (either Idaho's or another state's official export tag). (7-1-98)
 - b. No person shall sell, offer for sale, purchase, or offer to purchase any raw bobcat pelt which does not have an official state export tag attached. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

600. TRAPPING ON GAME PRESERVES AND WILDLIFE MANAGEMENT AREAS.

- 01. Game Preserves and Wildlife Management Areas. All state game preserves and Department of Fish and Game Wildlife Management Areas are open to the taking of furbearing animals by licensed trappers during the open season declared for the areas in which they lie. However, the Billingsley Creek, Hagerman, Niagara Springs and Sterling Wildlife Management Areas are open to muskrat or mink trapping by controlled trapping permit only. (7-1-93)
- 02. Contact or Registration Requirements. Trappers who are trapping on any of the following Wildlife Management Areas must contact or register either at the management headquarters or the regional office: (7-1-93)
 - a. Billingsley Creek. (7-1-93)

- b. Boise River. (7-1-93)
- c. ~~Brownlee~~ Andrus. (~~10-26-94~~)(5-25-98)T
- d. Camas Prairie Centennial Marsh. (7-1-93)
- e. C.J. Strike. (7-1-93)
- f. Carey Lake. (7-1-93)
- g. Cartier Slough. (7-1-93)
- h. Coeur d'Alene River. (7-1-93)
- i. Craig Mountain. (7-1-93)
- j. Fort Boise. (7-1-93)
- k. Hagerman. (7-1-93)
- l. Market Lake. (7-1-93)
- m. McArthur Lake. (7-1-93)
- n. Montpelier. (7-1-93)
- o. Mud Lake. (7-1-93)
- p. Niagara Springs. (7-1-93)
- q. Payette. (7-1-93)
- r. Portneuf. (7-1-93)
- s. Sand Creek. (7-1-93)
- t. Snow Peak. (7-1-93)
- u. Sterling. (7-1-93)
- v. Tex Creek. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

750. SEASONS.

- 01. Restricted Fur-bearing Animals. There is NO open season for Fisher, Kit Fox, Lynx, or Otter. (7-1-98)
- 02. Badger. Statewide -- July 1 through June 30. (7-1-98)
- 03. General Beaver Season. (10-26-94)
 - a. November 1 through March 31 in the following counties: (7-1-93)

- i. Ada. EXCEPT the Boise River Wildlife Management Area. (7-1-93)
- ii. Adams. (7-1-93)
- iii. Benewah. (7-1-93)
- iv. Blaine. EXCEPT all public lands within the following drainages: Big Wood River upstream from North Fork Big Wood River, Big Wood River tributaries below North Fork Big Wood River to Magic Reservoir, Camp Creek, Dry Creek, Friedman Creek, North Fork Big Wood River, Poison Creek, Rock Creek, Copper Creek (tributary to Muldoon Creek), Cove Creek, and Sheep Creek. And EXCEPT all lands within the Little Fish Creek and the Cold Spring Creek drainages (tributary to Little Wood River). (7-1-93)
- v. Boise. EXCEPT the Boise River Wildlife Management Area. (7-1-93)
- vi. Bonner. (7-1-93)
- vii. Boundary. (7-1-93)
- viii. Camas. EXCEPT all public lands within the following drainages: Big Deer Creek, Corral Creek above Baseline Road, Elk Creek, Lime Creek, Little Smoky Creek, and Willow Creek. (7-1-93)
- ix. Canyon. (7-1-93)
- x. Cassia. EXCEPT all public lands within the Big Cottonwood Creek, Dry Creek, Trapper Creek, and Trout Creek drainages. (7-1-98)
- xi. Clearwater. EXCEPT East Fork Potlatch River drainage. (4-25-93)
- xii. Elmore. EXCEPT all public lands within the following drainages: Bear Creek (tributary to Feather River), Case Creek, Fall Creek upstream from and including Meadow Creek, Clover Creek, King Hill Creek, Lime Creek, Smith Creek upstream from Washboard Creek, Syrup Creek, Trinity Creek, Willow Creek (tributary to South Fork Boise River), and Wood Creek (tributary to South Fork Boise River). And EXCEPT all lands within the Boise River Wildlife Management Area. (7-1-93)
- xiii. Gem. EXCEPT Squaw Creek above the Ola Bridge. (7-1-93)
- xiv. Gooding. EXCEPT all public lands within the following drainages: Black Canyon Creek, Clover Creek, and Thorn Creek. And EXCEPT all lands within Hagerman and Niagara Springs Wildlife Management Areas. (7-1-93)
- xv. Idaho. EXCEPT the following drainages: Big Creek upstream from Monumental Creek, and Chamberlin Creek. And EXCEPT the main stem of the Middle Fork Clearwater River from Maggie Creek upstream, main stem of the Lochsa River, Secesh River above the Long Gulch Bridge, and the main stem of the Selway River. (7-1-93)
- xvi. Jerome. (7-1-93)
- xvii. Kootenai. (7-1-93)
- xviii. Latah. (7-1-98)
- xix. Lewis. (7-1-93)
- xx. Lincoln. EXCEPT Preacher Creek drainage on public lands. (7-1-93)
- xxi. Minidoka. (7-1-93)

- xxii. Nez Perce. EXCEPT all northern tributaries to the Salmon River downstream from but excluding Maloney Creek, and all tributaries to the Snake River below the mouth of the Salmon River. (7-1-93)
- xxiii. Owyhee. (7-1-93)
- xxiv. Payette. (7-1-93)
- xxv. Shoshone. (7-1-93)
- xxvi. Twin Falls. EXCEPT all public lands within the Goose Creek, McMullen Creek, and Shoshone Creek drainages. (7-1-98)
- xxvii. Valley. EXCEPT the following drainages: Big Creek upstream from Monumental Creek, Johnson Creek upstream from Landmark, South Fork Salmon River upstream from the fish trap near the mouth of Cabin Creek, Bear Valley Creek, and Sulphur Creek. (7-1-93)
- xxviii. Washington. (7-1-93)
- b. October 22 through April 15 in the following counties: (10-26-94)
- i. Bannock. EXCEPT Cherry Creek (tributary to Marsh Creek), Dempsey Creek above cattle guard, Mink Creek drainage, and Gibson Jack Creek. (10-26-94)
- ii. Bear Lake. EXCEPT Pearl Creek drainage. (5-6-94)
- iii. Bingham. EXCEPT Cedar Creek and Miner Creek. (10-26-94)
- iv. Bonneville. (10-26-94)
- v. Butte. (10-26-94)
- vi. Caribou. EXCEPT Dike Lake, Toponce Creek drainage on National Forest lands, and Pebble Creek drainage. (10-26-94)
- vii. Clark. EXCEPT the following drainages: Edie Creek, Irving Creek, Miners Creek, Three Mile Creek, and West Camas Creek upstream from ~~Steele Creek~~ the Targhee National Forest boundary. ~~(7-31-96)~~(5-25-98)T
- viii. Custer, EXCEPT Marsh Creek Drainage. (7-1-98)
- ix. Franklin. EXCEPT Logan River drainage including the Beaver Creek and White's Creek drainages. (10-26-94)
- x. Fremont. (10-26-94)
- xi. Jefferson. (10-26-94)
- xii. Lemi, EXCEPT Dahlonia Creek Drainage. (7-1-98)
- xiii. Madison. (10-26-94)
- xiv. Oneida. (10-26-94)
- xv. Power. (10-26-94)
- xvi. Teton. (7-1-98)

04. Controlled Beaver Trapping Units.

UNIT SEASON	DATES	NUMBER OF ANIMALS TO BE TAKEN
201 - That portion of the East Fork Potlatch River drainage in Latah and Clearwater Counties.	November 1 through March 31	10
202 - That portion of the Palouse River drainage in Latah County upstream from Laird Park Dam.	November 1 through March 31	10
203 - That portion of the Mink Creek drainage in Bannock County excluding the West Fork of Mink Creek within the National Forest boundary.	October 22 through April 15	20
204 3 - That portion of the Toponce Creek drainage in Caribou County that is on National Forest lands.	October 22 through April 15	10
205 4 - Pebble Creek Unit in Caribou County. Pebble Creek drainage.	October 22 through April 15	10

~~(7-1-98)~~(5-25-98)T

- 05. Bobcat. (7-1-98)
 - a. Take Season. STATEWIDE: December 1 through January 31. (7-1-98)
 - b. Bobcat Dog Training Seasons. Bobcat may NOT be killed during these seasons. (7-1-98)
- 06. Fox. (7-1-93)
 - a. July 1 through June 30, in the following counties: (7-1-98)
 - i. Ada. (10-26-94)
 - ii. Adams. EXCEPT private lands within the Little Salmon River drainage-CLOSED. Fox may be taken only by trapping on National Forests and state of Idaho lands within the Little Salmon River drainage.
~~(10-26-94)~~(5-25-98)T
 - iii. Bannock. (7-1-93)
 - iv. Bear Lake. (7-1-93)
 - v. Bingham. (7-1-93)
 - vi. Blaine - south and east of U.S. Highway 93. (7-1-93)
 - vii. Boise. (10-26-94)
 - viii. Bonneville. (7-1-93)
 - ix. Butte. (7-1-93)
 - x. Canyon. (10-26-94)

- xi. Caribou. (7-1-93)
- xii. Cassia. (7-1-93)
- xiii. Clark. (7-1-93)
- xiv. Custer. ~~EXCEPT the Big Lost River drainage.~~ (~~7-1-93~~)(5-25-98)T
- xv. Elmore. (7-1-93)
- xvi. Franklin. (7-1-93)
- xvii. Fremont. (7-1-93)
- xviii. Gem. (10-26-94)
- xix. Gooding. (7-1-93)
- xx. Jefferson. (7-1-93)
- xxi. Jerome. (7-1-93)
- xxii. Lemhi. (7-1-93)
- xxiii. Lincoln. (7-1-93)
- xxiv. Madison. (7-1-93)
- xxv. Minidoka. (7-1-93)
- xxvi. Oneida. (7-1-93)
- xxvii. Owyhee. (7-1-93)
- xxviii. Payette. (7-1-93)
- xxix. Power. (7-1-93)
- xxx. Teton. (7-1-93)
- xxxi. Twin Falls. (7-1-93)
- xxxii. Valley. Open only on National Forests and state of Idaho lands; all other lands - CLOSED. Fox may be taken only by trapping. (7-1-98)
- xxxiii. Washington. (7-1-93)
- b. October 15 through January 31 in the following counties: (7-1-98)
 - i. Benewah. (7-1-93)
 - ii. Blaine - north and west of U.S. Highway 93. (7-1-93)
 - iii. Bonner. (7-1-93)
 - iv. Boundary. (7-1-93)

- v. Camas. (7-1-93)
- vi. Clearwater. (7-1-93)
- ~~vii.~~ ~~Custer – within the Big Lost River drainage.~~ (~~7-1-93~~)
- viii. Idaho. (7-1-93)
- ~~ix.~~ ~~viii.~~ Kootenai. (7-1-93)
- ix. Latah. (7-1-93)
- x. Lewis. (7-1-93)
- xii. Nez Perce. (7-1-93)
- xiii. Shoshone. (7-1-93)
- 07. Marten. November 1 through January 31 in the following area: (7-1-93)
 - a. Statewide. (7-1-93)
 - b. EXCEPT Bear Lake and Franklin Counties. (7-1-93)
- 08. General Mink Season. (10-26-94)
 - a. October 15 through March 31 in the following area: (10-26-94)
 - i. Twin Falls County. All man-made canals under the control of the Twin Falls Canal Company and those sections of Cedar Draw Creek, Cottonwood Creek, Deep Creek, McMullen Creek and Rock Creek and their tributaries north of the Main and Highline Canals. (10-26-94)
 - b. ~~November 1~~ October 22 through November 30 in the following area: (~~10-26-94~~)(5-25-98)T
 - i. Jefferson. ONLY Mud Lake and Market Lake Wildlife Management Areas. (10-26-94)
 - c. November 1 through March 31 in the following counties, with the following exceptions: (7-1-98)
 - i. Ada. (7-1-98)
 - ii. Adams. (7-1-98)
 - iii. Benewah. (7-1-98)
 - iv. Blaine. (7-1-98)
 - v. Boise. (7-1-98)
 - vi. Bonner. (7-1-98)
 - vii. Boundary. (7-1-98)
 - viii. Camas. (7-1-98)
 - xi. Canyon. (7-1-98)

- x. Cassia. (7-1-98)
- xi. Clearwater. (7-1-98)
- xii. Elmore. (7-1-98)
- xiii. Gem. (7-1-98)
- xiv. Gooding. EXCEPT Snake River between Niagara Springs and Clear Lakes Bridge; and the Billingsley Creek, Hagerman and Niagara Springs Wildlife Management Areas. (10-26-94)
- xv. Idaho. (7-1-98)
- xvi. Jerome. (7-1-98)
- xvii. Kootenai. (7-1-98)
- xviii. Latah. (7-1-98)
- xix. Lewis. (7-1-98)
- xx. Lincoln. (7-1-98)
- xxi. Minidoka. (7-1-98)
- xxii. Nez Perce. (7-1-98)
- xxiii. Owyhee. (7-1-98)
- xxiv. Payette. (7-1-98)
- xxv. Shoshone. (7-1-98)
- xxvi. Twin Falls. EXCEPT all man-made canals under the control of the Twin Falls Canal Company and those sections of Cedar Draw Creek, Cottonwood Creek, Deep Creek, McMullen Creek and Rock Creek and their tributaries north of the Main and Highline Canals. (10-26-94)
- xxvii. Valley. (7-1-98)
- xxviii. Washington. (7-1-98)
- d. October 22 through April 15 in the following counties. (7-1-98)
 - i. Bannock. (7-1-98)
 - ii. Bear Lake. (7-1-98)
 - iii. Bingham, EXCEPT the Sterling Wildlife Management Area. (7-1-98)
 - iv. Bonneville. (7-1-98)
 - v. Butte. (7-1-98)
 - vi. Caribou. (7-1-98)
 - vii. Clark. (7-1-98)

- viii. Custer. (7-1-98)
- ix. Franklin. (7-1-98)
- x. Fremont. (7-1-98)
- xi. Jefferson, EXCEPT Mud Lake and Market Lake Wildlife Management Areas. (7-1-98)
- xii. Lemhi. (7-1-98)
- xiii. Madison. (7-1-98)
- xiv. Oneida. (7-1-98)
- xv. Power. (7-1-98)
- xvi. Teton. (7-1-98)
- 09. General Muskrat Season. (10-26-94)
 - a. October 15 through March 31 in the following area: (7-1-93)
 - i. Twin Falls County. All man-made canals under the control of the Twin Falls Canal Company and those sections of Cedar Draw Creek, Cottonwood Creek, Deep Creek, McMullen Creek and Rock Creek and their tributaries north of the Main and Highline Canals. (7-1-93)
 - b. ~~November 1~~ October 22 through November 30 in the following area: (~~7-1-93~~)(5-25-98)T
 - i. Jefferson. ONLY Mud Lake and Market Lake Wildlife Management Areas. (7-1-93)
- c. November 1 through March 31 in the following counties: (10-26-94)
 - i. Ada. (10-26-94)
 - ii. Adams. (10-26-94)
 - iii. Benewah. (10-26-94)
 - iv. Blaine. (10-26-94)
 - v. Boise. (10-26-94)
 - vi. Bonner. (10-26-94)
 - vii. Boundary. (10-26-94)
 - viii. Camas. (10-26-94)
 - ix. Canyon. (10-26-94)
 - x. Cassia. (10-26-94)
 - xi. Clearwater. (10-26-94)
 - xii. Elmore. (10-26-94)
 - xiii. Gem. (10-26-94)

- xiv. Gooding. EXCEPT Snake River between Niagara Springs and Clear Lakes Bridge; and the Billingsley Creek, Hagerman and Niagara Springs Wildlife Management Areas. (10-26-94)
- xv. Idaho. (10-26-94)
- xvi. Jerome. (10-26-94)
- xvii. Kootenai. (10-26-94)
- xviii. Latah. (10-26-94)
- xix. Lewis. (10-26-94)
- xx. Lincoln. (10-26-94)
- xxi. Minidoka. (10-26-94)
- xxii. Nez Perce. (10-26-94)
- xxiii. Owyhee. (10-26-94)
- xxiv. Payette. (10-26-94)
- xxv. Shoshone. (10-26-94)
- xxvi. Twin Falls. EXCEPT all man-made canals under the control of the Twin Falls Canal Company and those sections of Cedar Draw Creek, Cottonwood Creek, Deep Creek, McMullen Creek and Rock Creek and their tributaries north of the Main and Highline Canals. (10-26-94)
- xxvii. Valley. (10-26-94)
- xxviii. Washington. (10-26-94)
- d. October 22 through April 15 in the following counties: (10-26-94)
 - i. Bannock. (10-26-94)
 - ii. Bear Lake. (10-26-94)
 - iii. Bingham. EXCEPT the Sterling Wildlife Management Area. (10-26-94)
 - iv. Bonneville. (10-26-94)
 - v. Butte. (10-26-94)
 - vi. Caribou. (10-26-94)
 - vii. Clark. (7-1-98)
 - viii. Custer (7-1-98)
 - ix. Franklin. (10-26-94)
 - x. Fremont. (10-26-94)
 - xi. Jefferson. EXCEPT Mud Lake and Market Lake Wildlife Management Areas. (10-26-94)

- xii. Lemhi. (7-1-98)
- xiii. Madison. (10-26-94)
- xiv. Oneida. (10-26-94)
- xv. Power. (10-26-94)
- 10. Controlled Mink and Muskrat Trapping Units:

UNIT	WILDLIFE MANAGEMENT AREA	SEASON DATES	NO. PERMITS
601	Billingsley Creek	February 15-February 28	2
602	Hagerman	February 15-February 28	4
603	Niagara Springs	February 15-February 28	1
604	Sterling	November 1-March 31	1

- (7-1-93)
- 11. Raccoon. Take Season: (7-1-98)
 - a. November 1 through March 31 in the following counties: (7-1-98)
 - i. Ada. (7-1-98)
 - ii. Adams. (7-1-98)
 - iii. Benewah. (7-1-98)
 - iv. Blaine. (7-1-98)
 - v. Boise. (7-1-98)
 - vi. Bonner. (7-1-98)
 - vii. Boundary. (7-1-98)
 - viii. Camas. (7-1-98)
 - ix. Canyon. (7-1-98)
 - x. Cassia. (7-1-98)
 - xi. Clearwater. (7-1-98)
 - xii. Elmore. (7-1-98)
 - xiii. Gem. (7-1-98)
 - xiv. Gooding. (7-1-98)
 - xv. Idaho. (7-1-98)

- xvi. Jerome. (7-1-98)
- xvii. Kootenai. (7-1-98)
- xviii. Latah. (7-1-98)
- xix. Lewis. (7-1-98)
- xx. Lincoln. (7-1-98)
- xxi. Minidoka. (7-1-98)
- xxii. Nez Perce. (7-1-98)
- xxiii. Owyhee. (7-1-98)
- xxiv. Payette. (7-1-98)
- xxv. Shoshone. (7-1-98)
- xxvi. Twin Falls. (7-1-98)
- xxvii. Valley. (7-1-98)
- xxviii. Washington. (7-1-98)
- b. October 22 through April 15 in the following counties: (7-1-98)
 - i. Bannock. (7-1-98)
 - ii. Bear Lake. (7-1-98)
 - iii. Bingham (7-1-98)
 - iv. Bonneville. (7-1-98)
 - v. Butte. (7-1-98)
 - vi. Caribou. (7-1-98)
 - vii. Clark. (7-1-98)
 - viii. Custer. (7-1-98)
 - ix. Franklin. (7-1-98)
 - x. Fremont. (7-1-98)
 - xi. Jefferson. (7-1-98)
 - xii. Lemhi. (7-1-98)
 - xiii. Madison. (7-1-98)
 - xiv. Oneida. (7-1-98)

xv. Power. (7-1-98)

xvi. Teton. (7-1-98)

12. Raccoon Dog Training Season. Raccoon may NOT be killed during these seasons: STATEWIDE - August 15 through October 31. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

800. TRAPPING REPORTS.

01. Trapping Report Completion. All trappers shall fill out the mandatory trapping report ~~on the back of the trapping license provided by the Department.~~ Trappers shall return ~~their licenses~~ the completed mandatory report to the Department of Fish and Game, Box 25, Boise, Idaho 83707, by July 31. ~~Licenses will be returned to trappers making such a request~~ Any trapper failing to make such a report by July 31 shall be refused a license to trap animals for the following year. (7-1-93)(5-25-98)T

02. Return of Reports and Permits. All permittees shall return their controlled trapping unit permits and controlled trapping reports to the person from whom they obtained their controlled trapping unit permits within ten (10) days of the close of the season for the controlled trapping unit. (7-1-93)

IDAPA 15 - OFFICE OF THE GOVERNOR
15.01.01 - RULES GOVERNING SENIOR SERVICES PROGRAMS
IDAHO COMMISSION ON AGING

DOCKET NO. 15-0101-9801

NOTICE OF PROPOSED RULES

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed regular rule-making. The action is authorized pursuant to Section 67-5003, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 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: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

To make amendments requested by Senator Grant Ipsen (Chair of the Senate Health and Welfare Committee) and to correct clerical and transcription errors and to also correct cross references to other chapters. Per request of Senator Ipsen, they delete a rule requiring a one to six (1:6) staff ratio for adult day care services, delete entitlements from assistance that care coordinators will provide, and delete advocacy as a requirement of care coordination.

In February 1998, the Idaho Commission on Aging adopted this rule as a temporary rule with an effective date of July 1, 1998. The temporary rule was published in the Idaho Administrative Bulletin, Volume 98-2, February 4, 1998, pages 10 through 23.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ken Wilkes at 208/334-2219.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 18th day of May, 1998.

Arlene Davidson
Director
Idaho Commission on Aging
Statehouse, Room 108
PO Box 83720
Boise, ID 83720-0007
Phone: (208) 334-3833
Fax: (208) 334-3033

IDAPA 15
TITLE 01
Chapter 01

RULES GOVERNING SENIOR SERVICES PROGRAMS

Pursuant to Section 67-5221(1) this docket is being published as a Proposed Rule.

This docket has been previously published as a Temporary Rule.

The temporary effective date is July 1, 1998.

The text of the Temporary Rule was published in the Idaho Administrative Bulletin, Volume 98-2, February 4, 1998, pages 10 through 23.

TEXT OF DOCKET NO. 15-0101-9801

010. DEFINITIONS.

01. Act. The Idaho Senior Services Act. Programs and services established in Idaho Code, Section 67-5001, et seq., Idaho Code. (7-1-98)
02. Activities of Daily Living (ADL). Bathing, dressing, toileting, transferring, eating, walking. (7-1-98)
03. Adult Day Care. A structured day program which provides individually planned care, supervision, social interaction, and supportive services for frail older persons in a protective group setting, and provides relief and support for caregivers. (7-1-98)
04. Aging Network. The ICOA, it's AAAs and providers. (7-1-98)
05. Advance Directive. A Living Will or Durable Power of Attorney for healthcare executed under the Natural Death Act, 39-4501, Idaho Code. (7-1-98)
06. Area Agency on Aging (AAA). Local agency designated by the Idaho Commission on Aging, pursuant to the OAA (OAA) of 1965, as amended, that plans, develops, and implements services for older persons within a specified geographic area. (7-1-98)
07. Area Plan. Plan for aging programs and services which an AAA is required to submit to the Idaho Commission on Aging, in accordance with the OAA, in order to receive OAA funding. (7-1-98)
08. Care Coordinator. A licensed social worker, or licensed professional nurse (RN), or an individual with a BA or BS in a human services field and at least one (1) year's experience in service delivery to the service population. (7-1-98)
09. Care Coordination. Case management assistance in circumstances where the older person, their

caregivers, or both, are experiencing diminished functioning capacities, personal conditions, or other characteristics which require the provision of services by formal service providers. Activities of care coordination include assessing needs, developing care plans, authorizing services among providers, follow-up and reassessment, as required.

(7-1-98)

10. Care Coordination Supervisor. An individual who has at least a BA or BS degree and is a licensed social worker, psychologist or licensed professional nurse (registered nurse/RN) with at least two (2) years' experience in service delivery to the service population.

(7-1-98)

11. Chore Services. Providing assistance to persons having difficulty with one or more of the following instrumental activities of daily living: heavy housework, yard work or sidewalk maintenance.

(7-1-98)

12. Client. Person who has met program eligibility requirements for services addressed in this chapter.

(7-1-98)

13. Cognitive Impairment. A disability or condition due to mental impairment.

(7-1-98)

14. Congregate Meals. Meals that meet the requirements of the OAA, as amended, served in a group setting.

(7-1-98)

15. Department. Department of Health and Welfare.

(7-1-98)

16. Direct Costs. Costs incurred from the provision of direct services. These costs include, but are not limited to, salaries, fringe benefits, travel, equipment, and supplies directly involved in the provision of services. Salaries of program coordinators and first line supervisors are considered direct costs.

(7-1-98)

17. Eligible Clients. Residents of the state of Idaho who are sixty (60) years or older and their spouses.

(7-1-98)

18. Fee for Services. An established payment required from individuals receiving services under the Act. The fee varies according to client's current annual household income.

(7-1-98)

19. Fiscal Effectiveness. A financial record of the cost of all formal services provided to insure that maintenance of an individual at home is more cost effective than placement of that individual in an institutional long-term care setting.

(7-1-98)

20. Formal Services. Services provided to clients by a formally organized entity.

(7-1-98)

21. Functional Impairment. A condition that limits an individual's ability to perform ADLs and IADLs.

(7-1-98)

22. Home-Delivered Meals. Meals delivered to eligible clients in private homes. These meals shall meet the requirements of the OAA.

(7-1-98)

23. Homemaker. A person who has successfully completed a basic prescribed training, who, with additional supervision, provides homemaker services.

(7-1-98)

24. Homemaker Service. Assistance with housekeeping, meal planning and preparation, essential shopping and personal errands, banking and bill paying, medication management, and, with restrictions, bathing and washing hair.

(7-1-98)

25. Household. For sliding fee purposes, a "household" includes a client and any other person(s) permanently resident in the same dwelling who share accommodations and expenses with the client.

(7-1-98)

26. Idaho Commission on Aging (ICOA). Commission designated by the Governor to plan, set priorities, coordinate, develop policy, and evaluate state activities relative to the objectives of the OAA.

(7-1-98)

27. Informal Supports. Those supports provided by church, family, friends, and neighbors, usually at no cost to the client. (7-1-98)
28. Instrumental Activities of Daily Living (IADL). Meal preparation, money management, transportation, shopping, using the telephone, medication management, heavy housework, light housework. (7-1-98)
29. Legal Representative. A person who carries a Durable Power of Attorney or who is appointed Guardian or Conservator with legal authority to speak for a client. (7-1-98)
30. National Aging Program Information System. (NAPIS) Standardized Nationwide reporting system that tracks: (7-1-98)
- a. Service levels by individual service, identifies client characteristics, State and area agency staffing profiles, and identifies major program accomplishments; and (7-1-98)
 - b. Complaints received against long term care facilities and family members or complaints related to rights, benefits and entitlements. (7-1-98)
31. Non-Institutional. Living arrangements which do not provide medical oversight or organized supervision of residents' activities of daily living. Non-institutional residences include congregate housing units, board and room facilities, private residential houses, apartments, condominiums, duplexes and multiplexes, hotel/motel rooms, and group homes in which residents are typically unrelated to individuals. Non-institutional does not include skilled nursing homes, residential care facilities, homes providing adult foster care, hospitals, or residential schools/hospitals for the severely developmentally disabled or the chronically mentally ill. (7-1-98)
32. Older Americans Act (OAA). Federal law which authorizes funding to states to provide supportive and nutrition services for the elderly. (7-1-98)
33. Ombudsman. An individual or program providing a mechanism to receive, investigate, and resolve complaints made by, or on behalf of, residents of long-term care facilities, or persons aged sixty (60) and older living in the community. (7-1-98)
34. Performance-Based Agreements. A written agreement between the ICOA and area agencies which establishes output and outcome measures. (7-1-98)
35. Personal Care Services (PCS). Services which include personal and medically-oriented procedures required to meet the physical needs of a patient convalescing at home or to provide for a long-term care client's on-going maintenance/support, in accordance with Section 39-5602 (f), Idaho Code. (7-1-98)
36. Program. The Idaho Senior Services Program. (7-1-98)
37. Planning and Service Area (PSA). Substate geographical area designated by the ICOA for which an area agency is responsible. (7-1-98)
38. Provider. An AAA that provides services directly or another entity under contract with the AAA to provide a specific service(s). (7-1-98)
39. Respite. Short-term, intermittent relief provided to full-time caregivers (individuals or families) of a functionally-impaired relative. (7-1-98)
40. Shopping Assistance. Accompaniment and provision of assistance to an elderly individual for the purpose of purchasing food, medicine and other necessities for an elderly individual who is disabled or homebound. (7-1-98)
41. Sliding Fee Scale. A fee scale ranging from zero percent (0%) to one hundred percent (100%) of the cost of services. Cost of services shall be based on the contractor's or provider's actual unit costs. A client's percentage (payment) shall be determined by ranking the client's ~~household's~~ annual household income against the

federally determined poverty guidelines for that year. (7-1-98)()

42. Supportive Service Plan (SSP). An individual support plan outlining an array of services or the components of an individual service required to maintain a client at home. For Adult Protection purposes the SSP shall address the available remedial, social, legal, medical, educational, mental health, or other services available to reduce risks and meet the care needs of a vulnerable adult. (7-1-98)

43. Supportive Services Technician. AAA employee who is a paraprofessional working under the supervision of a licensed social worker or care coordinator assisting in the performance of specified tasks associated with investigation of Adult Protection reports or development and initiation of a SSP. The employee shall have a degree in a related field or a high school diploma and at least two (2) years' experience working with elderly or at-risk populations. (7-1-98)

44. Transportation Services. Services designed to transport eligible clients to and from community facilities/resources for the purposes of applying for and receiving services, reducing isolation, or otherwise promoting independence. (7-1-98)

45. Uniform Assessment Instrument (UAI). A comprehensive assessment instrument utilizing uniform criteria. The ICOA mandates use of a UAI in determining an applicant's need for care and services. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

026. FEES AND CLIENT CONTRIBUTIONS.

01. Poverty Guidelines. Clients whose income exceeds one hundred percent (100%) of poverty (as established by the United States Department of Health and Human Services) shall be required to pay a fee for service according to a variable fee schedules established by the ICOA. (7-1-98)

02. Income Declaration. Income shall be determined by an annual client self-declaration. When a client's income increases or decreases, the client shall notify the provider for a redetermination of income. (7-1-98)

03. Determining Income. For this purpose, income means gross household income from all sources, less the cost of medical insurance and expenditures for non-covered medical services and prescription drugs. Payments the client receives from owned property currently being leased shall be counted as income after expenses ~~are deducted if paid by the client, i.e., insurance, taxes, water, sewer, and trash collection, if paid by the client, are deducted.~~ In determining income for respite ~~and adult day care clients~~, income means the gross income of the client as specified above but shall not include the income of any other person(s) who reside in the household. (7-1-98)()

04. Fee Based on Actual Cost. Assessed fee shall be a percentage of the provider's actual unit cost. (7-1-98)

05. Fee Waived. The fee may be waived for clients who refuse to pay a fee if there is documented evidence that not providing the service would increase risk ~~of~~ or harm to the client. (7-1-98)()

06. Fee ~~Not~~ Required. Fees are ~~not~~ required from clients receiving ~~nutrition or transportation services~~ Care Coordination, Chore, Homemaker, and Respite Services. (7-1-98)()

07. Client Contributions. Clients whose annual income falls below poverty shall be given the opportunity to make voluntary contributions. (7-1-98)

08. Use of Fees and Contributions. Providers shall maintain accounting records of all fees and contributions collected and of all monies expended from these sources. All monies derived from fees, contributions, or both, shall be used to offset the costs of providing the service(s) for which they were collected. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

029. DENIAL OF SERVICE.

An applicant shall be notified in writing of a denial of service and the right to appeal in accordance with IDAPA 15.01.20, Section ~~02803~~, "Rules Governing Area Agency on Aging Operations". The request for services may be denied for any of the following reason(s): (7-1-98)(____)

01. Applicant Not In Need of Service. The applicant's functional or cognitive deficits are not severe enough to require services. (7-1-98)

02. Family or Other Supports Adequate. Family, or other informal supports are adequate to meet applicants current needs. (7-1-98)

03. Other Care Required. The client's needs are of such magnitude that more intensive supports, such as Medicaid PCS, attendant care, or referral for residential or nursing home placement are indicated. In such instances, alternatives shall be explored with the client and the client's legal representative and family, if available. Referrals shall be made by the provider, as appropriate. (7-1-98)

04. Barriers to Service Delivery Exist. The applicant's home is hazardous to the health or safety of service workers. (7-1-98)

05. Geographical Inaccessibility. The applicant's home is more than twenty (20) miles from the nearest point of service provision of homemaker, chore, or respite and the provider can document efforts to locate a worker or volunteer to fill the service need have been unsuccessful. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

040. TERMINATION OF SERVICE.

01. Documentation. Documentation of notice of termination shall be placed in the client's case record, signed, and dated by the provider. (7-1-98)

02. Appeals Process. The client shall be informed of the appeals process, in accordance with IDAPA 15.01.20, Subsection ~~027003~~, "Rules Governing Area Agency on Aging Operations". (7-1-98)(____)

03. AAA Services. AAA authorized services may be discontinued by the provider for any of the reasons listed below, or at the discretion of a program director or AAA director: (7-1-98)

- a. Services proved ineffective, insufficient, or inappropriate to meet client needs. (7-1-98)
- b. Other resources were utilized. (7-1-98)
- c. Client withdrew from the program or moved. (7-1-98)
- d. Family or other support to client increased. (7-1-98)
- e. Client placed in a long-term care facility. (7-1-98)
- f. Client died (no notification of termination required). (7-1-98)
- g. Client's functioning improved. (7-1-98)

- h. Client refused service. (7-1-98)
- i. Client's home is hazardous to the service provider (requires prior notification of the AAA Director with final approval being at the discretion of the AAA Director). (7-1-98)
- j. Client's home is not reasonably accessible. (7-1-98)
- k. Client's behavior is a threat to the safety of the provider (requires prior notification of the AAA Director with final approval being at the discretion of the AAA Director). (7-1-98)
- l. Client verbally abuses or sexually harasses service provider. (7-1-98)
- m. Client refuses to pay fee determined for service. (7-1-98)
- n. Service provider is not available in locale. (7-1-98)
- o. Services are no longer cost effective. (7-1-98)

04. Notification of Termination and Right to Appeal. Client shall be informed in writing of the reasons for provider initiated service termination and the right to appeal at least two (2) weeks prior to termination. Exceptions to the two (2) week advance notification of termination will be justified to the AAA Director with final approval being at the discretion of the AAA Director. Appeal actions are the responsibility of the AAA. The client shall be referred to other services as appropriate. (7-1-98)

041. HOMEMAKER.

01. Policy. Homemaker service is designed to provide assistance required to compensate for functional or cognitive limitations. Homemaker services provide assistance to eligible individuals in their own homes, or, based on an adult protection referral, in a caregivers home; to restore, enhance, or maintain their capabilities for self-care and independent living. Available family shall be involved in developing a supportive services plan for the client to ensure the formal services provided shall enhance any available informal supports provided. A client or legal representative shall have the right to accept or refuse services at any time. Homemaker providers shall reserve funds to support the expenditure of up to a maximum of ten percent (10%) of their annual Act funding to support emergency service requests and response to adult protection referrals. (7-1-98)

02. Service Eligibility. Individuals are eligible for homemaker services if they meet any of the following requirements: (7-1-98)

- a. They have been assessed to have ADL deficits, IADL deficits, or both, which prohibit their ability to maintain a clean and safe home environment. (7-1-98)
- b. Clients over age sixty (60), who have been assessed to need homemaker service, may be living in the household of a family member (of any age) who is the primary caregiver. (7-1-98)
- c. They are Adult Protection referrals for whom homemaker service is being requested as a component of a SSP to remediate or resolve an adult protection complaint. (7-1-98)
- d. Vulnerable adults under age sixty (60), who have been assessed to need homemaker service are eligible to receive the service a maximum of three (3) consecutive months within a program year. (7-1-98)
- e. They are home health service clients who may be eligible for emergency homemaker service. (7-1-98)

03. PCS. Clients eligible to receive PCS through the Department are not eligible for homemaker services unless the services are determined to be needed on an interim, emergency basis until PCS is initiated. Interim emergency services shall not exceed two (2) months' duration. (7-1-98)

04. Purpose of Service. (7-1-98)
- a. Maintain independence and dignity. To secure and maintain in a home environment the independence and dignity of clients who are capable of self-care with appropriate supportive services. (7-1-98)
 - b. Prevent institutionalization. To avoid or delay placement into long-term care institutions. (7-1-98)
 - c. Remedy harmful living arrangements. To promote the health and safety of the client. (7-1-98)
 - d. Crisis intervention. To assist the client through a crisis situation, if the homemaker service(s) required meet the client's needs and can be provided within the guidelines set forth in these rules. (7-1-98)
05. Exclusions. (7-1-98)
- a. Meal preparation. Homemakers shall not prepare meals for a client if home-delivered meals are available. (7-1-98)
 - b. Transportation. Homemakers shall not transport a client unless the provider carries liability insurance. (7-1-98)
 - c. Medical judgments. Homemakers shall not make medical judgments nor any determinations regarding the application of advance directives. (7-1-98)
 - d. Bathing and ~~w~~Washing ~~h~~Hair. Contractors shall obtain adequate and appropriate insurance coverage prior to assigning homemakers to assist clients with bathing and (or) washing hair. (~~7-1-98~~)(____)
06. Service Priority. Once approved, clients shall be prioritized to receive homemaker services based on their needs, as determined through the completion of the UAI as follows: (7-1-98)
- a. Highest priority shall be given to clients with the greatest degree of functional or cognitive impairment; then (7-1-98)
 - b. To clients lacking informal supports; then (7-1-98)
 - c. To clients whose homes are in poor condition with respect to those circumstances which the homemaker service can remedy. (7-1-98)
07. Homemaker Training and Supervision. All homemakers shall receive an employee orientation from the provider before performing homemaker services. Orientation shall include the purpose and philosophy of homemaker services, review of homemaking skills, program regulations, policies and procedures, proper conduct in relating to clients, and handling of confidential and emergency situations involving a client. (7-1-98)
- a. CPR. Homemakers shall complete CPR training within three (3) months of hire and shall maintain certification thereafter. (7-1-98)
 - b. In-service training. Providers shall annually provide homemakers with a minimum of ten (10) hours training, including CPR, for the purpose of upgrading their skills and knowledge. (7-1-98)
 - c. Providers shall assure that homemakers who assist clients with bathing or hair washing receive specific training in performing these services prior to being assigned to a client. (7-1-98)
 - d. Homemaker supervision. All providers shall maintain written job descriptions for homemakers and shall have written personnel policies. All homemakers shall receive an annual performance evaluation. Homemaker supervisors shall be available to homemakers during work hours to discuss changes in client's circumstances, to resolve problems with schedules, or to respond to emergencies. (7-1-98)

08. Medical Emergencies. In case of medical emergency, the homemaker shall immediately call 911 or the available local emergency medical service and, if appropriate, shall initiate CPR. (7-1-98)

09. Conduct of Homemakers. Contractors shall insure, through personnel policies, orientation procedures, signed homemaker agreements, and supervision, that homemaker conduct is governed by the following restrictions. A copy of these restrictions, signed by the homemaker, shall be placed in each homemaker's personnel file. (7-1-98)

a. Accepting money or loans. A homemaker shall not accept money or a loan, in any form, from a client. (7-1-98)

b. Sale of goods. A homemaker shall not solicit the purchase of goods, materials, or services. (7-1-98)

c. Addresses and telephone numbers. A homemaker shall not provide a personal telephone number or home address to clients. (7-1-98)

d. Private work. A homemaker shall not work privately for a client of homemaker services. (7-1-98)

e. Client's residence. A homemaker shall not enter a client's residence in the absence of the client unless the client has given permission to enter to accomplish scheduled work and the permission is documented in the client file. (7-1-98)

f. Proselytizing. A homemaker shall not engage in religious proselytizing during the course of employment. (7-1-98)

g. Medication administration. A homemaker shall not administer medications. The homemaker may remind a client to take medications, assist with removing the cap from a multi-dose or bubble pack container, and may observe the client taking medications. (7-1-98)

h. Confidentiality. A homemaker shall regard all client communications and information about clients' circumstances as confidential. (7-1-98)

i. Smoking. A homemaker shall not smoke in the home of a client. (7-1-98)

10. Intake and Assessment. (7-1-98)

a. Normal intake. Client contact shall be initiated within five (5) days of receipt of the referral, and an assessment shall be conducted within two (2) weeks of referral. (7-1-98)

b. Emergency intake. Referrals indicating a crisis or potential crisis such as a marked decline in health or functional status, hospital discharge, or adult protection referral require a home visit be conducted to assess service need within one (1) working day of receipt of referral. If appropriate and available, a homemaker shall be assigned and service shall be initiated immediately. Such emergency homemaker service shall not exceed two (2) weeks duration. Referrals assessed to need emergency service shall take precedence over applicants carried on a waiting list. (7-1-98)

c. Client assessment. To determine the level of need and the type of service needed, the provider shall conduct an in-home assessment using the ICOA UAI. Service alternatives shall be discussed and referrals initiated as appropriate. (7-1-98)

d. Assessment coordination. A client need not be re-assessed if an assessment completed within the past ninety (90) days by another human services agency provides the same information as the ICOA's UAI and the client signs a Release of Information form. A client assessment shall be completed if no current assessment from another agency is available. In either case, a home visit shall be included in the process of developing the client's individual SSP. (7-1-98)

11. Individual Supportive Service Plan (SSP). A supportive service plan shall be signed by the client or legal representative prior to initiation of service. (7-1-98)

a. An approved plan shall reflect needed services to be provided by available family or others. (7-1-98)

b. Revision of the SSP. After services have been in place for one (1) month, the homemaker shall inform the supervisor of any modifications needed in the SSP, such as changes in hours of service or tasks to be performed. (7-1-98)

c. Reassessments of SSP. The SSP shall be updated at least annually. Any revisions to an SSP shall be initiated by the client prior to being put into effect. An SSP may be updated more often than annually if changes in a client's circumstances (i.e., functional or cognitive ability, living conditions, availability of supports) indicate a necessity for re-assessment. (7-1-98)

042. CHORE.

01. Policy. Chore service is designed to be provided to individuals who reside in their own homes or who occupy individual rental units. Chore services for those individuals who rent housing shall not provide repairs or maintenance that are contractually the responsibility of the property owner. (7-1-98)

02. Service Eligibility. Clients qualify to receive chore service if: (7-1-98)

a. They have been assessed to have ADL or IADL deficits which inhibit their ability to maintain their homes or yards; (7-1-98)

b. There are no available informal supports; (7-1-98)

c. ~~Client Safety~~. Chore service is needed to improve the client's safety at home or to enhance the client's use of existing facilities in the home. These objectives shall be accomplished through one-time or intermittent service to the client. (7-1-98)()

03. Service Priority. Service provision shall be prioritized based on client's degree of functional impairment. (7-1-98)

04. Program Intake and Eligibility Determination. (7-1-98)

a. A home visit shall be made within five (5) work days of the referral. (7-1-98)

b. Client assessment shall be conducted utilizing the UAI. (7-1-98)

c. If chore services are to be provided, the income declaration, service determination and work plan shall be completed prior to any work being done. The work plan shall be signed by both the client and the service provider. The work plan shall include a description of the work to be accomplished, the start and completion dates for such work, and a summary of any cost to the client (for labor or materials) the work shall incur. (7-1-98)

d. If the client is not eligible for services, appropriate referrals shall be made. (7-1-98)

043. ADULT DAY CARE.

01. Policy. Adult Day Care is designed to meet the needs of eligible participants whose functional or cognitive abilities have deteriorated. It is intended to provide relief for care providing family members. It is a comprehensive program which provides a variety of social and other related support services in a protective setting during any part of a day, but for a duration of less than twenty-four (24) hours. (7-1-98)

02. Eligibility. Individuals eligible for adult day care include: (7-1-98)

- and
- a. Those who have physical or cognitive disabilities affecting ADL or IADL functioning; (7-1-98)
 - b. Those capable of being transported; (7-1-98)
 - c. Those capable of benefiting from socialization, structured and supervised group-oriented programs; (7-1-98)
 - d. Those capable of self-care with supervision or cueing. (7-1-98)
03. Enrollment Agreement. A signed enrollment agreement shall be completed to include: (7-1-98)
- a. Scheduled days of attendance; (7-1-98)
 - b. Services and goals of the center; (7-1-98)
 - c. Amount of fees and when due; (7-1-98)
 - d. Transportation agreement, if appropriate; (7-1-98)
 - e. Emergency procedures; (7-1-98)
 - f. Release from liability (for field trips, etc.); (7-1-98)
 - g. Conditions for service termination; (7-1-98)
 - h. A copy of the center's policy; and (7-1-98)
 - i. A SSP. (7-1-98)
04. Staffing. Staff shall be adequate in number and skills to provide essential services. (7-1-98)
- a. There shall be at least two (2) responsible persons at the center at all times when clients are in attendance. One shall be a paid staff member. (7-1-98)
 - ~~b. The staff to client ratio shall be, at minimum, one to six (1:6). (7-1-98)~~
 - ~~eb.~~ Staff to client ratio shall be increased appropriately if the number of clients in day care increases or if the degree of severity of clients' functional or cognitive impairment increases. (7-1-98)
 - ~~ec.~~ Staff persons counted in the staff to client ratio shall be those who spend the major part of their work time in direct service to clients. (7-1-98)
 - ~~ed.~~ If the administrator is responsible for more than one (1) site or has duties not directly related to adult day care, a program manager shall be designated for each site. (7-1-98)
 - ~~fe.~~ Volunteers shall be included in the staff ratio only when they conform to the same standards and requirements as paid staff. (7-1-98)
05. Services. Adult Day Care Programs shall, at a minimum, provide the following services: (7-1-98)
- a. Assistance with transferring, walking, eating, toileting; (7-1-98)
 - b. Recreation; (7-1-98)
 - c. Nutrition and therapeutic diets; and (7-1-98)
 - d. Exercise. (7-1-98)

06. National Standards. Adult Day Care Programs shall operate under guidelines established by the ICOA in accordance with national standards developed by the National Council on Aging's National Institute on Adult Day Care. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

056. CARE COORDINATION.

01. Policy. Care coordination is a consumer-driven, social model case management service that empowers individuals and their families to make choices concerning in-home, community-based or institutional long-term care services. (7-1-98)

02. Qualifications. Any person hired to fill the position of care coordination supervisor or care coordinator on or after July 1, 1998, shall have the qualifications identified in Subsections 010.08 and 010.10 of this chapter. (7-1-98)

03. Service Priority. Service priority is based on the following criteria: (7-1-98)

a. Require minimal assistance with one or more ADLs or IADLs; and (7-1-98)

b. Require services from multiple health/social services providers, and (7-1-98)

c. Are unable to obtain the required health/social services for themselves, or, (7-1-98)

d. Lack available family or friends who ~~do not have family or friends who~~, can provide the needed assistance. (7-1-98)()

04. Screening and Referral. (7-1-98)

a. The purpose of screening is to determine whether an older person needs service referral, assistance and client advocacy, or is a potential care coordination client who should receive a home visit and a comprehensive assessment. (7-1-98)

b. Screening shall be provided over the telephone. Screening may also be provided in the field, if appropriate. (7-1-98)

c. Screening shall usually be accomplished by the I&A component, Adult Protection, provider, or by a community agency. However, care coordination may receive a direct referral of a potential client who has not been screened. In such cases, care coordination shall conduct screening or refer the potential client to the I&A component for screening. (7-1-98)()

d. All Care Coordination Programs shall utilize the pre-screen and referral component of the UAI to screen potential clients. (7-1-98)

e. Pre-referral screening shall be done to determine if a potential client meets the criteria for receipt of Care Coordination Services. If the potential client meets the criteria and agrees to the referral, the client shall be referred for a comprehensive assessment utilizing the UAI. (7-1-98)

f. Referrals who do not meet the criteria for Care Coordination Services shall be referred for other appropriate services. (7-1-98)

g. If notification was requested, the referral source shall be notified of case disposition following the screening. (7-1-98)

05. Referral for Care Coordination. Referrals shall be accepted from any source and may include eligible clients who are seeking or already receiving other services. (7-1-98)
06. Working Agreements. (7-1-98)
- a. The Care Coordination Program shall enter into working agreements with primary community resources utilized by older persons. These resources may include AAA service providers, mental health centers, hospitals, home health agencies, legal services providers, and others. (7-1-98)
- b. Working agreements shall address at least the following: (7-1-98)
- i. How long each party shall take to respond to a request for service; (7-1-98)
- ii. Release of information procedures; (7-1-98)
- iii. Referral and follow-up procedures; (7-1-98)
- iv. How each party shall notify the other of program changes and non-availability of service; and (7-1-98)
- v. Procedures for working out problems between the two (2) parties. (7-1-98)
07. Core Services. Care coordination provides responsible utilization of available informal (unpaid) supports before arranging for formal (paid) services. The care coordinator and client shall work together in determining the frequency and duration of needed services. Services shall be arranged subsequent to approval by the client or legal representative. Services provided shall be recorded and monitored to insure cost effectiveness and compliance with the SSP. (7-1-98)
- a. Client assessment shall be conducted during a home visit and shall utilize the UAI. (7-1-98)
- b. A client need not be re-assessed if an assessment completed within the past ninety (90) days by another human service agency provides the same information as the ICOA's UAI and the client signs a Release of Information form. (7-1-98)
- c. SSP. Based on the information obtained during the client assessment and input obtained from family or professionals familiar with the client, the care coordinator shall develop a written SSP which shall include at least the following: (7-1-98)
- i. Problems identified during the assessment; (7-1-98)
- ii. Exploration of opportunities for family and other informal support involvement to be included in development of the SSP; (7-1-98)
- iii. Overall goals to be achieved; (7-1-98)
- iv. Reference to all services and contributions provided by informal supports including the actions, if any, taken by the care coordinator to develop the informal support services; (7-1-98)
- v. Documentation of all those involved in the service planning, including the client's involvement; (7-1-98)
- vi. Schedules for care coordination monitoring and reassessment; (7-1-98)
- vii. Documentation of unmet need and service gaps; and (7-1-98)
- viii. References to any formal services arranged, including fees, specific providers, schedules of service

initiation, and frequency or anticipated dates of delivery. (7-1-98)

d. The SSP shall be reevaluated and updated by the care coordinator at least annually or when significant changes in the client's status occur. (7-1-98)

e. A copy of the current SSP shall be provided to the client or legal representative. (7-1-98)

f. Case files shall be maintained for three (3) years following service termination. (7-1-98)

08. Other Supportive Services. (7-1-98)

a. Necessary services. Care coordinators shall assist clients to obtain available benefits, ~~entitlements,~~ services, medically related devices, assistive technology, necessary home modifications, or other services required to fulfill unmet needs. (7-1-98)(____)

b. Social-emotional support. Care coordinators shall link clients and their families with available services which facilitate life adjustments and bolster informal supports. (7-1-98)

c. Unmet needs. To assist the AAA in future planning, care coordinators shall identify and document unmet client needs. (7-1-98)

d. Other informal resources. In all cases, available informal supports shall be explored prior to utilization of formal services. (7-1-98)

09. Structure and Role. Care coordination is a centralized evaluator and arranger of services and provides those activities previously outlined under "Service Functions". AAAs shall be the direct provider for care coordination services. The AAA is responsible for the implementation of the care coordination program. (7-1-98)

a. Care coordinators shall ~~actively advocate for services required by clients and shall~~ coordinate service delivery between multiple agencies, individuals, and others. (7-1-98)(____)

b. All providers of Care Coordination Services shall carry insurance in the types and amounts which meet acceptable business and professional standards. (7-1-98)

c. Providers shall conduct an orientation program for all new employees which covers, at least, local resources available, care coordination service delivery, confidentiality of information, and client rights. (7-1-98)

d. In addition to the development and maintenance of the SSP, program and client records shall be maintained to provide an information system which assures accountability to clients, the Care Coordination Program, and funding agencies, and which supplies data for AAA planning efforts. The information system established shall comply with the following ICOA requirements: (7-1-98)

i. NAPIS Registration Form; (7-1-98)

ii. Completed UAI; (7-1-98)

iii. Pertinent correspondence relating specifically to the client; (7-1-98)

iv. A narrative record of client and community contacts, including problems encountered and SSP modifications developed in response; (7-1-98)

v. Completed SSP, signed by the client; (7-1-98)

vi. Written consent and acceptance of Care Coordination Services and release of information forms; (7-1-98)

vii. Any other documentation necessary for systematic care coordination and SSP continuity. (7-1-98)

10. Standards of Performance. AAAs shall assure care coordination meets the requirements for service neutrality. An agency providing care coordination shall not be a direct provider of other in-home services without proper written justification and approval by the Director of the ICOA. (7-1-98)

11. Evaluation. Evaluation is required to assure quality control. The AAA is responsible for monitoring care coordination activities for quality control and assurance. The AAA shall review client records to determine: (7-1-98)

- a. Services are being provided as outlined in the SSP; (7-1-98)
- b. Services are meeting the goals established in the SSP; (7-1-98)
- c. The client is satisfied with the service(s) being provided; (7-1-98)
- d. Changes in service have been authorized; (7-1-98)
- e. The SSP continues to be cost-effective; (7-1-98)
- f. Providers are noting observations and relating information about informal caregivers, additional actions required by the care coordinator, re-evaluations, amendments to the SSP, and client contacts. (7-1-98)

IDAPA 15 - OFFICE OF THE GOVERNOR
15.01.02 - RULES GOVERNING ADULT PROTECTION SERVICES
IDAHO COMMISSION ON AGING

DOCKET NO. 15-0102-9801

NOTICE OF PROPOSED RULE AND AMENDMENT TO TEMPORARY RULE

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 rule-making procedures have been initiated. The action is authorized pursuant to Section 67-5003, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 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: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

There are substantive changes from the temporary rule text. Section 39-5308, Idaho Code, has been added to IDAPA 15.01.02, Subsection 031.07.

In February 1998, the Idaho Commission on Aging adopted this rule as a temporary rule with an effective date of July 1, 1998. The temporary rule was published in the Idaho Administrative Bulletin, Volume 98-2, February 4, 1998, pages 24 and 25.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Protection of the public health, safety or welfare.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Omar Valverde at (208) 334-2220.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 18th day of May, 1998.

Arlene Davidson, Director
Idaho Commission on Aging
Statehouse, Room 108
PO Box 83720
Boise, ID 83720-0007
Phone: (208) 334-3833
Fax: (208) 334-3033

IDAPA 15
TITLE 01
Chapter 02

RULES GOVERNING ADULT PROTECTION SERVICES

Pursuant to Section 67-5221(1) this docket is being published as a Proposed Rule.

This docket has been previously published as a Temporary Rule.

The temporary effective date is July 1, 1998.

**The text of the Temporary Rule was published in the Idaho
Administrative Bulletin, Volume 98-2, February 4, 1998,
pages 24 and 25.**

TEXT OF DOCKET NO. 15-0102-9801

031. INVESTIGATIVE REQUIREMENTS.

01. Vulnerability Determination. Upon investigating an AP report, each area agency shall determine whether an alleged victim is vulnerable as defined in Section 39-5302, Idaho Code. If the alleged victim is not vulnerable as defined in Section 39-5302, Idaho Code, AP may refer the complaint to the Ombudsman, Law Enforcement or other appropriate entity for investigation and resolution. (7-1-98)

02. Assessment of Alleged Victim. An alleged victim's vulnerability and associated risk factors shall be determined through the administration of the UAI and other standardized supplemental forms. Initial interviews and assessments of an alleged victim shall be conducted by an AP worker. (7-1-98)

03. Investigative Findings. AP shall make one (1) of two (2) investigative findings upon completion of an AP investigation: (7-1-98)

a. Substantiated. AP determines that a report is valid based on sufficient evidence. (7-1-98)

b. Unsubstantiated. AP determines that a complaint is invalid due to insufficient supporting evidence. This finding requires AP to close the case. (7-1-98)

i. If an allegation is unsubstantiated, but the vulnerable adult has unmet service needs, AP shall initiate appropriate referrals with consent of the vulnerable adult or his legal representative. (7-1-98)

ii. A case shall be closed if AP determines that an allegation has been made in bad faith or for a malicious purpose. (7-1-98)

iii. A case shall be closed if AP determines that an alleged victim is not a vulnerable adult. (7-1-98)

04. Caretaker Neglect. In investigating a report of caretaker neglect, AP shall take into account any deterioration of the mental or physical health of the caregiver resulting from the pressures associated with care giving responsibilities that may have contributed to the neglect of the vulnerable adult. In such cases, AP shall make every effort to assist the primary caregiver in accessing program services necessary to reduce the risk to the vulnerable adult. In AP cases in which family members are experiencing difficulties in providing twenty-four (24) hour care for

a functionally impaired relative, AP shall make appropriate referrals to available community services to provide needed assistance. (7-1-98)

05. Referral to Law Enforcement. A substantiated report of abuse, neglect or exploitation is presumed to have caused a serious imposition of rights or injury to the alleged victim and shall be immediately referred to law enforcement pursuant to Section 39-5310, Idaho Code. (7-1-98)

06. Adult Protection and Ombudsman Coordination. Area agencies shall ensure that AP staff and the substate ombudsman maintain a written agreement establishing cooperative protocols in the investigation of complaints. (7-1-98)

07. Confidentiality. All records relating to a vulnerable adult and held by an area agency are confidential and shall only be divulged as permitted pursuant to Sections 39-5307, 39-5304 (5), and 39-5308, Idaho Code, and IDAPA 15.01.01, Section 018028, "Rules Governing Idaho Senior Services Program". (7-1-98)(7-1-98)T

032. SUPPORTIVE SERVICES AND CASE CLOSURE.

01. Supportive Services Plan. If determined necessary to reduce risk to a vulnerable adult, in substantiated cases, AP shall assist in the development and initiation of a the SSP with the consent of the vulnerable adult or his legal representative. (7-1-98)(____)

02. Documentation of Client Consent. A vulnerable adult's consent, refusal to grant consent, or withdrawal of consent to a SSP shall be documented in the client case record. (7-1-98)

03. Case Review. The implemented SSP shall be reviewed annually or more frequently based on the circumstances of each individual case. (7-1-98)(____)

04. Case Closure. AP shall close a case under the following circumstances: (7-1-98)

a. AP shall close a substantiated case upon a determination that an initiated SSP or law enforcement involvement has successfully reduced the risk to the vulnerable adult. (7-1-98)

b. AP may close a case if another program or agency has agreed to assume responsibility to monitoring and reviewing implementation of an SSP. (7-1-98)

05. Suspense File. Closed cases shall be maintained in a suspense file until formal action is completed by law enforcement and/or the courts in the following instances: (7-1-98)

a. Cases referred by AP to law enforcement for criminal investigation and prosecution as determined necessary by the law enforcement agency. (7-1-98)

b. Cases referred by AP for guardianship/conservatorship proceedings. (7-1-98)

IDAPA 15 - OFFICE OF THE GOVERNOR

**15.01.03 - RULES GOVERNING OMBUDSMAN FOR THE ELDERLY PROGRAM
IDAHO COMMISSION ON AGING**

DOCKET NO. 15-0103-9801

NOTICE OF PROPOSED RULES

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed regular rule-making. The action is authorized pursuant to Section 67-5003, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 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: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

To make amendments requested by Senator Grant Ipsen (Chair of the Senate Health and Welfare Committee) and to correct clerical and transcription errors and to also correct cross references to other chapters. Per request of Senator Ipsen, these rules also delete a rule requiring the Ombudsman "to seek out residents who consent to communicate privately".

In February 1998, the Idaho Commission on Aging adopted this rule as a temporary rule with an effective date of July 1, 1998. The temporary rule was published in the Idaho Administrative Bulletin, Volume 98-2, February 4, 1998, pages 26 through 28.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cathy Hart at (208) 334-4693.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 18th day of May, 1998.

Arlene Davidson, Director
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Statehouse, Room 108
PO Box 83720, Boise, ID 83720-0007
Phone: (208) 334-3833 - Fax: (208) 334-3033

**IDAPA 15
TITLE 01
Chapter 03**

RULES GOVERNING OMBUDSMAN FOR THE ELDERLY PROGRAM

Pursuant to Section 67-5221(1) this docket is being published as a Proposed Rule.

This docket has been previously published as a Temporary Rule.

The temporary effective date is July 1, 1998.

The text of the Temporary Rule was published in the Idaho
Administrative Bulletin, Volume 98-2, February 4, 1998,
pages 26 through 28.

TEXT OF DOCKET NO. 15-0103-9801

021. STAFFING.

Pursuant to the OAA, Section 712, in order to meet minimum requirements established for the position of substate ombudsman, each AAA shall seek applicants having the following qualifications. (7-1-98)

- 01. Minimum Qualifications: (7-1-98)
 - a. Any person hired to fill the position of substate ombudsman on or after July 1, 1998, shall have: (7-1-98)()
 - ba. A current Idaho social work license; (7-1-98)
 - eb. Minimum of one (1) year's experience working with the elderly; (7-1-98)
 - ec. Ability to effectively communicate verbally and in writing; (7-1-98)
 - ed. Knowledge of long-term care issues and resources; (7-1-98)
 - fe. Demonstrated ability to interpret and apply relevant local, state and federal laws, rules, regulations, and guidelines; (7-1-98)
 - gf. Demonstrated ability to work independently; (7-1-98)
 - hg. Demonstrated skill in interviewing techniques; and (7-1-98)
 - ih. Demonstrated ability to collect data, conduct interviews and to form conclusions. (7-1-98)
 - 02. Hiring. The Office shall be included in the process of interviewing and selecting applicants for the substate ombudsman position. The AAA shall make the final selection from the top three (3) applicants. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

032. HANDLING OF COMPLAINTS.

The Ombudsman for the Elderly Program has jurisdiction to accept, identify, investigate, and resolve complaints made by, or on behalf of, persons aged sixty (60) or older, living in the community or in long-term care facilities. The Office and the substate ombudsmen shall ensure that persons aged sixty (60) or older have regular and timely access to services provided through the Office. The Ombudsman for the Elderly Program shall represent the interests of older persons before governmental agencies and shall seek to protect the health, safety, welfare and rights of older persons. (7-1-98)

- 01. Non-Jurisdictional Complaints. Substate ombudsmen may respond to complaints made by or on behalf of under age sixty (60) long-term care residents where such action will: (7-1-98)

- a. Benefit other residents; or (7-1-98)
- b. Provide the only viable avenue of assistance available to the complainant. (7-1-98)
- 02. Conflict of Interest. Substate ombudsmen shall refer to the Office any complaint involving AAA staff or contractors. (7-1-98)
- 03. Complaints. Complaints concerning substate ombudsmen, or relative to a substate ombudsman's official duties, shall be directly referred to the ICOA. The ICOA, upon completing an investigation of such complaint(s), shall provide findings and recommendations to the AAA. (7-1-98)
- 04. Guardianship. The substate ombudsmen shall not serve as an ex-officio or appointed member of any ~~Community~~ Board of Community Guardian, nor file an affidavit to the court for guardianship. ~~(7-1-98)(____)~~
- 05. Court Visitor. The substate ombudsmen shall not act as court visitor in any guardianship/conservatorship proceeding concerning a past or current client. (7-1-98)
- 06. Legal Documents. Substate ombudsmen shall not, in their capacity as ombudsmen, act as a notary or a witness of signatures for legal documents. (7-1-98)

033. ACCESS.

The Office shall ensure that representatives of the Office have access to long-term care facilities and residents as well as appropriate access to medical and social records needed to investigate complaints. (7-1-98)

- 01. Visitation. For visitation purposes, substate ombudsmen shall have access to long-term care facilities during regular business hours. Visiting substate ombudsmen shall: (7-1-98)
 - a. Notify the person in charge upon entering the facility; (7-1-98)
 - b. Be allowed to visit common areas of the facility and the rooms of residents if consent is given by the resident; and ~~(7-1-98)(____)~~
 - ~~e. Seek out residents who consent to communicate privately; and (7-1-98)~~
 - ~~ec.~~ Communicate privately and without restriction with any resident who consents to the communication. (7-1-98)
- 02. Investigation. Substate ombudsmen shall have access to facilities for the purpose of conducting investigations. A substate ombudsman conducting an investigation shall: (7-1-98)
 - a. Notify the person in charge upon entering the facility; (7-1-98)
 - b. Be allowed to visit common areas of the facility and the rooms of residents if consent is given by the resident; (7-1-98)
 - c. Seek out residents who consent to communicate privately; (7-1-98)
 - d. Communicate privately and without restriction with any resident who consents to the communication; and (7-1-98)
 - e. Inspect a resident's records under conditions set forth in the OAA, Section 712. (7-1-98)
- 03. Privacy. Substate ombudsmen shall have statutory authority to visit facilities and residents in facilities unescorted by facility personnel. See Section 67-5009, Idaho Code. (7-1-98)

IDAPA 15 - OFFICE OF THE GOVERNOR
15.01.20 - RULES GOVERNING AREA AGENCY ON AGING (AAA) OPERATIONS
IDAHO COMMISSION ON AGING

DOCKET NO. 15-0120-9801

NOTICE OF PROPOSED RULES

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed regular rule-making. The action is authorized pursuant to Section 67-5003, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 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: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

To make a correction in two subsections to maintain consistency in referring to the agreements between the Idaho Commission on Aging and area agencies on aging as "performance-based agreements". They also correct a clerical error and an incorrect references to another chapter of the rules.

In February 1998, the Idaho Commission on Aging adopted this rule as a temporary rule with an effective date of July 1, 1998. The temporary rule was published in the Idaho Administrative Bulletin, Volume 98-2, February 4, 1998, pages 29 through 31.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ken Wilkes at (208) 334-2219.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 18th day of May, 1998.

Arlene Davidson, Director
Idaho Commission on Aging
Statehouse, Room 108
PO Box 83720
Boise, ID 83720-0007
Phone: (208) 334-3833
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IDAPA 15
TITLE 01
Chapter 20

RULES GOVERNING AREA AGENCY ON AGING (AAA) OPERATIONS

Pursuant to Section 67-5221(1) this docket is being published as a Proposed Rule.

This docket has been previously published as a Temporary Rule.

The temporary effective date is July 1, 1998.

**The text of the Temporary Rule was published in the Idaho
Administrative Bulletin, Volume 98-2, February 4, 1998,
pages 29 through 31.**

TEXT OF DOCKET NO. 15-0120-9801

010. DEFINITIONS.

Any item not specifically defined below shall have the same meaning as those listed in IDAPA 15.01.01, "Rules Governing Senior Services Program". (7-1-98)

01. Bidder/Offeree/Proposer. An eligible organizational entity which submits to the AAA a proposal to provide specific service(s). (7-1-98)

02. Bidders' Conference. A meeting conducted by the AAA to review the materials and information described in the RFP and to respond to questions from organizations that submit letters of intent and are interested in completing proposals on specific services. (7-1-98)

03. Blind Negotiation. A process which takes place between the AAA and bidders after the local evaluation committee has "scored" proposals and has determined that there is no significant difference, ten percent (10%), between bids. In this case, the AAA has the authority to select the proposal most advantageous to the AAA. (7-1-98)

04. Blind Review. A proposal reviewing process which conceals the ~~identity~~ identity of the submitting organization. (7-1-98)()

05. Contract. A legally binding, written agreement between two (2) or more parties which outlines the terms and provisions to which both parties agree. (7-1-98)

06. Evaluation Committee. A group of individuals selected to review proposing organizations' completed proposals. (7-1-98)

07. Letter of Intent. A written communication submitted by a potential bidder soliciting a request for proposal to provide a specific service. (7-1-98)

08. Performance-Based Agreement. A contract or grant which expresses priorities and directions through a statement of work and which serves as the basis for program review/assessment through the year. (7-1-98)

09. Request for Proposal (RFP). A document issued by the AAA, describing in detail the service to be contracted and how it is to be delivered. (7-1-98)

10. Sole Source. Documentation that only one (1) eligible, available provider is interested in providing a specific service. (7-1-98)

11. Statement of Work. The precise, definitive statement of what is expected of the provider. It shall answer such questions as what, how, when, where, and sometimes, why. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

056. REPORTING REQUIREMENTS.

01. Reporting Forms. Each AAA shall submit to the ICOA such reports as are specified by the ICOA, in such format and on such schedule as is established by the ICOA, in fulfillment of all federal and state requirements. (7-1-98)

02. Verification of Service Provider Reports. The AAAs shall conduct ongoing verification of service provider reports in accordance with the terms of the ~~grant~~ performance-based agreement with the ICOA. (7-1-98)()

03. Reporting Deficiencies. If reports are late, incorrect, or incomplete, the ICOA shall withhold funds from the AAA, in accordance with terms of the performance-based agreement between the ICOA and the AAA, until a correct report is received by the ICOA. (7-1-98)()

(BREAK IN CONTINUITY OF SECTIONS)

068. COLLECTION AND ACCOUNTABILITY OF PARTICIPANT CONTRIBUTIONS.

01. Participant Contribution Confidentiality. All participants shall be given the opportunity to contribute to programs operated with Administration on Aging funds. The method of collection shall respect the privacy of the participant, and provide for confidentiality of the fact and amount of the contribution. (7-1-98)

02. State Funds Cost Sharing. State-funded ~~Adult Day Care~~ Care Coordination, Chore, Homemaker, and Respite Services identified in IDAPA 15.01.01, Subsection 0426.06, "Rules Governing Senior Services Program," shall be provided on a cost-sharing basis, with a sliding fee scale. (7-1-98)()

03. Payment for Service. Persons under the age of sixty (60), who are not spouses of eligible participants, shall pay the full cost of meals, as published by the meal provider. No eligible person shall be denied services because of inability to pay. (7-1-98)

04. Used to Support Service. Service contributions shall be used to support the service from which they were generated. (7-1-98)

05. Security For Cash Collections. The service provider collecting funds shall provide for security of cash collected by having two (2) people involved in the collection and counting process. (7-1-98)

IDAPA 15 - OFFICE OF THE GOVERNOR
15.01.20 - RULES GOVERNING AREA AGENCY ON AGING (AAA) OPERATIONS
IDAHO COMMISSION ON AGING

DOCKET NO. 15-0120-9802

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 rule-making procedures have been initiated. The action is authorized pursuant to Section 67-5003, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 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: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

This rule changes the reference for Area Agency on Aging purchasing requirements from IDAPA 38.05.01, "Rules of the Division of Purchasing," to the Idaho Commission on Aging Area Agency on Aging Operations Manual.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Protection of the public health, safety or welfare.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Ken Wilkes at (208) 334-2219.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 18th day of May, 1998.

Arlene Davidson, Director
Idaho Commission on Aging
Statehouse, Room 108
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Boise, ID 83720-0007
Phone: (208) 334-3833
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TEXT OF DOCKET NO. 15-0120-9802

042. CONTRACT MANAGEMENT REQUIREMENTS.

AAAs shall follow State Procurement Practices in awarding contracts, in accordance with ~~IDAPA 38.05.01, "Rules of the Division of Purchasing"~~ the ICOA Area Agency on Aging Operations Manual, Chapter 4. ~~(7-1-98)~~(7-1-98)T

01. Competitive Bids. The AAAs shall accept competitive bids and shall develop contracts for provision of programs and services authorized and funded under the OAA of 1965, as amended, and Sections 67-5007 and 5008, Idaho Code. (7-1-98)

02. Incorporation of Non-Profit Agency Contractors. All private non-profit agency contractors shall be incorporated as 501(c)(3) organizations. All contracts between the AAA and service providers shall contain sufficient program and financial information to ensure all activities comply with the Area Plan, the Act, federal regulations, and the rules of the ICOA. (7-1-98)

03. Multi-Year Contracts. The AAA may award multi-year contracts not to exceed four (4) years. The AAA shall maintain documentation which justifies the reason(s) a multi-year contract was awarded. Justification for a multi-year contract shall include, but is not limited to, the following: (7-1-98)

- a. More than one (1) year is necessary to complete the project or service; (7-1-98)
- b. More than one (1) year is necessary to justify substantial cost savings; (7-1-98)
- c. A multi-year contract award is necessary to allow the provider opportunity to increase and demonstrate capacity to operate a particular service. or (7-1-98)
- d. Results of evaluation justify continuance of the contract with the existing provider. (7-1-98)

04. Appeals. When there is competition for specific services, the bidder who does not receive the award has a right to appeal the decision. The AAA is required to include information in the RFP describing the appeal procedure available to non-selected organizations. (7-1-98)

05. Noncompetitive Negotiation. Noncompetitive negotiation of contracts is allowable if the AAA follows IDAPA 38.05.01, "Rules of the Division of Purchasing". (7-1-98)

06. Execution of Contracts. The AAA is required to demonstrate prudent execution of any agreements (contracts) between the agency and public or private (for-profit or non-profit) organizations receiving state or federal funds. (7-1-98)

07. Standard Contracts. The AAA shall develop a standard contract format to be used in those instances where no special format is required by ICOA. The AAA shall develop procedures assuring that recipients of contracts are made fully aware of responsibilities and obligations under the approved Area Plan. Upon approval of contracts under the Area Plan, the AAA shall maintain file copies of contracts, criteria used to approve contracts, copies of the approved proposals, and any amendments. (7-1-98)

08. Contract Management Activities. Contract management encompasses those AAA activities which shall take place after a contract has been executed. The AAA shall assure that each executed contract is performed, as written, by both the provider and the AAA. (7-1-98)

09. Contract Management Staff. The AAA shall assign a staff person to assure that contracts are properly administered, monitored, and reviewed on a continuing basis. (7-1-98)

10. Close Out or Termination. The close out or termination phase of a contract begins when one (1) or more of certain steps are initiated to bring the contract to an end and concludes with the final settlement of all contract matters. Close out may entail such steps as: (7-1-98)

- a. Issuance of stop work orders, termination notices, etc.; (7-1-98)
- b. Negotiation and adjudication of disputes and appeals; (7-1-98)
- c. Negotiation and execution of releases; (7-1-98)
- d. Final payment; and (7-1-98)

- e. Other pertinent procedures. (7-1-98)
- 11. Close Out or Termination Procedures. Close out or termination includes the following procedures: (7-1-98)
 - a. Upon termination of contract, the AAA may require the provider to return any property specifically produced or acquired under the contract. The provisions of the "Treatment of Assets" clause contained in the contract document shall apply in such property transfer. (7-1-98)
 - b. The AAA shall pay the provider the agreed upon price, if separately stated, for goods and services accepted by the AAA and for the amount agreed upon by the provider and the AAA for: (7-1-98)
 - i. Completed work and services for which no separate price is stated; (7-1-98)
 - ii. Partially completed work and services; (7-1-98)
 - iii. Other property or services which are accepted by the AAA; and (7-1-98)
 - iv. The protection and preservation of property, unless the termination is for default, in which case the AAA shall determine the extent of liability of the contracting agency. (7-1-98)
 - c. Failure to agree with such determination shall be regarded as a dispute concerning a question of fact within the meaning of the "Disputes" clause of the written contract document. The AAA may withhold, from any amounts due the provider for such completed work or services, such sum as the AAA determines to be necessary to protect the AAA from loss resulting from outstanding liens or claims of former holders. (7-1-98)
- 12. Non-Exclusivity of Rights and Remedies. The rights and remedies of the AAA provided in this part shall not be exclusive and are in addition to any other rights and remedies provided by law or under the terms of the contract document. (7-1-98)
- 13. Provider Termination Responsibilities. After receipt of a notice of termination, the provider shall: (7-1-98)
 - a. Stop work under the contract on the date and to the extent specified in the notice; (7-1-98)
 - b. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract as is not terminated; (7-1-98)
 - c. Settle all outstanding liabilities and all claims arising out of such termination of order and contract. (7-1-98)
 - d. Transfer title to the AAA and deliver in the manner, at the time, and to the extent, if any, directed by the AAA, any property which, if the contract had been completed, would have been required to be furnished to the AAA; (7-1-98)
 - e. Complete performance of such part of the work as shall not have been terminated by the AAA; and (7-1-98)
 - f. Take such action as may be necessary, or as the AAA may direct, for the protection and preservation of the property related to the contract, which is in the possession of the provider and in which the AAA has or may acquire an interest. (7-1-98)

IDAPA 15 - OFFICE OF THE GOVERNOR
15.01.21 - RULES GOVERNING OLDER AMERICANS ACT SERVICES
IDAHO COMMISSION ON AGING

DOCKET NO. 15-0121-9801

NOTICE OF PROPOSED RULES

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed regular rule-making. The action is authorized pursuant to Section 67-5003, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 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: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

To correct clerical and transcription errors and to also correct cross references to other chapters. These rules add a definition for the "One hundred percent (100%) USDA cash-in-lieu of commodity program. They also make it optional for area agencies to participate in the USDA eighty/twenty (80/20) commodity program rather than a requirement. Section 031.02, Legal Assistance, was amended to change three percent (3%) to a "minimum percentage". Subsection 031.03.iii. was amended to eliminate the eight (8) hour requirement. Subsection 031.04.b. was eliminated.

In February 1998, the Idaho Commission on Aging adopted this rule as a temporary rule with an effective date of July 1, 1998. The temporary rule was published in the Idaho Administrative Bulletin, Volume 98-2, February 4, 1998, pages 32 through 34.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ken Wilkes at (208) 334-2219.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 18th day of May, 1998.

Arlene Davidson, Director
Idaho Commission on Aging
Statehouse, Room 108
PO Box 83720
Boise, ID 83720-0007
Phone: (208) 334-3833
Fax: (208) 334-3033

IDAPA 15
TITLE 01
Chapter 21

RULES GOVERNING OLDER AMERICANS ACT SERVICES

Pursuant to Section 67-5221(1) this docket is being published as a Proposed Rule.

This docket has been previously published as a Temporary Rule.

The temporary effective date is July 1, 1998.

The text of the Temporary Rule was published in the Idaho Administrative Bulletin, Volume 98-2, February 4, 1998, pages 32 through 34.

TEXT OF DOCKET NO. 15-0121-9801

010. DEFINITIONS.

Any item not specifically defined below shall have the same meaning as those defined in Idaho Code or IDAPA 15.01.01, "Rules Governing Senior Services Programs". (7-1-98)

01. Access services. Transportation, Outreach, Information and Assistance and Case Management. (7-1-98)
02. I&A. Information and Assistance Services initiated by an older person or their representative that: (7-1-98)
 - a. Provides current information about services available within the community, including information about assistive technology; (7-1-98)
 - b. Assesses the problem(s), determines the appropriate available service(s), and makes the referral; (7-1-98)
 - c. To the maximum extent practicable, by establishing adequate follow-up procedures, ensures that the client receives the needed service(s) and is made aware of other available services. (7-1-98)
03. Legal Assistance. Advice, counseling, or representation by an attorney or by a paralegal under the supervision of an attorney. (7-1-98)
04. Meal Site. A facility or location where eligible persons (and spouses) assemble for a meal, either site prepared or catered. (7-1-98)
05. Outreach Service. A service which actively seeks out older persons, identifies their service needs, and provides them with information and assistance to link them with appropriate services. (7-1-98)
06. Rural. Communities having a population of fewer than twenty thousand (20,000) persons. (7-1-98)

07. USDA Eighty/Twenty (80/20) Commodity Program. Federal program in which the participating AAA agrees to accept a minimum of twenty percent (20%) of its total entitlement in commodities with the balance of eighty percent (80%) being paid in cash at the current USDA reimbursement rate. (7-1-98)

08. USDA One Hundred Percent (100%) Cash-In-Lieu Commodity Program. Federal program in which the participating AAA receives one hundred percent (100%) cash reimbursement in lieu of commodities. ()

011. NUTRITION SERVICES.

01. Applicability of Federal Regulations. The ICOA incorporates, by reference, all federal and state statutes and requirements governing the administration, operation and management of the congregate and home-delivered meal programs. (7-1-98)

a. Client's eligibility to receive home-delivered meals shall be based upon the degree to which ADLs/IADLs limit ability to independently prepare meals. (7-1-98)

b. The AAA shall ensure providers comply with all state and local fire, health, sanitation, safety, building, and zoning laws, ordinances, or codes; (7-1-98)

c. Have a valid permit to operate a food service establishment: (7-1-98)

i. Are in compliance with the Federal Occupational Safety and Health Administration (O.S.H.A.) requirements; (7-1-98)

ii. Pass the Food Safety and Sanitation course in compliance with IDAPA 16.02.19, Subsection 400.02, "Rules Governing Food Safety and Sanitation Standards for Food Establishments (UNICODE)"; and (7-1-98)

iii. Comply with the provisions of the Americans with Disabilities Act (PL 101-336). (7-1-98)

02. ~~USDA Eighty/Twenty (80/20) Commodity Program Participation Requirements.~~ All AAA nutrition service providers shall choose annually to participate in the USDA Eighty/Twenty (80/20) or One Hundred Percent (100%) Cash-In-Lieu Commodity programs. (7-1-98)()

(BREAK IN CONTINUITY OF SECTIONS)

031. LEGAL ASSISTANCE.

01. Administrative Requirements. The AAA shall assure adherence to all administrative requirements as set forth in rule, unless the ICOA grants a waiver. (7-1-98)

02. Title III-B Funds. Under an approved area plan, the AAA shall expend, ~~at minimum, three percent (3%)~~ percentage of Title III-B funds as set forth in the ICOA state plan in Title III-B funds for legal assistance. (7-1-98)()

03. Contracts. Through performance-based agreements with local providers, the AAA shall provide legal assistance to older residents of the PSA. (7-1-98)

i. AAA contracts with for-profit providers of legal assistance services shall conform with standards set forth in 45 CFR 1321.71. Prior to being executed, contracts shall be submitted to ICOA for approval. (7-1-98)

ii. Contracts for legal assistance services shall be executed for the purpose of providing direct legal assistance and representation to persons aged sixty (60) or older. The number of service units to be provided must be

clearly stated in the contract. (7-1-98)

iii. Contracts for legal services shall include provision for a ~~minimum eight (8) hours of service per month~~ to clients of the AAA's Ombudsman for the Elderly Program and clients aged sixty (60) or older of the Adult Protection Program. (7-1-98)()

04. Idaho Legal Aid Services. AAA contracts with Idaho Legal Aid Services, Inc. shall provide the following assurances: (7-1-98)

a. Services provided under the contract to individuals sixty (60) years of age or older shall be in addition to legal assistance furnished with funds obtained from other sources. (7-1-98)

~~b. The contractor shall submit a quarterly report documenting legal assistance provided from other funding sources to individuals sixty (60) years of age or older. The report shall include: (7-1-98)~~

~~i. Description of legal problem; (7-1-98)~~

~~ii. Description of service provided; (7-1-98)~~

~~iii. Number of units of service provided; and (7-1-98)~~

~~iv. Number of unduplicated persons served. (7-1-98)~~

05. Maintenance of Legal Assistance Records. AAAs shall maintain records documenting legal assistance provided within each calendar quarter to individuals aged sixty (60) or older. (7-1-98)

06. Provision of Service. In accordance with OAA Section 307 (a) and 45 CFR 1321.71, Subparts (a) through (k), each AAA shall assure provision of legal assistance to older individuals residing within the PSA. (7-1-98)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO
DOCKET NO. 16-0101-9802

NOTICE OF NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Idaho Code Section 67-5220 and IDAPA 04.11.01.810 to 04.11.01.815, notice is hereby given that this agency intends to promulgate a rule and desires public participation in an informal, negotiated rulemaking process prior to the initiation of formal rulemaking procedures by the agency. The negotiated rulemaking action is authorized by Idaho Code Section 39-105. The formal rulemaking action is authorized by Idaho Code Sections 39-105 and 39-107. In addition, this rulemaking is required under 40 CFR Part 51, "Requirements for Adoption and Submittal of Implementation Plans".

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

Persons interested in participating in the negotiated rulemaking process are encouraged to attend meetings scheduled for July 9, July 30, and August 13, 1998 at 10 a.m. in Conference Room B of the Division of Environmental Quality Building, 1410 N. Hilton, Boise, Idaho. A preliminary draft of the rule may be obtained by contacting Marilyn Seymore at (208) 373-0502. Interested persons may also participate in the negotiated rulemaking process by submitting written comments as provided below.

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

DESCRIPTIVE SUMMARY: This rulemaking has been undertaken to address U.S. Environmental Protection Agency comments on Idaho's Implementation Plan submittals from the past four years, to allow the use of mobile source offsets, to review alternatives to the process weight rule, and to add a section on emergency situations and permitting revisions. Clarification of existing rules may also be addressed. Generally, the anticipated changes will incorporate verbatim federal rule language into Idaho's rules and thus eliminate ambiguities caused by differences in state and federal rule language.

This rulemaking will affect the general public and sources of air pollution.

The goal of the negotiated rulemaking process will be to develop by consensus the text of a recommended rule. If a consensus is reached, a draft of the rule, incorporating the consensus and any other appropriate information, recommendations, or materials, will be transmitted to the Division of Environmental Quality (DEQ) for consideration and use in the formal rulemaking process. If a consensus is unable to be achieved on particular issues, the negotiated rulemaking process may result in a report specifying those areas on which consensus was and was not reached, together with arguments for and against positions advocated by various participants. At the conclusion of the negotiated rulemaking process, DEQ intends to present those portions of the negotiated rule that meet the statutory requirements for temporary rulemaking to the Board of Health and Welfare in November 1998 for adoption prior to commencing formal rulemaking with the publication of a proposed rule. For those portions of the rule that do not qualify for temporary adoption, DEQ intends to commence formal rulemaking with the publication of a proposed rule in the December 1998 issue of the Idaho Administrative Bulletin.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the negotiated rulemaking, contact Sue Richards at (208) 373-0502.

Anyone may submit written comments regarding this proposal to initiate negotiated rulemaking. All written comments must be received by the undersigned on or before July 22, 1998.

Dated this 1st day of July, 1998.

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.08 - RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO (TAFI)
DOCKET NO. 16-0308-9801

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective July 1, 1997 and 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) 39-106(l) and 56-202(b), 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 July 15, 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: Public Law 104-193, Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, requires that individuals convicted in a federal or state court of fraudulently misrepresenting residence to get TANF, AABD, Food Stamps, Medicaid, or SSI from two (2) or more states at the same time are ineligible for ten (10) years. This rule is effective with the inception of TAFI, 7-1-97.

PRWORA also requires in determining the number of months for which an adult has received TANF that the Department not count any month during which the adult lived in Indian country or an Alaskan Native village if the most reliable data available with respect to the month indicates that at least fifty percent (50%) of the adults living in Indian country or in the village were not employed. This rule is effective with the inception of TAFI, 7-1-97.

The Work Incentive Table will increase from thirty-three percent (33%) of the 1997 Federal Poverty Limit to thirty-three percent (33%) of the 1998 Federal Poverty Limit effective 7-1-98.

TAFI Intentional Program Violation overpayments will be pursued and collected effective 7-1-98.

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 and to confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at (208) 334-5815.

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 22, 1998.

DATED this 1st day of July, 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

TEXT OF DOCKET NO. 16-0308-9801

102. RESIDENCE EXCEPTION TO TIME LIMIT.

In determining the number of months of TANF participation, the Department must not count any month the adult meets the conditions in Subsections 102.01 and 102.02. (7-1-97)T

01. Lived in Indian Country or Alaskan Native Village. The adult lived in Indian country or an Alaskan Native village during the month. (7-1-97)T

02. Fifty Percent (50%) Not Employed. The most reliable data about the month shows fifty percent (50%) or more of the adults living in Indian country or in the village were not employed. (7-1-97)T

1023. -- 106. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

131. CITIZENSHIP AND LEGAL NON-CITIZEN CRITERIA.

Individuals must be citizens of the United States or be qualified legal non-citizens. Nationals of American Samoa or Swain's Island are the equivalent of U.S. citizens. Only the groups of legal non-citizens listed in Subsections 1321.01 through 1321.09 may be eligible. (7-1-97)T(7-1-97)T

01. Permanent Residents Admitted Before August 22, 1996. A non-citizen lawfully admitted to the United States for permanent residence before August 22, 1996. (7-1-97)T

02. Permanent Residents Admitted On or After August 22, 1996. A lawful permanent resident admitted on or after August 22, 1996: (7-1-97)T

a. Who is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. armed forces for other than training, or the spouse or unmarried dependent of the veteran or person on active duty; or (7-1-97)T

b. Who has lived in the United States for five (5) years and has forty (40) quarters of work. (7-1-97)T

03. Refugees. A refugee admitted under Section 207 of the Immigration and Nationality Act, a Cuban/Haitian entrant as defined in Section 501(e) of the Refugee Assistance Act of 1980, or an Amerasian admitted under Section 584 of Public Law 100-202 and amended by Public Law 100-461, is eligible: (7-1-97)T

a. For five (5) years from their date of entry; or (7-1-97)T

b. With no time limit if the refugee is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. armed forces for other than training, or the spouse or unmarried dependent of the veteran or person on active duty. (7-1-97)T

04. Asylees. An asylee admitted under Section 208 of the Immigration and Nationality Act is eligible: (7-1-97)T

a. For five (5) years from the date asylee status is assigned; or (7-1-97)T

b. With no time limit if the asylee is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. armed forces, or spouse or unmarried dependent of the veteran or person on active duty. (7-1-97)T

05. Deportation Withheld. An individual whose deportation has been withheld under Section 241(b)(3) or 243(h) of the Immigration and Nationality Act is eligible: (7-1-97)T

a. For five (5) years from the date deportation was withheld; or (7-1-97)T

b. With no time limit if the deportee is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. armed forces for other than training, or the spouse or unmarried dependent of the veteran or person on active duty. (7-1-97)T

06. Conditional Entrants. A conditional entrant admitted under Section 203(a)(7) of the Immigration and Nationality Act and who is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. armed forces for other than training, or the spouse or unmarried dependent of the veteran or person on active duty. (7-1-97)T

07. Parolees. A person paroled into the United States under Section 212(d)(5) of the Immigration and Nationality Act for a period of at least one (1) year and who is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. armed forces for other than training, or the spouse or unmarried dependent of the veteran or person on active duty. (7-1-97)T

08. Battered Non-citizen Admitted Before August 22, 1996. A legal non-citizen admitted to the United States before August 22, 1996, as a battered non-citizen under Section 204(a)(1)(A), 204(a)(1)(B), as a non-citizen whose deportation is suspended under Section 244(a)(3) of the Immigration and Nationality Act and is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. armed forces for other than training, or the spouse or unmarried dependent of the veteran or person on active duty. (7-1-97)T

09. Battered Non-citizen Admitted On or After August 22, 1996. A legal non-citizen admitted to the United States on or after August 22, 1996, as a battered non-citizen under Section 204(a)(1)(A), 204(a)(1)(B), or as a non-citizen whose deportation is suspended under Section 244(a)(3) of the Immigration and Nationality Act: (7-1-97)T

a. Who is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. armed forces for other than training, or the spouse or unmarried dependent of the veteran or person on active duty; or (7-1-97)T

b. Who has lived in the United States for five (5) years. (7-1-97)T

~~132. **LEGAL NON-CITIZENS ENTERING THE U.S. ON OR AFTER AUGUST 22, 1996 (RESERVED).** Legal non-citizens, not described in Section 131, who enter the U.S. on or after August 22, 1996, are prohibited from receiving TAFI for five (5) years from the date of entry. (7-1-98)~~

(BREAK IN CONTINUITY OF SECTIONS)

151. PATERNITY NOT ESTABLISHED WITHIN TWELVE (12) MONTHS.

If information is provided but paternity is not established within twelve (12) months from the effective date of the application or the birth of a child, whichever is later, the grant is reduced by fifty percent (50%), unless the delay is caused by the Department or a third party. When determining the twelve (12) months, the Department must count only months the family received TAFI. (7-1-97)T(7-1-97)T

(BREAK IN CONTINUITY OF SECTIONS)

240. INDIVIDUALS EXCLUDED FROM FAMILY SIZE.

Individuals listed in Subsections 240.01 through 240.04~~5~~ are excluded from the family size in determining eligibility and grant amount. Income and resources of these ineligible family members are counted. ~~(7-1-98)~~(7-1-98)T

01. Ineligible Non-Citizens. Individuals who are non-citizens and are not listed in Section 131. (7-1-98)

02. Drug Related Conviction. Felons convicted ~~after August 22, 1996,~~ under federal or state law of any offense classified as a felony that involves the possession, use or distribution of a controlled substance and the conduct occurred after August 22, 1996. ~~(7-1-98)~~(7-1-98)T

03. Fleeing Felons. Felons who are fleeing to avoid prosecution, custody or confinement after conviction of a felony or an attempt to commit a felony. (7-1-98)

04. Felons Violating a Condition of Probation or Parole. Felons who are violating a condition of probation or parole imposed for a federal or state felony. (7-1-98)

05. Fraudulent Misrepresentation of Residency. Individuals convicted in a federal or state court of fraudulently misrepresenting residence to get TANF, AABD, Food Stamps, Medicaid or SSI from two (2) or more states at the same time are ineligible for ten (10) years from the date of conviction. ~~(7-1-97)T~~

(BREAK IN CONTINUITY OF SECTIONS)

251. WORK INCENTIVE TABLE.

Work Incentive Table 251 is used in the calculation of the grant amount for families with earned income.

WORK INCENTIVE TABLE 251	
NUMBER OF FAMILY MEMBERS	MONTHLY AMOUNT
1	\$292 8
2	\$292 8
3	\$367 75
4	\$441 52
5	\$516 29
6	\$591 606
7	\$666 83
8	\$741 60
9	\$815 37
10	\$890 914
OVER 10 PERSONS	ADD \$75 7 EACH

~~(10-1-97)T~~(7-1-98)T

(BREAK IN CONTINUITY OF SECTIONS)

316. UNDERPAYMENT.

If the Department is at fault for issuing a payment less than the family should have received, the Department issues a supplemental check benefit for the difference. ~~(7-1-97)T~~ (7-1-98)T

(BREAK IN CONTINUITY OF SECTIONS)

~~329. -- 331.~~ **(RESERVED).**

329. IPV OVERPAYMENTS.

An IPV overpayment is the portion of a monthly TAFI payment issued to a family that exceeds the amount for which the family is eligible. The overpayment must result from an IPV established as described in Section 324. ~~(7-1-98)T~~

330. IPV OVERPAYMENT AND EARNED INCOME.

If the IPV is the result of the family's failure to report earned income, the Department must use one hundred percent (100%) of the family's earned income to calculate the IPV overpayment. ~~(7-1-98)T~~

331. IPV OVERPAYMENT COLLECTION.

The Department must take all reasonable steps to collect an IPV overpayment. The remaining adult family members are responsible for an IPV overpayment resulting from one (1) member's IPV, regardless of the family's current TAFI eligibility. ~~(7-1-98)T~~

332. NOTICE OF OVERPAYMENT.

The Department must notify the participant when an IPV overpayment exists. The notice must inform the participant of mandatory recovery, the right to a hearing, the method for repayment and the need to arrange a repayment interview. ~~(7-1-98)T~~

~~333. -- 334.~~ **(RESERVED).**

3325. REVIEW OF PERSONAL RESPONSIBILITY CONTRACT AND ELIGIBILITY.

The PRC and eligibility are reviewed on an ongoing basis and when a change occurs that may affect eligibility. ~~(7-1-98)~~

~~3336.~~ **PRC MODIFICATIONS.**

If the participant cannot meet a PRC condition, the participant must notify the Department. Either the participant or the Department may initiate renegotiation or modification of the PRC when conditions change. ~~(7-1-98)~~

~~3347.~~ **NOT COMPLYING WITH CONDITIONS OF PRC.**

If the participant does not comply with a requirement of the PRC, without good cause, the penalty specified in the rules addressing the activity is imposed. The Department's non-compliance with a PRC requirement is good cause. ~~(7-1-98)~~

~~3358. -- 339.~~ **(RESERVED).**

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.04.02 - IDAHO TELECOMMUNICATIONS SERVICE ASSISTANCE
PROGRAM RULES (ITSAP)

DOCKET NO. 16-0402-9801

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) 62-610, 56-901, 56-902 and 56-904, 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 July 15, 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: The Department is proposing to amend IDAPA 16.04.02, Rules Governing the Idaho Telecommunications Service Assistance Program to comply with changes enacted by the 1998 State Legislature and provide rule clarification and deletion.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to protect the public health, safety or welfare, to comply with deadlines in amendments to governing law or federal programs, and to confer a benefit.

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

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before July 22, 1998.

DATED this 1st day of July, 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

TEXT OF DOCKET NO. 16-0402-9801

000. LEGAL AUTHORITY.

Chapter 9, Title 56, grants legal authority to the Department of Health and Welfare to adopt rules to provide eligible recipients with a reduction in the costs of telecommunication installation and services. ~~(3-5-91)(7-1-98)T~~

001. TITLE AND SCOPE.

These rules shall be known as Idaho Department of Health and Welfare Rules, IDAPA 16.04.02, "Idaho

Telecommunication Service Assistance Program Rules". These rules contain official requirements governing the program's right to provide eligible recipients with a reduction of costs in telecommunication installation and services. (42-31-91)(7-1-98)T

002. (RESERVED).

003. ADMINISTRATIVE APPEALS.

Contested case appeals shall be governed by Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, "Rules Governing Contested Cases and Declaratory Rulings," Section 300, et seq. (7-1-98)T

0024. PURPOSE.

The purpose of these rules is to establish requirements of the Idaho Telecommunication Assistance Service Program (ITSAP) as authorized by Sections 62-610, 56-901, 56-902, 56-903, and 56-904 of the Idaho Code. ITSAP shall maximize federal "lifeline" and "link-up" contributions to Idaho's low income customers. (42-31-91)(7-1-98)T

0035. DEFINITIONS.

01. Assistance Rate Discount. A monthly discount to eligible "lifeline" subscribers of residential basic local exchange service of either two ~~three~~ dollars ~~fifty cents~~ (\$23.50) or the same ~~an~~ amount as authorized by the Federal Communication Commission's ~~Subscribers Line Charge~~, whichever is greater. The discount will not exceed the rate charged for the grade of residential basic local exchange service subscribed to by each eligible individual. A service installation cost reduction of fifty percent (50%), up to a maximum of thirty dollars (\$30), will be granted to eligible "link-up" recipients. (42-31-91)(7-1-98)T

02. ~~Assistance Rate Discount Application. The application form furnished by the telephone corporation which contains information put in place of the discount mechanism.~~ (3-5-91)

03. Department. The Idaho Department of Health and Welfare. (3-5-91)

04. Eligibility Application. The current Participant Assessment Application Fforms HW-0478 and HW-0478A used for the Low Income Home Energy Assistance Program (LIHEAP) or the Application for Assistance (AFA) form. (42-31-91)(7-1-98)T

05. ~~Eligible Applicant. A person who is a participant in the Low Income Home Energy Assistance Program (LIHEAP), sixty (60) years of age or older and head of household.~~ (3-5-91)

06. Eligible Basic Local Service. A single residence telecommunication service line at the principal residence of the eligible subscriber/head of household. (3-5-91)(7-1-98)T

07. Head of Household. The adult member of a ~~Low Income Home Energy Assistance Program (LIHEAP)~~ household who is responsible for payment of at least fifty percent (50%) of the cost of the residential local exchange service. (42-31-91)(7-1-98)T

08. Household. A household is either an individual living alone or a group of individuals living together in common living quarters and facilities under such domestic arrangements and circumstances as to create a single establishment. (3-5-91)

09. ~~Ineligible Institution. A hospital, nursing home, shelter home, alcohol or drug treatment and rehabilitation facility.~~ (3-5-91)

10. ~~LIHEAP. Low Income Home Energy Assistance Program.~~ (3-5-91)

11. ~~LIHEAP Participant. A member of a household completing or included on Form HW-0478, Low Income Home Energy Assistance Application, or HW-0478A Low Income Home Energy Assistance Emergency Application, who meets the income eligibility criteria of the program and who does not reside in an ineligible institution.~~ (3-5-91)

07. Lifeline. ITSAP component that provides a monthly discount rate to eligible subscribers on their residential basic local exchange service costs. (7-1-98)T

08. Link-up. ITSAP component that provides a discount rate to eligible subscribers on installation of residential basic local exchange service costs. (7-1-98)T

~~1209. Provider. The telephone corporation eligible telecommunication carrier providing residential basic local exchange service to Idaho residents.~~ (3-5-91)(7-1-98)T

10. Recipient. A person determined eligible for ITSAP. (7-1-98)T

131. Subscriber. That person applying for basic local exchange service or, in whose name the residential basic local exchange service is listed. The subscriber does not need to be the head of the household. (3-5-91)(7-1-98)T

~~14. TAP. Telephone Assistance Program.~~ (3-5-91)

0046. -- 099. (RESERVED).

100. ASSISTANCE ELIGIBILITY REQUIREMENTS.

~~01. Telephone Assistance Program (TAP) Discount Rate. In order to be eligible for the TAP discount rate, applicants Head of Household. Recipients must be the head of the household, sixty (60) years of age or older and participants in the (LIHEAP). The Idaho TAP will be used to provide for a single residence line at the principal residence of the eligible subscriber.~~ (3-5-91)(7-1-98)T

~~02. LIHEAP Eligibility Requirements.~~ (3-5-91)

~~a. Application. A person must complete an application for LIHEAP with the Department or Community Action Agency on behalf of his household, listing all adult members over the age of sixteen (16). The application may be completed by a person other than the head of the household.~~ (3-5-91)(7-1-98)T

~~b03. Income Limit. The household's must meet the current income guidelines specified in Idaho Department of Health and Welfare Rules, IDAPA 16.04.14, "Rules Governing the Low Income Home Energy Assistance Program". gross income must be at or below one hundred and thirty-three percent (133%) of the Federal Poverty Limit. Households receiving any type of state or federal assistance with income limits at or below one hundred and thirty-three percent (133%) of the Federal Poverty Limit are income eligible for ITSAP.~~ (12-31-91)(7-1-98)T

~~e. The household members must not reside in an ineligible institution specified in Idaho Department of Health and Welfare Rules, Title 04, Chapter 14, "Rules Governing the Low Income Home Energy Assistance Program".~~ (12-31-91)

~~d. The head of household/subscriber must be sixty (60) years of age or older.~~ (3-5-91)

~~**101. -- 199. (RESERVED).**~~

~~**200. APPLICANT RIGHTS.**~~

~~Households applying for telephone assistance have certain rights specified in Idaho Department of Health and Welfare Rules, Title 04, Chapter 14, "Rules Governing the Low Income Home Energy Assistance Program".~~ (12-31-91)

~~**201. -- 299. (RESERVED).**~~

~~**300. INTAKE PROCESS.**~~

~~01. List of Eligible Applicants. The Department will forward a list of eligible applicants to the provider~~

~~throughout the regular program period.~~ (3-5-91)

~~02. Application Processing Procedure. The Department may, by agreement with the providers, develop an application processing procedure.~~ (3-5-91)

~~03. Application Completion. The eligible applicant will complete the application and return it to his local provider.~~ (3-5-91)

3101. -- 399. (RESERVED).

400. TIME LIMITS.

01. Maximum Time Limit. Unless circumstances occur beyond the control of the Department or the provider, the maximum time limit permitted for issuing the discount to the subscriber is thirty (30) days unless circumstances beyond the control of the provider occur which prohibit issuance determination of ITSAP eligibility is thirty (30) days from the date of the subscriber's application with the Department. (3-5-91)(7-1-98)T

02. Applicant Assistance Discount. Eligible applicants recipients will receive the monthly discount for a period of not less than twelve (12) months unless: (3-5-91)(7-1-98)T

a. Discount is terminated at the request of the eligible applicant recipients; or (3-5-91)(7-1-98)T

b. The household telephone service is terminated. (3-5-91)

(BREAK IN CONTINUITY OF SECTIONS)

500. DISCONTINUANCE OF ELIGIBILITY.

~~01. List of LIHEAP Recipients. The Department will furnish to the providers a final list of eligible LIHEAP recipients eligible to receive the monthly discount to the providers.~~ (3-5-91)(7-1-98)T

~~02. Discontinued Discount. The providers will discontinue discount to those subscribers who are not certified as eligible within thirty (30) days from receipt of the listing.~~ (3-5-91)

(BREAK IN CONTINUITY OF SECTIONS)

600. NOTIFICATION OF DECISION.

~~01. Removal from TAP. Subscribers removed from ITSAP will be notified in writing by their provider that the discount will cease to be effective upon the subscriber's next billing.~~ (3-5-91)(7-1-98)T

~~02. Discount List. Providers will furnish the Department a list of the subscribers receiving the discount after the ineligible households are removed from the program.~~ (3-5-91)

601. -- 995. (RESERVED).

996. ADMINISTRATIVE PROVISIONS.

~~Contested case appeals shall be governed by Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Sections 300, et seq., "Rules Governing Contested Cases and Declaratory Rulings".~~ (12-31-91)

(BREAK IN CONTINUITY OF SECTIONS)

998. ~~INCLUSIVE GENDER AND NUMBER: (RESERVED).~~

~~For the purposes of these rules, words used in the masculine gender include the feminine, or vice versa, where appropriate.~~ (3-5-91)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.05.01 - RULES GOVERNING THE PROTECTION AND DISCLOSURE
OF DEPARTMENT RECORDS

DOCKET NO. 16-0501-9802

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule is effective July 1, 1998.

AUTHORITY: In compliance with Idaho Code Sections 67-5226(1) and 67-5221(1), notice is hereby given that the Department of Health and Welfare (Department) has adopted a temporary rule and is commencing proposed rulemaking to promulgate a final rule. The action is authorized by Idaho Code, Section 39-106.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 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: This rule deletes obsolete references to air and water quality records in the Department's Rules Governing the Protection and Disclosure of Department Records. The relevant and effective language regarding public records and confidentiality, which has replaced the language to be deleted, can be found in the Idaho Environmental Protection and Health Act, the Idaho public records statute and the rules of the Division of Environmental Quality (DEQ). This rule change is being made as a step toward ensuring approval of DEQ's Title V operating permit program under the federal Clean Air Act.

NEGOTIATED RULEMAKING: Negotiated rulemaking was determined to be unnecessary for this proposed rule.

TEMPORARY RULE JUSTIFICATION: Pursuant to Idaho Code Section 67-5226(1)(b), the Governor has found that temporary adoption of the rule is appropriate to ensure compliance with federal requirements.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning the proposed rulemaking, contact Paula Saul at (208) 373-0418.

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 July 22, 1998.

Dated this 1st day of July, 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. 16-0501-9802

102. ~~AIR QUALITY (RESERVED).~~

~~Information concerning air pollution sources furnished to the Department which, as certified by the owner or operator, relates to production or sales figures, to processes or production unique to the owner or operator, or which~~

~~tends to adversely affect the competitive position of such owner or operator, must be disclosed only to the Board, the Director and the Hearing Officer, unless:- (11-24-77)~~

~~01. Unwarranted Claim. The Board after a hearing conducted according to the provisions of Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Sections 000, et seq., "Rules Governing Contested Cases and Declaratory Rulings," determines that the claim of uniqueness or adverse effect is unwarranted; or (12-31-91)~~

~~02. Consent. The owner or operator expressly consents to the disclosure; or (11-24-77)~~

~~03. Disclosure Required. Disclosure is required for criminal prosecution of a violation of the Environmental Protection and Health Act of 1972 (Section 39-111, Idaho Code).- (11-24-77)~~

(BREAK IN CONTINUITY OF SECTIONS)

120. WATER QUALITY (RESERVED).

~~Information concerning water pollution sources furnished to the Department which, as certified by the owner or operator, relates to production or sales figures, to processes or production unique to the owner or operator, or which tends to adversely affect the competitive position of such owner or operator, may be disclosed only to the Board, the Director and the Hearing Officer unless:- (11-24-77)~~

~~01. Unwarranted Claim. The Board after a hearing conducted according to the provisions of Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Sections 000, et seq., "Rules Governing Contested Cases and Declaratory Rulings" determines that the claim of uniqueness or adverse affect is unwarranted; or (12-31-91)~~

~~02. Consent. The owner or operator expressly consents to the disclosure; or (11-24-77)~~

~~03. Disclosure Required. Disclosure is required for criminal prosecution of a violation of the Environmental Protection and Health Act of 1972 (Section 39-111, Idaho Code).- (11-24-77)~~

(BREAK IN CONTINUITY OF SECTIONS)

301. DISCLOSURE WITH CONSENT.

Any information maintained in the departmental records may be disclosed with the conditional or general consent of the patient or client to whom the record applies subject to the following provisions: (12-31-91)

01. State and Federal Mandates. State and federal mandates specifically address disclosure with consent in the following areas: (11-24-77)

~~a. Air Quality, which may disclose pursuant to Section 39-111, Idaho Code, as restated in Section 102;- (12-31-91)~~

~~b_a. Alcoholism, which for alcohol and drug abuse patients, is addressed by 42 CFR 2.12 as incorporated by reference in Subsection 103.02; (12-31-91)~~

~~e_b. Child Protection, which for programs under the Child Abuse Prevention and Treatment Act of 1974 may disclose pursuant to 45 CFR 1340.2-5(b) as restated in Subsection 105.03.b.; (12-31-91)~~

~~d_c. Developmental Disabilities, which may disclose pursuant to 45 CFR 416.37 as restated in Section 106; (12-31-91)~~

~~e_d. Drug Abuse, which for federally-assisted programs may disclose pursuant to 21 U.S.C. 1175 as restated in Subsection 107.01.a.; and which for treatment of drug addicts may disclose pursuant to Section 37-3102,~~

Idaho Code, as restated in Subsection 107.04; (12-31-91)

fe. Family Planning Services, which may disclose pursuant to 42 CFR 59.10 as restated in Section 108; (12-31-91)

gf. Hospitalization of the Mentally Ill, which may disclose pursuant to Section 66-348, Idaho Code, as restated in Subsection 109.02; (12-31-91)

hg. Title V (Maternal and Child Health and Crippled Children's Services), which may disclose pursuant to 42 CFR 51 a.112 as restated in Section 115; (12-31-91)

~~ih. Water Quality, which may disclose pursuant to Section 39-111, Idaho Code, as restated in Subsection 120.02; and (12-31-91)~~

jh. Youth Rehabilitation, which for federal grants may disclose pursuant to 45 CFR 1350.61(c) as restated in Subsection 122.01.b.; and which for the commitment of a child to the Board may disclose pursuant to Section 16-1840, Idaho Code, as restated in Subsection 122.02. (12-31-91)

02. Patients or Clients Who May Give or Refuse Consent. Any patient or client other than a minor under the age of fourteen (14) or an incapacitated or incompetent person who is governed by Subsection 301.03, of ordinary intelligence and awareness sufficient for him generally to comprehend the need for, the nature of, and the significant risks ordinarily inherent in any disclosure of information is competent to consent to such disclosure on his own behalf. It is the responsibility of the appropriate Department official accepting the consent made in person to reasonably determine compliance with this section, after sufficient identification has been given. (12-31-91)

03. Persons Who May Give or Refuse Consent for Others. Consent for the disclosure of information for any patient or client of the Department not then capable of giving consent as provided in Subsection 301.02, or who is a minor under the age of fourteen (14) or incapacitated or incompetent person, may be given or refused by any competent parent, spouse, child over the age of eighteen (18), legal guardian or custodian after sufficient identification and verification of relationship have been given. If no such representative is available to do so, consent under particular circumstances, documented, dated and signed by the official, may be given by any competent relative or appropriate Department official. Nothing in this section can supersede the express refusal to disclose by a competent adult patient or client or one over the age of fourteen (14). (12-31-91)

04. Form of Conditional Consent. To be valid, any consent by the patient or client of the Department to disclose his record must be given after a review of the actual written request, and must be on an appropriate form or in writing and must contain: (12-31-91)

- a. Name and address of the patient or client giving consent; and (11-24-77)
- and b. Title of the unit of the Department with possession of the record which is to make the disclosure; (11-24-77)
- c. The extent or nature of the information which he agrees to disclose; and (12-31-91)
- d. The specification of the duration or conditions upon which the consent is given; and (11-24-77)
- e. The date on which the consent is signed; and (11-24-77)
- f. The signature of the patient or client giving consent. (11-24-77)

05. Form of General Consent. A general consent by a patient or client to the disclosure of a record pertaining to him/her may be given. This consent authorizes the Department to release information in the future with no further contact with that patient or client. To be valid, any general consent must be on an appropriate form or in writing and must contain: (12-31-91)

- a. Name and address of the patient or client giving consent; and (11-24-77)

- b. Title of the unit of the Department with possession of the record which is to make disclosure; and (11-24-77)
 - c. Statement allowing disclosure of information of any nature at any time and to any requesting person or entity; and (11-24-77)
 - d. Statement that the information will be used only for purposes directly connected with the health, safety and welfare of patient or client, past or present, as determined by the Department; and (11-24-77)
 - e. Date on which consent is signed; and (11-24-77)
 - f. Signature of the patient or client giving consent. (11-24-77)
06. Deficient Conditional or General Consent. No disclosure of information may be made on the basis of a form or writing which: (12-31-91)
- a. Fails in any particular to conform to all requirements of Subsections 301.04 or 301.05; or (12-31-91)
 - b. Is known by the Department official accepting the consent to be false in any respect or is known to be made under duress or by mistake. (11-24-77)

(BREAK IN CONTINUITY OF SECTIONS)

310. DISCLOSURE WITHOUT CONSENT.

Information may be disclosed without the consent of the patient or client to whom the information applies as provided in this rule. (11-24-77)

- 01. State or Federal Mandates. State or federal mandates either directly or indirectly address disclosure without consent in the following areas: (12-31-91)
 - ~~a. Air Quality, which is governed by Section 39-111, Idaho Code, as restated in Section 102;~~ (12-31-91)
 - ~~ba.~~ Alcoholism and Intoxication Treatment, which is governed by Section 39-308, Idaho Code, as restated in Section 103; (12-31-91)
 - ~~eb.~~ Blood Tests, Motor Vehicle Fatalities, which is governed by Section 39-308, Idaho Code, as restated in Section 104; (12-31-91)
 - ~~ec.~~ Child Protection, for federal grants, disclosure is addressed by 45 CFR 1340.3-3(d)(5) as restated in Subsection 105.02 and for programs under the Child Abuse Prevention and Treatment Act of 1974, disclosure is addressed by 45 CFR 1340.2-5(a) and 45 CFR 1340.2-5(b) as restated in Subsection 105.02; however, because of more stringent requirements by the state for records of disposition or treatment of each patient or client over whom the Department has legal custody, disclosure is governed by Section 16-1623, Idaho Code, as restated in Subsection 105.03; for reports of child abuse to law enforcement agencies, disclosure is governed by Section 16-1619, Idaho Code, as restated in Subsection 105.04; for records of court proceedings made available to the Department, disclosure is governed by Section 16-1621, Idaho Code, as restated in Subsection 105.05; for social records involved in the termination of a parent-child relationship, disclosure is governed by Section 16-2013, Idaho Code, as restated in Subsection 105.06; (12-31-91)
 - ~~ed.~~ Developmental Disabilities, which is governed by 45 CFR 416.27 as restated in Section 106; (12-31-91)

- ~~fe.~~ Drug Abuse, for federally assisted programs, disclosure is governed by 21 U.S.C. 1175 as restated in Subsection 107.01; for the Department's quarterly report, disclosure is governed by Section 37-3105, Idaho Code, are stated in Subsection 107.03; for the treatment of drug addicts, disclosure is governed by Section 37-3102, Idaho Code, as restated in Subsection 107.04; (12-31-91)
- ~~gf.~~ Family Planning Services, which is governed by 42 CFR 59.10 as restated in Section 108; (12-31-91)
- ~~hg.~~ Food Stamps, which is governed by 7 CFR 271.1(f) as restated in Section 109; (12-31-91)
- ~~ih.~~ Hospitalization of Mentally Ill, which is governed by Section 66-348, Idaho Code, as restated in Section 110; (12-31-91)
- ~~ji.~~ Medical Care Facilities and Health Planning, for functions under the National Health Planning and Resource Developmental Act of 1974, disclosure is governed by 42 U.S.C. 300 m-1(b) (6) and proposed 45 CFR 123.09 as restated in Subsection 111.01; for licensing of medical care facilities, disclosure is governed by Section 39-1312, Idaho Code, as restated in Subsection 111.02; for medical societies or in-hospital medical staff committees, disclosure is governed by Sections 39-1392b and 39-1392e, Idaho Code, as restated in Subsection 111.03; (12-31-91)
- ~~kj.~~ Public Assistance, which is governed by Section 56-221, Idaho Code, as restated in Section 112; (12-31-91)
- ~~kl.~~ Title IV-A (Aid for Dependent Children), which is governed by 45 CFR 205.50 as restated in Section 113; (12-31-91)
- ~~ml.~~ Title IV-D (Child Support Enforcement), which is governed by 45 CFR 205.50 as restated in Section 114; (12-31-91)
- ~~nm.~~ Title V (Maternal and Child Health and Crippled Children's Services), which is governed by 42 CFR 51a.112 as restated in Section 115; (12-31-91)
- ~~on.~~ Title XIX (Medical Assistance), which is governed by 45 CFR 205.50(b), 45 CFR 250.70, 45 CFR 250.80, and Section 56-221, Idaho Code, as restated in Sections 113, 116, and 112; (12-31-91)
- ~~po.~~ Title XX (Grant-Services), which is governed by 45 CFR 205.50(c) as restated in Sections 113 and 117; (12-31-91)
- ~~qp.~~ Venereal Disease, for the premarital serological test, disclosure is governed by Section 32-415, Idaho Code, as restated in Subsection 118.02; (12-31-91)
- ~~rq.~~ Vital Statistics, which is governed by Section 39-264, Idaho Code, as restated in Section 119; (12-31-91)
- ~~s.~~ ~~Water Quality, which is governed by Section 39-111, Idaho Code, as restated in Section 120;~~ (12-31-91)
- ~~tr.~~ Women, Infants and Children Program, which is governed by 7 CFR 246, as restated in Section 121; (12-31-91)
- ~~us.~~ Youth Rehabilitation, in connection with federal grants, disclosure is governed by 45 CFR 1350.61(c) as restated in Subsection 122.01; in connection with the commitment of a child to the Board of Health and Welfare, disclosure is governed by Section 16-1840, Idaho Code, as restated in Subsection 122.02. (12-31-91)
02. Interdepartmental Disclosure of Information. Subject to the conditions set out in Section 320 disclosure of information is authorized within the Department. (12-31-91)

03. Interagency Disclosure of Information. Subject to the conditions set out in Sections 330 and 300, disclosure of information is authorized to any federal, state or local public or nonprofit agency. (12-31-91)

04. Medical Emergencies. Disclosure of information to medical personnel is authorized if necessary to meet a bonafide medical emergency. The appropriate Department official must, whenever possible, give notification of such emergency to the immediate family or to any person with whom the patient or client has established a responsible personal relationship. (11-24-77)

05. Life-endangering Situations. If a Department official or employee has reason to believe that an individual's behavior poses an imminent threat of substantial physical harm either to such individual, or others, the official is authorized to disclose information to necessary medical personnel, affected third parties and appropriate law enforcement personnel. (11-24-77)

06. Audits and Evaluations. Records maintained in connection with Departmental functions may be disclosed to qualified personnel for the purpose of conducting management audits, financial audits or program evaluations. Such records may include information pertaining to any patient or client, corporation, partnership, proprietorship or other person providing services to the Department. Personnel receiving the information must not identify, directly or indirectly, any patient or client in any report of such audit or evaluation, or otherwise disclose individual identities in any manner. (11-24-77)

07. Nonidentifying Information. Consent is not required for the disclosure of information such as statistical or demographic material by which the identity of a patient or client cannot be determined with reasonable speed and accuracy. (11-24-77)

(BREAK IN CONTINUITY OF SECTIONS)

320. INTRADEPARTMENTAL DISCLOSURE OF INFORMATION.

The disclosure of a Departmental record may be made to employees of the Department without the consent of the patient or client to whom the information applies subject to the following provisions: (12-31-91)

01. State or Federal Mandates. For certain programs, state or federal mandates rather than the general rule above, and its conditions as set out below in Subsection 320.02, regulate interdepartmental disclosure of information: (12-31-91)

~~a. Air Quality, which is governed by Section 39-111, Idaho Code, as restated in Section 102;~~ (12-31-91)

~~ba.~~ Child Protection, which for federally-assisted programs is addressed by 45 CFR 1340.3(d)(5) as restated in Subsection 105.02, and by 45 CFR 1340.2-5(a) as restated in Subsection 105.03; (12-31-91)

~~eb.~~ Developmental Disabilities, which is governed by 45 CFR 416.27 as restated in Section 106; (12-31-91)

~~ec.~~ Drug Abuse, which for federally-assisted programs is governed by 21 U.S.C. 1175 as restated in Subsection 107.01; (12-31-91)

~~ed.~~ Family Planning Services, which is governed by 42 CFR 59.10 as restated in Section 108; (12-31-91)

~~fe.~~ Food Stamps, which is governed by 7 CFR 271.1(f) as restated in Section 109; (12-31-91)

~~gf.~~ Hospitalization of Mentally Ill, which is governed by Section 66-348, Idaho Code, as restated in Section 110; (12-31-91)

~~hg.~~ Hospital Medical Staff Committees, which are governed by Section 39-1392b, Idaho Code, as restated in Subsection 111.03.a.; (12-31-91)

~~ih.~~ Public Assistance, which is governed by Section 56-221, Idaho Code, as restated in Section 112; (12-31-91)

~~ji.~~ Title IV-A (Aid for Dependent Children), which is governed by 45 CFR 205.50 and 45 CFR 235.110 as restated in Section 113; (12-31-91)

~~kj.~~ Title IV-D (Child Support Enforcement), which is governed by 45 CFR 302.18(a) as restated in Subsection 114.01; (12-31-91)

~~kl.~~ Title V (Maternal and Child Health and Crippled Children's Services), which is governed by 42 CFR 51a.112, as restated in Section 115; (12-31-91)

~~ml.~~ Title XIX (Medical Assistance), which is governed by Section 56-221, Idaho Code, and 45 CFR 205.50 as restated in Sections 111, 113, and 116; (12-31-91)

~~nm.~~ Title XX (Grants-Services), which is governed by 45 CFR 205.50(c) as restated in Sections 113 and 117; (12-31-91)

~~on.~~ Venereal Disease and the Premarital Serological Test, which is governed by Section 32-415, Idaho Code, which is restated in Subsection 118.02; (12-31-91)

~~po.~~ Vital Statistics, which is governed by Section 39-264, Idaho Code, as restated in Section 119; (12-31-91)

~~qr.~~ ~~Water Quality, which is governed by Section 39-111, Idaho Code, as restated in Section 120;~~ (12-31-91)

~~rp.~~ Youth Rehabilitation, which in connection with federal grants is governed by 45 CFR 1350.61(c) as restated in Subsection 122.01.b. (12-31-91)

02. Conditions for Disclosure. Before information can be disclosed, all of the conditions set out below must be satisfied. (11-24-77)

a. The information to be disclosed must be needed in connection with the performance of the requesting person's official duties; and (11-24-77)

b. The receiving officer or employee of the Department must maintain disclosure standards comparable to the standards of the unit of the Department with custody of the record; and (11-24-77)

c. The information to be disclosed must be beneficial to the patient or client unless reasonable grounds exist to believe a possible violation of law has occurred or is likely to occur. (11-24-77)

d. The appropriate Department official receiving the request must determine if the conditions stated in Subsections 320.02.a. through 320.02.c. have been met. The signature of the appropriate Department official either accepting or denying the request must be placed on the request itself. Any valid disagreement between the official making these determinations and the requesting person must be presented in writing to the Director for resolution. (12-31-91)

03. Integrated Programs. Employees of the Department who serve in the administration or delivery of integrated programs including, but not limited to, child protection, developmental disabilities, food stamps, hospitalization of mentally ill, public assistance, Title IV-A, Title IV-D, Title V, Title XXIX (medical assistance), vital statistics, adoptions, elderly abuse and youth rehabilitation for the purposes of access to record information and confidentiality restrictions, shall be deemed to be a part of this agency and to be directly connected with the administration of or the enforcement of the particular programs involved. Information from the Medical Assistance

(Medicaid) Program regarding applicants and recipients shall be accessible only if necessary to provide medical services. All such employees shall be subject to the same standards of confidentiality provided in this chapter. (12-31-91)

04. Interdisciplinary Staffing Team. Employees of the Department, employees of law enforcement agencies, and other individuals when serving on an interdisciplinary staffing team reviewing the furnishing of treatment or services to children subject to children's programs including, but not limited to, the Child Protection Act, Youth Rehabilitation Act, Developmental Disabilities Acts, Mental Health Acts, or adults subject to adult programs including, but not limited to, mental health, elderly abuse, developmental disabilities and public assistance, shall be deemed to be, for the purposes of confidentiality and access to records, a part of the agency and to be directly connected with the administration of or the enforcement of the particular programs involved. All such employees or other individuals shall be subject to the standards of confidentiality provided in this chapter. (12-31-91)

(BREAK IN CONTINUITY OF SECTIONS)

330. INTERAGENCY DISCLOSURE OF INFORMATION.

Information may be disclosed to federal, state or local public or nonprofit entities without the consent of the patient or client to whom the information applies subject to the following provisions: (12-31-91)

01. Federal and State Mandates. For certain programs federal and state mandates rather than the general rule above and its conditions set out in Subsection 330.02 regulate interagency disclosure of information in the following areas: (12-31-91)

~~a. Air Quality, which for criminal prosecution purposes is governed by Section 39-111, Idaho Code, as restated in Subsection 102.03;~~ (12-31-91)

~~ba.~~ Child Protection, which for federal grants is addressed by 45 CFR 340.3-3(d)(5) as restated in Subsection 105.02.b.; and which for programs under the Child Abuse Prevention and Treatment Act of 1974 is addressed by 45 CFR 1340.2-5(b) as restated in Subsection 105.03.b., but because of more stringent requirements by the state, disclosure is governed by Section 16-1623, Idaho Code, as restated in Subsection 105.01; which, for reports of child abuse to law enforcement agencies, is governed by Section 16-1619, Idaho Code, as restated in Subsection 105.04; (12-31-91)

~~eb.~~ Developmental Disabilities, which is governed by 45 CFR 416.27 as restated in Section 106; (12-31-91)

~~dc.~~ Drug Abuse, which for federally-assisted programs is governed by 21 U.S.C. 1175 as restated in Subsection 107.01; which for the Department's quarterly report, is governed by Section 37-3105, Idaho Code, as restated in Subsection 107.03; which for the treatment of drug addicts, is governed by Section 37-3102, Idaho Code, as restated in Subsection 107.04; (12-31-91)

~~ed.~~ Family Planning Services, which is governed by 42 CFR 59.10 as restated in Section 108; (12-31-91)

~~fe.~~ Food Stamps, which is governed by 7 CFR 271.1(f) as restated in Section 109; (11-24-77)

~~gf.~~ Hospitalization of Mentally Ill, which is governed by Section 66-348, Idaho Code, as restated in Section 110; (12-31-91)

~~hg.~~ Licensing of Medical Care Facilities, which is governed by Section 39-1312, Idaho Code, as restated in Subsection 111.02; (12-31-91)

~~ih.~~ Medical Societies or In-House Committees, which are governed by Section 39-1392b and Section 39-1392e, Idaho Code, as restated in Subsection 111.03; (12-31-91)

- ji. Public Assistance, which is governed by Section 56-221, Idaho Code, as restated in Section 112; (12-31-91)
- kj. Title IV-A (Aid for Dependent Children), which is governed by 45 CFR 205.50 and 45 CFR 235.110 as restated in Section 113; (12-31-91)
- kl. Title IV-D (Child Support Enforcement), which is governed by those legal authorities as restated in Section 114; (12-31-91)
- ml. Title V (Maternal and Child Health and Crippled Children's Services) which is governed by 42 CFR 51a.112 as restated in Section 115; (12-31-91)
- nm. Title XIX (Medical Assistance), which is governed by 45 CFR 205.50(b), 45 CFR 250.70 and 45 CFR 250.80, Section 56-221, Idaho Code, as restated in Sections 113 and 116; (12-31-91)
- on. Title XX (Grant-Services), which is governed by 45 CFR 205.50(c) as restated in Sections 113 and 117; (12-31-91)
- po. Venereal Disease, which for the premarital serological test is governed by Section 32-415, Idaho Code, as restated in Subsection 118.02; (12-31-91)
- qp. Vital Statistics, which is governed by Section 39-264, Idaho Code, as restated in Section 119; (11-24-77)
- r. ~~Water Quality, which is governed by Section 39-111, Idaho Code, as restated in Section 120;~~ (12-31-91)
- sq. Women, Infants and Children Program, which is governed by 7 CFR 246 as restated in Section 121; (12-31-91)
- tr. Youth Rehabilitation, which in connection with federal grants is governed by 45 CFR 1350.61(c) as restated in Subsection 121.01; which for the commitment of a child to the Board is governed by Section 16-1840, Idaho Code, as restated in Subsection 122.02. (12-31-91)
02. Conditions for Disclosure. Before information can be disclosed, all of the conditions set out below must be satisfied. (12-31-91)
- a. The information to be disclosed must be for purposes of civil litigation, criminal law enforcement activity, or statutorily mandated activities of a governmental entity; and (11-24-77)
- b. The activity for which the information is sought, and its subsequent transferal, must be specifically authorized by state or federal statute or regulation, or by order of a court of competent jurisdiction; and (11-24-77)
- c. The agency requesting disclosure of the information must prove to the appropriate Department official accepting the request that it is subject to or will comply with confidentiality standards comparable to rules of the Department. (11-24-77)
03. Special Provision for Treatment-Oriented Facilities. Subsections 330.02.a. and 330.02.b. will not apply where a patient or client of the Department is placed in a treatment-oriented facility, and where subsequent disclosure will benefit and is necessary for the diagnosis or treatment of that individual. The facility, before receiving the information, must comply with Subsections 300.01 and 330.02.c. (12-31-91)

(BREAK IN CONTINUITY OF SECTIONS)

340. COURT PROCEEDINGS AND DEPARTMENTAL DISCLOSURE.

01. State or Federal Mandates. For court proceedings relating to certain programs, state or federal mandates rather than the rules below regulate disclosure of information. (12-31-91)

a. ~~Air Quality, which is governed by Section 39-111, Idaho Code, as restated in Subsection 102.03;~~
~~(12-31-91)~~

ba. Child Protection, which for federally assisted programs is governed by 45 CFR 1340.3-3(d)(5) as restated in Subsection 105.02 for records of disposition or treatment of each patient or client over whom it has legal custody, disclosure is governed by Section 16-1623, Idaho Code, as restated in Subsection 105.03; for any judicial proceeding resulting from a child abuse report to law enforcement, disclosure is governed by Section 16-1620, Idaho Code, as restated in Subsection 105.04.c.; for records of court proceedings made available to this Department, disclosure is governed by Section 16-1621, Idaho Code, as restated in Subsection 105.05; for social records involved in the termination of a parent-child relationship, disclosure is governed by Section 16-2013, Idaho Code, as restated in Subsection 105.06; (12-31-91)

eb. Drug Abuse, which for medical practitioners is governed by Section 37-3105, Idaho Code, as restated in Subsection 107.02; for treatment of addicts, disclosure is governed by Section 37-3102, Idaho Code, as restated in Subsection 107.04.a.; (12-31-91)

ec. Hospitalization of the Mentally Ill, which is governed by Sections 66-329(g), 66-337, 66-338 and 66-348, Idaho Code, as restated in Subsections 110.04 through 110.06; (12-31-91)

ed. Medical Societies or In-House Committees, which are governed by Sections 39-1392b and 39-1392e, Idaho Code, as restated in Subsection 111.03; (12-31-91)

ef. Title IV-A (Aid for Dependent Children), which is governed by 45 CFR 205.50 as restated in Subsection 113.04; (12-31-91)

eg. Title IV-D (Child Support Enforcement), which is governed by 45 CFR 302.18(a) as restated in Subsection 114.01.b.; and (12-31-91)

h. ~~Water Quality, which is governed by Section 39-111, Idaho Code, as restated in Subsection 120.03-~~
~~(12-31-91)~~

02. Seeking Disclosure by Legal Process. Should any Departmental employee be subpoenaed for disclosure of information contained in this manual, he/she must immediately contact his Regional or Institutional Director or Division Administrator. If the appropriate Department official determines that disclosure would be contrary to the rules contained in this manual, the official will immediately notify the Administrator of the Division of Administrative Counsel, who will take appropriate action in response to the subpoena. (12-31-91)

03. Action Upon Court-ordered Disclosure. If a court of competent jurisdiction determines that disclosure contrary to Departmental rules is required, and that failure to make such disclosure would be contrary to the public interest, the appropriate Department official must authorize disclosure. Before disclosing the information to the parties in the litigation however, the information must be turned over to the court with a request that the ordered materials be first inspected by the judge in chambers or in the courtroom with all spectators excluded. (11-24-77)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.14 - RULES GOVERNING THE PREVENTION OF MINOR'S
ACCESS TO TOBACCO PRODUCTS

DOCKET NO. 16-0614-9801

NOTICE OF NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency intends to propose rules and desires public comment through negotiated rulemaking prior to initiating formal rulemaking procedures.

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

The purpose of this rulemaking is to implement provisions of HB1446, 1998 Session Law, Chapter 57. These provisions replace HB185. The new code defines the possession, distribution or use of tobacco products by a minor, permit process for tobacco product retailers, sale or distribution of tobacco products to a minor, vendor assisted sales, opened packages and samples, civil and criminal penalties for sales violations and conduct enforcement actions.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this negotiated rule, contact John Porter at (208) 334-5756.

Anyone may submit written comments regarding this proposed negotiated rulemaking. All written comments must be directed to the undersigned.

DATED this 1st day of July, 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

IDAPA 20 – IDAHO DEPARTMENT OF LANDS
20.03.04 - THE REGULATION OF BEDS, WATERS AND AIRSPACE
OVER NAVIGABLE LAKES IN THE STATE OF IDAHO

DOCKET NO. 20-0304-9701

NOTICE OF FINAL RULE

AUTHORITY: In compliance with Section 58-104(9) and 58-1301, et seq., Idaho Code, to adopt these rules for the regulation of the beds, waters and airspace over navigable lakes in the state of Idaho.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the final rule:

Pursuant to HCR 37, the 1998 Legislature has rejected proposed Subsections 010.10, 010.11, 010.14 and 010.20 of Docket No. 20-0304-9701. Therefore, the text will revert back to its original form in these Subsections; the remainder of the proposed amendments were approved. If you wish to review the proposed rule text, refer to the Idaho Administrative Bulletin, Volume 97-9, pages 205 through 217. If you wish to view the prior to amendment text, refer to Idaho Administrative Code, Volume 6, pages 518 through 525.

The Subsections that were rejected by HCR 37 are being replaced by a new Temporary Rule, which can be viewed following this notice in Docket No. 20-0304-9801.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact:

Carl Washburn, Navigable Waters Specialist
Idaho Department of Lands
1910 NW Boulevard, Suite 201
Coeur d'Alene, Idaho 83814-2615
(208) 769-1535 – Telephone
(208) 769-1557 – Fax

DATED this 18th day of May, 1998.

Stanley F. 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 20 - IDAHO DEPARTMENT OF LANDS
20.03.04 - THE REGULATION OF BEDS, WATERS AND AIRSPACE
OVER NAVIGABLE LAKES IN THE STATE OF IDAHO

DOCKET NO. 20-0304-9801

NOTICE OF TEMPORARY AND PROPOSED RULES

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

AUTHORITY: In compliance with Section 67-5220(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Sections 58-104(6) and (9); 58-1304 et seq., Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 1998.

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

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

This is a proposal to amend provisions in "The Regulation of Beds, Waters and Airspace over Navigable Lakes". The amendments are needed as a result of legislative action in 1998. Pursuant to HCR 37, the 1998 legislature rejected Subsections 010.10, 010.11, 010.14 and 010.20 of Rule No. 20-0304-9701. The Subsections, therefore reverted back to their original form. These temporary and proposed rules are intended to amend the above referenced Subsections in accordance with legislative input.

The proposed amendments include size of shoreline frontage for community docks, dock repair requirements, width of artificial and ordinary high water mark, and the definition of Public Trust Doctrine.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Conferring a benefit.

The issuance of permits under Section 58-1301, et seq., Idaho Code, confers a benefit upon the applicant. These temporary rules are necessary due to legislative action and are needed for IDL to properly confer said benefits.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact: Carl Washburn, Navigable Waters Specialist, Idaho Department of Lands, 1910 NW Boulevard, Suite 201, Coeur d'Alene, Idaho 83814-2615, (208) 769-1535 – Telephone, (208) 769-1557 – Fax

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 18th day of May 1998.

Stanley F. 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

TEXT OF DOCKET NO. 20-0304-9801

010. DEFINITIONS.

01. Adjacent. Contiguous or touching, and with regard to land or land ownership having a common boundary. (7-1-98)
02. Artificial High Water Mark. The high water elevation above the natural or ordinary high water mark resulting from construction of man-made dams or control works and impressing a new an higher vegetation line. (9-13-90)
03. Beds of Navigable Lakes. The lands lying under or below the "natural or ordinary high water mark" of a navigable lake and, for purposes of these rules only, the lands lying between the natural or ordinary high water mark and the artificial high water mark, if there be one. (9-13-90)
04. Board. The Board of Land Commissioners of the State of Idaho or its authorized representative. (9-13-90)
05. Commercial Navigational Encroachment. A navigational encroachment for the use of which patrons pay a fee. (9-13-90)
06. Community Docks. Structures that provide moorage facilities for more than two (2) adjacent riparian owners, or for a homeowners' association that is a riparian owner owning a riparian common area including riparian rights. A community dock shall not have less than fifty (50) feet combined shoreline frontage. A community dock shall be considered a commercial navigational aid for purposes of processing the application. ~~(7-1-98)~~(7-1-98)T
07. Contested Case Hearing. A formal hearing conducted pursuant to these rules, Idaho Code Title 67, Chapter 52, and IDAPA 20.01.01, "Rules of Practice and Procedure Before the State Board of Land Commissioners". This type of hearing requires the formal designation of parties as set forth in the board's Rules of Practice and Procedure, IDAPA 20.01.01, and is conducted like a trial. Members of the public not wishing to formally intervene in contested case hearings as a party may nevertheless participate in such hearings as public witnesses pursuant to IDAPA 20.01.01. (7-1-98)
08. Department. The Department of Lands. (9-13-90)
09. Director. The director of the Department of Lands or his designee. (9-13-90)
10. Encroachments in Aid of Navigation. And includes docks, piers, floats, pilings, breakwaters, boat ramps, channels or basins, and other such aids to navigability on, in or above the beds or waters of a navigable lake. The term "encroachments in aid of navigation" may be used interchangeably herein with the term "navigational encroachments". (9-13-90)
11. Encroachments Not in Aid of Navigation. Includes all other encroachments on, in or above the beds or waters of a navigable lake, including landfills, bridges, utility and power lines, or other structures not constructed primarily for use in aid of navigation. It shall also include float homes moored permanently or in any one place for a substantial period of time and used as either a permanent or temporary place of abode or residence. (9-13-90)
12. Line of Navigability. The dock line established by existing docks or if no dock line exists then such distance below the low water mark as will afford sufficient draft for water craft customarily in use on that particular body of water. (7-1-98)
13. Low Water Mark. That line or elevation on the bed of a lake marked or located by the average low water elevations over a period of years. (7-1-98)

14. Natural or Ordinary High Water Mark. The high water elevation in a lake over a period of years, uninfluenced by man made dams or works, at which elevation the water impresses a line on the soil by covering it for sufficient periods to deprive the soil of its vegetaiton and destroy its value for agricultural purposes. (9-13-90)

15. Navigable Lake. Any permanent body of relatively still or slack water, not privately owned and not a mere marsh and capable of accommodating boats or canoes and includes man-made reservoirs except where the jurisdiction thereof is asserted and exclusively assumed by a federal agency. (9-13-90)

16. Party. Each person or agency named or admitted as a party, or property seeking and entitled as of right to be admitted as a party to a hearing on an application for an encroachment. (9-13-90)

17. Person. Any individual, partnership, association, company, corporation, municipality, county, state or federal agency, or other entity. (9-13-90)

18. Plans. Maps, sketches, engineering drawings, aerial and other photographs, word descriptions, and specifications sufficient to describe the extent, nature and approximate location of the proposed encroachment and the proposed method of accomplishing the same. (9-13-90)

19. Public Meeting Hearing. The type of hearing where members of the public are allowed to comment, in written or oral form, on the record at a public meeting held at a set time and place and presided over by a designated representative of the Department who shall act as the hearing coordinator. This type of hearing is an informal opportunity for public comment and does not involve the presentation of witnesses, cross examination, oaths, or the rules of evidence. A record of any oral presentations at such hearings will be taken by the department by tape recorder. The hearing coordinator shall exercise such control at hearings as necessary to maintain order, decorum and common courtesy among the participants. (7-1-98)

20. Public Trust Doctrine. The duty of the State to its people to ensure that the use of public trust resources is consistent with identified public trust values. This common law doctrine has been interpreted by decisions of the Idaho Appellate Courts and is codified at Title 58, Chapter 12, Idaho Code. (7-1-98)T

~~20~~1. Riparian or Littoral Rights. Only the rights of owners or lessees of land adjacent to navigable lakes and to maintain their adjacency to the lake and to make use of their rights as riparian or littoral owners or lessees in building or using aids to navigation but does not include any right to make any consumptive use of the waters or to remove bed materials from state-owned lake. (9-13-90)

~~21~~2. Riparian Owner. The fee owner of land immediately adjacent to a navigable lake, or his lessee, or the owner of riparian rights that have been segregated from the fee specifically by deed or grant. (7-1-98)

~~22~~3. Single-family Dock. A structure providing moorage facilities that serves one (1) waterfront lot having frontage of no less than twenty-five (25) feet. (7-1-98)

~~23~~4. Submerged Lands. The state-owned beds of navigable lakes, rivers and streams below the natural or ordinary high water marks. (9-13-90)

~~24~~5. Two (2) family Dock. A structure providing moorage facilities that serves two (2) adjacent waterfront lots having a combined frontage of no less than fifty (50) feet. Usually the structure is located on the common riparian property line. (7-1-98)

~~25~~6. Uplands. The land bordering on navigable lakes, rivers and streams. (9-13-90)

(BREAK IN CONTINUITY OF SECTIONS)

015. DOCK STANDARDS AND FLOAT HOME REQUIREMENTS.

01. Single-family and Two-family Docks. The following parameters govern the size and dimensions of single-family docks and two-family docks. (7-1-98)

a. No part of the structure waterward of the natural or ordinary high water mark or artificial high water mark shall exceed ~~six ten~~ (610) feet in width. (~~7-1-98~~)(7-1-98)T

b. Total surface area waterward of the natural or ordinary or artificial high water mark shall not exceed seven hundred (700) square feet, including approach ramp and walkway for a single-family dock and shall not exceed one thousand one hundred (1,100) square feet, including approach ramp and walkway for a two-family dock. (7-1-98)

c. No portion of the docking facility shall extend more than one hundred (100) feet waterward of the natural or ordinary high water mark or if applicable the artificial high water mark or further than three (3) feet of water depth at low water. Shorter docks are encouraged whenever practical and new docks normally will be installed within the waterward extent of existing docks. (7-1-98)

d. Where feasible, all docks, piers or similar structures shall be constructed to protrude as nearly as possible perpendicular to the general shoreline. (7-1-98)

02. Variance. A variance to the standards contained in Subsection 015.01 may be approved by the director where it can be justified by site specific considerations such as the distance to the established line of navigation. (7-1-98)

03. Community Docks. (7-1-98)

a. No part of the structure waterward of the natural or ordinary high water mark of artificial high water mark shall exceed ~~six ten~~ (610) feet in width. No part of the fixed portion of the dock shall exceed ~~six ten~~ (610) feet in width. This includes fixed piers and approach ramps. (~~7-1-98~~)(7-1-98)T

b. Moorage facilities will be limited to size as a function of the length of shoreline dedicated to the community dock. The surface decking area of the community dock shall be limited to the product of the length of shoreline multiplied by seven (7) square feet per lineal feet or a minimum of seven hundred (700) square feet. However, the department, at its discretion, may limit the ultimate size when evaluating the proposal and public trust values. (7-1-98)

04. Breakwater. The breakwater shall be designed to counter wave actions of known wave heights and wave lengths. (7-1-98)

05. Mooring Buoys. Buoys shall be installed a minimum of thirty (30) feet ~~away~~ away from riparian right lines of adjacent riparian owners ~~and shall be located within dock line~~. One (1) mooring buoy per riparian owner shall be allowed. (~~7-1-98~~)(7-1-98)T

06. Float Home Construction, Alteration or Relocation. (7-1-98)

a. Applications for permits to construct new float homes will not be accepted. (7-1-98)

b. Applications for relocation of float homes existing prior to April 5, 1974, shall be subject to the following requirements: (7-1-98)

i. Proof of ownership or long term lease of the uplands adjacent to the relocation site must be furnished to the department. (7-1-98)

ii. The applicant must show that all wastes and waste water will be transported to shore disposal systems by a method approved by the Idaho Department of Health and Welfare or the appropriate local health authority. (7-1-98)

c. Applications and approved local permits are required for replacement or enlargement of float

homes. Adding another story to a float home shall require a permit.

(7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

020. APPLICATIONS.

01. Encroachment Applications. No person shall hereafter make or cause to be made any encroachment on, in or above the beds or waters of any navigable lake in the state of Idaho without first making application to and receiving written approval from the director. The placing of dredged or fill material, refuse or waste matter intended as or becoming fill material, on or in the beds or waters of any navigable lake in the state of Idaho shall be considered an encroachment and written approval by the director is required. (9-13-90)

02. Signature Requirement. Only persons who are riparian owners or lessees of a riparian owner shall be eligible to apply for encroachment permits. A person who has been specifically granted riparian rights or dock rights from a riparian owner shall also be eligible for an encroachment permit; the grantor of such riparian rights, however, shall no longer be eligible to apply for an encroachment permit. Except for waterlines or utility lines, the possession of an easement to the shoreline does not qualify a person to be eligible for an encroachment permit. (7-1-98)

03. Other Permits. Nothing in these rules shall excuse a person seeking to make an encroachment from obtaining any additional approvals lawfully required by federal, local or other state agencies. (9-13-90)

04. Repairs, Replacement. Approval is not required to clean, maintain or to make repairs to an existing encroachment, but approval is required to enlarge or extend an existing encroachment. Replacing the top or deck of a dock, wharf or similar structure shall be considered a repair; replacing of winter damaged or wind and water damaged pilings or float logs used to maintain existing encroachments in position shall be considered a repair. Redredging a channel or basin shall be considered a replacement and a permit is necessary unless redredging is authorized by the outstanding permit. Dredging of a channel or basin will require a new permit. Complete replacement of the entire dock at one (1) time exactly to the same specifications of the currently existing dock is considered a repair and will not require a new permit so long as dock is made ~~of same materials and~~ to the same configuration in the same location. (7-1-98)(7-1-98)T

05. Forms, Filing. Applications must be in writing on forms provided by the department or copies. Applications and plans shall be filed in the office of the department in Coeur d'Alene, together with filing fees and costs of publication where required by these rules, except that applications and plans for noncommercial navigational encroachments may be filed at any supervisory field office. Plans shall include a lakebed profile in relationship to the proposed encroachment. The lakebed profile shall show the summer and winter water levels. The plan shall show, where possible, the lengths of adjacent docks as an indication of the line of navigability. The plans shall show the relationship of the proposed encroachment in the lake and indicate a general vicinity map. The plans shall be presented on paper no larger than eight and one-half by fourteen (8 1/2" x 14") inches. Costs of preparation of the application, including all necessary maps and drawings, shall be paid by the applicant. (7-1-98)

a. Applications for nonnavigational encroachments and commercial navigational encroachments must be submitted or approved by the riparian or littoral owner or, if the encroachment will lie over or upon private lands between the natural or ordinary high water mark and the artificial high water mark, the application must be submitted or approved by the owner of such lands. Where the owner is not the applicant, the application shall bear the owner's signature as approving the encroachment prior to filing. (9-13-90)

b. Applications for noncommercial navigational encroachments associated with private or public uplands must be signed by the riparian or littoral owner or his lessee, or by the owner or lessee of private lands between the natural or ordinary high water mark, and the artificial high water mark, seeking approval to make the encroachment. Owners of riparian or littoral lands or of the aforesaid private lands not making or joining in the application shall be considered adjacent riparian owners entitled to notice under Subsection 025.02, where the encroachment is on or over such riparian or littoral or other private lands. (7-1-98)

c. Applications for noncommercial encroachments intended to improve waterways for navigation, wildlife habitat and other recreational uses by members of the public must be filed by any municipality, county, state, or federal agency, or other entity empowered to make such improvements. (7-1-98)

d. The following applications shall be accompanied by a nonrefundable filing fee of two hundred-fifty dollars (\$250), together with a deposit toward the cost of newspaper publication, which deposit shall be determined by the director at the time of filing: (9-13-90)

i. Nonnavigational encroachments; (9-13-90)

ii. Commercial navigational encroachments; (7-1-98)

iii. Community navigational encroachments; and (7-1-98)

iv. Navigational encroachments extending beyond the line of navigability. (9-13-90)

e. Applicants shall pay any balance due on publication costs before written approval will be issued. The department shall refund any excess at or before final action on the application. (9-13-90)

f. Application for a permit for single-family and joint two-family docks not extending beyond the line of navigability or nonnavigational encroachment for bank stabilization and erosion control or for fisheries and wildlife habitat improvements shall be accompanied by a nonrefundable filing fee of fifty dollars (\$50). (7-1-98)

g. No publication cost is required for application for noncommercial navigational encroachment not extending beyond the line of navigability or for application for installation of buried or submerged water intake lines and utility lines. (9-13-90)

h. Applications and plans shall be stamped with the date of filing. (7-1-98)

i. Applications that are incomplete, not in the proper form, not containing the required signature, or not accompanied by filing fees and costs of publication where required, shall not be accepted for filing. The director shall notify the applicant of any deficiency. The applicant may reapply provided the required information is submitted. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

025. PROCESSING OF APPLICATIONS FOR NONCOMMERCIAL SINGLE-FAMILY AND JOINT TWO-FAMILY NAVIGATIONAL ENCROACHMENTS WITHIN LINE OF NAVIGABILITY.

01. Noncommercial Navigational Encroachments. Applications for navigational encroachments not extending beyond the line of navigability will be processed with a minimum of procedural requirements and shall not be denied except in the most unusual of circumstances. No newspaper publication, formal appearance by the applicant, or hearing is contemplated. (7-1-98)

02. Adjacent Riparian Owners. If a proposed encroachment referred to in Subsection 025.01 may infringe upon the riparian or littoral rights of an adjacent riparian owner, the director shall require the applicant to secure the written consent of the adjacent riparian owner. (7-1-98)

03. Notification of Adjacent Riparian Owners. If the signature of the adjacent riparian owner is not required, the department shall provide a copy of such application to the riparian owners immediately adjacent the applicant's property. Such adjacent riparian owner shall have twenty-one (21) days from the date of the mailing to provide comments to the department. This notice will be sent by regular mail to the adjacent riparian owners usual place of address, which, if not known, shall be the address shown on the records of the county treasurer or assessor.

The applicant may submit the adjacent riparian owners' signatures as concurring with the application in lieu of the twenty-one (21) day notice period. ~~(7-1-98)~~(7-1-98)T

04. **Written Objections.** If an adjacent riparian owner files written objections to the application with the director within twenty-one (21) days from the date of service or receipt of notice of the completed application, the director shall fix a time and a place for hearing. In computing the time to object, the day of service or receipt of notice of the application shall not be counted. Objections must be received within the twenty-one (21) day period by mail or hand delivery in the office of the department in Coeur d'Alene. If the last day of the period is Saturday, Sunday or a legal holiday, the time within which to object shall run until the end of the first business day thereafter. (7-1-98)

05. **Unusual Circumstances.** Even though no objection is filed by an adjacent riparian owner to a noncommercial navigational encroachment, if the director deems it advisable because of the existence of unusual circumstances, he may require a hearing. (7-1-98)

06. **Hearings.** Hearings fixed by the director following an objection pursuant to Subsection 025.03 or the Director's own determination pursuant to Subsection 025.04 shall be fixed as to time and place, but no later than sixty (60) days from date of acceptance for filing of the application. At the hearing the applicant and any adjacent riparian owner filing timely objections may appear personally or through an authorized representative and present evidence. Said hearing shall be in the nature of a formal contested case hearing as defined herein by Subsection 010.07. In such hearings the Department shall act as the fact finder and not a party. The Director, at his discretion, shall designate a Department representative to sit as the hearing officer. Provided, however, that the parties may agree to informal disposition of an application by stipulation, agreed settlement, consent order, or other informal means. (7-1-98)

07. **Decision.** The director shall, within forty-five (45) days after close of the hearing provided for in Subsections 025.04 or 025.05 render a final decision and give notice thereof to the parties appearing before him either personally or by certified or registered mail. The final decision shall be in writing. (7-1-98)

08. **Reconsideration.** The applicant, if dissatisfied with the Director's decision, or other aggrieved party who participated at a hearing, shall have twenty (20) days from the date of the Director's decision to required reconsideration thereof. If reconsideration is requested, the director shall set a time and place for a reconsideration hearing, not to exceed thirty (30) days from receipt of the request, at which time and place the person requesting reconsideration and the applicant may appear in person or through an authorized representative and present briefing and oral argument. Upon conclusion of reconsideration, the director shall by personal service or by registered or certified mail notify the applicant of his decision. (7-1-98)

09. **Judicial Review.** Any applicant aggrieved by the Director's final decision on reconsideration, or other aggrieved party appearing at a reconsideration hearing, shall have a right to have the proceedings and final decision reviewed by the district court in the county where the encroachment is proposed by filing a notice of appeal within thirty (30) days from the date of the final decision. An adjacent riparian owner shall be required to deposit with the court a five hundred dollars (\$500) appeal bond insuring payment to the applicant of damages caused by delay and costs and expenses, including reasonable attorney fees, incurred on the appeal in the event the district court sustains the action of the director. The applicant need post no bond with the court to prosecute an appeal. (7-1-98)

10. **Disposition Without Hearing.** In the event no objection to the proposed encroachment and request for hearing is filed with the director by an adjacent riparian owner under Subsection 025.04, or hearing ordered by the director under Subsection 025.05, then the director shall act upon an application filed under Subsection 025.01 as expeditiously as possible but no later than sixty (60) days from acceptance of the application and failure to act within such time shall constitute approval of the application. (7-1-98)

IDAPA 23 - BOARD OF NURSING
23.01.01 - RULES OF THE BOARD OF NURSING
DOCKET NO. 23-0101-9801
NOTICE OF TEMPORARY AND PROPOSED RULE

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

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Sections 54-1404(9) and 54-1402(d), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 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: The following is the required finding and concise statement of the supporting reasons for proposed rule making:

These rules provide the definitions, standards, and qualifications for the practice of advanced practice professional nurses; the process for licensing and disciplining of advanced practice professional nurses; and the standards and qualifications for prescriptive and dispensing authority.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These rules are necessary to implement H.B. 662 passed by the 1998 Legislature.

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

These temporary rules will impose a fee for advanced practice professional nurse licenses and authorization to prescribe and dispense pharmacological agents.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary rule, contact Sandra Evans, Executive Director, at (208) 334-3110.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 20th day of May, 1998.

Sandra Evans
Executive Director
Board of Nursing
280 N. 8th St., Ste., 210
P. O. Box 83720
Boise, ID 83720-0061

TEXT OF DOCKET NO. 23-0101-9801

270. NURSE PRACTITIONERS ADVANCED PRACTICE PROFESSIONAL NURSING.

In accordance with Idaho Code, Section 54-1402 (d), rules governing Nurse Practitioners are jointly promulgated by the Board of Nursing and the Board of Medicine and implemented by the Board of Nursing. (7-1-93)

01. Scope. In accordance with Idaho Code, Section 54-1404(a), these rules are implemented by the Board of Nursing in order to define and regulate advanced practice professional nursing, including the practice categories of certified nurse-midwife, clinical nurse specialist, nurse practitioner, and registered nurse anesthetist. (7-1-98)T

02. Purpose. The purpose of these rules is to promote, preserve and protect public health, safety, and welfare by: (7-1-98)T

a. Distinguishing the scope of practice of the advanced practice professional nurse from the scope of practice of the licensed professional nurse; (7-1-98)T

b. Defining the specific categories of advanced practice professional nursing, including titles; (7-1-98)T

c. Authorizing practice according to the advanced practice professional nurse's demonstrated initial and continuing competence; (7-1-98)T

d. Providing a mechanism to assure safe practice by qualified competent individuals; and (7-1-98)T

e. Prohibiting unqualified persons from engaging in advanced practice professional nursing. (7-1-98)T

271. ~~PURPOSE OF NURSE PRACTITIONER RULES~~ DEFINITIONS RELATED TO ADVANCED PRACTICE PROFESSIONAL NURSING.

~~Recognizing that the delivery of health care is a privilege granted by the state of Idaho and is not a natural right of individuals, the purpose of these rules is to assure the public health, safety and welfare in the state by the approval and regulation of nurse practitioners.~~ (7-1-93)

01. Accountability. Means being answerable for one's own actions. (7-1-98)T

02. Advanced Practice Professional Nurse. Means a professional nurse licensed in this state who has gained additional specialized knowledge, skills and experience through a post-basic program of study as defined herein and is authorized to perform advanced nursing practice, which may include acts of diagnosis and treatment, and the prescribing, administering and dispensing of therapeutic pharmacologic and non-pharmacologic agents, as defined herein. Advanced practice professional nurses shall include certified nurse-midwives, clinical nurse specialists, nurse practitioners, and registered nurse anesthetists. Advanced practice professional nurses, when functioning within the recognized scope of practice, assume primary responsibility for the care of their patients. This practice incorporates the use of professional judgment in the assessment and management of wellness and conditions appropriate to the advanced practice professional nurse's area of specialization. (7-1-98)T

03. Authorized Advanced Practice Professional Nurse. Means an advanced practice professional nurse authorized by the board to prescribe and dispense pharmacologic and non-pharmacologic agents pursuant to Section 315. (7-1-98)T

04. Certification. Means recognition of the applicant's advanced knowledge, skills and abilities in a defined area of nursing practice by a national organization recognized by the board. The certification process measures the theoretical and clinical content denoted in the advanced scope of practice, and is developed in accordance with generally accepted standards of validation and reliability. (7-1-98)T

05. Certified Nurse-Midwife. Means a licensed professional nurse who has graduated from a nationally accredited nurse-midwifery program, passed a qualifying examination recognized by the board and has current initial certification or current recertification as a nurse-midwife from a national organization recognized by the board.

(7-1-98)T

06. Clinical Nurse Specialist. Means a licensed professional nurse who has graduated from a nationally accredited graduate program in nursing with a clinical focus, passed a qualifying examination recognized by the board and has current initial certification or current recertification as a clinical nurse specialist from a national organization recognized by the board.

(7-1-98)T

07. Collaboration. Means the cooperative working relationship with another health care provider, each contributing his respective expertise in the provision of patient care, and such collaborative practice includes the discussion of patient treatment and cooperation in the management and delivery of health care.

(7-1-98)T

08. Consultation. Means conferring with another health care provider for the purpose of obtaining information or advice.

(7-1-98)T

09. Diagnosis. Means identification of actual or potential health problems and the need for intervention based on analysis of data collected. Diagnosis depends upon the synthesis of information obtained during the interview, physical exam, or diagnostic tests.

(7-1-98)T

10. Intervention. Means measures to promote health, protect against disease, treat illness in its earliest stages, manage acute and chronic illness, and treat disability. Interventions may include, but are not limited to ordering diagnostic studies, performing direct nursing care, prescribing pharmacologic or non-pharmacologic or other therapies and consultation with or referral to other health care providers.

(7-1-98)T

11. Nurse Practitioner. Means a licensed professional nurse who has graduated from a nationally accredited nurse practitioner program, passed a qualifying examination recognized by the board, and has current initial certification or current recertification as a nurse practitioner from a national organization recognized by the board.

(7-1-98)T

12. Prescriptive and Dispensing Authorization. Means the legal permission to prescribe, deliver, distribute and dispense pharmacologic and non-pharmacologic agents to a client in compliance with board rules and applicable federal and state laws. Pharmacologic agents include legend and Schedule II through V controlled substances.

(7-1-98)T

13. Referral. Means directing a client to a physician or other health professional or resource. (7-1-98)T

14. Registered Nurse Anesthetist. Means a licensed professional nurse who has graduated from a nationally accredited nurse anesthesia program, passed a qualifying examination recognized by the board and has current initial certification or current recertification as a nurse anesthetist from a national organization recognized by the board.

(7-1-98)T

15. Scope of Practice of Advanced Practice Professional Nurse. Means those activities that the advanced practice professional nurse may perform. Those activities shall be defined by the board according to the advanced practice professional nurse's education, preparation, experience and the parameters set forth by the advanced practice professional nurse's recognized, national certifying organization.

(7-1-98)T

16. Specialization. Means focusing the advanced practice professional nurse's clinical area of practice, including but not limited to, family health, mental health, child health, gerontological health, adult health or other.

(7-1-98)T

17. Supervision. Means designation of a course of action or provision of guidance and direction by a physician licensed pursuant to Chapter 18, Title 54, Idaho Code.

(7-1-98)T

~~272. DEFINITIONS RELATED TO NURSE PRACTITIONERS.~~

~~01. Nurse Practitioner. Means a licensed professional nurse having specialized skill, knowledge and experience and who is authorized by these jointly promulgated rules to perform designated acts of medical diagnosis, prescription of medical therapeutic and corrective measures and delivery of medications. (7-1-93)~~

~~02. Supervising Physician. Means a person who is licensed to practice medicine and surgery or osteopathic medicine and surgery who is responsible for overseeing and providing guidance, direction and evaluation of health services provided by nurse practitioners related to acts of medical diagnosis and prescription of medical therapeutic and corrective measures. (9-5-94)~~

~~03. Preceptor. Means a physician or nurse practitioner who supervised the practice of a nurse practitioner as a part of the nurse practitioner educational program. (9-5-94)~~

~~04. Protocol. Means a written document mutually agreed upon and signed and dated by the nurse practitioner and supervising physician. The Boards of Nursing or Medicine may review written protocols, job descriptions, policy statements, or other documents that define the responsibilities of the nurse practitioner in the practice setting, and may require such changes as needed to achieve compliance with these rules and to safeguard the public. (7-1-93)~~

~~2732. -- 2879. (RESERVED).~~

280. STANDARDS OF PRACTICE FOR ADVANCED PRACTICE PROFESSIONAL NURSING.

01. Purpose. (7-1-98)T

a. To establish standards essential for safe practice by the advanced practice professional nurse; and (7-1-98)T

b. To serve as a guide for evaluation of advanced practice professional nursing to determine if it is safe and effective. (7-1-98)T

02. Core Standards for All Categories of Advanced Practice Professional Nursing. The advanced practice professional nurse shall practice in a manner consistent with the definition of advanced practice professional nursing and the standards set forth in these rules. The advanced practice professional nurse may provide client services for which the advanced practice professional nurse is educationally prepared and for which competence has been attained and maintained. (7-1-98)T

a. The advanced practice professional nurse shall consult and collaborate with other members of the health care team. (7-1-98)T

b. The advanced practice professional nurse shall recognize his limits of knowledge and experience and shall consult and collaborate with and refer to other health care professionals as appropriate. (7-1-98)T

c. The advanced practice professional nurse shall retain professional accountability for advanced practice professional nursing care according to the advanced practice professional nurse's scope of practice and IDAPA 23.01.01, "Rules of the Board of Nursing," Subsections 400.01 and 400.02. (7-1-98)T

d. The advanced practice professional nurse shall evaluate and apply current research findings relevant to the advanced nursing practice category. (7-1-98)T

e. The advanced practice professional nurse shall assess clients, identify problems or conditions, establish diagnoses, develop and implement treatment plans and evaluate patient outcomes. (7-1-98)T

f. The advanced practice professional nurse shall use advanced knowledge and skills in teaching and guiding clients and other health care team members. (7-1-98)T

g. The advanced practice professional nurse shall use critical thinking and independent decision-making, commensurate with the autonomy, authority and responsibility of the practice category. (7-1-98)T

h. The advanced practice professional nurse shall have knowledge of the statutes and rules governing advanced nursing practice, and function within the established boundaries of the appropriate advanced nursing practice category. (7-1-98)T

03. Certified Nurse-Midwife. In addition to the core standards, advanced practice professional nurses in the category of certified nurse-midwife shall practice in accord with standards established by the American College of Nurse Midwives Certifying Council or the American College of Nurse Midwives. Certified nurse-midwives who meet qualifying requirements and are licensed by the board, may manage women's health care focusing on pregnancy, childbirth, the post-partum period, care of the newborn and reproductive and gynecological needs of well women as defined by the certified nurse-midwife's scope of practice. The certified nurse-midwife shall practice with supervision and provide for appropriate medical consultation, collaborative management and referral. The scope of practice of an authorized certified nurse-midwife may include prescribing and dispensing pharmacologic and non-pharmacologic agents. (7-1-98)T

04. Clinical Nurse Specialist. In addition to the core standards, advanced practice professional nurses in the category of clinical nurse specialist shall practice in accord with standards established by the American Nurses Credentialing Center. Clinical nurse specialists who meet qualifying requirements and are licensed by the board, may practice as expert clinicians in a particular specialty or subspecialty of nursing practice. The clinical nurse specialist provides direct client care, which may include assessing, diagnosing, planning, health promotion and preventive care within this specialized area of practice, as defined by the clinical nurse specialist's scope of practice. The clinical nurse specialist shall practice with supervision and provide for appropriate medical consultation, collaborative management and referral. The scope of practice of an authorized clinical nurse specialist may include the prescribing and dispensing of pharmacologic and non-pharmacologic agents. (7-1-98)T

05. Nurse Practitioner. In addition to the core standards, advanced practice professional nurses in the category of nurse practitioner shall practice in accord with standards established by the American Nurses Credentialing Center, the American Academy of Nurse Practitioners, the National Association of Pediatric Nurse Associates and Practitioners or the Association of Women's Health Obstetrics and Neonatal Nurses. Nurse practitioners who meet qualifying requirements and are licensed by the board may perform comprehensive health assessments, diagnosis, health promotion and the direct management of acute and chronic illness and disease as defined by the nurse practitioner's scope of practice. The nurse practitioner shall practice with supervision and provide for appropriate medical consultation, collaborative management and referral. The scope of practice of an authorized nurse practitioner may include the prescribing and dispensing of pharmacologic and non-pharmacologic agents. (7-1-98)T

06. Registered Nurse Anesthetist. In addition to the core standards, advanced practice professional nurses in the category of registered nurse anesthetist shall practice in accord with standards established by the Council on Certification of Nurse Anesthetists or the Council on Recertification of Nurse Anesthetists. Registered nurse anesthetists who meet qualifying requirements and are licensed by the board, may, in collaboration with a physician, dentist or podiatrist authorized to practice in Idaho, provide anesthesia care services including selecting, ordering and administering medications as defined by national standards approved by the board. The scope of practice for authorized registered nurse anesthetists may include the prescribing and dispensing of pharmacologic agents. (7-1-98)T

07. Documentation of Specialization. The advanced practice professional nurse must document competency within his specialty area of practice based upon education, experience and national certification in the specialty. Nurse practitioners authorized to practice prior to July 1, 1998, must document competency within the specialty area of practice based upon education, experience and national certification in that specialty or education, experience and approval by the board. (7-1-98)T

281. -- 284. (RESERVED).

285. QUALIFICATIONS FOR ADVANCED PRACTICE PROFESSIONAL NURSE.
An applicant for licensure as an advanced practice professional nurse shall meet the following requirements: (7-1-98)T

01. Certified Nurse-Midwife Qualifications. To qualify as a certified nurse-midwife, an applicant shall provide evidence of: (7-1-98)T

- a. Current licensure to practice as a professional nurse in Idaho; (7-1-98)T
- b. Successful completion of a nurse-midwifery program which is accredited by a national organization recognized by the board; (7-1-98)T
- c. Passing results on the certification examination administered by the American College of Nurse-Midwives; and (7-1-98)T
- d. Current national certification as a nurse-midwife from the American College of Nurse-Midwives. (7-1-98)T

02. Clinical Nurse Specialist Qualifications. To qualify as a clinical nurse specialist, an applicant shall provide evidence of: (7-1-98)T

- a. Current licensure to practice as a professional nurse in Idaho; (7-1-98)T
- b. A master's or higher degree in nursing with clinical specialization from a program accredited by a national organization recognized by the board; (7-1-98)T
- c. Passing results on a certification examination administered by an organization recognized by the board; and (7-1-98)T
- d. Current national certification as a clinical nurse specialist in the designated nursing specialty from an organization recognized by the board. (7-1-98)T

03. Nurse Practitioner Qualifications. To qualify as a nurse practitioner, an applicant shall provide evidence of: (7-1-98)T

- a. Current licensure to practice as a professional nurse in Idaho; (7-1-98)T
- b. Successful completion of a nurse practitioner program which is accredited by a national organization recognized by the board; (7-1-98)T
- c. Passing results on the certification examination administered by an organization recognized by the board; and (7-1-98)T
- d. Current national certification as a nurse practitioner from an organization recognized by the board. (7-1-98)T

04. Registered Nurse Anesthetist Qualifications. To qualify as a registered nurse anesthetist, an applicant shall provide evidence of: (7-1-98)T

- a. Current licensure to practice as a professional nurse in Idaho; (7-1-98)T
- b. Successful completion of a nurse anesthetist program accredited by a national organization recognized by the board; (7-1-98)T
- c. Passing results on the certification examination administered by the Council on Certification of Nurse Anesthetists; and (7-1-98)T
- d. Current national certification as a nurse anesthetist from the Council on Certification of Nurse Anesthetists, or current national recertification from the Council on Recertification of Nurse Anesthetists. (7-1-98)T

286. -- 289. (RESERVED).

290. ~~SCOPE OF PRACTICE OF NURSE PRACTITIONERS APPLICATION FOR LICENSURE - ADVANCED PRACTICE PROFESSIONAL NURSE.~~

~~The advanced practice professional nurse requesting licensure to practice as a certified nurse-midwife, clinical nurse specialist, nurse practitioner or registered nurse anesthetist must submit an application to the board which includes:~~

~~(7-1-98)T~~

~~01. Designated Acts. In addition to those functions specified for the licensed professional nurse, the nurse practitioner may perform the following acts: Application Form. Completed, notarized application form provided by the board. (2-12-80)(7-1-98)T~~

~~a. Evaluate the physical and psychosocial health status through a comprehensive health history and physical examination. This may include the performance of pelvic examinations and pap smears. (2-12-80)~~

~~b. Initiate appropriate laboratory or diagnostic studies to screen or evaluate the patient's health status and interpret reported information in accordance with protocols and knowledge of the laboratory or diagnostic studies, provided such laboratory or diagnostic studies are related to and consistent with the nurse practitioner's scope of practice. (7-1-93)~~

~~e. Diagnose and manage minor illnesses or conditions. (2-12-80)~~

~~d. A nurse practitioner who is also a certified nurse-midwife may perform uncomplicated deliveries. (2-12-80)~~

~~e. Manage the health care of the stable chronically ill patient in accordance with protocols for management of the medical regimen. (9-5-91)~~

~~f. Institute appropriate care which might be required to stabilize a patient's condition in an emergency or potentially life-threatening situation until physician consultation can be obtained. (2-12-80)~~

~~g. Repair minor lacerations, with no nerve, tendon, or major vessel involvement, after consultation with the supervising physician. (9-5-91)~~

~~02. Official Transcript. Official transcript from the advanced practice nursing education program verifying successful completion. (7-1-98)T~~

~~03. National Certification. Verification of current national certification from the board-recognized certifying agent. (7-1-98)T~~

~~04. Enrollment in Continuing Competency Assessment Program. In addition to verification of national certification, a certified nurse-midwife must submit proof of enrollment in the continuing competency assessment program of the American College of Nurse-Midwives which bears a current expiration date. At the end of five (5) years, the certified nurse-midwife must submit evidence of completion of the continuing competency requirement of the program. (7-1-98)T~~

~~05. Fee. A non-refundable fee of ninety dollars (\$90). (7-1-98)T~~

291. ~~PRESCRIPTION PRIVILEGES OF NURSE PRACTITIONERS.~~

~~Those nurse practitioners having a minimum of thirty (30) hours of pharmacology course content may apply for authorization for prescription writing to prescribe those drugs identified on a formulary jointly promulgated by the Boards of Nursing and Medicine. If the application is approved, such prescription writing shall be performed in accordance with protocols. (7-1-93)~~

~~01. Scope of Review. Each application for prescription writing authority shall be reviewed by the Board of Nursing. If there is insufficient documentation of the applicant's qualifications to prescribe, the application will be subject to special review. (9-5-91)~~

~~02. Special Review of Applications. Applications for prescription writing authority must be reviewed and approved by representatives of the Board of Nursing and the Board of Medicine in the following situations:~~

~~(9-5-91)~~

~~a. Inadequate documentation of educational preparation information submitted under Subsection 291.01, or~~

~~(7-1-93)~~

~~b. Documentation of previous prescription writing problems.~~

~~(9-5-91)~~

~~03. Controlled Substances. A nurse practitioner may not write prescriptions for any controlled substances defined by the Uniform Controlled Substances Act, Schedules I through V.~~

~~(9-5-91)~~

~~04. Prescription Forms. Prescription forms used by nurse practitioners must be printed with the name, address, and telephone number of the nurse practitioner and of the supervising physician.~~

~~(9-5-91)~~

~~05. Recording of Prescriptions. All prescriptions, including refills, must be recorded in the patient's record.~~

~~(9-5-91)~~

~~2921. -- 2994. (RESERVED).~~

295. TEMPORARY LICENSURE – ADVANCED PRACTICE PROFESSIONAL NURSE.

A temporary license to engage in advanced practice professional nursing as a certified nurse-midwife, clinical nurse specialist, nurse practitioner, or registered nurse anesthetist may be issued to the following:

(7-1-98)T

01. Applicants Awaiting Initial Certification Examination Results. An otherwise qualified applicant who is eligible to take the first available certification examination following completion of an approved advanced practice professional nurse education program. Verification of registration to write a board-recognized national certification examination must be received from the national certifying organization.

(7-1-98)T

a. Temporary licensure to practice shall be deemed to expire upon failure of the certification examination. An applicant who fails the national certification exam shall not engage in advanced practice professional nursing until such time as all requirements are met.

(7-1-98)T

b. An applicant who is granted a temporary license to practice as an advanced practice professional nurse must submit notarized results of the certification examination within ten (10) days of receipt. Failure to submit required documentation shall result in the immediate expiration of the temporary license.

(7-1-98)T

c. The temporary license of an applicant who does not write the examination on the date scheduled shall immediately expire and the applicant shall not engage in advanced practice professional nursing until such time as all requirements are met.

(7-1-98)T

02. Applicants Whose Certification Has Lapsed. A licensed professional nurse applying for re-entry into advanced professional nursing practice, who is required by the national certifying organization to meet certain specified practice requirements under supervision. The length of and conditions for temporary licensure shall be determined by the board.

(7-1-98)T

03. Applicants Holding a Temporary Professional Nursing License. An advanced practice professional nurse currently authorized to practice advanced practice professional nursing in another state upon issuance of a temporary license to practice as a professional nurse, and upon evidence of current initial certification or recertification as an advanced practice professional nurse from a board-recognized national certifying organization.

(7-1-98)T

04. Applicants Without Required Practice Hours. An advanced practice professional nurse who has not practiced the minimum required period of time during the renewal period may be issued a temporary license in order to acquire the required number of hours and demonstrate ability to safely practice.

(7-1-98)T

05. Expiration of Temporary License. The temporary license expires when the renewable advanced practice professional nurse license is granted. (7-1-98)T

296. -- 299. (RESERVED).

300. DELIVERY OF MEDICATION BY NURSE PRACTITIONERS RENEWAL AND REINSTATEMENT OF ADVANCED PRACTICE PROFESSIONAL NURSE LICENSE.

The advanced practice professional nurse license may be renewed every two (2) years as prescribed in the Idaho Code, Section 54-1411, provided that the advanced practice professional nurse: (7-1-98)T

01. Pre-Dispensed Medication. The nurse practitioner may legally provide a patient with more than one (1) dose of a medication at sites or at times when a pharmacist is not available. The pre-dispensed medications shall be for an emergency period to be determined on the basis of individual circumstances, but the emergency period will extend only until a prescription can be obtained from a pharmacy. Current Professional License. Maintains a current professional nurse license in Idaho. (9-5-91)(7-1-98)T

02. Consultant Pharmacist. The nurse practitioner shall have a consultant pharmacist responsible for providing the nurse practitioner with pre-dispensed medication in accordance with federal and state statutes for packaging, labeling, and storage. Evidence of Certification. Submits evidence of current certification by a national organization recognized by the Board. (2-12-80)(7-1-98)T

03. Limitation of Items. The pre-dispensed medications shall be limited to only those categories of drugs identified in the Formulary, except a nurse practitioner may provide other necessary medication to the patient as directed by a physician. Evidence of Continuing Education. Provides documentation of thirty (30) contact hours of continuing education during the renewal period. Continuing education completed may be that required for renewal of national certification if documentation is submitted confirming the certifying organization's requirement is for at least thirty (30) contact hours. These contact hours may include the requirements identified in IDAPA 23.01.01, "Rules of the Board of Nursing," Subsection 315.02.b. in a two (2) year period. (9-5-91)(7-1-98)T

04. Exemption from Emergency Period. Nurse practitioners may provide pre-dispensed medication and shall be exempted from the emergency period under the following circumstances. Hours of Practice. Attests, on forms provided by the board, to a minimum of two hundred (200) hours of advanced professional nursing practice within the preceding two (2) year period. (12-15-86)(7-1-98)T

a. Agencies/clinics providing family planning, communicable and chronic disease services under government contract or grant. (12-15-86)

b. Agencies/clinics in remote sites without pharmacies. These agencies/clinics must submit an application and obtain formal approval from the Board of Nursing. (12-15-86)

05. Fee. Remits a non-refundable renewal fee of fifty dollars (\$50). (7-1-98)T

06. Exemption from Requirements. Nurse practitioners not certified by a national organization recognized by the board and approved prior to July 1, 1998 shall be exempt from the requirement set forth in IDAPA 23.01.01, "Rules of the Board of Nursing," Subsection 300.02. (7-1-98)T

301. CURRENTLY APPROVED NURSE PRACTITIONERS.

01. Formulary. All currently approved nurse practitioners with prescription writing authority must prescribe in accordance with the drug categories identified in the Formulary. Those currently approved nurse practitioners without prescription writing authority may apply for such authority. (7-1-93)

02. Written Protocols. All currently approved nurse practitioners shall have written protocols as specified in Sections 290 and 291, if these sections are applicable to their practice. (7-1-93)

302. NURSE PRACTITIONER RECORDS.

The nurse practitioner shall maintain accurate records, accounting for all prescriptions written and medication delivered.

(2-12-80)

303. NURSE PRACTITIONER APPROVAL REQUIREMENTS TO BE MET.

The applicant for initial nurse practitioner approval shall meet the following requirements:

(2-12-80)

01. Current Licensure. Hold a current license in good standing as a professional nurse in Idaho. (7-1-93)
02. Degree Required. Submit evidence of a baccalaureate degree in nursing from an approved nursing education program. (7-1-93)
03. Completion of Nurse Practitioner Program. Submit evidence of successful completion of a nurse practitioner program which has been accredited by the National League for Nursing or the American Nurses' Association or its equivalent as determined by the Board of Nursing. (7-1-93)
04. Description of Practice. Submit a narrative description of the scope of practice which shall include information on the type of practice and the health services to be provided. (7-1-93)
05. Application. Submit a notarized application, on forms supplied by the Board of Nursing, which shall substantiate that the applicant meets the requirements of this section and the Nursing Practice Act. (7-1-93)
06. Fee. Submit the non-refundable fee required by Section 902 of the rules of the Board of Nursing. (7-1-93)
07. Signed Statement. Submit a statement signed by a physician or nurse practitioner preceptor or by a supervisory person or peer from the last place of employment that the nurse practitioner has demonstrated proficiency in the functions to be undertaken. (7-1-93)
08. Signed Agreement. Submit a copy of an agreement providing for a supervising physician registered pursuant to the rules of the Idaho State Board of Medicine, and a copy of an agreement providing for an alternate supervising physician in the absence of the supervising physician. Copies of the agreements shall be signed by all parties. The agreements shall provide for:
 - a. Collaborative development and periodic review (at least annually) of written protocols providing for laboratory and diagnostic studies, management of stable, chronically ill patients, and prescription writing. (7-1-93)
 - b. An on-site visit at least monthly. (7-1-93)
 - c. Regularly scheduled conferences between the supervising physician and the nurse practitioner. (9-5-91)
 - d. Periodic review of a representative sample of records and a periodic review of the medical services being provided by the nurse practitioner. This review shall also include an evaluation of adherence to protocols. (9-5-91)
 - e. Availability of the supervising physician to the nurse practitioner in person or by telephone. (9-5-91)
09. Examination Score. Submit evidence of an acceptable score on a qualifying examination administered by a nationally organized group recognized by the Board of Nursing. (2-12-80)

304. -- 31904. (RESERVED).

305. PERSONS EXEMPTED FROM ADVANCED PRACTICE PROFESSIONAL NURSING LICENSE REQUIREMENTS.

Nothing in these rules shall prohibit a licensed professional nurse who holds a current Idaho license and who is

enrolled as a matriculated student in an educational program for advanced practice professional nursing from practicing as an advanced practice professional nurse when such practice is an integral part of the advanced practice professional nurse curriculum. (7-1-98)T

306. DISCIPLINARY ENFORCEMENT.

The board may revoke, suspend or otherwise discipline the advanced practice professional nurse license of a licensee who fails to comply with current recognized scope and standards of practice, who fails to maintain national certification or competency requirements, or who violates the provisions of the Nursing Practice Act or rules of the board. (7-1-98)T

307. -- 309. (RESERVED).

310. TITLES.

An individual who has successfully met all requirements for licensure as an advanced practice professional nurse shall have the right to use the title corresponding to the category of advanced nursing practice for which the individual is licensed. (7-1-98)T

01. Title of Certified Nurse-Midwife. Individuals who have successfully met all requirements for licensure as a certified nurse-midwife shall have the right to use the title certified nurse-midwife, abbreviated C.N.M. (7-1-98)T

02. Title of Clinical Nurse Specialist. Individuals who have successfully met all requirements for licensure as a clinical nurse specialist shall have the right to use the title clinical nurse specialist, abbreviated C.N.S. (7-1-98)T

03. Title of Nurse Practitioner. Individuals who have successfully met all requirements for licensure as a nurse practitioner shall have the right to use the title nurse practitioner, abbreviated N.P. (7-1-98)T

04. Title of Registered Nurse Anesthetist. Individuals who have successfully met all requirements for licensure as a registered nurse anesthetist shall have the right to use the title registered nurse anesthetist, abbreviated R.N.A. (7-1-98)T

311. -- 314. (RESERVED).

315. PRESCRIPTIVE AND DISPENSING AUTHORIZATION FOR ADVANCED PRACTICE PROFESSIONAL NURSES.

01. Initial Authorization. An application for the authority to prescribe and dispense pharmacologic and non-pharmacologic agents may be made as part of initial licensure application or by separate application at a later date. (7-1-98)T

a. An advanced practice professional nurse who applies for authorization to prescribe pharmacologic and non-pharmacologic agents within the scope of practice for the advanced practice category, shall: (7-1-98)T

i. Be currently licensed as an advanced practice professional nurse in Idaho; and (7-1-98)T

ii. Provide evidence of completion of thirty (30) contact hours of post-basic education in pharmacotherapeutics obtained as part of study within a formal educational program or continuing education program, which are related to the applicant's advanced practice category scope of practice and include: (7-1-98)T

(1) Pharmacokinetic principles and their clinical application; (7-1-98)T

(2) The use of pharmacologic agents in the prevention of illness, restoration, and maintenance of health; (7-1-98)T

(3) Federal and state laws relating to the purchasing, possessing, prescribing, administering, and disposing of pharmacologic and nonpharmacologic agents; (7-1-98)T

- (4) Prescription writing; (7-1-98)T
- (5) Drug selection, dosage and route of administration; and (7-1-98)T
- (6) Drug interactions. (7-1-98)T
- iii. Submit a completed, notarized application form provided by the board; and (7-1-98)T
- iv. Remit a non-refundable fee of fifty dollars (\$50). (7-1-98)T
- b. Exceptions to the pharmacotherapeutic education may be approved by the board. (7-1-98)T
- c. Prescriptions written by authorized advanced practice professional nurses shall comply with all applicable state and federal laws and be signed by the prescriber with the abbreviation for the applicable category of advanced nursing practice, the identification number assigned by the board and where applicable, the Idaho controlled substance registration number and the federal Drug Enforcement Agency registration number. (7-1-98)T
- d. Advanced practice professional nurse authorization shall expire and may be renewed at the same time as the advanced practice professional nurse license. (7-1-98)T
02. Authorization Renewal. Authorization may be renewed provided the applicant: (7-1-98)T
- a. Maintains a valid advanced practice professional nurse license; (7-1-98)T
- b. Has completed ten (10) contact hours of approved pharmacology-related continuing education in the twenty-four (24) months immediately preceding application for renewal; and (7-1-98)T
- c. Has not engaged in any act or omission in the exercise of prescriptive authority which demonstrates a threat to the public. (7-1-98)T
03. Temporary Authorization. The board may grant temporary prescriptive authority to an applicant who holds a temporary advanced practice professional nurse license and who meets the requirements for initial authorization pursuant to IDAPA 23.01.01, "Rules of the Board of Nursing," Subsection 315.01. (7-1-98)T
04. Expiration of Temporary Prescriptive Authorization. Temporary prescriptive authorization automatically expires on the expiration, revocation, suspension, placement on probation, or denial of any advanced practice professional nurse license. (7-1-98)T
05. Dispensing Authorization. All authorized advanced practice professional nurses may dispense pharmacologic and non-pharmacologic agents pursuant to applicable state and federal laws, subject to the following conditions: (7-1-98)T
- a. Valid advanced practice professional nurse/patient relationships. An advanced practice professional nurse shall not dispense pharmacologic agents except in the course of his professional practice and when a bona fide advanced practice professional nurse/patient relationship has been established. A valid relationship will exist when the advanced practice professional nurse has obtained sufficient knowledge of the patient's medical condition through examination and has assumed responsibility for the health care of the patient. (7-1-98)T
- b. Restrictions on the dispensing of controlled substances. dispensing of Schedule II controlled substances shall be limited to emergency periods to be determined on the basis of individual circumstances. The emergency period will extend only until the Schedule II prescription can be filled from a pharmacy. (7-1-98)T
06. Accountability. The advanced practice professional nurse when exercising prescriptive and dispensing authority is accountable for: (7-1-98)T
- a. Patient selection; (7-1-98)T

- b. Problem identification through appropriate assessment; (7-1-98)T
- c. Medication and device selection; (7-1-98)T
- d. Patient education for use of therapeutics; (7-1-98)T
- e. Knowledge of interactions of therapeutics; (7-1-98)T
- f. Evaluation of outcome; and (7-1-98)T
- g. Recognition and management of complications and untoward reactions. (7-1-98)T

316. GROUNDS FOR DISCIPLINE OF AN ADVANCED PRACTICE PROFESSIONAL NURSE LICENSE.

In addition to the grounds set forth in Idaho Code, Section 54-1413 and IDAPA 23.01.01, "Rules of the Board of Nursing," Section 100, an advanced practice professional nursing license may be suspended, revoked, placed upon probation, or other disciplinary sanctions imposed by the board on the following grounds: (7-1-98)T

- 01. Prescribing or Dispensing Controlled Substances. Prescribing, dispensing, or selling any drug classified as a controlled substance to a family member or to himself. (7-1-98)T
- 02. Violating Governing Law. Violating any state or federal law relating to controlled substances. (7-1-98)T
- 03. Outside Scope of Practice. Prescribing or dispensing outside the scope of the advanced practice professional nurse's practice. (7-1-98)T
- 04. Other Than Therapeutic Purposes. Prescribing or dispensing for other than therapeutic purposes. (7-1-98)T
- 05. Violation of Nursing Practice Act or Board Rules. Violating the provisions of the Nursing Practice Act or the rules of the board. (7-1-98)T

317. WITHDRAWAL OF ADVANCED PRACTICE PROFESSIONAL NURSE AUTHORIZATION.

Failure to maintain active licensure as an advanced practice professional nurse shall result in the automatic withdrawal of authorization. (7-1-98)T

318. -- 319. (RESERVED).

320. ~~NURSE PRACTITIONER APPLICANTS FROM OTHER STATES~~ RECOGNITION OF NATIONAL CERTIFYING ORGANIZATIONS FOR ADVANCED PRACTICE PROFESSIONAL NURSING.

Any person seeking to be approved as a nurse practitioner in this state and who is approved as a nurse practitioner, or equivalent title, in another state must successfully meet all of the requirements provided in Section 303 of the rules of the Board of Nursing. (7-1-93)

- 01. Recognition of Certification. The board recognizes certification by the Council on Certification of Nurse Anesthetists, the Council on Recertification of Nurse Anesthetists, the American College of Nurse-Midwives Certification Council (or the American College of Nurse-Midwives), the American Nurses Credentialing Center, the National Certification Corporation for the Obstetric, Gynecologic and Neonatal Nursing Specialties, the National Certification Board of Pediatric Nurse Practitioners and Nurses, and the American Academy of Nurse Practitioners. (7-1-98)T
- 02. Continuing Recognition. The board may review and evaluate the certification process of board-recognized national certifying agents for continuing recognition. (7-1-98)T

03. Discontinuance of Recognition. The board may discontinue recognition of certifying agents should the board determine that a certifying agent's certification process does not provide an accurate evaluation of the individual's ability to engage in the safe practice of advanced practice professional nursing. (7-1-98)T

04. Review of Standards. The board may review and evaluate standards for advanced practice professional nursing established by recognized national certifying organizations. (7-1-98)T

05. Recognition Criteria. The board may consider recognition of national certifying organizations according to the following criteria: (7-1-98)T

a. The national certifying body: (7-1-98)T

i. Is national in the scope of its credentialing; (7-1-98)T

ii. Has no requirement for an applicant to be a member of any organization; (7-1-98)T

iii. Has educational requirements which are consistent with the requirements of these rules; (7-1-98)T

iv. Has an application process and credential review which includes documentation that the applicant's education is in the advanced nursing practice category being certified, and that the applicant's clinical practice is in the certification category; (7-1-98)T

v. Uses an examination as a basis for certification in the advanced nursing practice category which meets the following criteria: (7-1-98)T

(1) The examination is based upon job analysis studies conducted using standard methodologies acceptable to the testing community; (7-1-98)T

(2) The examination represents entry-level practice in the advanced nursing practice category; (7-1-98)T

(3) The examination represents the knowledge, skills and abilities essential for the delivery of safe and effective advanced nursing care to the clients; (7-1-98)T

(4) The examination content and its distribution are specified in a test plan, based on the job analysis study, that is available to examinees; (7-1-98)T

(5) Examination items are reviewed for content validity, cultural sensitivity and correct scoring using an established mechanism, both before use and periodically; (7-1-98)T

(6) Examination items are evaluated for psychometric performance; (7-1-98)T

(7) The passing standard is established using acceptable psychometric methods, and is re-evaluated periodically; and (7-1-98)T

(8) Examination security is maintained through established procedures. (7-1-98)T

vi. Issues certification based upon passing the examination and meeting all other certification requirements; (7-1-98)T

vii. Provides for periodic re-certification which includes review of qualifications and continued competence; (7-1-98)T

viii. Has mechanisms in place for communication to the board for timely verification of an individual's certification status, changes in certification status, and changes in the certification program, including qualifications, test plan and scope of practice; and (7-1-98)T

- ix. Has an evaluation process to provide quality assurance in its certification program. (7-1-98)T

321. ~~NURSE PRACTITIONER TEMPORARY APPROVAL.~~

01. ~~Duration of Temporary Approval. Temporary approval to practice may be issued by the Board of Nursing until notification of the examination results. The applicant must write the first examination available.~~ (2-12-80)

02. ~~Temporary Approval Expiration. The temporary approval shall expire automatically if the applicant fails to pass the examination or to write the first examination available.~~ (2-12-80)

322. ~~329.~~ (RESERVED);

330. ~~NURSE PRACTITIONER RENEWAL OF APPROVAL.~~

01. ~~Expiration of Approval. Approval shall expire biennially upon expiration of the professional nurse license.~~ (2-12-80)

02. ~~Renewal of Approval. Renewal of approval is dependent upon the following:~~ (2-12-80)

a. ~~Current licensure as a professional nurse in Idaho.~~ (2-12-80)

b. ~~Payment of the renewal fee required by Subsection 902.02 of the rules of the Board of Nursing.~~ (7-1-93)

e. ~~Submission of documentation of current certification by a national organization recognized by the Board of Nursing or of forty (40) contact hours of continuing education activities related to the area of practice.~~ (12-15-86)

d. ~~Submission of a statement of updated practice information on forms prepared by the Board of Nursing.~~ (2-12-80)

03. ~~Lapse in Practice. If more than two (2) years have elapsed since a nurse practitioner has actively engaged in practice, the Board of Nursing may require evidence of an educational update and closely supervised practice to insure safe and qualified performance.~~ (9-5-91)

04. ~~Time to Submit Renewal. Each nurse practitioner shall submit the application for renewal of approval prior to the expiration of approval.~~ (2-12-80)

05. ~~Reinstatement of Approval. To reinstate an approval which has expired for non-payment of renewal fee, the applicant must meet the requirements stated herein, submit an application on forms provided by the Board of Nursing and submit the fee required by Section 902 of the rules of the Board of Nursing.~~ (7-1-93)

331. ~~CHANGE IN PRACTICE ARRANGEMENTS OF NURSE PRACTITIONERS.~~

~~The Board of Nursing shall be notified within thirty (30) days when there is a change in practice arrangements, or physician supervision.~~ (2-12-80)

332. ~~339.~~ (RESERVED);

340. ~~DISCIPLINARY ACTION, NURSE PRACTITIONER.~~

~~The Board of Nursing shall have the power to revoke, suspend, deny approval or renewal of approval. Proceedings shall be conducted as defined in Section 54-1412, Idaho Code, and Sections 090, 100, and 370, of the rules of the Board of Nursing.~~ (7-1-93)

01. ~~Grounds for Discipline.~~ (2-12-80)

a. ~~Failed to meet requirements as stated herein.~~ (2-12-80)

- ~~b. Committed acts subject to disciplinary action under Section 54-1412, Idaho Code, and Sections 090, 100, or 370, of the rules of the Board of Nursing. (7-1-93)~~
 - ~~e. Exceeded authority or failed to adhere to practice as designated by these rules. (7-1-93)~~
 - ~~d. Held out, represented or permitted others to represent him to the public as a licensed physician or has represented himself to be able to practice without a supervising physician. (7-1-93)~~
 - ~~e. Made, or caused to be made, a false, fraudulent or forged statement or representation in procuring or attempting to procure approval to practice as a nurse practitioner. (2-12-80)~~
 - ~~f. Violation of any statute or rules relating to prescribing, possession, using or dispensing drugs. (7-1-93)~~
- ~~02. Notification of Board of Medicine. The Board of Nursing shall promptly notify the Board of Medicine of any complaints received and disciplinary proceedings initiated pursuant to these rules and Section 54-1412, Idaho Code, against nurse practitioners and shall keep the Board of Medicine informed of action taken and of the final disposition thereof. (2-12-80)~~
- ~~03. Notification of Board of Nursing. The Board of Medicine shall promptly notify the Board of Nursing of any information received relating to the practice of any nurse practitioner which warrants investigation or disciplinary proceedings pursuant to these rules and Section 54-1412, Idaho Code. (2-12-80)~~

341. FORMULARY FOR PRESCRIPTION WRITING BY NURSE PRACTITIONERS.

- ~~01. Prescription Writing. Pursuant to protocols, a nurse practitioner may write prescriptions only for medications from the following categories of legend drugs. Protocols should specify any limitations on the number of dosages that may be prescribed, any requirements for consultation prior to prescription writing, and any requirements for periodic review by the supervising physician during the course of treatment with the medication. No controlled substances may be prescribed. (9-5-91)~~
- ~~a. Antihistamines, decongestants, expectorants, and antitussives. (9-5-91)~~
 - ~~b. Antibacterials, antibiotics (Probenecid when prescribed for treatment of gonorrhea in conjunction with penicillin, sulfonamides). (9-5-91)~~
 - ~~e. Non-narcotic analgesics/muscle relaxants. (9-5-91)~~
 - ~~d. Topical steroid preparations. (9-5-91)~~
 - ~~e. Antipruritics. (9-5-91)~~
 - ~~f. Topical eye, ear, skin, nose, and throat preparations, excluding ophthalmic steroids. (7-1-94)~~
 - ~~g. Antinauseants and anti-diarrheals. (9-5-91)~~
 - ~~h. Contraceptive agents and devices. (9-5-91)~~
 - ~~i. Dietary supplements, i.e., iron, vitamins, including fluorides. (9-5-91)~~
 - ~~j. Antifungals, anthelmintics, scabicides, and pediculicides. (9-5-91)~~
 - ~~k. Topical and local anesthetics. (9-5-91)~~
 - ~~l. Immunizations and vaccines (Biologicals). (9-5-91)~~

- m. Antiviral agents. (9-5-91)
- n. Diuretics. (9-5-91)
- o. Smoking cessation agents. (9-5-91)
- p. Gastrointestinal agents, anti-flatulants. (9-5-91)
- q. Non-steroidal anti-inflammatory agents. (9-5-91)
- r. Bronchial dilators, antihypertensives, antispasmodics. (9-5-91)
- s. Hormonal therapy. (9-5-91)
- t. Antidiabetics, antiarthritics, antigout, antilipids. (9-5-91)
- u. Antianginal preparations. (9-5-91)
- v. Anticonvulsants. (9-5-91)
- w. Chemotherapeutics. (9-5-91)
- x. Antidepressants. (9-5-91)
- y. Anti-anxiety agents—limited to Buspirone. (7-1-94)
- z. Migraine preparations. (7-1-94)
- aa. Short-term prescriptions of corticosteroids limited to prescriptions for fourteen (14) days or less. (7-1-94)

02. Refills. A nurse practitioner may order refills for other drugs originally prescribed by the supervising physician for patients with stable chronic illness. (7-1-94)

~~342.—349:~~ **(RESERVED):**

350. REGISTERED NURSE ANESTHETIST.

01. Purpose. The provision of anesthesia care services by nurse anesthetists is a specialty area of nursing practice that is recognized within the legal scope of practice for the licensed professional nurse. The purpose of these rules is to define and authorize the specialty practice of qualified nurse anesthetists and to prohibit unqualified persons from engaging in the practice specialty. (8-31-87)

02. Definitions: (11-24-94)

a. A registered nurse anesthetist is a licensed professional nurse who has graduated from a nationally accredited nurse anesthetist program, passed a qualifying examination recognized by the Idaho Board of Nursing and, has current initial certification or current active recertification from a national group recognized by the board of nursing. Registered nurse anesthetists who meet these qualifying requirements and are registered by the Board, may, in collaboration with a physician, dentist or podiatrist authorized to practice in Idaho, provide anesthesia care services as defined by these rules. (11-24-94)

b. Collaboration means the cooperative working relationship with another health care provider, each contributing his respective area of expertise in the provision of patient care, and such collaborative practice includes the discussion of patient treatment and cooperation in the management and delivery of health care. (11-24-94)

03. Scope of Practice. In addition to the functions authorized for the licensed professional nurse, the

- ~~registered nurse anesthetist may perform the following acts: (8-31-87)~~
- ~~a. Evaluate the preoperative condition of the patient. (8-31-87)~~
 - ~~b. Order and evaluate appropriate studies to determine the health status of the patient. (11-24-94)~~
 - ~~c. Determine the appropriate anesthetic agent and technique of administration. This shall include, but not be limited to: general, regional, and spinal anesthesia; epidural, caudal, brachial plexus and other blocks; inhalation agents; intravenous agents and techniques of hypnosis. (11-24-94)~~
 - ~~d. Order preanesthetic medication. (11-24-94)~~
 - ~~e. Induce and maintain anesthesia under procedures commonly used during the performance of surgical, dental, obstetrical, therapeutic or diagnostic clinical procedures. (8-31-87)~~
 - ~~f. Support life functions during anesthesia care, including induction and intubation procedures, use of appropriate mechanical support devices, and management of fluid, electrolyte and blood component balances. (8-31-87)~~
 - ~~g. Utilize current techniques in monitoring the patient during anesthesia care. (8-31-87)~~
 - ~~h. Recognize and take appropriate corrective action for abnormal patient responses to anesthesia, adjunctive medication or other forms of therapy. (8-31-87)~~
 - ~~i. Participate in the management of the patient while in the post anesthesia recovery period, including, but not limited to, ordering and administering medications. (11-24-94)~~
 - ~~j. Conduct post anesthesia visits and assessments when appropriate. (8-31-87)~~
 - ~~k. Maintain complete and accurate records of anesthesia care and any abnormal response to anesthesia. (8-31-87)~~
- ~~04. Protocols. In accordance with established protocols: (7-1-93)~~
- ~~a. Provide resuscitative care. (8-31-87)~~
 - ~~b. Insert peripheral and central venous and arterial lines for blood sampling and monitoring. (8-31-87)~~
 - ~~c. Perform arterial punctures for blood gases. (8-31-87)~~
 - ~~d. Provide consultation for or management of respiratory and ventilatory care. (8-31-87)~~
 - ~~e. Perform spinal taps. (11-24-94)~~
 - ~~f. Insert epidural catheters and administer or order medication for the management of pain. (11-24-94)~~
- ~~05. Review of Protocols. The Board may review written protocols, job descriptions, policy statements, or other documents that define the responsibilities of the nurse anesthetist in the practice setting, and may require such changes as needed to achieve compliance with these rules and to safeguard the public. (7-1-93)~~
- ~~06. Qualifying Requirements for Registration. To qualify for registration as a nurse anesthetist, a person shall: (8-31-87)~~
- ~~a. Hold a current renewable Idaho professional nurse license in good standing. (8-31-87)~~
 - ~~b. Submit an application together with a notarized copy of current initial certification or current active~~

~~recertification as a nurse anesthetist by a nationally organized group recognized by the Board that includes evidence of graduation from a nationally accredited nurse anesthetist program and successful writing of a national qualifying examination recognized by the Board.~~ (11-24-94)

e. ~~Submit a non-refundable fee as required by Section 904, of the rules of the Board of the Nursing.~~ (7-1-93)

~~07. Temporary Registration. Temporary registration as a registered nurse anesthetist may be issued to the following:~~ (7-1-93)

a. ~~Temporary registration may be issued to an applicant until notification of certification examination results. The applicant must write the first certification examination available upon graduation from a nurse anesthetist program.~~ (7-1-93)

b. ~~Temporary registration may be issued to a nurse anesthetist from another state based on issuance of a temporary license as a professional nurse and evidence of current initial certification or current active recertification as a nurse anesthetist from a nationally organized group recognized by the Board.~~ (7-1-93)

e. ~~Temporary registration shall expire automatically on the date designated or if an applicant fails to pass the examination or to write the first examination available.~~ (7-1-93)

~~08. Certificate of Registration. Applicants who meet qualifying requirements in Subsection 350.06 will be granted a certificate of registration as a nurse anesthetist with the same expiration date as the professional nurse license.~~ (11-24-94)

a. ~~Upon issuance of the certificate of registration, the nurse anesthetist may use the title Certified Registered Nurse Anesthetist, abbreviated C.R.N.A.~~ (8-31-87)

~~09. Renewal of Registration. Renewal of registration is dependent upon the following:~~ (8-31-87)

a. ~~Renewal of professional nurse licensure.~~ (8-31-87)

b. ~~Payment of a renewal fee as required by Section 904, of the rules of the Board of Nursing.~~ (7-1-93)

e. ~~Submission of an application and evidence of current initial certification or current active recertification as a nurse anesthetist from a nationally organized group recognized by the Board of Nursing.~~ (8-31-87)

~~3521. -- 369. (RESERVED).~~

(BREAK IN CONTINUITY OF SECTIONS)

902. ~~NURSE PRACTITIONER~~ ADVANCED PRACTICE PROFESSIONAL NURSE LICENSURE FEES.

A fee will be assessed for ~~nurse practitioner approval~~ advanced practice professional nurse licensure, renewal, and late renewal. (11-28-84)(7-1-98)T

01. ~~Initial Approval Licensure Fee.~~ A fee of ~~seventy-five ninety dollars (\$7590) dollars~~ will be assessed for initial ~~approval licensure~~ of an nurse practitioner applicant advanced practice professional nurse which will be due upon application. (7-1-91)(7-1-98)T

02. ~~Reapproval Renewal Fee.~~ ~~Nurse practitioners~~ Advanced practice professional nurses will be assessed a ~~reapproval renewal~~ fee of twenty-five fifty dollars (\$250) dollars which will be due biennially, with the license renewal. (7-1-91)(7-1-98)T

03. ~~Late Renewal Reapproval Fee.~~ ~~Nurse practitioners~~ Advanced practice professional nurses will be

assessed a ~~reapproval~~ renewal fee of twenty-five dollars (\$25) which will be due upon application. ~~(7-1-88)~~(7-1-98)T

04. Authorization Fee. Advance practice professional nurses will be assessed an authorization fee of fifty dollars (\$50) which will be due upon application. (7-1-98)T

(BREAK IN CONTINUITY OF SECTIONS)

904. ~~REGISTERED NURSE ANESTHETIST FEES (RESERVED).~~

~~A verification of records fee will be assessed for nurse anesthetist registration, renewal and late renewal. (8-31-87)~~

~~01. Initial Registration Fee. A fee of twenty dollars (\$20) will be assessed biennially for renewal of registration and will be due upon application. (7-1-91)~~

~~02. Renewal of Registration. A fee of fifteen dollars (\$15) will be assessed biennially for renewal of registration, at the time of license renewal. (7-1-91)~~

~~03. Late Renewal of Registration. A fee of twenty-five dollars (\$25) will be assessed for late renewal of registration, at the time of license renewal. (7-1-91)~~

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.02.01 - RULES OF THE BOARD OF BARBER EXAMINERS
DOCKET NO. 24-0201-9801

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective March 9, 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 rule-making procedures have been initiated. The action is authorized pursuant to Section 54-521, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 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: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: Establish original barber shop license fee to be \$50 and annual renewal fee to be \$30; establish the original and renewal fee of barber colleges to be \$200; and clarify the meaning of original license fee to be that charged for an original registered barber license.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: the barber law fee schedule was restructured in 1996 to set fees by board rules. The fees for barber shops and colleges were not established in board rules.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: The fees being established are as stated above in the descriptive summary. Statute authorizing these fees is Section 54-518, Idaho Code.

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

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 14th day of May, 1998.

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

TEXT OF DOCKET NO. 24-0201-9801

150. FEES (Rule 150).

01. Examination/Reexamination Fee. Examination/Reexamination fee - seventy-five dollars (\$75).

- (7-1-96)
02. Endorsement Fee. Endorsement fee - eighty dollars (\$80). (7-1-93)
03. Original Registered Barber License Fee. Original Registered Barber License Fee - thirty dollars (\$30). ~~(7-1-96)~~(3-9-98)T
04. Annual Renewal Fee for Registered Barber License. Annual renewal fee for registered ~~(Master)~~ barber license - fifty dollars (\$50). ~~(7-1-96)~~(3-9-98)T
05. Original Barbershop License Fee. Original barbershop license fee – fifty dollars (\$50). (3-9-98)T
06. Annual Renewal Fee for Barbershop License. Annual renewal fee for barbershop license – thirty dollars (\$30). (3-9-98)T
07. Original and Annual Renewal Fee for Barber College License. Original and annual renewal fee for barber college license – two hundred dollars (\$200). (3-9-98)T
058. Teacher Certificate Examination. Teacher certificate examination - one hundred dollars (\$100). (7-1-93)
069. Original Teacher License and Annual Renewal for Teacher License. Original teacher license and annual renewal for teacher license - thirty dollars (\$30). (7-1-93)
107. Student Registration. Student registration - twenty dollars (\$20). (7-1-93)
0811. Temporary Permit Fee. Temporary permit fee - fifteen dollars (\$15). (7-1-93)
0912. Renewal and Reinstatement of Licenses. See Sections 54-518 and 67-2614, Idaho Code. (7-1-93)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.10.01 - RULES OF THE STATE BOARD OF OPTOMETRY
DOCKET NO. 24-1001-9801

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective April 24, 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 rule-making procedures have been initiated. The action is authorized pursuant to Section 54-1509, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 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: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: Add Gooding and Jerome Counties to the Southeast District and delete Clark, Fremont, Teton, Madison and Jefferson Counties from the Southeast District.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Protection of the public health, safety, or welfare.

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

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 30th day of April, 1998.

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

TEXT OF DOCKET NO. 24-1001-9801

100. NOMINATIONS OF BOARD MEMBERS (Rule 100).

01. Districts. In order to establish the districts from which a vacancy in the membership of the Board of Optometry shall be filled, the state is divided into the following three districts by counties as follows:

a. North District.

Lemhi	Latah
-------	-------

Boundary	Clearwater
Bonner	Nez Perce
Kootenai	Valley
Shoshone	Idaho
Benewah	Adams
Lewis	Custer
Washington	Butte
Payette	Jefferson
Boise	Madison
Teton	Clark
Blaine	Fremont

(7-1-97)

b. Southwest District.

Ada	Gem
Owhyee	Canyon
Elmore	

(7-1-97)

c. Southeast District.

Bear Lake	Bonneville
Caribou	Camas
Bannock	Lincoln
Franklin	Twin Falls
Oneida	Minidoka
Power	Bingham
Cassia	<u>Gooding</u>
<u>Jerome</u>	

~~(7-1-97)~~(4-24-98)T

02. Nomination Ballot. Upon the occurrence of a vacancy to be filled as provided by law, a nominating ballot is to be forwarded to each licensed optometrist residing in the state of Idaho pursuant to section 54-1504, Idaho Code, and shall read as follows: (7-1-93)

**NOMINATING BALLOT FOR MEMBERS OF THE
IDAHO STATE BOARD OF OPTOMETRY**

List below any number of names between one (1) and six (6) of persons you wish to nominate for

appointment by the Governor to the Idaho State Board of Optometry. In order to be appointed by the Governor, a nominee must be a licensed optometrist in the state of Idaho and shall have been a resident of and lawfully practicing optometry within the State of Idaho for a period of at least five (5) years next preceding his appointment as required by Section 54-1505, Idaho Code. At least one (1) person appointed by the Governor must reside in each of the three (3) districts which are set as follows:

North District - Counties of Lemhi, Boundary, Bonner, Kootenai, Shoshone, Benewah, Latah, Clearwater, Nez Perce, Idaho, Valley, Adams, Lewis, Washington, Jefferson, Payette, Madison, Boise, Teton, Custer, Blaine, Butte, Clark and Fremont.

Southwest District - Counties of Ada, Elmore, Gem, Canyon and Owyhee.

Southeast District - Counties of Bear Lake, Caribou, Bannock, Franklin, Oneida, Power, Cassia, Minidoka, ~~Clark, Fremont, Teton, Madison, Jefferson~~, Bonneville, Camas, Lincoln, Bingham, Gooding, Jerome, and Twin Falls.

MY NOMINATIONS ARE:

READ CAREFULLY

Instructions for return of the nominating ballot.

Do not sign or otherwise identify yourself on the foregoing ballot itself.

Do place the completed ballot in the envelope marked "Ballot", seal the ballot envelope, and sign and print your name on the outside of the envelope.

Do place the ballot envelope in an envelope addressed to Chief of the Occupational License Bureau, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702 on or before _____.

Ballot envelopes will first be verified to determine if the person returning the ballot is eligible to vote, the ballot envelope will be opened and the ballots themselves will be counted and the results tabulated and sent to the Governor as required by law. Ballot envelopes which cannot be verified will be set aside and the names listed therein not recorded. (7-1-97)(4-24-98)T

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 FINAL RULE

EFFECTIVE DATE: These rules are effective March 17, 1998.

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that the Idaho legislature has adopted permanent rules of the Outfitters and Guides Licensing Board. This action is authorized pursuant to Sections 67-5291 and 67-5292, Idaho Code and by the adoption of concurrent resolution.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the final rules:

Pursuant to House Concurrent Resolution 38 and Senate Concurrent Resolution 139, Subsection 002.19, 059 (BO2), and 059 (PA2) have been rejected and therefore will revert back to the original text. The remainder of the proposed changes will become final and effective on March 17, 1998.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the final rules, contact:

Dean Sangrey, Executive Director
Outfitters and Guides Licensing Board
1365 North Orchard, Suite 172
Boise, Idaho 83706
(208) 327-7380
FAX 327-7382

DATED this 7th day of May, 1998.

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 - OUTFITTERS AND GUIDES LICENSING BOARD
25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD
DOCKET NO. 25-0101-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective March 17, 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 rule-making procedures have been initiated. The action is authorized pursuant to Sections 36-2107(b) and (d), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing concerning this rule-making was held as follows: 10:30 a.m., Wednesday, May 6, 1998, at the offices of the Board in Boise, Idaho.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

The changes to the proposed rules include adding goat packing to the definition of "hazardous excursions" and the replacement of the definition of hazardous excursions. It adds the words "or operating in a manner which endangers the health, safety or welfare of the public" to the definition of "Unethical/Unprofessional Conduct". The changes also provide for the return to the applicant of unused portions of one time new outfitter, new designated agent or new guide application fees and changes the title to the subsection to reflect this change. Finally, new Rule 056. provides for different levels of bonding as provided for in Senate Bill 1339 passed by the 1998 legislative session.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5526(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The addition of goat packing to the definition of hazardous excursions is for the protection of the health, safety and welfare of the public when using goat packing services and grants the benefit of licensing to professional goat packers. The addition of "or operating in a manner which endangers the health, safety or welfare of the public" to the definition of unethical/unprofessional conduct is for the protection of the health, safety and welfare of the public. A rule for the return to the applicant of unused portions of one time new outfitter, new designated agent or new guide application fees is required by SB 1339 enacted by the 1998 Idaho legislature. The provision for different levels of bonding is to enact the bonding requirements required in Senate Bill 1339.

NEGOTIATED RULE-MAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was conducted at the public hearing.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rules, contact: Dean Sangrey, Executive Director, (208) 327-7380 - FAX (208) 327-7382

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 20th day of May, 1998.

Dean Sangrey, Executive Director
Outfitters and Guides Licensing Board
1365 North Orchard, Suite 172
Boise, Idaho 83706
(208) 327-7380
FAX (208) 327-7382

TEXT OF DOCKET NO. 25-0101-9801

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 rules of the Idaho Department of Fish and Game, IDAPA 13.01.11, "Rules Governing Fish," general fishing seasons 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, snowmobiling, survival courses, and motored and non-motored cycling. ~~(5-1-95)~~(3-17-98)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 (0) use of major licensed activities for any two (2) of the three (3) preceding years. See Definitions, "Zero (0) use", and Subsection 024.01. (3-23-98)

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). (3-23-98)
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; or operating in a manner which endangers the health, safety, or welfare of the public. (~~3-23-98~~)(3-17-98)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 (0) 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. Late 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)(3-17-98)T~~

- a. A completed application received by the Board prior to April 16 - no late fee shall apply. (3-23-98)
- b. A completed application received by the Board April 16 through June 30 - a fifty dollar (\$50) late fee shall be paid before the license is issued. (3-23-98)
- c. A completed application 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 received by the Board by June 30 of the renewal license year, the license is relinquished. (3-23-98)

02. Other Refund of Unused One (1) Time Application Fees. ~~The fee for a resident or nonresident guide license is eighty five dollars (\$85) for licenses effective April 1, 1992. All unused portions of one (1) time new outfitter, new designated agent, or new guide application fees shall be returned to the applicant. (4-1-92)(3-17-98)T~~

(BREAK IN CONTINUITY OF SECTIONS)

056. ~~(RESERVED)~~ BOND REQUIREMENTS.

Pursuant to Section 36-2108(b), Idaho Code, outfitters shall submit a bond of five thousand dollars (\$5,000) if the gross income of the outfitting business for the previous calendar year, rounded up to the nearest whole thousand dollars, does not exceed ten thousand dollars (\$10,000). Outfitters with a gross income of the outfitting business for the previous calendar year of more than ten thousand dollars (\$10,000) shall submit a bond of ten thousand dollars (\$10,000). An outfitter who conducts day trips only may petition the Board for a reduction to a five thousand dollar (\$5,000) bond. With prior approval from the Board, outfitters may submit a cash bond to the Board including, but not limited to, certificates of deposit, registered checks, certified funds and money orders. (3-17-98)T

IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION
26.01.20 - RULES GOVERNING THE ADMINISTRATION OF PARK AND
RECREATION AREAS AND FACILITIES

DOCKET NO. 26-0120-9801

NOTICE OF PROPOSED RULES

AUTHORITY: In compliance with Section 67-5220(l), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 67-4223 and 67-4249, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 1998.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

IDAPA 26.01.20, establishes fees for and rules governing the use of lands and facilities administered by the Idaho Department of Parks and Recreation, and establishes procedures for obtaining individual and group use reservations. Substantive changes are: 1) change the required camper check-out time from 11:00 a.m. to 1:00 p.m.; 2) delete references to annual moorage permits for vessels using department moorages; 3) change low income designations to "limited income" and allow limited income discounts year around rather than during the period of from September 15 to April 15; 4) add an administrative/cancellation fee of fifteen dollars (\$15) to the yurt and cabin fee table; 5) establish a fee table for the rental of back country yurts; 6) add an eight-dollar (\$8) per night vessel moorage fee and eliminate the differential vessel moorage fees from the boating facilities fee table; and 7) increase fees at Lakeview Village in Ponderosa State Park for residential lakefront mobile home sites, recreational lakefront mobile home sites, residential non-lakefront mobile home sites, and recreational non-lakefront mobile home sites and long-term camping sites.

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

- 1) An administrative/cancellation fee of fifteen dollars (\$15) will be added to the yurt and cabin fee table.
- 2) A fee table for rental of back country yurts will be added to include the following fees:
 - a) Yurt rental fee-resident (up to six (6) persons) - \$60/night
 - b) Yurt rental fee-non-resident (up to six (6) persons) - \$80/night
 - c) Extra person fee - \$10/night
 - d) Administrative/cancellation fee - \$30
 - e) Key deposit - \$20
- 3) The differential vessel moorage fees will be eliminated and replaced with one standard overnight camping moorage fee of eight dollars (\$8) in the boating facilities fee table.
- 4) The fee table for rental rates for mobile home sites and long-term camping sites within Lakeview Village adjacent to Ponderosa State Park will be amended as follows:
 - a) The fee for residential lakefront mobile home sites, used more than six (6) months per year and outside the summer season, May 1 through October 31, will be increased from \$250/month to \$275/month and from \$3,000/year to \$3,300/year;
 - b) The fee for recreational lakefront mobile home sites, used six (6) months or less during the summer season, May 1 through October 31, will be increased from \$210/month to \$225/month and \$2,520/year to \$2,700/year;
 - c) Residential non-lakefront mobile home sites, used more than six (6) months per year and outside of the summer season, May 1 through October 31, will be increased from \$240/month to \$265/month and \$2,880/year to \$3,180/year;
 - d) Recreational non-lakefront mobile home sites, used six (6) months or less per year during the summer season, May

1 through October 31, will be increased from \$200/month to \$215/month and \$2,400/year to \$2,580/year;

e) Long-term camping sites, lakeside, will be increased from \$299/month to \$325/month; and

f) Long-term camping sites, second-row, will be increased from \$286/month to \$310/month.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Bill Dokken, Operation Bureau Chief, at the address and telephone below.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 2nd day of June, 1998.

Bill Dokken, Operations Bureau Chief
Idaho Department of Parks and Recreation
5657 Warm Springs Avenue
P.O. Box 83720
Boise, ID 83720-0065
Phone: (208) 334-4199
FAX: (208) 334-3741

TEXT OF DOCKET NO. 26-0120-9801

010. DEFINITIONS.

As used in this chapter: (1-1-94)

01. Board. The Idaho Park and Recreation Board, a bipartisan, six (6) member board, appointed by the Governor. (3-13-97)

02. Camping Day. The period between 2:00 p.m. of one (1) calendar day and 1:00 a.m. of the following calendar day. (~~3-13-97~~)()

03. Campsite. Site designated for overnight camping. (3-13-97)

04. Day Use. Use of any non-camping facilities between the hours of 7:00 a.m. and 10:00 p.m. unless otherwise posted. (3-13-97)

05. Department. The Idaho Department of Parks and Recreation. (1-1-94)

06. Director. The director and chief administrator of the department, or the designee of the director. (1-1-94)

07. Dock and Boating Facility. Floats, piers and mooring buoys owned or operated by the department. (3-13-97)

08. Extra Vehicle. An additional motorized vehicle (not in tow at time of entry) without built in sleeping accommodations registered to a camp site. (3-13-97)

09. Group Use. Twenty-five (25) or more people, or any group needing special considerations or deviations from normal department rules or activities. (1-1-94)

10. Motorized Vehicle Entry Fee (MVEF). A fee charged for a motorized vehicle to enter a designated area for a non-camping visit. (3-13-97)

11. Park Manager. The person, designated by the director, responsible for administering and supervising particular lands, facilities, and staff that are under the jurisdiction of the department. (3-13-97)

12. Vessel. Every description of watercraft, including a seaplane on the water, used or capable of being used as a means of transportation on water, but not including float houses, diver's aids operated and designed primarily to propel a diver below the surface of the water, and nonmotorized devices not designed or modified to be used as a means of transportation on the water such as inflatable air mattresses, single inner tubes, and beach and water toys. (3-13-97)

13. Vessel Length. The distance measured at the centerline at the highest point above the waterline from the fore-part of the outer hull at the bow to the aft-part of the outer hull at the stern, excepting any bowsprits, railings or extraneous or additional equipment. (3-13-97)

(BREAK IN CONTINUITY OF SECTIONS)

075. AUTHORITY CONFERRABLE ON EMPLOYEES.

The director may authorize any employee of the department to exercise any power granted to, or perform any duty imposed upon the director. (1-1-94)

01. Park Manager Authority. The park manager may establish and enforce rules which apply to the public safety, use, and enjoyment or protection of natural, cultural, or other resources within lands administered by the department. Those rules shall be posted for public view and shall be consistent with established state laws and these rules. All state, county, and local laws are in effect and subject to enforcement within lands administered by the department. ~~(1-1-94)~~()

02. Establishing and Posting Hours. The park manager shall establish and post the hours for use areas so as to serve the general public and protect the area with the staff available. (3-13-97)

(BREAK IN CONTINUITY OF SECTIONS)

200. CAMPING.

01. Occupancy. Camping shall be permitted only in designated campsites with maximums of: eight (8) people, one (1) extra vehicle, two (2) tents, and one (1) motor vehicle or towed unit with built-in sleeping accommodations. (3-13-97)

02. Motorcycles. Maximum of two (2) motorcycles constitute one (1) motor vehicle or towed unit with built-in sleeping accommodations. (3-13-97)

03. Length of Stay. Except as provided herein, no person, party or organization may be permitted to camp on any lands administered by the department for more than fifteen (15) days in any thirty (30) day period. Shorter or longer periods may be designated for any individual area by the director. (3-13-97)

04. Saving Sites. Saving campsites is prohibited. The party registering for a campsite shall be the party that occupies it for the first night. (1-1-94)

05. Condition of Site. Campers shall keep their campgrounds and other use areas clean. (7-1-93)
06. Liquid Waste Disposal. All liquid wastes shall be held in self-contained units or collected in water-tight receptacles in compliance with state adopted standards and dumped in sanitary facilities provided for the disposal of such wastes. (1-1-94)
07. Unattended Sites. Campers may not leave their camps unattended for longer than one (1) camping day, except by permission of the park manager. (1-1-94)
08. Motorized Equipment. No generators or other motorized equipment emitting sound and exhaust are permitted to be operated during quiet hours. (7-1-93)
09. Campsite Parking. All boats, trailers, rigs and motorized vehicles shall fit entirely within the campsite parking spur provided with the assigned campsite. All equipment which does not fit entirely within the campsite parking spur shall be parked outside the campground in an area designated by the park manager. If no outside parking is available, a second campsite shall be purchased. (1-1-94)
10. Equipment. All camping equipment and personal belongings of a camper shall be maintained within the assigned campsite perimeter. (3-13-97)
11. Check Out. Campers are required to check out and leave a clean campsite by 11:00 a.m. of the day following the paid night of camping. (~~3-13-97~~) ()
12. Visitors. Visitors to campers shall park outside the campground, except with permission of the park manager. Visitors shall conform to established day use hours. (1-1-94)
13. Responsible Party. The individual purchasing a campsite is responsible for assuring compliance with the rules within this chapter. (1-1-94)
14. Camping Prohibited. No camping is permitted outside designated campsites unless specifically authorized. (3-13-97)

201. BOATING FACILITIES.

The provisions of this section do not apply to department-operated marinas which provide moorage on a lease basis. (3-13-97)

01. Moorage and Use of Marine Facilities. (3-13-97)
- a. No person or persons shall moor or berth a vessel of any type in a department-owned or operated park or marine area except in designated facilities. (3-13-97)
- b. In order to afford the general public the greatest possible use of marine facilities, continuous moorage at a facility by the same vessel, person or persons, shall be limited to fifteen (15) consecutive nights, unless otherwise posted by the park manager at any individual facility or area. (3-13-97)
- c. In order to maximize usable space at mooring facilities, boaters shall, whenever necessary, moor their vessels as close as reasonably possible to vessels already moored. Rafting of vessels is also permitted within posted limits, but is not mandatory. (3-13-97)
- d. Use of any state park marine facility shall be on a first-come, first-served basis only. Reserving or retaining space to moor or berth a vessel at any facility by means of a dinghy or any method other than occupying the space by the vessel to be moored is prohibited. (3-13-97)
- e. Dinghies shall be tied up only in designated spaces on moorage facilities. (3-13-97)
- f. Open flames or live coals, or devices containing or using open flames, live coals or combustible materials, including but not limited to barbecues, hibachis, stoves and heaters, are permitted on floats, docks, or piers

only when placed on a fireproof base and the fire is located away from fuel tanks and/or fuel vents. In case of dispute related to fire safety, the park manager is authorized to allow or prohibit the use. (3-13-97)

02. Moorage Fees. (3-13-97)

a. Vessels moored between 8:00 p.m. and 8:00 a.m. at designated facilities shall be charged an overnight moorage fee. (3-13-97)()

b. ~~Annual moorage permits will be issued to an identified vessel. The charge for annual moorage permits shall be based upon the length of the vessel to which the permit is issued.~~ (3-13-97)

e. ~~Annual permits shall be visible from outside the vessel and shall be permanently affixed to the lower left corner of the vessel's left (port) forward windshield, or if not equipped with a windshield, to the left (port) outside transom, or if a sailboat, on the forward portion of the left (port) trunk.~~ (3-13-97)

03. Use of Onshore Campsites. If any person or persons from a vessel moored at a department boating facility also occupies any designated campsite onshore, the appropriate established fee for such campsite(s) shall be paid in addition to any moorage fee provided herein. (3-13-97)

04. Self-registration. In those areas so posted, boaters shall register themselves for the use of marine facilities and onshore campsites, paying the appropriate moorage and campsite fees as provided for herein and in accordance with all posted instructions. (3-13-97)

(BREAK IN CONTINUITY OF SECTIONS)

250. FEE SCHEDULE.

01. Campsites.

CAMPSITES TABLE	
Primitive Campsite (may include: table, grill, camp-spur, vault toilet, no water.)	\$7.00/day
Basic Campsite (may include: table, grill, camp-spur, central water, vault toilets.)	\$9.00/day
Developed Campsite (may include: table, grill, camp-spur, central water, flush toilets.)	\$12.00/day
Deluxe Campsite (designed to accommodate higher occupancy limits of up to twelve (12) persons)	\$22.00/day
Electric hookups at site	additional \$4.00/day
Sewer hookups at site	additional \$2.00/day
Use of campground showers by noncampers	\$3.00/person
Fee collection surcharge	\$5.00/occurrence
Camping fee includes MVEF (see Subsection 250.04. of this chapter).	

(3-13-97)

02. ~~Low~~ Limited Income Discount.

LOW LIMITED INCOME DISCOUNT TABLE.	
Idaho residents showing proof of limited income (Medicaid card or other evidence as approved by the board) may receive a discount from September 15 through April 15 of up to:	\$4.00/day

(3-13-97)()

03. Reservation Service Charge. Where reservations are available a non-refundable reservation service fee charge of six dollars (\$6) shall be charged. (3-13-97)()

04. Motorized Vehicle Entry Fee (MVEF).

MOTORIZED VEHICLE ENTRY FEE (MVEF) TABLE.	
Daily charge per motorized vehicle Farragut, Old Mission, Eagle Island, Lucky Peak, Henrys Lake, Harriman, Ponderosa	\$3.00
All other facilities which charge a MVEF	\$2.00
Daily charge per commercial motor coach (no annual pass available)	\$20.00
Annual State Park Passport per motorized vehicle	\$35.00
Annual State Park Passport per motorized vehicle if purchased prior to February 1	\$25.00
Second Vehicle Annual Passport. (The second vehicle passport shall be purchased at the same location as the first vehicle passport. A vehicle registration in the same owner's name is required).	\$10.00

(3-13-97)

05. Eagle Island Waterslide Rides.

EAGLE ISLAND WATERSLIDE RIDES TABLE.	
Bracelet	10 rides for \$4.00
All day pass	\$8.00

(3-13-97)

06. Yurts and Cabins.

YURTS AND CABINS TABLE.	
Up to four (4) persons	\$30.00/night
Up to six (6) additional persons	\$4.00 each/night
Administrative/Cancellation Fee	\$15.00

(3-13-97)()

07. Back Country Yurts.

<u>BACK COUNTRY YURTS TABLE</u>	
<u>Yurt rental fee - resident (up to six (6) person)</u>	<u>\$60.00/night</u>
<u>Yurt rental fee - non-resident (up to six (6) persons)</u>	<u>\$80.00/night</u>
<u>Extra person fee</u>	<u>\$10.00/night</u>
<u>Administrative/Cancellation fee</u>	<u>\$30.00</u>
<u>Key deposit</u>	<u>\$20.00</u>

()

078. Extra Vehicle. One (1) extra vehicle is allowed to park either within the camp spur (so long as it fits entirely within the spur), or in an overflow area, for five dollars (\$5)/day. (3-13-97)

089. Special Charges. A fee of twenty dollars (\$20) will be charged for each check returned for insufficient funds. (3-13-97)

109. Group Facility Fees. (3-13-97)

a. A minimum reservation service charge of twenty-five dollars (\$25) will be charged for each group use reservation. Additional charges may be imposed depending upon the cost of providing services (contact the park manager). (3-13-97)

b. Groups using overnight facilities shall be charged two dollars (\$2) per person per night camping fees. (3-13-97)

c. The reservation service charge together with the first night group use fee and any required deposits are required to confirm a group use facility reservation. The reservation service charge is non-refundable. First night group use fee will be refunded if notice of cancellation is provided not later than 2:00 p.m., local time, ten (10) days prior to date of scheduled arrival. (3-13-97)

d. Cleaning/damage deposits may be required for certain facilities. Where cleaning/damage deposits are required, they must be paid ~~along with the reservation service charge and first night group use fee at the time of check-in.~~ Cleaning/damage deposits will be fully refunded if the facilities are left in the same condition in which they were accepted. (3-13-97)()

e. Commercial group use fees may be negotiated (contact the park manager). (3-13-97)

f. Fee Table.

FARRAGUT STATE PARK	
	(minimum fee per day)
Thimbleberry	\$90.00
Kestrel	\$150.00
Nighthawk	\$300.00
Buttonhook--Larch	\$70.00
Buttonhook--Oceanspray	\$90.00

FARRAGUT STATE PARK	
Buttonhook--Saw-Whet	\$50.00
Cleaning/ <u>Damage</u> Deposit	\$100.00

HARRIMAN STATE PARK	
Dormitory and Cookhouse per person (fifteen (15) person minimum, forty (40) person maximum)	\$12.00/night
Cleaning/ <u>Damage</u> Deposit	\$150.00
Boy's House (Maximum capacity--Seventy (70) persons)	
Up to four (4) hours	\$50.00
Full day	\$80.00
Cleaning/ <u>Damage</u> deposit	\$50.00

LIONHEAD UNIT OF PRIEST LAKE STATE PARK	
Group Camp (including kitchen and sleeping quarters)	\$175.00/day
RV hookups See fee schedule set by Subsection 250.01 of this chapter	
Cleaning/ <u>Damage</u> Deposit may be required, not to exceed	\$50.00

THREE ISLAND CROSSING STATE PARK	
Group Camp (per day)	The basic campsite fee as set out in Subsection 250.01. In addition to the \$25.00 group reservation fee required by Subsection 250.08.a., a site reservation fee of \$6.00 will be charged for each campsite reserved.

THREE MEADOWS GROUP CAMP WITHIN DWORSHAK STATE PARK	
Basic daily rate (includes lodge and two (2) sleeping cabins)	\$225.00
Lodge rental (day-use only)	\$75.00/day
Additional sleeping cabins	\$50.00/night
Group leader cabin rental	\$50.00/night
Tent sites	\$9.00/night
RV sites	\$15.00/night

THREE MEADOWS GROUP CAMP WITHIN DWORSHAK STATE PARK	
Cleaning/ Damage Deposit	\$150.00
Notwithstanding the provisions of Section 300 of this chapter, reservation requests for group use facilities at Three Meadows Group Camp will be accepted by mail on and after October 1 for the following calendar year.	

~~(3-13-97)~~()

101. Boating Facilities.

BOATING FACILITIES TABLE	
Vessel launching (per vessel/per day) (Annual park passport, daily MVEF, or payment of camping fees applies toward vessel launching fees)	\$2.00/ day
Overnight moorage --any length of vessel. (Applicable to persons who have paid for a park campsite and are not camping on the vessel)	\$5.00/night
Overnight moorage --persons camping on vessel	
Vessels under twenty-six (26) feet <u>Any length vessel</u>	\$8.00/night
Vessels twenty-six (26) feet and over	\$11.00/night
Any length vessel moored at buoy	\$5.00/night

~~(3-13-97)~~()

142. RV Dump Station Fees. (3-13-97)

- a. A fee of two dollars (\$2) shall be charged for use of department dump stations. (3-13-97)
- b. Annual park passport, daily MVEF or payment of campsite fees will apply toward use of RV dump stations. (3-13-97)

123. Modification of Fees. Additional fees or deposits may be required for certain uses or for the reservation of certain facilities. The department reserves the right to waive or reduce fees and charges for department sponsored promotions. (7-1-93)

134. Sales Tax. All fees include applicable state tax. (7-1-93)

145. Length of Stay. Fifteen (15) days in any thirty (30) day period. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

300. RESERVING GROUP USE FACILITIES.

01. Generally. Unless otherwise provided, reservation requests for group use facilities shall be accepted the first working day of January. Reservations shall be on a first come, first served basis. A completed reservation form, the required reservation service charge, the first night group use fees and all required deposits must be received in the park no more than twenty (20) days after the park mails it to the ~~requester~~ applicant. In no case may a (mail) reservation be accepted if the completed reservation form and the required service charges and fees are not received by the park ten (10) calendar days before the reserved date. ~~(3-13-97)~~()

02. Responsible Party. A designated group leader shall be responsible for all facilities and shall be on-site at all times. A damage or cleaning deposit may be required by the park manager as a condition of reservation. (7-1-93)

03. Park Manager Authority. The park manager may deny a reservation to any group whose prior behavior has violated department rules, whose in-park activities are incompatible with the park's operation, or whose in-park activity will violate department rules. (1-1-94)

04. Additional Information. Additional information concerning group use reservations and definitions can be found in Subsection 250.08 of this chapter. (3-13-97)

(BREAK IN CONTINUITY OF SECTIONS)

325. RENTAL OF STATE-OWNED COTTAGES WITHIN HEYBURN STATE PARK. TABLE.

Cottages with full utilities	\$65.00/night
Cottages with partial utilities	\$35.00/night
Rental to any person shall be for a minimum of five (5) days and a maximum of fourteen (14) days in any thirty (30) day period. A six dollar (\$6) nonrefundable reservation fee shall be charged, and provisions of Section 300. of this chapter apply. A cleaning/ <u>damage</u> deposit of twenty-five dollars (\$25) may be required.	

(3-13-97)()

(BREAK IN CONTINUITY OF SECTIONS)

350. RENTAL OF STATE-OWNED COTTAGE WITHIN LAKEVIEW VILLAGE ADJACENT TO PONDEROSA STATE PARK. TABLE.

In-season (Memorial Day weekend through Labor Day weekend), two (2) night minimum	\$75.00/night
Off-season, two (2) night minimum	\$55.00/night
Six (6) night, seven (7) day package	\$300.00
Monthly	\$600.00
Reservations are available subject to the terms of Section 275 of this chapter. A cleaning/ <u>damage</u> deposit may be required.	

(3-13-97)()

(BREAK IN CONTINUITY OF SECTIONS)

375. RENTAL RATES FOR MOBILE HOME SITES AND LONG-TERM CAMPING SITES WITHIN LAKEVIEW VILLAGE ADJACENT TO PONDEROSA STATE PARK. TABLE.

Residential Lakefront Mobile Home Sites	
(Used more than six (6) months per year and outside of the summer season, May 1 through October 31)	\$250 75.00/month
or	\$3,03 00.00/year
Recreational Lakefront Mobile Home Sites	
(Used six (6) months or less per year during the summer season, May 1 through October 31)	\$240 25.00/month
or	\$2,52 70.00/year
Residential Non-lakefront Mobile Home Sites	
(Used more than six (6) months per year and outside of the summer season, May 1 through October 31)	\$240 65.00/month
or	\$23,8 180.00/year
Recreational Non-lakefront Mobile Home Sites	
(Used six (6) months or less per year during the summer season, May 1 through October 31)	\$200 15.00/month
or	\$2,45 080.00/year
Long-term camping sites, lakeside	\$299 325.00/month
Long-term camping sites, second-row	\$286 310.00/month

(3-13-97)()

IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION
26.01.21 - RULES GOVERNING LEASING PRACTICES AND PROCEDURES FOR
RECREATIONAL RESIDENCES WITHIN HEYBURN STATE PARK

DOCKET NO. 26-0121-9801

NOTICE OF PROPOSED RULES

AUTHORITY: In compliance with Section 67-5220(l), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 67-4223, and 67-4249, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rule-making will be held as follows:

July 17, 1998
9:00 a.m. to 5:00 p.m.
Idaho Department of Parks and Recreation
North Region Office
2750 Kathleen Avenue
Coeur d'Alene, ID

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

IDAPA 26.01.21 currently provides specific requirements for recreational residence leases within Heyburn State Park. The text within this chapter is proposed to be repealed. Replacement text will be proposed in a Docket No. 26-0121-9802.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because this proposed rule was heard on two separate dates at Idaho Parks and Recreation Board meetings.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Rick Cummins, North Region Manager, at the address and telephone below.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 2nd day of June, 1998.

Rick Cummins, North Region Manager
Idaho Department of Parks and Recreation
2750 Kathleen Avenue, Suite 1
Coeur d'Alene, ID 83815
Phone: (208) 769-1511
FAX: (208) 769-1418

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION
26.01.21 - RULES GOVERNING LEASING PRACTICES AND PROCEDURES
FOR RECREATIONAL RESIDENCES WITHIN HEYBURN STATE PARK

DOCKET NO. 26-0121-9802

NOTICE OF PROPOSED RULES

AUTHORITY: In compliance with Section 67-5220(l), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 67-4223, and 67-4249, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rule-making will be held as follows:

July 17, 1998
9:00 a.m. to 5:00 p.m.
Idaho Department of Parks and Recreation
North Region Office
2750 Kathleen Avenue
Coeur d'Alene, ID

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

IDAPA 26.01.21, currently provides specific requirements for recreational residence leases within Heyburn State Park. Substantive changes include replacing specific lease requirements within the rule and providing authority to the Idaho Parks and Recreation Board to negotiate and approve certain provisions of recreational residence leases within Heyburn State Park. This may include, but shall not be limited to, lease fee amounts, other fees and charges such as water access fees and renewal fees, subleasing restrictions, landscaping and removal of vegetation, sewage and gray water disposal, garbage and litter, maintenance of premises, use of motorized vehicles, construction and improvements, establishing fair market value of improvements, treatment of approved improvements, remedies for breach of the lease terms, and binding of heirs.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because this proposed rule was heard on two separate dates at Idaho Parks and Recreation Board meetings.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Rick Cummins, North Region Manager, at the address and telephone below.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 2nd day of June, 1998.

Rick Cummins, North Region Manager
Idaho Department of Parks and Recreation
2750 Kathleen Avenue, Suite 1
Coeur d'Alene, ID 83815
Phone: (208) 769-1511
FAX: (208) 769-1418

IDAPA 26
TITLE 01
Chapter 21

26.01.21 - RULES GOVERNING LEASING PRACTICES AND PROCEDURES
FOR RECREATIONAL RESIDENCES WITHIN HEYBURN STATE PARK

000. LEGAL AUTHORITY.

These rules are promulgated by the Idaho Park and Recreation Board pursuant to Idaho Code, Section 67-4223 and are intended to further define and make specific Idaho Code, Section 67-4223 as it pertains to the administration of recreational residence site leases within Heyburn State Park. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter shall be cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.21, "Rules Governing Leasing Practices and Procedures for Recreational Residences Within Heyburn State Park". ()

02. Scope. This chapter establishes rules to effectuate the purposes of and aid in the administration of recreational residence site leases within Heyburn State Park. ()

002. WRITTEN INTERPRETATIONS.

The Department has written interpretations of these rules, in the form of explanatory comments accompanying the notice of proposed rule-making that originally proposed the rules, or documentation of compliance with IDAPA 26.01.01, "Rules of Administrative Procedure of the Idaho Park and Recreation Board," Section 150. These documents are available for public inspection and copying in the central office of the Department. ()

003. APPEALS.

Any person who may be adversely affected by a final decision, ruling, or direction of the director, may appeal the decision, ruling, or direction as outlined under IDAPA 26.01.01, "Rules of Administrative Procedure of the Idaho Park and Recreation Board," Section 50. ()

004. -- 005. (RESERVED).

006. CITATION.

The official citation of this chapter is IDAPA 26.01.21.000 et.seq. For example, the citation for this section is IDAPA 26.01.21.006. ()

007. -- 009. (RESERVED).

010. DEFINITIONS.

As used in this chapter: ()

01. Board. The Idaho Park and Recreation Board, a bipartisan, six (6) member board, appointed by the Governor. ()

02. Department. The Idaho Department of Parks and Recreation. ()

03. Director. The director and chief administrator of the department, or the designee of the director. ()

04. Lease. The contract defining the rights and duties of the parties regarding a recreational residence site within Heyburn State Park. ()

05. Lease Payment. The annual fee paid by a Lessee to the Lessor. ()
06. Lessee. A person who holds a valid lease for a recreational residence site within Heyburn State Park. ()
07. Lessor. The Board or it's authorized representative. ()
08. Recreational Residence Site. A particularly described parcel of real property, located within Heyburn State Park and owned by the Department, which has been made available to private individuals through a lease for the purpose of constructing and maintaining a recreational residence. ()

011. -- 029. (RESERVED).

030. FORM AND CONTENT OF LEASES.

01. Form. All leases shall be in a standardized form which has been approved by the Board. ()
02. Contents. Leases should address, at a minimum, the following subject matter: ()
- a. Lease Rates; ()
 - b. Term; ()
 - c. Renewal; ()
 - d. Use; ()
 - e. Occupancy; ()
 - f. Subleasing; ()
 - g. Assignment; ()
 - h. Landscaping; ()
 - I. Water; ()
 - j. Maintenance of premises; ()
 - k. Sewage; ()
 - l. Garbage; ()
 - m. Burning; ()
 - n. Construction and improvements; ()
 - o. Inspection; ()
 - p. Ingress and egress; ()
 - q. Treatment of improvements upon termination by lessor; ()
 - r. Treatment of improvements upon termination by lessee; ()
 - s. Treatment of non-approved improvements upon termination; ()

- t. Determination of Fair Market Value; ()
- u. Waiver; ()
- v. Indemnification; ()
- w. Breach; ()
- x. Reinstatement of canceled lease; ()
- y. Binding on Heirs; ()
- z. Miscellaneous fees and charges; ()
- aa. Motorized vehicles; ()
- bb. Tort claims act; ()
- cc. Parties; ()
- dd. Property description; and ()
- ee. Appraisal Appeals Process. ()
- 03. Consistent with General Development Plan. Lease terms shall be consistent with the general development plan for Heyburn State Park. ()
- 04. Execution. No lease shall be valid until it has been signed by both the Lessee and the Director. The Lessee shall sign the lease first, the Director shall sign last. ()
- 05. Recording. All leases shall be recorded in Benewah County. ()
- 031. -- 049. (RESERVED).**
- 050. LEASE TERM.**
Leases shall be issued for a term not to exceed ten (10) years commencing upon January 1 of the year the lease is entered into and ending upon December 31 of the final year of the term. ()
- 051. -- 069. (RESERVED).**
- 070. RENEWAL.**
No lease may include any right of renewal, whether expressed or implied. ()
- 071. -- 089. (RESERVED).**
- 090. LEASE RATES.**
 - 01. Base Rates. Base lease rates shall be set so as to provide the department a reasonable return based upon the fair market value of the lease site. ()
 - 02. Lease Rate Adjustments. The lease shall provide for annual adjustments. ()
- 091. -- 109. (RESERVED).**
- 110. OCCUPANCY.**
 - 01. Recreational Occupancy. With the exception of those leases which have been grandfathered for

full-time occupancy, the leased premises shall be used solely for recreational residential purposes. Use may be intermittent or seasonal but in no event shall the residence be occupied in excess of six (6) months in any twelve (12) consecutive months or more than one hundred eighty five (185) days in any three hundred sixty five (365) day cycle. ()

02. Full-Time Occupancy. Leases which have been grandfathered for full-time occupancy shall revert to recreational residential purposes when they are transferred, whether by gift, sale, or devise. ()

111. -- 129. (RESERVED).

130. USE.

01. Commercial Use Prohibited. Leased premises may not be used for commercial purposes. This includes, but is not limited to, short- or long-term rental for profit, and the conduct of any enterprise of a commercial nature. ()

02. Public Use. Heyburn State Park is a public facility that is managed for the use and benefit of the public. Recreational residence leases shall reserve to the department and its agents the right of ingress and egress across lease premises. Recreational residence leases shall preserve the right of the general public to cross the leased premises for any lawful purpose. ()

131. -- 169. (RESERVED).

170. TORT CLAIMS.

These rules provide general guidance concerning the contract terms to be included in recreational residence leases at Heyburn State Park. Nothing in these rules shall be deemed or construed in any way to conflict with the provisions of the Idaho Tort Claims Act, Chapter 9, Title 6, Idaho Code. ()

171. -- 999. (RESERVED).

IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION
26.01.36 - RULES GOVERNING THE WINTER RECREATIONAL PARKING PERMIT PROGRAM
DOCKET NO. 26-0136-9801

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These rules are effective August 1, 1998.

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Sections 67-4223, and 67-4249, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 1998.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

IDAPA 26.01.36, currently provides specific fees for annual and temporary winter recreational parking permits which are less than the maximum amount allowed pursuant to Section 67-7115(2), Idaho Code. The substantive change would remove specific fee amounts from the rule and allow the Idaho Parks and Recreation Board to establish fees for winter recreational parking permits within those allowed under the statute.

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

This temporary rule only allows the Parks and Recreation Board to review proposed fee increases for the Park-n-ski program up to the maximum allowed in Section 67-7115, Idaho Code, and does not specifically increase fees.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The current rule for the Winter Recreational Parking Permit Program does not conform with the statute, specifically, Section 67-7115, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Leo Hennessy, Non-Motorized Trails Coordinator, at the address and telephone below.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 2nd day of June, 1998.

Leo Hennessy, Non-Motorized Trails Coordinator
Idaho Department of Parks and Recreation
5657 Warm Springs Avenue
P.O. Box 83720
Boise, ID 83720-0065
Phone: (208) 334-4199
FAX: (208) 334-3741

TEXT OF DOCKET NO. 26-0136-9801

100. PERMIT COST, EXPIRATION.

The fee for an annual winter recreational parking permit shall ~~not exceed~~ ~~be fifteen~~ ~~thirty~~ dollars (\$~~15~~~~30~~). The fee for a temporary winter recreational parking permit shall ~~not exceed~~ ~~be seven~~ ~~ten~~ dollars ~~and fifty cents~~ (\$~~7~~~~10~~~~.50~~). The annual winter recreational parking permit is valid until the expiration date printed on the decal. The temporary winter recreational parking permit is valid for only the three (3) consecutive days written on the permit hangtag.

~~(7-1-93)~~(8-1-98)T

IDAPA 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-9801
NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: This temporary rule is effective January 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 rule-making procedures have been initiated. The action is authorized pursuant to Section(s) 63-105, 63-105A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 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: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

Rule 137: House Bill 475 amends Section 63-602W, Idaho Code, to provide when residential improvements are exempt from property taxes. This rule clarifies which improvements may and which may not be eligible for this exemption. This clarification is provided to county assessors to improve uniformity between counties.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons

H.B. 475, which is to be implemented by this rule, is effective January 1, 1998, and requires a temporary rule to implement the exemption for never occupied residential improvements for the 1998 property taxes.

NEGOTIATED RULE-MAKING: Negotiated rule-making is not feasible because it is impossible to determine what specific groups or entities may be effected, therefore, would benefit from the rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Alan Dornfest, at (208) 334-7530.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 20th day of May, 1998.

Alan Dornfest, Tax Policy Specialist
State Tax Commission
800 Park, Plaza IV
P.O. Box 36
Boise, ID 83722
(208) 334-7530; FAX (208) 334-7844

TEXT OF DOCKET NO. 35-0103-9801

~~136. -- 150.~~ (RESERVED).

137. EXEMPTION FOR NEVER OCCUPIED RESIDENTIAL IMPROVEMENTS (Rule 137).

01. Qualifying Residential Improvements. Improvements to any land parcel that are residential and have never been occupied for residential purposes may qualify for the exemption pursuant to Section 63-602W, Idaho Code. This rule is effective January 1, 1998. Such qualifying improvements can include the following: (1-1-98)T

a. Single family residences, residential townhouses, and residential condominiums; and (1-1-98)T

b. Attached or unattached ancillary structures which are not intended for commercial use and are constructed contemporaneously with the improvements identified in Subsection 137.01.a. Such structures may include sheds, fences, swimming pools, garages, septic tanks, wells, improvements designed to provide utility services and access, and other similar improvements, subject to the limitations of Subsection 137.02. (1-1-98)T

02. Non-Qualifying Improvements. Never previously occupied residential improvements listed in the following Subsections do not qualify for this exemption. (1-1-98)T

a. Location. Ancillary structures (see Subsection 137.01.b.) that are not located on the parcel on which the improvement is located, identified in Subsection 137.01.a. of this rule, shall not qualify for the exemption provided pursuant to Section 63-602W, Idaho Code. (1-1-98)T

b. Remodeled improvements. Remodeling of previously occupied residential improvements does not qualify for the exemption. (1-1-98)T

c. Improvements included in land value. Improvements such as septic tanks, wells, improvements designed to provide utility services or access, and other similar improvements shall not qualify for the exemption. (1-1-98)T

138. -- 150. (RESERVED).

IDAPA 37 - DEPARTMENT OF WATER RESOURCES
37.01.02 - ENVIRONMENTAL AUDIT PROTECTION RULES
DOCKET NO. 37-0102-9801
NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: This temporary rule is effective May 20, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that the Idaho Department of Water Resources (IDWR) has adopted temporary rules, and that proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 42-1805(8), Idaho Code. The temporary and proposed rule repeals IDWR's Environmental Audit Protection Rules, IDAPA 37.01.02, as described in the descriptive summary below.

PUBLIC HEARING SCHEDULE: No public hearing concerning this rulemaking is scheduled. Pursuant to Section 67-5222(2), Idaho Code, no opportunity for oral presentation is provided because IDWR has no discretion as to the substantive content of the temporary and proposed rule which is intended solely to comply with the expiration of the underlying statutory authority for the rules as of December 31, 1997.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: In 1995 the Idaho Legislature enacted the Idaho Environmental Audit Protection Act (EAPA), codified as Chapter 8, Title 9, Idaho Code. The EAPA prohibited state environmental agencies from disclosing, or under certain circumstances compelling disclosure of, a qualifying environmental audit, and provided for limited immunity for violations of state environmental law identified in an audit. As directed by the EAPA, the IDWR adopted rules implementing the legislation. Under a sunset clause, the EAPA became null and void on December 31, 1997. Because the statutory basis for the rules no longer exists, this rulemaking action repeals IDWR's Environmental Audit Protection Rules in their entirety.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in order to comply with a change in state law.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Phillip J. Rassier at (208) 327-7920.

Anyone may submit written comments regarding this temporary and proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 22, 1998.

DATED this 18th day of May, 1998.

Karl J. Dreher
Director
Department of Water Resources
1301 N. Orchard St.
Boise, Idaho 83720-0098
Fax No. (208) 327-7866

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

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