

**IDAHO ADMINISTRATIVE BULLETIN**

**Table of Contents**

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**IDAPA 18 - DEPARTMENT OF INSURANCE**

18.01.16 - VARIABLE CONTRACTS  
DOCKET NO. 18-0116-9801  
NOTICE OF PROPOSED RULE ..... 15

18.01.23 - RULES PERTAINING TO THE IDAHO INSURANCE HOLDING  
COMPANY SYSTEM REGULATORY ACT  
DOCKET NO. 18-0123-9801  
NOTICE OF PROPOSED RULE ..... 17

18.01.44 - SCHEDULE OF FEES, LICENSES AND MISCELLANEOUS CHARGES  
DOCKET NO. 18-0144-9801  
NOTICE OF PROPOSED RULE ..... 25

18.01.49 - FIRE PROTECTION SPRINKLER CONTRACTORS  
DOCKET NO. 18-0149-9801  
NOTICE OF TEMPORARY AND PROPOSED RULE ..... 31

18.01.62 - ANNUAL AUDITED FINANCIAL REPORTS  
DOCKET NO. 18-0162-9801  
NOTICE OF PROPOSED RULE ..... 39

18.01.75 - CREDIT FOR REINSURANCE RULES  
DOCKET NO. 18-0175-9801  
NOTICE OF PROPOSED RULE ..... 44

18.01.78 - MUTUAL INSURANCE HOLDING COMPANY RULE  
DOCKET NO. 18-0178-9801  
NOTICE OF PROPOSED RULE ..... 52

**IDAPA 19 - BOARD OF DENTISTRY**

19.01.01 - RULES OF THE STATE BOARD OF DENTISTRY  
DOCKET NO. 19-0101-9801  
NOTICE OF PROPOSED RULE ..... 62

**IDAPA 22 - BOARD OF MEDICINE**

22.01.03 - RULES FOR THE LICENSURE OF PHYSICIAN ASSISTANTS  
DOCKET NO. 22-0103-9802  
NOTICE OF PROPOSED RULE ..... 74

22.01.09 - RULES FOR THE LICENSURE OF OCCUPATIONAL THERAPISTS  
AND OCCUPATIONAL THERAPY ASSISTANTS  
DOCKET NO. 22-0109-9801  
NOTICE OF PROPOSED RULE ..... 76

**IDAPA - BUREAU OF OCCUPATIONAL LICENSES**

24.01.01 - RULES OF THE BOARD OF ARCHITECTURAL EXAMINERS  
DOCKET NO. 24-0101-9801  
NOTICE OF PROPOSED RULE ..... 81

24.02.01 - RULES OF THE BOARD OF BARBER EXAMINERS  
DOCKET NO. 24-0201-9802  
NOTICE OF PROPOSED RULE ..... 84

24.03.01 - RULES OF THE STATE BOARD OF CHIROPRACTIC PHYSICIANS  
DOCKET NO. 24-0301-9801  
NOTICE OF PROPOSED RULE ..... 86

24.04.01 - RULES OF THE IDAHO BOARD OF COSMETOLOGY  
DOCKET NO. 24-0401-9801  
NOTICE OF PROPOSED RULE ..... 88

DOCKET NO. 24-0401-9802  
NOTICE OF TEMPORARY AND PROPOSED RULE..... 107

24.05.01 - RULES OF THE BOARD OF ENVIRONMENTAL HEALTH SPECIALIST EXAMINERS  
DOCKET NO. 24-0501-9801  
NOTICE OF PROPOSED RULE ..... 110

24.06.01 - RULES OF THE BOARD OF HEARING AID DEALERS AND FITTERS  
DOCKET NO. 24-0601-9801  
NOTICE OF PROPOSED RULE ..... 111

24.07.01 - RULES OF THE IDAHO BOARD OF LANDSCAPE ARCHITECTS  
DOCKET NO. 24-0701-9801  
NOTICE OF PROPOSED RULE ..... 112

24.08.01 - RULES OF THE STATE BOARD OF MORTICIANS DOCKET NO. 24-0801-9801 NOTICE OF PROPOSED RULE .....	114
24.11.01 - RULES OF THE STATE BOARD OF PODIATRY DOCKET NO. 24-1101-9801 NOTICE OF PROPOSED RULE .....	116
24.12.01 - RULES OF THE STATE BOARD OF PSYCHOLOGIST EXAMINERS DOCKET NO. 24-1201-9801 NOTICE OF PROPOSED RULE .....	117
24.14.01 - RULES OF THE STATE BOARD OF SOCIAL WORK EXAMINERS DOCKET NO. 24-1401-9801 NOTICE OF PROPOSED RULE .....	122
24.15.01 - RULES OF THE IDAHO COUNSELOR LICENSING BOARD DOCKET NO. 24-1501-9801 NOTICE OF PROPOSED RULE .....	123
24.16.01 - RULES GOVERNING THE STATE BOARD OF DENTURITRY DOCKET NO. 24-1601-9801 NOTICE OF PROPOSED RULE .....	126
24.18.01 - RULES OF THE REAL ESTATE APPRAISER BOARD DOCKET NO. 24-1801-9801 NOTICE OF PENDING RULE .....	127
DOCKET NO. 24-1801-9802 NOTICE OF PROPOSED RULE .....	128
24.19.01 - RULES OF THE BOARD OF RESIDENTIAL CARE FACILITY ADMINISTRATORS DOCKET NO. 24-1901-9801 NOTICE OF PROPOSED RULE .....	134

**IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION**

26.01.30 - IDAHO SAFE BOATING RULES DOCKET NO. 26-0130-9801 NOTICE OF PROPOSED RULE .....	135
26.01.31 - RULES GOVERNING THE ADMINISTRATION OF THE BOAT SAFETY ACCOUNT	

DOCKET NO. 26-0131-9801 NOTICE OF PROPOSED RULE .....	137
DOCKET NO. 26-0131-9802 NOTICE OF PROPOSED RULE .....	138
26.01.32 - RULES GOVERNING THE ADMINISTRATION OF THE WATERWAYS IMPROVEMENT FUND DOCKET NO. 26-0132-9801 NOTICE OF PROPOSED RULE .....	148
26.01.34 - RULES GOVERNING THE ADMINISTRATION OF THE RECREATIONAL VEHICLE ACCOUNT DOCKET NO. 26-0134-9801 NOTICE OF PROPOSED RULE .....	149
26.01.35 - RULES GOVERNING THE OFF-ROAD MOTOR VEHICLE FUND DOCKET NO. 26-0135-9801 NOTICE OF PROPOSED RULE .....	150
26.01.38 - RULES GOVERNING THE ADMINISTRATION OF THE TRUST FOR OUTDOOR RECREATION ENHANCEMENT (STORE) AND THE RECREATION AND ENERGY CONSERVATION PATHWAYS (RECP) PROGRAM DOCKET NO. 26-0138-9801 NOTICE OF PROPOSED RULE .....	151
<b><u>IDAPA 27 - BOARD OF PHARMACY</u></b>	
27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY DOCKET NO. 27-0101-9802 NOTICE OF TEMPORARY AND PROPOSED RULE.....	152
<b><u>IDAPA 31 - PUBLIC UTILITIES COMMISSION</u></b>	
31.42.01 - RULES FOR TELEPHONE CORPORATIONS SUBJECT TO THE REGULATION OF THE IDAHO PUBLIC UTILITIES COMMISSION UNDER THE TELECOMMUNICATIONS ACT OF 1988 (THE TITLE 62 TELEPHONE CORPORATION RULES) DOCKET NO. 31-4201-9801 NOTICE OF TEMPORARY AND PROPOSED RULE.....	157
<b><u>IDAPA 35 - STATE TAX COMMISSION</u></b>	
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES DOCKET NO. 35-0103-9801 NOTICE OF PENDING RULE.....	161

DOCKET NO. 35-0103-9805  
NOTICE OF PROPOSED RULE ..... 163

35.02.01 - ADMINISTRATION AND ENFORCEMENT  
DOCKET NO. 35-0201-9802  
NOTICE OF PROPOSED RULE ..... 165

**IDAPA 37 – DEPARTMENT OF WATER RESOURCES**  
37.03.13 - WATER MANAGEMENT RULES  
DOCKET NO. 37-0313-9701  
NOTICE OF PROPOSED RULE ..... 167

**IDAPA 39 - IDAHO DEPARTMENT OF TRANSPORTATION**  
39.03.64 - RULES GOVERNING TOURIST ORIENTED  
DIRECTIONAL SIGNS (TODS)  
DOCKET NO. 39-0364-9801  
NOTICE OF PROPOSED RULE ..... 176

**IDAPA 46 - IDAHO STATE BOARD OF VETERINARY MEDICAL EXAMINERS**  
46.01.01 - RULES OF THE STATE OF IDAHO BOARD OF VETERINARY MEDICINE  
DOCKET NO. 46-0101-9801  
NOTICE OF PROPOSED RULE ..... 178

**IDAPA 48 - IDAHO DEPARTMENT OF COMMERCE**  
48.01.01 - IDAHO COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (ICDBG)  
DOCKET NO. 48-0101-9801  
NOTICE OF PROPOSED RULE ..... 201

# ***Subjects Affected Index***

## **IDAPA 18 - DEPARTMENT OF INSURANCE**

### 18.01.16 - VARIABLE CONTRACTS

DOCKET NO. 18-0116-9801

011. QUALIFICATIONS OF INSURANCE COMPANIES TO ISSUE VARIABLE CONTRACTS..... 15

### 18.01.23 - RULES PERTAINING TO THE IDAHO INSURANCE HOLDING COMPANY SYSTEM REGULATORY ACT

DOCKET NO. 18-0123-9801

001. TITLE AND SCOPE ..... 17  
002. WRITTEN INTERPRETATIONS ..... 18  
003. ADMINISTRATIVE APPEALS ..... 18  
004. -- 010. (RESERVED) ..... 18  
011. FORMS - GENERAL REQUIREMENTS ..... 18  
012. FORMS - INCORPORATION BY REFERENCE, SUMMARIES AND OMISSIONS ..... 18  
013. FORMS - ADDITIONAL INFORMATION AND EXHIBITS ..... 19  
014. DEFINITIONS ..... 19  
015. ACQUISITION OF CONTROL - STATEMENT FILING ..... 20  
016. PRE-ACQUISITION NOTIFICATION ..... 20  
017. REGISTRATION OF INSURERS - STATEMENT FILING ..... 20  
018. SUMMARY OF REGISTRATION - STATEMENT FILING ..... 20  
019. AMENDMENTS TO FORM B ..... 20  
020. ALTERNATIVE AND CONSOLIDATED REGISTRATIONS ..... 21  
021. EXEMPTIONS ..... 21  
022. DISCLAIMERS AND TERMINATION OF REGISTRATION ..... 22  
023. TRANSACTIONS SUBJECT TO PRIOR NOTICE - NOTICE FILING ..... 22  
024. EXTRAORDINARY DIVIDENDS AND OTHER DISTRIBUTIONS ..... 22  
025. ADEQUACY OF SURPLUS ..... 23  
026. -- 999. (RESERVED) ..... 23

### 18.01.44 - SCHEDULE OF FEES, LICENSES AND MISCELLANEOUS CHARGES

DOCKET NO. 18-0144-9801

011. FEE SCHEDULE ..... 25

### 18.01.49 - FIRE PROTECTION SPRINKLER CONTRACTORS

DOCKET NO. 18-0149-9801

001. TITLE AND SCOPE ..... 32  
004. DEFINITIONS ..... 32  
011. POWERS AND DUTIES OF THE STATE FIRE MARSHAL ..... 32  
012. QUALIFICATIONS FOR CONTRACTORS LICENSE ..... 33  
014. LICENSE, DISPLAY, RENEWALS, DUPLICATES, APPLICATIONS ..... 34  
016. FINANCIAL RESPONSIBILITY ..... 34  
017. REVOCATION, SUSPENSION, AND NON-RENEWAL OF LICENSE ..... 35  
019. APPROVED EQUIPMENT AND MATERIALS ..... 36  
020. SERVICE EVIDENCE ..... 36  
021. DESIGN REQUIREMENTS ..... 36  
023. FITTERS ..... 37

### 18.01.62 - ANNUAL AUDITED FINANCIAL REPORTS

DOCKET NO. 18-0162-9801

001. TITLE AND SCOPE .....	39
004. DEFINITIONS .....	40
012. CONTENTS OF ANNUAL AUDITED FINANCIAL REPORT. ....	40
014. QUALIFICATIONS OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT. ....	41
017. NOTIFICATION OF ADVERSE FINANCIAL CONDITION.....	42
018. REPORT ON SIGNIFICANT DEFICIENCIES IN INTERNAL CONTROLS. ....	42
019. ACCOUNTANT'S LETTER OF QUALIFICATION.....	42
020. DEFINITION, AVAILABILITY AND MAINTENANCE OF CPA WORK PAPERS. ....	43
023. SEVERABILITY PROVISION. ....	43
<b>18.01.75 - CREDIT FOR REINSURANCE RULES</b>	
<b>DOCKET NO. 18-0175-9801</b>	
001. TITLE AND SCOPE .....	44
021. CREDIT FOR REINSURANCE -- ACCREDITED REINSURERS.....	45
061. REDUCTION FROM LIABILITY FOR REINSURANCE CEDED TO AN UNAUTHORIZED ASSUMING INSURER.....	45
062. -- 069. (RESERVED).....	46
070. TRUST AGREEMENTS QUALIFIED UNDER IDAPA 18.01.75. ....	46
071. BENEFICIARY.....	46
072. GRANTOR.....	46
073. OBLIGATIONS.....	46
074. REQUIRED CONDITIONS.....	46
075. PERMITTED CONDITIONS.....	48
076. ADDITIONAL CONDITIONS APPLICABLE TO REINSURANCE AGREEMENTS.....	48
077. -- 080. (RESERVED). ....	50
<b>18.01.78 - MUTUAL INSURANCE HOLDING COMPANY RULE</b>	
<b>DOCKET NO. 18-0178-9801</b>	
000. LEGAL AUTHORITY.....	52
001. TITLE AND SCOPE.....	52
002. WRITTEN INTERPRETATIONS.....	53
003. ADMINISTRATIVE APPEALS.....	53
004. DEFINITIONS.....	53
005. APPLICATION - CONTENT - PROCESS.....	54
006. NOTICE OF HEARING.....	55
007. PLAN OF REORGANIZATION.....	55
008. DUTIES OF THE DIRECTOR.....	57
009. REGULATION - COMPLIANCE.....	57
010. REORGANIZATION OF DOMESTIC MUTUAL INSURER WITH MUTUAL INSURANCE HOLDING COMPANY.....	58
011. REORGANIZATION OF FOREIGN MUTUAL INSURER WITH MUTUAL INSURANCE HOLDING COMPANY.....	58
012. MERGERS OF MUTUAL INSURANCE HOLDING COMPANIES.....	58
013. STOCK OFFERINGS.....	58
014. PROHIBITED PRACTICES.....	61
015. REGULATION OF HOLDING COMPANY SYSTEM.....	61
016. REPORTING OF STOCK OWNERSHIP AND TRANSACTIONS.....	61
017. -- 999. (RESERVED).....	61
<b>IDAPA 19 - BOARD OF DENTISTRY</b>	
<b>19.01.01 - RULES OF THE STATE BOARD OF DENTISTRY</b>	
<b>DOCKET NO. 19-0101-9801</b>	
004. DEFINITIONS (Rule 4).....	62

006. INCORPORATION BY REFERENCE (Rule 6).....	63
010. EXAMINATIONS (Rule 10).....	64
011. APPLICATIONS (Rule 11).....	64
012. LICENSE AND APPLICATION FEES (Rule 12).....	64
016. REQUIREMENTS FOR DENTAL LICENSURE (Rule 16).....	65
020. DENTAL HYGIENE LICENSURE BY CREDENTIALS (Rule 20).....	65
025. PROVISIONAL LICENSURE (Rule 25).....	66
030. DENTAL HYGIENISTS - PRACTICE (Rule 30).....	66
035. DENTAL ASSISTANTS - PRACTICE (Rule 35).....	66
040. UNPROFESSIONAL CONDUCT (Rule 40).....	67
045. LICENSURE OF DENTAL SPECIALISTS (Rule 45).....	69
050. CONTINUING EDUCATION FOR DENTISTS (Rule 50).....	70
051. CONTINUING EDUCATION FOR DENTAL HYGIENISTS (Rule 51).....	70
055. GENERAL ANESTHESIA AND DEEP SEDATION (Rule 55).....	71
060. ADMINISTRATION OF CONSCIOUS SEDATION (LIGHT) WITH PARENTERAL DRUGS (Rule 60).....	72
061. USE OF OTHER ANESTHESIA PERSONNEL (Rule 61).....	73
062. INCIDENT REPORTING (Rule 62).....	73
063. SUSPENSION, REVOCATION OR RESTRICTION OF ANESTHESIA PERMIT (Rule 643).....	73
064. -- 999. (RESERVED). 73	

**IDAPA 22 - BOARD OF MEDICINE**

22.01.03 - RULES FOR THE LICENSURE OF PHYSICIAN ASSISTANTS	
DOCKET NO. 22-0103-9802	
051. FEES:.....	74
22.01.09 - RULES FOR THE LICENSURE OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS	
DOCKET NO. 22-0109-9801	
010. DEFINITIONS.....	76
021. APPLICATION FOR LICENSURE.....	78
032. DENIAL OR REFUSAL TO RENEW, SUSPENSION OR REVOCATION OF LICENSE.....	79
033. OCCUPATIONAL THERAPY AIDE.....	79
034. -- 040. (RESERVED). 80	

**IDAPA - BUREAU OF OCCUPATIONAL LICENSES**

24.01.01 - RULES OF THE BOARD OF ARCHITECTURAL EXAMINERS	
DOCKET NO. 24-0101-9801	
300..... APPLICATION (Rule 300). 81	
751. COSTS AND FEES IN DISCIPLINARY PROCEEDING (Rule 751).....	83
752. -- 799. (RESERVED).....	83
24.02.01 - RULES OF THE BOARD OF BARBER EXAMINERS	
DOCKET NO. 24-0201-9802	
551. -- 574. (RESERVED).....	84
575. DISCIPLINE (Rule 575).....	84
576. -- 599. (RESERVED).....	85
24.03.01 - RULES OF THE STATE BOARD OF CHIROPRACTIC PHYSICIANS	
DOCKET NO. 24-0301-9801	
100. APPLICATIONS (Rule 100).....	86
24.04.01 - RULES OF THE IDAHO BOARD OF COSMETOLOGY	



DOCKET NO. 24-0401-9801	
010. DEFINITIONS (Rule 10). .....	88
150. REQUIREMENTS FOR LICENSURE BY ENDORSEMENT (Rule 150). .....	89
302. -- 399. (RESERVED). .....	91
401. COSMETOLOGY REQUIREMENTS FOR LICENSURE BY EXAMINATION (Rule 401). .....	91
407. ELECTROLOGY/ESTHETICS REQUIREMENTS FOR LICENSURE BY EXAMINATION (Rule 407). .....	92
413. ESTHETICS REQUIREMENTS FOR LICENSURE BY EXAMINATION (Rule 413). .....	92
450. EXAMINATIONS - GENERAL (Rule 450). .....	93
457. ELECTROLOGY EXAMINATION (Rule 457). .....	93
483. MODELS FOR THE ELECTROLOGY EXAMINATION (Rule 483). .....	94
500. RULES OF SCHOOLS OF COSMETOLOGY (Rule 500). .....	94
550. RULES FOR COSMETOLOGY SCHOOLS APPROVED TO TEACH ELECTROLOGY/ESTHETICS (Rule 550). .....	96
560. RULES FOR COSMETOLOGY SCHOOLS TEACHING ESTHETICS (Rule 560). .....	98
600. COSMETOLOGY, ELECTROLOGY/ESTHETICS INSTRUCTOR RULES (Rule 600). .....	100
700. COSMETOLOGY - ELECTROLOGY/, ESTHETICS, AND NAIL TECHNOLOGY APPRENTICE TRAINING (Rule 700). .....	102
800. INSPECTION AND SANITARY RULES. (Rule 800). .....	103
801. -- 814. (RESERVED). .....	104
815. DISCIPLINE (Rule 815). .....	105
816. -- 825. (RESERVED). .....	106
24.04.01 - RULES OF THE IDAHO BOARD OF COSMETOLOGY	
DOCKET NO. 24-0401-9802	
125. FEES (Rule 125). .....	108
24.05.01 - RULES OF THE BOARD OF ENVIRONMENTAL HEALTH SPECIALIST EXAMINERS	
DOCKET NO. 24-0501-9801	
402. -- 424. (RESERVED). .....	110
425. DISCIPLINE (Rule 425). .....	110
426. -- 499. (RESERVED). .....	110
24.06.01 - RULES OF THE BOARD OF HEARING AID DEALERS AND FITTERS	
DOCKET NO. 24-0601-9801	
551. DISCIPLINE (Rule 551). .....	111
552. -- 599. (RESERVED). .....	111
24.07.01 - RULES OF THE IDAHO BOARD OF LANDSCAPE ARCHITECTS	
DOCKET NO. 24-0701-9801	
300. EXAMINATIONS (Rule 300). .....	112
302. RECIPROCITY/LIMITED EXAMINATION (Rule 302). .....	113
401. -- 449. (RESERVED). .....	113
450. DISCIPLINE (Rule 450). .....	113
451. -- 499. (RESERVED). .....	113
24.08.01 - RULES OF THE STATE BOARD OF MORTICIANS	
DOCKET NO. 24-0801-9801	
250. MORTICIAN RESIDENT TRAINEE (Rule 250). .....	114
501. DISCIPLINE (Rule 501). .....	115
502. -- 549. (RESERVED). .....	115
24.11.01 - RULES OF THE STATE BOARD OF PODIATRY	

DOCKET NO. 24-1101-9801	
501. -- 549. (RESERVED).	116
550. DISCIPLINE (Rule 550).	116
551. -- 599. (RESERVED).	116
24.12.01 - RULES OF THE STATE BOARD OF PSYCHOLOGIST EXAMINERS	
DOCKET NO. 24-1201-9801	
150. FEES (Rule 150).	117
351. -- 374. RESERVED).	118
375. DISCIPLINE (Rule 375).	118
376. -- 399. (RESERVED).	118
450. GUIDELINES FOR USE OF SERVICE EXTENDERS TO LICENSED PSYCHOLOGISTS (Rule 450).	118
550. REQUIREMENTS FOR SUPERVISED PRACTICE (Rule 550).	120
24.14.01 - RULES OF THE STATE BOARD OF SOCIAL WORK EXAMINERS	
DOCKET NO. 24-1401-9801	
451. -- 474. (RESERVED).	122
475. DISCIPLINE (Rule 475).	122
476. -- 499. (RESERVED).	122
24.15.01 - RULES OF THE IDAHO COUNSELOR LICENSING BOARD	
DOCKET NO. 24-1501-9801	
240. CONDITIONAL COUNSELING LICENSE (Rule 240).	123
250. FEES (Rule 250).	124
350. CODE OF ETHICS (Rule 350).	124
500. DISCIPLINARY PROCEDURES (Rule 500).	125
24.16.01 - RULES GOVERNING THE STATE BOARD OF DENTURITRY	
DOCKET NO. 24-1601-9801	
477. -- 479. (RESERVED).	126
480. DISCIPLINE (Rule 480).	126
481. -- 499. (RESERVED).	126
24.18.01 - RULES OF THE REAL ESTATE APPRAISER BOARD	
DOCKET NO. 24-1801-9802	
299. REQUIREMENTS FOR LICENSURE/CERTIFICATION (Rule 299).	128
350. CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA (Rule 350).	130
400. CERTIFIED GENERAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA (RULE 400).	131
401. CONTINUING EDUCATION (Rule 401).	132
500. TEMPORARY PRACTICE (Rule 500).	132
501. -- 524. (RESERVED).	132
525. DISCIPLINE (Rule 525).	132
526. -- 549. (RESERVED).	133
24.19.01 - RULES OF THE BOARD OF RESIDENTIAL CARE FACILITY ADMINISTRATORS	
DOCKET NO. 24-1901-9801	
601. -- 649. (RESERVED).	134
650. DISCIPLINE (Rule 650).	134
651. -- 699. (RESERVED).	134

**IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION**

## 26.01.30 - IDAHO SAFE BOATING RULES

DOCKET NO. 26-0130-9801

050. PERSONAL FLOTATION DEVICES (PFD's) ..... 135

26.01.31 - RULES GOVERNING THE ADMINISTRATION OF IDAHO DEPARTMENT  
OF PARKS AND RECREATION RECREATIONAL PROGRAM GRANT FUNDS

DOCKET NO. 26-0131-9802

000. LEGAL AUTHORITY..... 139

001. TITLE AND SCOPE. .... 139

002. WRITTEN INTERPRETATIONS. .... 139

003. ADMINISTRATIVE APPEALS. .... 139

004. PUBLIC RECORDS. .... 140

005. CITATION. .... 140

006. -- 009. (RESERVED). .... 140

010. DEFINITIONS. .... 140

011. -- 049. (RESERVED). .... 142

050. GENERAL PROVISIONS OF THE RECREATIONAL PROGRAMS. .... 142

051. -- 074. (RESERVED). .... 142

075. ELIGIBLE APPLICANTS. .... 142

076. -- 099. (RESERVED). .... 142

100. APPLICATION PROCEDURE. .... 142

101. -- 149. (RESERVED). .... 143

150. ELIGIBILITY AND PRIORITY RATING OF PROJECTS..... 143

151. -- 174. (RESERVED). .... 144

175. PROJECT TIME PERIOD..... 144

176. -- 199. (RESERVED). .... 144

200. AUTHORITY FOR FUNDING APPROVAL. .... 144

201. -- 249. (RESERVED). .... 144

250. DISBURSEMENT OF FUNDS. .... 144

251. -- 299. (RESERVED). .... 145

300. APPLICANT OBLIGATIONS..... 145

301. -- 349. (RESERVED). .... 146

350. PROJECT CONVERSIONS..... 146

351. -- 399. (RESERVED). .... 146

400. RESPONSIBILITY FOR EQUIPMENT..... 146

401. -- 449. (RESERVED). .... 147

450. REAL PROPERTY..... 147

451. -- 999. (RESERVED). .... 147

**IDAPA 27 - BOARD OF PHARMACY**

## 27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY

DOCKET NO. 27-0101-9802

161. FACSIMILE PRESCRIPTION TRANSMISSION..... 152

435. PREREQUISITES FOR REGISTRATION. .... 154

442. REQUIREMENT OF PRESCRIPTION - SCHEDULE II..... 154

444. PARTIAL FILLING OF PRESCRIPTIONS. .... 155

496. CONTROLLED SUBSTANCE INVENTORY..... 155

**IDAPA 31 - PUBLIC UTILITIES COMMISSION**31.42.01 - RULES FOR TELEPHONE CORPORATIONS SUBJECT TO THE  
REGULATION OF THE IDAHO PUBLIC UTILITIES COMMISSION

UNDER THE TELECOMMUNICATIONS ACT OF 1988  
(THE TITLE 62 TELEPHONE CORPORATION RULES)  
DOCKET NO. 31-4201-9801

000. LEGAL AUTHORITY (Rule 0).....	158
303. -- 400. (RESERVED).....	158
401. DEFINITIONS (Rule 401).....	158
402. INTERCONNECTION STANDARDS (Rule 402).....	159
403. EXCHANGE ACCESS QUALITY STANDARDS (Rule 403).....	159
404. UNBUNDLED ACCESS STANDARDS (Rule 404).....	159
405. RESELLER STANDARDS (Rule 405).....	159
406. PHYSICAL COLLOCATION STANDARDS (Rule 406).....	159
407. EXEMPTION FOR VIRTUAL COLLOCATION (Rule 407).....	160
408. VOLUNTARY NEGOTIATION (Rule 408).....	160
409. COMMISSION MEDIATION (Rule 409).....	160
410. REFUSAL TO NEGOTIATE (Rule 410).....	160
411. PETITION FOR SUSPENSION OF RULES 402-410 (Rule 411).....	160
412. PETITION FOR EXEMPTION FROM RULES 402-410 (Rule 412).....	160
413. EFFECTIVE DATE (Rule 413).....	160
414. -- 999. (RESERVED).....	160

**IDAPA 35 - STATE TAX COMMISSION**

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-9801

137. EXEMPTION FOR NEVER OCCUPIED RESIDENTIAL IMPROVEMENTS (Rule 137).....	162
--	-----

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-9805

136. -- 150. (RESERVED).....	163
601. -- 619. (RESERVED).....	164
620. EXEMPTION FOR NEVER OCCUPIED RESIDENTIAL IMPROVEMENTS (Rule 620).....	164
621. -- 634. (RESERVED).....	164

35.02.01 - ADMINISTRATION AND ENFORCEMENT

DOCKET NO. 35-0201-9802

310. INTEREST ON AMOUNTS OF TAX ACCRUING OR UNPAID (Rule 310).....	165
--	-----

**IDAPA 37 – DEPARTMENT OF WATER RESOURCES**

37.03.13 - WATER MANAGEMENT RULES

DOCKET NO. 37-0313-9701

000. LEGAL AUTHORITY (RULE 0).....	168
001. TITLE AND SCOPE (RULE 1).....	168
002. WRITTEN INTERPRETATIONS (RULE 2).....	168
003. ADMINISTRATIVE APPEALS (RULE 3).....	168
004. OTHER AUTHORITIES REMAIN APPLICABLE (RULE 4).....	168
005. -- 009. (RESERVED).....	168
010. DEFINITIONS (RULE 10).....	168
011. -- 019. (RESERVED).....	170
020. GENERAL STATEMENTS OF MANAGEMENT POLICY (RULE 20).....	170
021. -- 029. (RESERVED).....	171
030. ENFORCEMENT IN CASE OF UNAUTHORIZED USE (RULE 30).....	171
031. -- 032. (RESERVED).....	172
033. ENFORCEMENT OF DIVERSION RATE AND VOLUME (RULE 33).....	172

034. ENFORCEMENT OF PRIORITY (RULE 34).	172
035. ENFORCEMENT OF POINT OF DIVERSION (RULE 35).	172
036. ENFORCEMENT OF PLACE OF USE (RULE 36).	172
037. ENFORCEMENT OF PERIOD OF USE (RULE 37).	172
038. CRITERIA FOR ENFORCEMENT OF NATURE OF USE (RULE 38).	173
039. ENFORCEMENT OF THE USE OF WATER RIGHTS FROM SURFACE WATER SOURCES PRIOR TO USING WATER FROM GROUND WATER SOURCES (RULE 39).	173
040. ENFORCEMENT METHODS (RULE 40).	173
041. -- 049. (RESERVED).	174
050. MEASUREMENT AND REPORTING OF WATER DIVERSION AND USE (RULE 50).	174
051. -- 059. (RESERVED).	175
060. MEASUREMENT AND REPORTING OF GROUND WATER LEVELS (RULE 60).	175
061. -- 099. (RESERVED).	175
100. MANAGEMENT OF WATER USES IN CRITICAL GROUND WATER AREAS AND GROUND WATER MANAGEMENT AREAS (RULE 100).	175
101. -- 999. (RESERVED).	175

**IDAPA 39 - IDAHO DEPARTMENT OF TRANSPORTATION**

39.03.64 - RULES GOVERNING TOURIST ORIENTED DIRECTIONAL SIGNS (TODS)

DOCKET NO. 39-0364-9801

000. LEGAL AUTHORITY	177
001. TITLE AND SCOPE	177
002. INCORPORATION BY REFERENCE	177
003. -- 099. (RESERVED)	177

**IDAPA 46 - IDAHO STATE BOARD OF VETERINARY MEDICAL EXAMINERS**

46.01.01 - RULES OF THE STATE OF IDAHO BOARD OF VETERINARY MEDICINE

DOCKET NO. 46-0101-9801

001. TITLE AND SCOPE	179
010. LICENSE	179
012. LICENSE RENEWAL	180
014. FEES	182
100. CERTIFICATION OF VETERINARY TECHNICIANS	184
101. DISQUALIFICATION OF VETERINARY TECHNICIAN APPLICANTS	185
102. TEMPORARY CERTIFICATION	186
103. CERTIFIED VETERINARY TECHNICIAN MANDATORY CONTINUING EDUCATION	186
104. SUPERVISING VETERINARIANS	187
105. EXPIRATION OF VETERINARY TECHNICIAN CERTIFICATION – NOTICE – RENEWAL	194
106. REVOCATION OR SUSPENSION - GROUNDS FOR DISCIPLINE OF VETERINARY TECHNICIANS	195
107. -- 149. (RESERVED)	195
205. CERTIFIED EUTHANASIA TECHNICIAN	196

**IDAPA 48 - IDAHO DEPARTMENT OF COMMERCE**

48.01.01 - IDAHO COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (ICDBG)

DOCKET NO. 48-0101-9801

013. QUALIFICATION OF APPLICANTS	202
016. BENEFIT TO LOW AND MODERATE INCOME PERSONS	202
053. GRANT APPLICATION PROCESS	204
074. SECTIONS	205
081. PUBLIC FACILITIES AND HOUSING GRANTS	208
085. NATIONAL OBJECTIVES	210

090. PROJECT CATEGORIES..... 213  
094. APPLICATION..... 215  
095. THRESHOLD..... 216  
096. REVIEW AND RANKING NARRATIVE FOR BUSINESS EXPANSION PROJECTS..... 216  
097. REVIEW AND RANKING OF DOWNTOWN REVITALIZATION..... 219  
135. ACCESSIBILITY TAG-ON FOR PERSONS WITH DISABILITIES FUNDING..... 221  
152. GRANT AWARD..... 222  
161. PROFESSIONAL SERVICES..... 223

**IDAPA 18 - DEPARTMENT OF INSURANCE**

**18.01.16 - VARIABLE CONTRACTS**

**DOCKET NO. 18-0116-9801**

**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule making. These rules are proposed pursuant to the authority vested in the Director of the Department of Insurance under Title 41, Chapter 2, Idaho Code.

**PUBLIC HEARING SCHEDULE:** 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 October 21, 1998.

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

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

The rule is being amended to replace the requirement that biographical information of officers and directors be provided on a standard NAIC form with a requirement that such information be provided on an affidavit form prescribed by the Department of Insurance.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning these proposed rules, contact Robert Murphy at (208) 334-4250.

Anyone may submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before October 28, 1998.

Dated this 12th day of August, 1998.

Mary L. Hartung, Acting Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0116-9801**

**011. QUALIFICATIONS OF INSURANCE COMPANIES TO ISSUE VARIABLE CONTRACTS.**

01. Insurer Requirements. No insurer shall deliver or issue for delivery in this state contracts authorized under Section 41-1936, Idaho Code, unless it is authorized or organized to do a life insurance or annuity business in this state, and the Director is satisfied that its condition or method of operation in connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this state. In this connection, the Director shall consider among other things: (7-1-93)

- a. The history and financial condition of the insurer; (7-1-93)
- b. The character, responsibility and fitness of the officers and directors of the insurer; and (7-1-93)

c. The law and regulation under which the insurer is authorized in the state of domicile to issue variable contracts. (7-1-93)

02. Parent or Affiliated Insurer. An insurer which issues variable contracts and which is a subsidiary of, or affiliated through common management or ownership with, another life insurer authorized to transact such insurance in this state shall be deemed to have met the provisions of this section if either it or the parent or affiliated insurer meets the requirements hereof. (7-1-93)

03. Title 41, Chapter 3, Idaho Code, Requirements. No insurer which does not satisfy the requirements of Title 41, Chapter 3 of the Idaho Insurance Code, nor which is not then possessed of such capital and surplus as is then required for a new life insurer under the Idaho Insurance Code or under the statutes of its state or place of incorporation, whichever is greater, shall be qualified to issue variable contracts. (7-1-93)

04. Delivery. Before any insurer shall deliver or issue for delivery variable contracts within this state, it shall submit to the Director: (7-1-93)

a. A general description of the kinds of variable contracts it intends to issue; (7-1-93)

b. If requested by the Director, a copy of the statutes and rules of its state of domicile under which it is authorized to issue variable contracts; and (7-1-93)

c. If requested by the ~~Commissioner~~ Director, biographical data with respect to officers and directors of the insurer on the ~~National Association of Insurance Commissioners uniform~~ biographical data affidavit form currently prescribed for use by the Idaho Department of Insurance. (7-1-93)( )



**IDAPA 18 - DEPARTMENT OF INSURANCE**  
**18.01.23 - RULES PERTAINING TO THE IDAHO INSURANCE HOLDING**  
**COMPANY SYSTEM REGULATORY ACT**

**DOCKET NO. 18-0123-9801**

**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule making. These rules are proposed pursuant to the authority vested in the Director of the Department of Insurance under Title 41, Chapter 2, Idaho Code.

**PUBLIC HEARING SCHEDULE:** 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 October 21, 1998.

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

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

The rule is being amended to add provisions setting out the scope of the rule, to make administrative appeals subject to Attorney General Administrative Procedure Rules, to require pre-acquisition notice to the Department of Insurance, to add a Form E filing requirement, to add procedural requirements governing amendments to a Form B filing, to delete provisions relating to omission of information on forms filed with the Department of Insurance, to delete the definition of a foreign insurer, to delete provisions relating to investment in subsidiaries, to delete provisions relating to acquisition of persons controlling a domestic insurer, and to make technical corrections.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning these proposed rules, contact Robert Murphy at (208) 334-4250.

Anyone may submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before October 28, 1998.

Dated this 13th day of August, 1998.

Mary L. Hartung, Acting Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0123-9801**

**001. PURPOSE TITLE AND SCOPE.**

01. Title. These rules shall be referred to as IDAPA 18.01.23, "Rules Pertaining to the Idaho Insurance Holding Company System Regulatory Act". ( )

02. Scope. The purposes of these rules are: To set forth rules and procedural requirements which the Director deems necessary to carry out the provisions of the Idaho Insurance Holding Company System Regulatory

Act, compiled as Sections 41-3801 through 41-3821, Idaho Code, hereinafter referred to as "the Act". The information called for by these rules is hereby declared to be necessary and appropriate in the public interest and for the protection of policyholders and shareholders of this state. (12-24-93)( )

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have 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. These documents will be available for public inspection and copying at cost in the main office of this agency.( )

**003. ADMINISTRATIVE APPEALS.**

All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedure" of the Office of the Attorney General. ( )

**0024. -- 010. (RESERVED).**

**~~011. SEVERABILITY CLAUSE.~~**

~~If any provision of these rules, or the application thereof to any person or circumstance, is held invalid, such determination shall not affect other provisions or applications of these rules which can be given effect without the invalid provision or application, and to that end the provisions in these rules are severable. (12-24-93)~~

**0121. FORMS - GENERAL REQUIREMENTS.**

01. Forms Intended to Be Guides. Forms A, B, C, ~~and D~~, and E are intended to be guides in the preparation of statements required by Sections 41-3802, 41-3806 and 41-3807 of the Act. They are not intended to be blank forms which are to be filled in. The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are so prepared as to indicate to the reader the coverage of the items without the necessity of his referring to the text of the items or the instructions thereto. All instructions, whether occurring under the items of the form or elsewhere therein, are to be omitted. Unless expressly otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made. (12-24-93)( )

02. Filings of Statement. Each statement, including exhibits and all other papers and documents filed as a part thereof, shall be filed with the Director by personal delivery or mail addressed to:

Director of Insurance  
700 West State Street, 3rd Floor  
Boise, Idaho 83720

A copy of Form C shall be filed in each state in which an insurer is authorized to do business, if the Commissioner of that state has notified the insurer of its request in writing, in which case the insurer has thirty (30) days from receipt of the notice to file such form. The statement shall be manually signed in the manner prescribed on the form. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the statement. (12-24-93)

03. Format. Statements should be prepared on paper eight and one half by eleven inches (8 1/2" x 11") in size and preferably bound at the top or the top left-hand corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. All copies of any statement, financial statements, or exhibits shall be clear, easily readable and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency normally shall be converted into United States currency. (12-24-93)

**0132. FORMS - INCORPORATION BY REFERENCE, SUMMARIES AND OMISSIONS.**

01. Incorporation by Reference. Information required by any item of Form A, Form B, ~~or~~ Form D or

Form E may be incorporated by reference in answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of Form A, Form B, ~~or~~ Form D or Form E provided such document or paper is filed as an exhibit to the statement. Excerpts of documents may be filed as exhibits if the documents are extensive. Documents currently on file with the ~~Commissioner~~ Director which were filed within three (3) years need not be attached as exhibits. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that such material is to be incorporated by reference in answer to the item. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing. (12-24-93)(\_\_\_\_)

02. Summaries or Outlines. Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to such statement, the summary or outline may incorporate by reference particular facts of any exhibit or document currently on file with the Director which was filed within three (3) years and may be qualified in its entirety by such reference. In any case where two (2) or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, a copy of only one (1) of such documents need be filed with a schedule identifying the omitted documents and setting forth the material details in which such documents differ from the documents a copy of which is filed. (12-24-93)

**0153. FORMS - ADDITIONAL INFORMATION AND EXHIBITS.**

In addition to the information expressly required to be included in Form A, Form B, Form C, ~~and~~ Form D, and Form E there shall be added such further material information, if any, as may be necessary to make the information contained therein not misleading. The person filing may also file such exhibits as it may desire in addition to those expressly required by the statement. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer. Changes to Forms A, B, C, ~~or~~ D or E shall include on the top of the cover page the phrase: "Change No. (insert number) to" and shall indicate the date of the change and not the date of the original filing. (12-24-93)(\_\_\_\_)

~~**014. FORMS - INFORMATION UNKNOWN OR UNAVAILABLE AND EXTENSION OF TIME TO FURNISH.**~~

~~01. Omission of Information. Information required need be given only insofar as it is known or reasonably available to the person filing the statement. If any required information is unknown and not reasonably available to the person filing, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the person filing, the information may be omitted, subject to the following conditions: (12-24-93)~~

~~a. The person filing shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof; and (12-24-93)~~

~~b. The person filing shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information. (12-24-93)~~

~~02. Extension of Time. If it is impractical to furnish any required information, document or report at the time it is required to be filed, there may be filed with the Director as a separate document: (12-24-93)~~

~~a. Identifying the information, document or report in question; (12-24-93)~~

~~b. Stating why the filing thereof at the time required is impractical; and (12-24-93)~~

~~e. Requesting an extension of time for filing the information, document or report to a specified date. The request for extension shall be deemed granted unless the Director within sixty (60) days after receipt thereof enters an order denying the request. (12-24-93)~~

**0164. DEFINITIONS.**

01. Executive Officer. Any individual charged with active management and control in an executive capacity (including a President, Vice President, Treasurer, Secretary, Controller and any other individual performing functions corresponding to those performed by the foregoing officers) of a person, whether incorporated or unincorporated. (12-24-93)

~~02. Foreign Insurer. This shall include an alien insurer except where clearly noted otherwise. (12-24-93)~~

~~03. Ultimate Controlling Person. That person who is not controlled by any other person. (12-24-93)~~

~~04. Terms Defined in Holding Company Act. Unless the context otherwise requires, other terms found in these rules are used as defined in Section 41-3801 of the Act. Other nomenclature or terminology is according to the Insurance Code, or the industry usage if not defined by the code. (12-24-93)~~

**0185. ACQUISITION OF CONTROL - STATEMENT FILING.**

A person required to file a statement pursuant to Section 41-3802 of the Act shall furnish the required information on Form A, which is hereby made a part of this rule. Such person shall also furnish the required information on Form E, hereby made a part of this rule. (12-24-93)( )

**016. PRE-ACQUISITION NOTIFICATION.**

01. Pre-acquisition Notification - Domestic Insurer. If a domestic insurer, including any person controlling a domestic insurer, is proposing a merger or acquisition pursuant to Section 41-3802(1)(a), Idaho Code, that person shall file a pre-acquisition notification form, Form E, which was developed pursuant to Section 41-3805B(3)(a), Idaho Code. ( )

02. Pre-acquisition Notification - Non-domiciliary Insurer. If a non-domiciliary insurer licensed to do business in this state is proposing a merger or acquisition pursuant to Section 41-3805B, Idaho Code, that person shall file a pre-acquisition notification form, Form E. No pre-acquisition form need be filed if the acquisition is beyond the scope of Section 41-3805B, Idaho Code, as set forth in Section 41-3805B(2), Idaho Code. ( )

03. Expert Opinion. In addition to the information required by Form E, the director may wish to require an expert opinion as to the competitive impact of the proposed acquisition. ( )

**~~017. SUBSIDIARIES OF DOMESTIC INSURERS.~~**

~~The authority to invest in subsidiaries under section 41-3801B(2) of the Act is in addition to any authority to invest in subsidiaries which may be contained in any other provision of the Insurance Code. (12-24-93)~~

**0217. REGISTRATION OF INSURERS - STATEMENT FILING.**

An insurer required to file a statement pursuant to Section 41-3806 of the Act shall furnish the required information on Form B, which is hereby made a part of these rules. (12-24-93)

**~~02218. SUMMARY OF REGISTRATION - STATEMENT FILING.~~**

~~An insurer required to file an annual registration statement pursuant to section 41-3806 of the Act is also required to furnish information required on Form C, hereby made a part of these rules. An insurer shall file a copy of Form C in each state in which the insurer is authorized to do business, if requested by the Commissioner of that state. (12-24-93)~~

**~~019. AMENDMENTS TO FORM.~~**

~~A. The applicant shall promptly advise the Director of any changes in the information so furnished on Form A arising subsequent to the date upon which such information was furnished, but prior to the Director's disposition of the application. (12-24-93)~~

**02319. AMENDMENTS TO FORM B.**

01. Amendment to Form B. An amendment to Form B shall be filed within fifteen (15) days after ~~the end of any month in which the following occurs:~~ the end of any month in which there is a material change to the

information provided in the annual registration statement. (12-24-93)( )

~~a. There is a change in the control of the registrant, in which case the entire Form B shall be made current;~~ (12-24-93)

~~b. There is a material change in the information given in item five (5) or item six (6).~~ (12-24-93)

02. Form B Format. Amendments shall be filed in the Form B format with only those items which are being amended reported. Each amendment shall include at the top of the cover page "Amendment No. (insert number) to Form B for (insert year)" and shall indicate the date of the change and not the date of the original filings. ( )

**~~020. ACQUISITION OF SECTION 41-3802(1)(a) INSURERS.~~**

~~01. Name of Insurer. If the person being acquired is deemed to be a "domestic insurer" solely because of the provisions of section 41-3802(1)(a) of the Act, the name of the domestic insurer on the cover page should be indicated as follows: "ABC Insurance Company, a subsidiary of XYZ Holding Company".~~ (12-24-93)

~~02. References to Domestic Subsidiary Insurer and Person Being Acquired. Where a 41-3802(1)(a) insurer is being acquired, references to "the insurer" contained in Form A shall refer to both the domestic subsidiary insurer and the person being acquired.~~ (12-24-93)

**~~0240. ALTERNATIVE AND CONSOLIDATED REGISTRATIONS.~~**

01. Filing on Behalf of Affiliated Insurers. Any authorized insurer may file a registration statement on behalf of any affiliated insurer or insurers which are required to register under Section 41-3806 of the Act. A registration statement may include information regarding any insurer in the insurance holding system, even if such insurer is not authorized to do business in this state. In lieu of filing a registration statement on Form B, the authorized insurer may file a copy of the registration statement or similar report which it is required to file in its state of domicile, provided: (12-24-93)

a. The statement or report contains substantially similar information required to be furnished on Form B; and (12-24-93)

b. The filing insurer is a principal insurance company in the insurance holding company system. (12-24-93)

02. Statement that Filing Insurer is the Principal Insurer. The question of whether the filing insurer is the principal insurance company in the insurance holding system is a question of fact and an insurer filing a registration statement or report in lieu of Form B on behalf of an affiliated insurer, shall set forth a simple statement of facts which will substantiate the filing insurer's claim that it, in fact, is the principal insurer in the insurance holding system. (12-24-93)

03. Unauthorized Insurer. With the prior approval of the Director, an unauthorized insurer may follow any of the procedures which could be done by an authorized insurer under Subsection 0240.01.a. above. (12-24-93)( )

04. Consolidated Registration Statements. Any insurer may take advantage of any of the provisions of Section 41-3806(8), or 41-3806(9) of the Act without obtaining prior approval of the Director. The Director, however, reserves the right to require individual filings if he deems such filings necessary in the interest of clarity, ease of administration of the public good. (12-24-93)

**~~0251. EXEMPTIONS.~~**

01. Registration in Domiciliary State. A foreign or alien insurer otherwise subject to Section 41-3806 of the Act shall not be required to register pursuant to said Section of the Act: (12-24-93)

a. If it is admitted in the domiciliary state of the principal insurer (as that term is defined in Section 024) and if said state is subject to disclosure requirements and standards adopted by statute or regulation which are substantially similar to those contained in Section 41-3806 of the Act, provided, the Director may require a copy of the registration statement or other information filed with the domiciliary state; or (12-24-93)

b. Until July 1, 1973. (12-24-93)

02. Alien Insurer. The state of entry of an alien insurer shall be deemed to be its domiciliary state for purposes of Section 0217. (~~12-24-93~~)( )

03. Application by Insurer Not Otherwise Exempt. Any insurer not otherwise exempt or excepted from Section 0217 may apply for an exemption from the requirements of Section 41-3806 of the Act by submitting a statement to the Director setting forth its reasons for being exempt. (~~12-24-93~~)( )

**0262. DISCLAIMERS AND TERMINATION OF REGISTRATION.**

01. Information Required. A disclaimer of affiliation or a request for termination of registration, claiming that a person does not, or will not, upon the taking of some proposed action, control another person (hereinafter referred to as the "subject") shall contain the following information: (12-24-93)

a. The number of authorized, issued and outstanding voting securities of the subject; (12-24-93)

b. With respect to the person whose control is denied and all affiliates of such person, the number and percentage of shares of the subject's voting securities which are held of record or known to be beneficially owned, and the number of shares concerning which there is a right to acquire, directly or indirectly; (12-24-93)

c. All material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of such person: (12-24-93)

d. A statement explaining why such person should not be considered to control the subject. (12-24-93)

02. Request Deemed Granted. A request for termination of registration shall be deemed to have been granted unless the Director, within thirty (30) days after he receives the request, notifies the registrant otherwise. (12-24-93)

**0273. TRANSACTIONS SUBJECT TO PRIOR NOTICE - NOTICE FILING.**

An insurer required to give notice of a proposed transaction pursuant to section 41-3807 of the Act shall furnish the required information on Form D, hereby made a part of these rules. (12-24-93)

**0284. EXTRAORDINARY DIVIDENDS AND OTHER DISTRIBUTIONS.**

01. Notice to Director. No insurer subject to registration under the provisions of the Act shall pay any extraordinary dividend or make any other extraordinary distribution to its stockholders until sixty (60) days after the Director has received notice of the declaration thereof and has not within such period disapproved such payment, or the Director has approved such payment within such sixty (60) day period. Such notice shall include the following information: (12-24-93)

a. The amount of the proposed dividend; (12-24-93)

b. The date established for payment of the dividend; (12-24-93)

c. A statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof, its cost, and its fair market value, together with an explanation of the basis for valuation; (12-24-93)

d. A copy of the calculations determining that the proposed dividend is extraordinary. The work paper

shall include the following information: (12-24-93)

i. The amounts and dates of all dividends (including regular dividends) paid within the period of twelve (12) consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year; (12-24-93)

ii. Surplus as regards policyholders (total capital and surplus) as of the 31st day of December next preceding; (12-24-93)

iii. If the insurer is not a life insurer, the net gain income from operations for the twelve (12) month period ending the 31st day of December next preceding; (12-24-93)

iv. If the insurer is not a life insurer, the net income for the twelve (12) month period ending the 31st day of December next preceding and the two preceding twelve (12) month periods; and (12-24-93)

v. If the insurer is not a life insurer, the dividends paid to stockholders excluding distributions of the insurer's own securities in the preceding two (2) calendar years. (12-24-93)

e. A balance sheet and statement of income for the period intervening from the last annual statement filed with the Director and the end of the month preceding the month in which the request for dividend approval is submitted; (12-24-93)

f. A brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs. (12-24-93)

02. Other Dividends. Subject to section 41-3809 of the Act, each registered insurer shall report to the Director all dividends and other distributions to shareholders within fifteen (15) business days following the declaration thereof, including the same information required by Subsections 028.01.d.i. through 028.01.d.v. (12-24-93)

**0295. ADEQUACY OF SURPLUS.**

The factors set forth in Section 41-3808 of the Act are not intended to be an exhaustive list. In determining the adequacy and reasonableness of the insurer's surplus, no single factor shall be controlling. The Director, instead, will consider the net effect of all of these factors, plus other factors bearing on the financial condition of the insurer. In comparing the surplus maintained by other insurers, the Director will consider the extent to which of these factors varies from company to company and in determining the quality and liquidity of investments in subsidiaries, the Director will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant. (10-1-93)

**~~03026.~~ -- 999. (RESERVED).**

**FORM E**

**PRE-ACQUISITION NOTIFICATION FORM REGARDING THE POTENTIAL COMPETITIVE IMPACT  
OF A PROPOSED MERGER OR ACQUISITION BY A NON-DOMICILIARY INSURER DOING  
BUSINESS IN THIS STATE OR BY A DOMESTIC INSURER**

\_\_\_\_\_  
Name of Applicant

\_\_\_\_\_  
Name of Other Person  
Involved in Merger or  
Acquisition

Filed with the Insurance Department of  
  
\_\_\_\_\_

Dated: \_\_\_\_\_, 19 \_\_

Name, title, address and telephone number of person completing this statement:  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_

**ITEM 1. NAME AND ADDRESS**

State the names and addresses of the persons who hereby provide notice of their involvement in a pending acquisition or change in corporate control.

**ITEM 2. NAME AND ADDRESSES OF AFFILIATED COMPANIES**

State the names and addresses of the persons affiliated with those listed in Item 1. Describe their affiliations.

**ITEM 3. NATURE AND PURPOSE OF THE PROPOSED MERGER OR ACQUISITION**

State the nature and purpose of the proposed merger or acquisition.

**ITEM 4. NATURE OF BUSINESS**

State the nature of the business performed by each of the persons identified in response to Item 1 and Item 2.

**ITEM 5. MARKET AND MARKET SHARE**

State specifically what market and market share in each relevant insurance market the persons identified in Item 1 and Item 2 currently enjoy in this state. Provide historical market and market share data for each person identified in Item 1 and Item 2 for the past five years and identify the source of such data.

For purposes of this question, market means direct written insurance premium in this state for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this state.



**IDAPA 18 - DEPARTMENT OF INSURANCE**  
**18.01.44 - SCHEDULE OF FEES, LICENSES AND MISCELLANEOUS CHARGES**

**DOCKET NO. 18-0144-9801**

**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule making. These rules are proposed pursuant to the authority vested in the Director of the Department of Insurance under Title 41, Chapter 2, Idaho Code.

**PUBLIC HEARING SCHEDULE:** 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 October 21, 1998.

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

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

The rule is being amended to delete obsolete references to motor clubs and solicitors, to change references to health maintenance organizations to managed care organizations, to delete the charge for withdrawal of a certificate of authority, to provide for a reduced fee for obtaining letters verifying licensure with the Department, and to provide that overpayments of less than \$20 will not be refunded except upon request.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning these proposed rules, contact James Genetti at (208) 334-4250.

Anyone may submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before October 28, 1998.

Dated this 12th day of August, 1998.

Mary L. Hartung, Acting Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0144-9801**

**011. FEE SCHEDULE.**

The director shall collect in advance, and persons so served shall pay to him in advance, fees, licenses and miscellaneous charges as follows: (7-1-93)

- 01. Original Authorization. Original certificate of authority, license or registration: (7-1-93)
  - a. Filing application (~~except Motor Clubs pursuant to 41-4507(3), Idaho Code~~) -- Two thousand dollars (\$2,000). (7-1-93)( )
  - b. Filing annual or financial statement (~~except Motor Clubs pursuant to 41-4507(3), Idaho Code~~) --

- Three hundred seventy dollars (\$370). (7-1-93)( )
- c. Filing and certifying charter or articles of incorporation and by-laws (except Motor Clubs pursuant to 41-4507(3), Idaho Code) -- Ninety dollars (\$90). (7-1-93)( )
- d. Filing appointment of director as process agent (except Motor Clubs pursuant to 41-4507(3), Idaho Code) -- Ninety dollars (\$90). (7-1-93)( )
- e. ~~Motor Clubs: filing application, charter or articles of incorporation, by-laws, financial statement or annual statement, appointment of director as agent for service of process -- Three hundred twenty dollars (\$320).~~ (7-1-97)
- fe. Issuance of certificate of authority, license, or registration -- Three hundred seventy dollars (\$370). (7-1-94)
- gf. Risk retention group registration, filing plan of operation, appointment of director as agent for service of process, and financial statement -- One thousand dollars (\$1,000). (7-1-93)
- hg. Purchasing group registration -- One hundred dollars (\$100). (7-1-93)
- ih. Appointment of director as agent for service of process for purchasing group -- Ninety dollars (\$90). (7-1-93)
- ji. Review of plan of operation for formation of domestic insurer -- One thousand dollars (\$1,000). (7-1-93)
- kj. Statutory deposit account annual maintenance fee -- One hundred dollars (\$100). (7-1-93)
02. Reinsurance. (7-1-93)
- a. Filing and review for reinsurance only authorization -- One thousand dollars (\$1,000). (7-1-93)
- b. Filing annual or financial statement -- Three hundred sixty dollars (\$360). (7-1-93)
03. Annual License Renewal. Annual continuation of certificate of authority, license or registration: (7-1-93)
- a. Stock, mutual or reciprocal insurers -- One hundred fifty dollars (\$150). (7-1-93)
- b. County mutual insurers -- One hundred dollars (\$100). (7-1-93)
- c. Fraternal benefit societies -- One hundred fifty dollars (\$150). (7-1-93)
- d. Hospital and professional service corporations -- One hundred fifty dollars (\$150). (7-1-93)
- e. ~~Health maintenance~~ Managed care organizations -- One hundred fifty dollars (\$150). (7-1-93)( )
- f. ~~Motor clubs -- Two hundred dollars (\$200).~~ (7-1-93)
- gf. Risk Retention Groups -- Two hundred dollars (\$200). (7-1-93)
- hg. Purchasing Groups -- One hundred dollars (\$100). (7-1-93)
- i. ~~Withdrawal of Certificate of Authority -- Thirty dollars (\$30).~~ (7-1-94)
04. Annual Statement Filing. Filing annual or financial statement (other than as part of application for

- original authorization): (7-1-93)
- a. Stock, mutual or reciprocal insurers -- Three hundred seventy dollars (\$370). (7-1-94)
  - b. County mutual insurers -- One hundred ninety dollars (\$190). (7-1-94)
  - c. Fraternal benefit societies -- Four hundred eighty dollars (\$480). (7-1-94)
  - d. Hospital and professional service corporations -- Three hundred seventy dollars (\$370). (7-1-94)
  - e. ~~Health maintenance~~ Managed care organizations -- Three hundred seventy dollars (\$370). (7-1-94)( )
  - f. Reinsurance only insurers -- Three hundred seventy dollars (\$370). (7-1-94)
  - g. Hospital liability insurance trusts -- Three hundred seventy dollars (\$370). (7-1-94)
  - h. Self-funded health care plans -- Three hundred seventy dollars (\$370). (7-1-94)
  - i. Risk retention groups -- Three hundred seventy dollars (\$370). (7-1-94)
05. Reinstatement. Reinstatement of certificate of authority -- Two thousand five hundred dollars (\$2,500). (7-1-93)
06. Certified Copy. Certified copy of certificate of authority, license or registration -- Fifty dollars (\$50). (7-1-93)
07. Amendment. Amending certificate of authority -- One hundred ninety dollars (\$190). (7-1-94)
08. Reservation. Reservation of name -- Two hundred dollars (\$200). (7-1-93)
09. Articles of Incorporation. Filing and certifying amendment of charter or articles of incorporation -- Ninety dollars (\$90). (7-1-93)
10. Bylaws Amendment. Filing amendment to by-laws -- Ninety dollars (\$90). (7-1-93)
11. Rating Organization. Rating organization, triennial license fee -- Three hundred dollars (\$300). (7-1-93)
12. Solicitation Permit. Organization and financing of insurer: (7-1-93)
- a. Filing application for solicitation permit -- Nine hundred dollars (\$900). (7-1-97)
  - b. Issuance of solicitation permit -- One hundred eighty dollars (\$180). (7-1-93)
13. Miscellaneous. Miscellaneous services: (7-1-93)
- a. Director's certificate under seal (except certificate of authority, certified copies thereof or licenses) - Twenty dollars (\$20). (7-1-93)
  - b. For each copy of document filed in his office, a reasonable cost as fixed by the director. (7-1-93)
  - c. For valuing life insurance, actual cost of valuation but not to exceed one cent (\$.01) for each one thousand dollars (\$1,000) of insurance. (7-1-93)
  - d. For receiving and forwarding copy of summons or other process served upon the director as process agent of an insurer -- Thirty dollars (\$30). (7-1-93)

- e. For receiving and forwarding copy of summons or other process served upon the director as process agent of a nonresident agent, broker or consultant -- Ten dollars (\$10). (7-1-94)
- f. For letters of license verification for agents, brokers, and consultants -- Ten dollars (\$10). ( )
- 14. Review of Application. For filing and review of application to add or delete lines of business including variable authority -- Two hundred sixty dollars (\$260). (7-1-94)
- 15. Review of Miscellaneous Documents. File and review of miscellaneous documents. (7-1-93)
  - a. Reinsurance, acquisition and assumption agreements, registration statements, notice of Idaho Code Section 41-3807(2) transactions, extraordinary dividends, other -- Two hundred dollars (\$200). (7-1-93)
  - b. Documents filed pursuant to Chapter 47, Title 41, Idaho Code (Small Employee Health Insurance): (7-1-93)
  - i. Application to become a risk-assuming carrier -- One thousand five hundred dollars (\$1,500). (7-1-93)
  - ii. Application to change status from risk-assuming to reinsuring carrier -- Two hundred fifty dollars (\$250). (7-1-93)
  - iii. Annual filings of Board, pursuant to Idaho Code Section 41-4711(12) -- Three hundred dollars (\$300). (7-1-93)
- 16. Quarterly Filings. Quarterly statement filings -- Fifty dollars (\$50). (7-1-93)
- 17. Original License Application. Filing application for original license, and including issuance of license, if issued: (7-1-93)
  - a. Administrators -- Three hundred dollars (\$300). (7-1-97)
  - b. Agents: (7-1-93)
    - i. Life and/or disability insurance -- Ninety dollars (\$90). (7-1-97)
    - ii. Property and/or casualty (general lines) insurance -- Ninety dollars (\$90). (7-1-97)
    - iii. Motor vehicle physical damage insurance (only) -- Ninety dollars (\$90). (7-1-97)
    - iv. Transportation ticket-selling insurance (only) -- Ninety dollars (\$90). (7-1-97)
    - v. Credit life and credit disability insurance (only) -- Ninety dollars (\$90). (7-1-97)
    - vi. Credit property insurance (only) -- Ninety dollars (\$90). (7-1-97)
    - vii. Involuntary unemployment insurance (only) -- Ninety dollars (\$90). (7-1-97)
    - viii. Surety insurance (only) -- Ninety dollars (\$90). (7-1-97)
    - ix. Title insurance (only) -- Fifty dollars (\$50). (7-1-97)
    - x. ~~Motor Club (only) -- Ten dollars (\$10).~~ (7-1-97)
    - xi. Designation as a managing general agent -- One hundred ninety dollars (\$190). (7-1-97)

xii.	Variable annuity fee -- Sixty dollars (\$60).	(7-1-97)
c.	Adjusters -- Ninety dollars (\$90).	(7-1-97)
d.	Brokers:	(7-1-93)
i.	Life insurance -- Three hundred seventy dollars (\$370).	(7-1-97)
ii.	General lines insurance -- Three hundred seventy dollars (\$370).	(7-1-97)
e.	Consultants:	(7-1-93)
i.	Life insurance -- Three hundred seventy dollars (\$370).	(7-1-97)
ii.	General lines insurance -- Three hundred seventy dollars (\$370).	(7-1-97)
f.	Reinsurance intermediary -- Three hundred dollars (\$300).	(7-1-97)
<del>g.</del>	<del>Solicitors -- Ninety dollars (\$90).</del>	<del>(7-1-97)</del>
<del>hg.</del>	<del>Surplus lines brokers -- Ninety dollars (\$90).</del>	<del>(7-1-97)</del>
18.	Examination Fees. Application and/or Examination Fees:	(7-1-93)
a.	Agents, adjusters, brokers, solicitors -- application for examination and each time taken, other than as to variable contracts -- Sixty dollars (\$60).	(7-1-97)
b.	Consultants:	(7-1-94)
i.	Life and Disability - application and each time taken -- Ninety dollars (\$90).	(7-1-97)
ii.	Property and Casualty - application and each time taken -- Ninety dollars (\$90).	(7-1-97)
19.	Temporary License. Temporary license -- Ninety dollars (\$90).	(7-1-93)
20.	Vending Machines. Vending machines -- each machine annually -- Eighty dollars (\$80).	(7-1-93)
21.	Fingerprint Processing. Processing fingerprints, where required -- Sixty dollars (\$60).	(7-1-93)
22.	Original Appointment. Original appointment of each agent, each insurer -- Twenty dollars (\$20).	(7-1-97)
23.	License Renewal. Renewal or continuation of license, per license:	(7-1-93)
a.	Adjusters, agents, <del>solicitors</del> (biennial) -- Forty dollars (\$40).	<del>(7-1-97)</del> ( )
b.	Redesignation as managing general agent (annual) -- One hundred forty dollars (\$140).	(7-1-97)
c.	Administrators (annual) -- One hundred forty dollars (\$140).	(7-1-97)
d.	Brokers, consultants (biennial) -- Two hundred ninety dollars (\$290).	(7-1-97)
e.	Surplus lines brokers (biennial) -- Seventy dollars (\$70).	(7-1-97)
f.	Title agents (annual) -- Fifty dollars (\$50).	(7-1-97)
<del>g.</del>	<del>Motor Club agents (annual) -- Ten dollars (\$10).</del>	<del>(7-1-93)</del>

24. Appointment Renewal. Biennial continuation of appointment, each insurer -- Twenty dollars (\$20). (7-1-97)
25. Duplicate License. Duplicate license -- administrators, adjusters, agents, brokers, consultants, ~~solicitors~~ -- Fifty dollars (\$50). (~~7-1-97~~)( )
26. Publications. Publications: (7-1-93)
- a. Newsletter -- One dollar (\$1). (7-1-93)
- b. Annual Report -- Five dollars (\$5). (7-1-93)
27. Rates and Forms. Policy Forms and Rate Filings: Property, casualty, life, disability, credit life, credit disability, variable contract, surety, title, mortgage guaranty, and inland marine coverages: (7-1-93)
- a. Each policy form, certificate, endorsement, advertisement, rider or rate filing filed by an insurer -- Twenty dollars (\$20).  
Drafting Note: Forms and Rate filings filed by an insurer may only be used by the insurer making the filing. (7-1-93)
- b. Form, endorsement, rate or loss cost filing by a rating or advisory organization: Each filing: One hundred eighty dollars (\$180). (~~7-1-97~~)( )
28. Continuing Education. Filing continuing education applications for approval and certification of subjects of courses (each application) -- ~~Fifty~~ twenty-five dollars (~~\$250~~). (~~7-1-97~~)( )
29. Merger or Acquisition of Control. Fees to be paid by proposed acquiring party on merger or acquisition of control pursuant to Chapter 38, Title 41, Idaho Code: (7-1-93)
- a. Filing fee: Three thousand dollars (\$3,000). (7-1-93)
- b. Bond (pursuant to Section 41-3805(4), Idaho Code): Twenty-five thousand dollars (\$25,000). (7-1-93)
- c. Any additional reasonable expenses incurred in processing proposed merger or acquisition as required by Section 41-3805(4), Idaho Code (determined on a case by case basis). (7-1-93)
30. Small Employer Health Program. Administrative expenses incurred in implementing and approving Idaho small employer health reinsurance program and plan of operation. (7-1-93)
- a. Initial deposit for program setup, approval and processing: One thousand dollars (\$1,000). (7-1-93)
- b. Any additional reasonable expenses incurred in establishing and maintaining the program. (7-1-93)
31. Refunds. All fees, licenses and miscellaneous charges are non-refundable except as noted. (7-1-97)
32. Overpayments. Overpayments of published fees will be returned only when such overpayments exceed twenty dollars (\$20) or upon request of the payor. ( )

**IDAPA 18 - DEPARTMENT OF INSURANCE**  
**18.01.49 - FIRE PROTECTION SPRINKLER CONTRACTORS**  
**DOCKET NO. 18-0149-9801**

**NOTICE OF TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** These temporary rules are effective August 1, 1998 and January 1, 1999.

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule making. These rules are proposed pursuant to the authority vested in the Director of the Department of Insurance under Title 41, Chapter 2, Idaho Code and the State Fire Marshal under Section 41-254, Idaho Code.

**PUBLIC HEARING SCHEDULE:** 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 October 21, 1998.

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

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

Rules relating to Fire Protection Sprinkler Contractors are being amended to clarify existing requirements and add new requirements, including: a new definition of "Responsible Maintenance Employee"; clarification that the State Fire Marshal has the power to perform on site inspections of sprinkler systems to determine compliance with the rules; addition of new requirements for obtaining and continuing a fire protection sprinkler contractors license; an increase in the amount of required bonding and liability insurance for fire protection sprinkler contractors; clarification that detailed plans be submitted for all fire protection sprinkler jobs unless within a specified exception to the rule; a provision allowing the State Fire Marshal to grant a city or county exemption from the requirement that plans be submitted to the Fire Marshal for approval; and the requirement that after January 1, 2002 any fire protection sprinkler project requiring the installation of new piping be under the supervision of a licensed fitter.

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

Protection of the public health, safety and welfare.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning these proposed rules, contact Don McCoy, State Fire Marshal, at (208) 334-4370.

Anyone may submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before October 28, 1998.

Dated this 12th day of August, 1998.

Mary L. Hartung, Acting Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0149-9801**

**001. TITLE AND SCOPE.**

01. Purpose. The purpose of this rule is to assure the people of Idaho that fire sprinkler systems and their appurtenances are being installed and maintained by qualified persons and organizations that contract to sell, design, modify, install, service, or maintain such systems; to safeguard lives and property and protect the public interest; to require insurance, and bonding to register such persons and organizations; to establish regulation by the State Fire Marshal through the Department of Insurance; and to set penalties and fees for the administration of this rule. (7-1-93)

02. Persons Affected. This rule will affect any person, individual, partnership, joint venture, corporation, or any combination thereof, association, business trust or organized group of persons, who by himself or through others, offers to undertake, represents himself as being able to undertake, or does undertake contracting for the sale, design, installation, modification, alteration, repair, annual inspection, maintenance, or maintenance inspection of any fire protection sprinkler system or its appurtenances. (7-1-93)(8-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**004. DEFINITIONS.**

01. Fire Protection Sprinkler System. "Fire Protection Sprinkler System" means an integrated system of underground and overhead piping designed in accordance with fire protection engineering standards. This installation includes a water supply, such as a gravity tank, fire pump, reservoir or pressure tank and/or connection by underground piping to a water supply. The portion of the sprinkler system above ground is a network of specially sized, or hydraulically designed, piping installed in a building, structure or area, generally overhead, and to which sprinklers are connected in a systematic pattern. The system include a controlling valve and a device for actuating an alarm when the system is in operation. The system is usually activated by heat from a fire and discharges water over the fire area. (1-1-94)

02. Fire Protection Sprinkler Contractor. "Fire Protection Sprinkler Contractor" means those persons described in Subsection 001.02 of this rule who contract to install, repair, modify, inspect or maintain fire sprinkler systems. (1-1-94)(8-1-98)T

03. Fitters. "Fitters" means those persons who install and maintain fire sprinkler systems and who work under the supervision of a Fire Protection Sprinkler Contractor. (7-1-93)

04. Responsible Maintenance Employee. "Responsible Maintenance Employee (RME)" means any person who is employed by an owner of a premises that has a fire sprinkler system installed and who regularly inspects and maintains such system as follows: ~~Inspects and maintains fire sprinkler system as detailed in the maintenance checklist provided by the State Fire Marshal; said checklist will follow the guidelines of Pamphlet 13A, Repairs or replaces like for like items that require no modifications or additions, and does weekly and monthly checks per National Fire Protection Association NFPA Standard 25 entitled, "Inspection, Testing, and Maintenance of Sprinkler Systems. Water Based Fire Protection Systems". Record keeping shall be done on the proper forms.~~ (7-1-93)(8-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**011. POWERS AND DUTIES OF THE STATE FIRE MARSHAL.**

In addition to the powers and duties prescribed in this rule, the State Fire Marshal shall: (7-1-93)



01. Assistants, Inspectors and Other Employees. Appoint an adequate number of assistants, inspectors and other employees that may be necessary to carry out the provisions of this rule, prescribe their duties, and fix their compensation within the amount appropriated. (7-1-93)

02. Licensing Procedures. Establish procedures for licensing of fire protection sprinkler contractors and fitters, set forth the form and content of applications, and investigate and examine all applicants as to their qualifications and fitness for such licensing. (7-1-93)

03. Inspections. Perform on site inspections as necessary to determine compliance with the provisions of this rule. (8-1-98)T

~~034.~~ Records. Keep records of all licenses issued, suspended or revoked. (1-1-94)

~~045.~~ Suspension or Revocation of License. Suspend or revoke any license for any cause prescribed by this rule, and refuse to grant any license for any cause which would be grounds for revocation or suspension. (7-1-93)

~~056.~~ Examinations. Prepare, administer, and grade such applicable examinations and tests for applicants as may be required for the purposes of this rule, and determine the score that shall be deemed a passing score. (7-1-93)

~~067.~~ Fees. Collect fees, including applications, testing, licensing, renewals, and duplication fees from the applicants, and license holders for the purpose of administering and funding this rule. (7-1-93)

~~078.~~ Advisory Board. Appoint an advisory board consisting of ~~six~~ seven (~~67~~) members whose duties shall be to advise and counsel the State Fire Marshal on matters contained in this rule. ~~One (1) or more~~ Representatives from each of the following professions or occupations shall be appointed to the board: ~~(1-1-94)~~(8-1-98)T

a. Architect. (1-1-94)

b. Mechanical Engineer. (1-1-94)

c. Fire Service Official. (1-1-94)

d. General Contractor. (1-1-94)

e. Licensed Fire Sprinkler Contractor - ~~Two~~ Three (~~23~~). ~~(1-1-94)~~(8-1-98)T

f. The terms of the members of the board first appointed shall expire as follows: ~~three~~ four (~~34~~) members two (2) years later, three (3) members three (3) years later. Thereafter, appointments shall be for three (3) years. At its first meeting of every calendar year the board shall elect a president from its members, ~~and a secretary who may or may not be a member of the board.~~ Members of the board shall serve without compensation. The ~~staff of the office of the State Fire Marshal~~ shall provide a secretary and such assistance as the board may require. ~~(1-1-94)~~(8-1-98)T

**012. QUALIFICATIONS FOR CONTRACTORS LICENSE.**

Applicants seeking registration to obtain licenses as fire protection sprinkler contractors shall meet the following minimum qualifications: (7-1-93)

01. ~~Owner, Officer or Manager. The applicant shall be an owner, officer or manager of his company, corporation, partnership or proprietorship.~~ Applicant. The applicant must be or have in his or her full time employ a competent person who has: (7-1-93)(8-1-98)T

a. Satisfactorily passed an examination prescribed by the Idaho State Fire Marshal; and (8-1-98)T

b. Successfully attained a Level III Certification in Automatic Sprinkler System Design from the National Institute for Certification in Engineering Technologies or equivalent. Certification shall be maintained as required by the credentialing agency, including all required continuing education. (8-1-98)T

02. Examination, Education or Experience. The applicant must: (7-1-93)

a. ~~Satisfactorily pass an examination prescribed by the State Fire Marshal and provide proof to the effect that the applicant has supervised or installed at least four (4) fire sprinkler systems of more than two hundred (200) heads each (complete with name, description and location of each), or~~ (1-1-94)

b. ~~Provide proof of successful attainment of Level III Certification in fire protection, Automatic Sprinkler System Design from the National Institute for Certification in Engineering Technologies or equivalent.~~ (1-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**014. LICENSE, DISPLAY, RENEWALS, DUPLICATES, APPLICATIONS.**

01. Time Period. All licenses shall be valid for a period of not longer than one (1) year and shall expire on the 31st day of December of each year, regardless of the month issued. (7-1-93)

02. Posting of License. Each license issued pursuant to this rule shall be posted in a conspicuous place in the contractor's place of business. (7-1-93)

03. Renewal. Any license which has not been suspended or revoked may, upon payment of the renewal fees prescribed, and providing proof of current bond, insurance certificate and where applicable level III certification continuation, be renewed for an additional period of one (1) year from its expiration upon filing an application for such renewal on such forms as are prescribed by the State Fire Marshal. Any applicant who does not have a National Institute for Certification in Engineering Technologies Level III certified person as an employee, as per Subsection 012.01, shall not be eligible for renewal after December 31, 2002. (7-1-93)(8-1-98)T

04. Duplicate License. A duplicate license may be issued for one lost, destroyed, or mutilated upon application for such a form prescribed by the State Fire Marshal and the payment of the fee prescribed. Each such duplicate license shall have the word "duplicate" stamped across the face thereof and shall bear the same number as the one it replaced. (7-1-93)

05. Bids Shall Bear License Number. All written bids, proposals and offers, and all shop and field installation drawings shall bear the contractor's license number. (7-1-93)

06. Forms and Fees. Application for a license must be made on forms prescribed by the State Fire Marshal. Each application must be accompanied by the required fee. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**016. FINANCIAL RESPONSIBILITY.**

01. Bonding. (7-1-93)

a. The State Fire Marshal shall require each applicant, individual or corporation who is a contractor to put up a license bond in an amount not less than ~~two~~ ten thousand dollars (\$~~2~~10,000) in favor of the state of Idaho by a surety company authorized to do business in the state of Idaho as a surety. (7-1-93)(1-1-99)T

b. The bond shall remain in full force until released by the State Fire Marshal, or until canceled by the surety. Without prejudice to liability previously incurred thereunder, the surety may cancel the bond upon thirty (30) days advance notice to both the contractor and the State Fire Marshal. (7-1-93)

c. Evidence of such bond shall be filed at time of application and renewal with the State Fire Marshal's Office. (8-1-98)T

02. Insurance. Prior to issuance of a license as a fire protection sprinkler contractor, the applicant shall obtain and maintain at all times in full force and effect a full term comprehensive general liability insurance policy from an insurance company authorized to do business in the state of Idaho, which policy shall have aggregate limits of not less than ~~two hundred fifty thousand~~ one million dollars (\$~~251,000,000~~) and including the following: (7-1-93)(1-1-99)T

a. Comprehensive Form. (7-1-93)

b. Premises Operations. (7-1-93)

c. Products/Completed Operations Hazard. (7-1-93)

d. Contractual Insurance. (7-1-93)

e. Broad Form Property Damage. (7-1-93)

f. Independent Contractors. (7-1-93)

g. Personal Injury. (1-1-94)

h. Evidence of such insurance ~~should~~ shall be filed at time of application and renewal with the State Fire Marshall's Office. (1-1-94)(8-1-98)T

i. Written notice shall be given to the State Fire Marshal at least thirty (30) days prior to cancellation of any policy required by this section. (8-1-98)T

**017. REVOCATION, SUSPENSION, AND NON-RENEWAL OF LICENSE.**

01. Causes for Revocation, Suspension, or Refusal to Renew License. The State Fire Marshal may revoke any license issued hereunder, or suspend the right of the license holder to use such license, or refuse to renew any such license for any of the following causes: (7-1-93)

a. Fraud, bad faith, misrepresentation, or bribery, either in securing a license or in the conduct of business under a license. (7-1-93)

b. The making of any false statement as to a material matter in any application for license. (7-1-93)

c. Failure by the contractor to perform his contract with the property owner. (7-1-93)

d. The manipulation of assets or of any accounts covering the subject matter of this rule, or by fraud or bad faith. (7-1-93)

e. Failure to display the license as provided in Subsection 013.02 of this rule. (7-1-93)

f. Failure to secure or maintain ~~workmen's~~ worker's compensation insurance when not authorized to act as a self-insurer. (7-1-93)(8-1-98)T

g. Knowingly entering into a contract with an unregistered contractor involving the performance of work or activity which requires a license under this rule. (7-1-93)

- h. The licensee has pled guilty to, or was found guilty of, a felony. (1-1-94)
- i. Should the licensed person, required by Subsection 012.01, leave the company. (8-1-98)T
- ij. Violation of any provision of this rule. (7-1-93)
- 02. Length of Suspension. No license shall be suspended for longer than two (2) years. (7-1-93)
- 03. Eligibility to Reapply After Revocation. No person whose license is revoked shall be eligible to apply for a new license until the expiration of two (2) years. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**019. APPROVED EQUIPMENT AND MATERIALS.**

No component or devices of an automatic fire sprinkler system may be sold, leased, or installed in this state unless it has been approved, labeled, or listed by Underwriters Laboratories, Inc., Underwriters Laboratories of Canada, Factory Mutual Laboratories, or other testing laboratories approved by the State Fire Marshal as qualified to test such component or device. (7-1-93)

01. Sprinklers. Only new standard commercial or other listed sprinklers may be employed in the installation of a sprinkler system. (7-1-93)

02. Minimum Requirements. Automatic fire sprinkler systems installed in the State shall meet the minimum requirements of all appropriate NFPA standards, but may exceed these minimums. Partial installations required for compliance with fire and life safety codes must be approved by the local fire department or the State Fire Marshal. ~~(7-1-93)~~(8-1-98)T

**020. SERVICE EVIDENCE.**

01. Submission of Plans. Where automatic fire sprinkler systems are installed, the installer shall complete the contractor's material and test certificates for aboveground and underground piping in accordance with NFPA ~~12-1-10-1~~ 13 and NFPA 24. All systems must be under the supervision of a contractor or a R.M.E. These persons shall cause proper tests and inspections to be made at prescribed intervals and must have general charge of all alterations and additions to the systems under their supervision. ~~(7-1-93)~~(8-1-98)T

02. Conformance to Standards. A service tag conforming to the requirements of this chapter shall be attached to all systems. (7-1-93)

**021. DESIGN REQUIREMENTS.**

01. Submission of Plans. Detailed plans in accordance with applicable NFPA standards and the adopted edition of the Uniform Fire Code must be submitted for all jobs, by ~~a~~ the licensed contractor responsible for the installation, for approval to the local fire department and to the State Fire Marshal. Exception: A modification of ten (10) heads or less in an area of less than two thousand five hundred (2500) square feet, when the modification has no effect on the hydraulic calculations of the existing system. ~~(7-1-93)~~(8-1-98)T

02. Conformance to Standards. The specifications must state that the installation will conform to the applicable standards listed in this rule and be approved by the local fire department and the State Fire Marshal. (7-1-93)

03. Tests. The specifications must include the specific tests required to meet the standards for approval of the local fire department and the State Fire Marshal. (7-1-93)

04. Scale. Plans must be drawn to an indicated scale or be suitably dimensioned, and must be made so

that they can be easily reproduced. (7-1-93)

05. Detail. Plans must contain sufficient detail to evaluate the effectiveness of the system. (7-1-93)

06. Prior Approval of Plans. Plans must be submitted to the State Fire Marshal and the local fire department and approved, before work starts. Work may start prior to final plans submitted based on conceptual drawings if approved by the local fire department and the State Fire Marshal. A plans review fee of two dollars (\$2) per sprinkler head up to one thousand (1000) heads (maximum two thousand dollars (\$2,000)) or one hundred dollars (\$100) if less than fifty (50) sprinkler heads or one percent (1%) of the total bid price (whichever is larger) up to the maximum of two thousand dollars (\$2,000) or the minimum of one hundred dollars (\$100). The applicable fee must accompany the plans sent to the State Fire Marshal. Two (2) sprinkler heads on an arm-over will be considered as one (1) sprinkler head for fee purposes. (7-1-93)

07. Corrected Plans. Where field conditions necessitate any substantial change from the approved plan, the corrected plan showing the system as installed must be submitted to the local fire department and the State Fire Marshal for approval. (7-1-93)

08. Exemption. A City or County may request, and the State Fire Marshal may grant, an exemption from the requirements of this section that plans be submitted to the State Fire Marshal for review and approval. A request for exemption shall be made in writing signed by the Fire Chief, his designated representative or elected local official and shall set forth the reasons for the request. If the State Fire Marshal determines the request is justified, the requesting party will be provided a written notice of exemption. The exemption will continue until terminated by the State Fire Marshal. Any such exemption shall not apply to plans or inspections relating to structures owned, leased or controlled by the state or any state agency. (8-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**023. FITTERS.**

Effective January 1, 2002, any project that requires the installation of new piping shall be under the direct supervision of a licensed fitter. All fitters, as described in Subsection 004.03 may be licensed under this rule as follows: (7-1-93)(8-1-98)T

01. Examination. Show proof by affidavit signed by a licensed fire protection sprinkler contractor that he has worked as a fitter for at least one thousand five hundred (1,0500) hours per year for three (3) consecutive years and then take and pass a written examination given by the State Fire Marshal, and pay the appropriate fee. (7-1-93)(8-1-98)T

02. Fees. The State Fire Marshal shall collect in advance fees, license fees and miscellaneous charges as follows: (7-1-93)

a. Examination Fee - Twenty five dollars (\$25). (7-1-93)

b. Original License Fee - Fifty dollars (\$50). (7-1-93)

c. Annual License Renewal Fee - Twenty five dollars (\$25). (7-1-93)

d. Duplicate License Fee - Ten dollars (\$10). (7-1-93)

e. All license fees collected shall be deposited to the Arson, Fire, and Fraud Prevention Account as per Section 41-268(d), Idaho Code. No examination will be taken or license issued pursuant to this rule until the appropriate fees, as listed above, are paid. Examination fees, when paid, are earned and are not subject to refund. (7-1-93)

03. Period of Time. No fitters license shall be valid for a period of longer than one (1) year and shall

expire on the 31st day of December of each year regardless of the month issued. (7-1-93)

04. Renewal. Any license which has not been suspended or revoked may, upon payment of the renewal fee prescribed, be renewed for an additional period of one (1) year from its expiration upon filing an application for such renewal on such form as is prescribed by the State Fire Marshal. (7-1-93)

05. Duplicate License. A duplicate license may be issued for one lost, destroyed, or mutilated upon application for such on a form to be prescribed by the State Fire Marshal, and the payment of the fee prescribed. Each such duplicate license shall have the word "duplicate" stamped across the face thereof and shall bear the same number as the one it replaced. (7-1-93)

**IDAPA 18 - DEPARTMENT OF INSURANCE**  
**18.01.62 - ANNUAL AUDITED FINANCIAL REPORTS**  
**DOCKET NO. 18-0162-9801**  
**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule making. These rules are proposed pursuant to the authority vested in the Director of the Department of Insurance under Title 41, Chapter 2, Idaho Code.

**PUBLIC HEARING SCHEDULE:** 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 October 21, 1998.

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

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

The rule is being amended to define "Certified Public Accountant," to replace references to "health maintenance organizations" with "managed care organizations," to provide for use of the NAIC accounting practices manual, to require that the Report on Significant Deficiencies in Internal Controls be filed annually at the same time as the audited financial report and to make technical corrections.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning these proposed rules, contact Robert Murphy at (208) 334-4250.

Anyone may submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before October 28, 1998.

Dated this 12th day of August, 1998.

Mary L. Hartung, Acting Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720, Boise, ID 83720-0043  
Telephone No. (208) 334-4250

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0162-9801**

**001. TITLE AND SCOPE.**

The purpose of this rule is to improve the Idaho Insurance Department's surveillance of the financial condition of insurers by requiring an annual examination by independent certified public accountants of the financial statements reporting the financial position and the results of operations of insurers. Every insurer as defined in Section 004 shall be subject to this rule chapter. Insurers having direct premiums written in this state of less than one million dollars (\$1,000,000) in any calendar year and less than one thousand (1,000) policyholders or certificate holders of directly written policies nationwide at the end of such calendar year shall be exempt from this rule for such year (unless the director makes a specific finding that compliance is necessary for the director to carry out statutory responsibilities) except that insurers having assumed premiums pursuant to contracts and/or treaties of reinsurance of one million dollars (\$1,000,000) or more will not be so exempt. Foreign or alien insurers filing audited financial reports in another state, pursuant to such other state's requirement of audited financial reports which has been found by the director to be

substantially similar to the requirements herein, are exempt from this rule if: (7-1-93)

01. Filing of Audited Financial Report, Report on Significant Deficiencies in Internal ~~Qualifications~~ Controls, and Accountant's Letter of Qualification. A copy of the Audited Financial Report, Report on Significant Deficiencies in Internal Controls, and the Accountant's Letter of Qualifications which are filed with such other state are filed with the Director in accordance with the filing dates specified in Sections 011, 018, and 019 respectively (Canadian insurers may submit accountants' reports as filed with the Canadian Dominion Department of Insurance). (7-1-93)(    )

02. Filing of Notification of Adverse Financial Condition Report. A copy of any Notification of Adverse Financial Condition Report filed with such other state is filed with the director within the time specified in Section 017. This rule chapter shall not prohibit, preclude or in any way limit the Director of Insurance from ordering, conducting and/or performing examinations of insurers pursuant to the provisions of Title 41 of the Idaho Code and the rules and of the Idaho Department of Insurance and the practices and procedures of the Idaho Department of Insurance. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**004. DEFINITIONS.**

01. Audited Financial Report. "Audited financial report" means and includes those items specified in Section 012 of this chapter. (7-1-93)

02. Accountant and Independent Certified Public Accountant. "Accountant" and "Independent Certified Public Accountant" means ~~person or firm meeting the qualifications delineated in Section 014 an independent certified public accountant or accounting firm in good standing with the American Institute of CPAs and in all states in which they are licensed to practice; for Canadian and British companies, it means a Canadian-chartered or British-chartered accountant.~~ (7-1-93)(    )

03. Insurer. "Insurer" means a licensed insurer as defined in Section 41-110, Idaho Code; hospital and professional service corporations as defined in Chapter 34, Title 41, Idaho Code; hospital liability trusts as defined in Chapter 37, Title 41, Idaho Code; ~~health maintenance managed care~~ organizations as defined in Chapter 39, Title 41, Idaho Code; self-funded health care plans as defined in Chapter 40, Title 41, Idaho Code; county mutuals as defined in Chapter 31, Title 41, Idaho Code; reciprocal insurers as defined in Chapter 29, Title 41, Idaho Code; fraternal benefit societies as defined in Chapter 31, Title 41, Idaho Code; and authorized/accredited reinsurers as defined in Section 41-514(b), Idaho Code. (7-1-93)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**012. CONTENTS OF ANNUAL AUDITED FINANCIAL REPORT.**

The Annual Audited Financial Report shall report the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flows and changes in capital and surplus for the year then ended in conformity with statutory accounting practices prescribed, or otherwise permitted, by the Department of Insurance of the state of domicile. The annual Audited Financial Report shall include the following: (7-1-93)

01. Report of Certified Public Accountant. Report of independent certified public accountant; (7-1-93)
02. Balance Sheet. Balance sheet reporting admitted assets, liabilities, capital and surplus; (7-1-93)
03. Statement of Operations. Statement of operations; (7-1-93)
04. Statement of Cash Flows. Statement of cash flows; (7-1-93)



05. Statement of Changes in Capital and Surplus. Statement of changes in capital and surplus; (7-1-93)

06. Notes to Financial Statements. These notes shall be those required by the appropriate NAIC Annual Statement Instructions and NAIC Accounting Practices and Procedures Manual. ~~any other notes required by generally accepted accounting principles~~ The notes shall also include: a reconciliation of differences, if any, between the audited statutory financial statements and the Annual Statement filed pursuant to Section 41-335, Idaho Code, or other applicable section of Idaho Code with a written description of the nature of these differences. (7-1-93)(\_\_\_\_)

~~a. A reconciliation of differences, if any, between the audited statutory financial statements and the Annual Statement filed pursuant to Section 41-335, Idaho Code, with a written description of the nature of these differences.— (7-1-93)~~

~~b. A summary of ownership and relationships of the insurer and all affiliated companies. (7-1-93)~~

07. Form of Financial Statements. The financial statements included in the Audited Financial Report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the Annual Statement of the insurer filed with the director, and the financial statement shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. (However, in the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted.) (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**014. QUALIFICATIONS OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.**

01. In Good Standing. The Director shall not recognize any person or firm as a qualified independent certified public accountant that is not in good standing with the American Institute of CPAs and in all states in which the accountant is licensed to practice, or, for a Canadian or British company, that is not a chartered accountant. (7-1-93)

02. Conformance With Ethical and Professional Standards. Except as otherwise provided herein, an independent certified public accountant shall be recognized as qualified as long as he or she conforms to the standards of his or her profession, as contained in the Code of Professional Ethics of the American Institute of Certified Public Accountants and Rules and Regulations and Code of Ethics and Rules of Professional Conduct of the Idaho Board of Public Accountancy, or similar code. (7-1-93)

03. Capacity to Render Report for Consecutive Years. No partner or other person responsible for rendering a report may act in the capacity for more than seven (7) consecutive years. Following ~~any~~ period of service such person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of two (2) years. An insurer may make application to the Director for relief from the above rotation requirement on the basis of unusual circumstances. The Director may consider the following factors in determining if the relief should be granted: (7-1-93)(\_\_\_\_)

a. Number of partners, expertise of the partners or the number of insurance clients in the currently registered firm; (7-1-93)

b. Premium volume of the insurer; or (7-1-93)

c. Number of jurisdictions in which the insurer transacts business. The requirements of Subsection 014.03 shall become effective two (2) years after the enactment of this rule chapter. (7-1-93)

04. Grounds for Not Recognizing as Qualified. The director shall not recognize as a qualified independent certified public accountant, nor accept any annual Audited Financial Report, prepared in whole or in part

by, any natural person who: (7-1-93)

a. Has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. Sections 1961-1968, or any dishonest conduct or practices under federal or state law; (7-1-93)( )

b. Has been found to have violated the insurance laws of this state with respect to any previous reports submitted under this rule; or (7-1-93)

c. Has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of this rule. (7-1-93)

05. Hearings. The director of Insurance may, as provided in Chapter 52, Title 67 and Chapter 2, Title 41, Idaho Code, hold a hearing to determine whether a certified public accountant is qualified and, considering the evidence presented, may rule that the accountant is not qualified for purposes of expressing his opinion on the financial statements in the annual Audited Financial Report made pursuant to this rule and require the insurer to replace the accountant with another whose relationship with the insurer is qualified within the meaning of this rule chapter. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**017. NOTIFICATION OF ADVERSE FINANCIAL CONDITION.**

An insurer required to furnish an annual Audited Financial Report shall require the independent certified public accountant to report, in writing, within five (5) business days to the board of directors or its audit committee any determination by the independent certified public accountant that the insurer has materially misstated its financial condition as reported to the director as of the balance sheet date currently under examination or that the insurer does not meet the minimum capital and surplus requirements of the Idaho Insurance Statute as of that date. An insurer who has received a report pursuant to this paragraph shall forward a copy of the report to the Director within five (5) business days of receipt of such report and shall provide the independent certified public accountant making the report with evidence of the report being furnished to the Director. If the independent certified public accountant fails to receive such evidence within the required five (5) business day period, the independent certified public accountant shall furnish to the Director a copy of its report within the next five (5) business days. No independent public accountant shall be liable in any manner to any person for any statement made in connection with the above Section 017 paragraph if such statement is made in good faith in compliance with the above Section 017 paragraph. If the accountant, subsequent to the date of the Audited Financial Report filed pursuant to this rule, becomes aware of facts which might have affected his report, the Department notes the obligation of the accountant to take action as prescribed in Volume 1, Section AU 561 of the Professional Standards of the American Institute of Certified Public Accountants. (7-1-93)( )

**018. REPORT ON SIGNIFICANT DEFICIENCIES IN INTERNAL CONTROLS.**

In addition to the annual audited financial statements, each insurer shall furnish the director with a written report prepared by the accountant describing significant deficiencies in the insurer's internal control structure noted by the accountant during the audit. SAS No. 60, Communication of Internal Control Structure Matters Noted in An Audit (AU Section 325 of the Professional Standards of the American Institute of Certified Public Accountants) requires an accountant to communicate significant deficiencies (known as "reportable conditions") noted during a financial statement audit to the appropriate parties within an entity. ~~No A "none" report should be issued if the accountant does not identify significant deficiencies. If significant deficiencies are noted, the written report shall be filed annually by the insurer with the Department within sixty (60) days after the filing of the annual audited financial statements. The Report on Significant Deficiencies in Internal Controls is to be filed with the Audited Financial Report.~~ The insurer is required to provide a description of the remedial actions taken or proposed to correct significant deficiencies, if such actions are not described in the accountant's report. (7-1-93)( )

**019. ACCOUNTANT'S LETTER OF QUALIFICATION.**

The accountant shall furnish the insurer in connection with, and for inclusion in, the filing of the annual audited

financial report, a letter stating:

(7-1-93)

01. Independence. That the accountant is independent with respect to the insurer and conforms to the standards of his or her profession as contained in the Code of Professional Ethics and pronouncements of the American Institute of Certified Public Accountants and the Rules of Professional Conduct of the Idaho Board of Public Accountancy, or similar code.

(7-1-93)

02. Background and Experience. The background and experience in general, and the experience in audits of insurers of the staff assigned to the engagement and whether each is an independent certified public accountant. Nothing within this rule shall be construed as prohibiting the accountant from utilizing such staff as he or she deems appropriate where use is consistent with the standards prescribed by generally accepted auditing standards.

(7-1-93)

03. Compliance with Rule. That the accountant understands the annual audited financial report and his opinion thereon will be filed in compliance with this rule and that the director will be relying on this information in the monitoring and ~~rule~~ regulation of the financial position of insurers.

(7-1-93)(    )

04. Consent to Requirements of Section 020. That the accountant consents to the requirements of Section 020 of this rule and that the accountant consents and agrees to make available for review by the Director, his designee or his appointed agent, the work papers, as defined in Section 020.

(7-1-93)

05. Properly Licensed. A representation that the accountant is properly licensed by an appropriate state licensing authority and is a member in good standing in the American Institute of Certified Public Accountants.

(7-1-93)

06. Compliance with Section 014. A representation that the accountant is in compliance with the requirements of Section 014 of this rule.

(7-1-93)

**020. DEFINITION, AVAILABILITY AND MAINTENANCE OF CPA WORK PAPERS.**

Work papers are the records kept by the independent certified public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to his examination of the financial statements of an insurer. Work papers, accordingly, may include audit planning documentation, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of his examination of the financial statements of an insurer and which support his opinion thereof. Every insurer required to file an Audited Financial Report pursuant to this rule, shall require the accountant to make available for review by the Department examiners, all work papers prepared in the conduct of ~~this~~ the accountant's examination and any communications related to the audit between the accountant and the insurer, at the office of the insurer, at the Insurance Department or at any other reasonable place designated by the director. The insurer shall require that the accountant retain the audit work papers and communications until the Insurance Department has filed a Report on Examination covering the period of the audit but no longer than seven (7) years from the date of the audit report. In the conduct of the aforementioned periodic review by the Department examiners, it shall be agreed that photocopies of pertinent audit work papers may be made and retained by the Department. Such reviews by the Department examiners shall be considered investigations and all working papers and communications obtained during the course of such investigations shall be afforded the same confidentiality as other investigative work papers generated by the Department.

(7-1-93)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**023. SEVERABILITY PROVISION.**

If any section or portion of a section of this rule chapter or the applicability thereof to any person or circumstances is held invalid by a court, the remainder of the rule chapter or the applicability of such provision to other persons or circumstances shall not be affected thereby.

(7-1-93)(    )

**IDAPA 18 - DEPARTMENT OF INSURANCE**  
**18.01.75 - CREDIT FOR REINSURANCE RULES**  
**DOCKET NO. 18-0175-9801**  
**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule making. These rules are proposed pursuant to the authority vested in the Director of the Department of Insurance under Title 41, Chapter 2, Idaho Code.

**PUBLIC HEARING SCHEDULE:** 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 October 21, 1998.

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

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

The rule is being amended to require that insurers seeking to become accredited reinsurers in Idaho must file an application with the Department of Insurance on forms and in the format as provided by the Director and receive written notice of accreditation, and to make technical corrections.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning these proposed rules, contact Robert Murphy at (208) 334-4250.

Anyone may submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before October 28, 1998.

Dated this 12th day of August, 1998.

Mary L. Hartung, Acting Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0175-9801**

**001. TITLE AND SCOPE.**

01. Title. These rules shall be cited as Rules of the Department of Insurance, IDAPA 18.01.75, "Credit for Reinsurance Provision Rules;" ~~of the Idaho Department of Insurance, IDAPA 18.01.75, "Credit for Reinsurance Provisions Rules".~~ ( )

02. Scope. The purpose of this rule is to set forth rules and procedural requirements which the director deems necessary to carry out the Credit for Reinsurance provision, Section 41-514, Idaho Code. The actions and information required by this rule are hereby declared to be necessary and appropriate in the public interest and for the protection of the ceding insurers in this state. (7-1-96)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**021. CREDIT FOR REINSURANCE -- ACCREDITED REINSURERS.**

01. Accredited Reinsurers. Pursuant to Idaho Code, Section 41-514(1)(b), the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which is accredited as a reinsurer in this state as of the date of the ceding insurer's statutory financial statement. An accredited reinsurer is one which:(7-1-96)

a. ~~Files a properly executed Form AR-1 (attached as an exhibit to this rule) as evidence of its submission to this state's jurisdiction and to this state's authority to examine its books and records;~~ (7-1-96)

b. ~~Files with the director a certified copy of a letter or a certificate of authority or of compliance as evidence that it is licensed to transact insurance or reinsurance in at least one (1) state, or, in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one (1) state~~ Has filed with the Idaho Department of Insurance an application to act as an accredited reinsurer in this state, on forms and in the format provided by the director and received written notice of accreditation by the department; (7-1-96)( )

c. Files annually with the director a copy of its annual statement filed with the insurance department of its state of domicile or, in the case of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, and a copy of its most recent audited financial statement; and (7-1-96)

d. Maintains a surplus as regards policyholders in an amount not less than twenty million dollars (\$20,000,000) and whose accreditation has not been denied by the director within ninety (90) days of its submission or, in the case of companies with a surplus as regards policyholders of less than twenty million dollars (\$20,000,000), whose accreditation has been approved by the director. (7-1-96)

02. Denial of Accreditation. If the director determines that the assuming insurer has failed to meet or maintain any of these qualifications, he may upon written notice and hearing revoke the accreditation. No credit shall be allowed a domestic ceding insurer with respect to reinsurance ceded after 9/1/97 if the assuming insurer's accreditation has been denied or revoked by the director after notice and hearing. (7-1-96)

**(BREAK IN CONTINUITY OF SECTIONS)**

**061. REDUCTION FROM LIABILITY FOR REINSURANCE CEDED TO AN UNAUTHORIZED ASSUMING INSURER.**

Pursuant to Section 41-514(2), Idaho Code, the director shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Idaho Code, Section 41-514(1) in an amount not exceeding the liabilities carried by the ceding insurer. Such reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder. Such security must be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution as defined in Idaho Code, Section 41-514(4). This security may be in the form of any of the following: (7-1-96)

01. Cash. (7-1-96)

02. Securities. Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners and qualifying as admitted assets. (7-1-96)

03. Letters of Credit. Clean, irrevocable, unconditional and "evergreen" letters of credit issued or confirmed by a qualified United States institution, as defined in Idaho Code, Section 41-514(3), effective no later than

December 31 of the year for which filing is being made, and in the possession of the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs. (7-1-96)

04. Any Other Form of Security Acceptable to The Director. (7-1-96)

05. Other Provisions Applicable. An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to ~~Subsections 061.01, 061.02, and 061.03~~ Section 061 shall be allowed only when the requirements of Sections 101 and the applicable portions of Sections 071, 074, 075, 076, 081, or and 091 of this rule are met. (7-1-96)(\_\_\_\_)

~~062. – 07069.~~ (RESERVED).

**0740. TRUST AGREEMENTS QUALIFIED UNDER ~~SECTION 061~~ IDAPA 18.01.75.**

**071. BENEFICIARY.**

Beneficiary means the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator). (7-1-96)

~~072. – 080.~~ (RESERVED).

**072. GRANTOR.**

Grantor means the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer. (7-1-96)

**073. OBLIGATIONS.**

Obligations, as used in ~~Subsection 071.04.k.,~~ IDAPA 18.01.75, "Credit For Reinsurance Rules," means: (7-1-96)(\_\_\_\_)

~~a~~01. Losses Paid But Not Recovered. Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer; (7-1-96)(\_\_\_\_)

~~b~~02. Reserves for Reinsured Losses Reported and Outstanding; (7-1-96)

~~e~~03. Reserves for Reinsured Losses Incurred but not Reported; and (7-1-96)

~~d~~04. Reserves for Allocated Reinsured Loss Expenses and Unearned Premiums. (7-1-96)

**074. REQUIRED CONDITIONS.**

~~a~~01. Who Shall Enter the Agreement. The trust agreement shall be entered into between the beneficiary, the grantor and a trustee which shall be a qualified United States financial institution as defined in Idaho Code, Section 41-514(4). (7-1-96)(\_\_\_\_)

~~b~~02. Trust Account. The trust agreement shall create a trust account into which assets shall be deposited. (7-1-96)(\_\_\_\_)

~~e~~03. Who Shall Hold Assets in Trust Account. All assets in the trust account shall be held by the trustee at the trustee's office in the United States, except that a bank may apply for the director's permission to use a foreign branch office of such bank as trustee for trust agreements established pursuant to this section. If the director approves the use of such foreign branch office as trustee, then its use must be approved by the beneficiary in writing and the trust agreement must provide that the written notice described in ~~Subsection 071.04.d.i.~~ 074.04.d. must also be presentable, as a matter of legal right, at the trustee's principal office in the United States. (7-1-96)(\_\_\_\_)

- ~~¶04.~~ Provisions of Trust Agreement. The Trust Agreement shall provide that: (7-1-96)(\_\_\_\_)
- ~~i~~a. The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee; (7-1-96)
- ~~ii~~b. No other statement or document is required to be presented in order to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets; (7-1-96)
- ~~iii~~c. It is not subject to any conditions or qualifications outside of the trust agreement; and (7-1-96)
- ~~iv~~d. It shall not contain references to any other agreements or documents except as provided for under Subsection ~~071.04.k~~ 074.11. (7-1-96)(\_\_\_\_)
- ~~e~~05. Sole Benefit of Beneficiary. The Trust Agreement shall be established for the sole benefit of the beneficiary. (7-1-96)(\_\_\_\_)
- ~~¶06.~~ Required of Trustee. The Trust Agreement shall require the trustee to: (7-1-96)(\_\_\_\_)
- ~~i~~a. Receive assets and hold all assets in a safe place; (7-1-96)
- ~~ii~~b. Determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person or entity; (7-1-96)
- ~~iii~~c. Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter; (7-1-96)
- ~~iv~~d. Notify the grantor and the beneficiary within ten (10) days, of any deposits to or withdrawals from the trust account; (7-1-96)
- ~~v~~e. Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary; and (7-1-96)
- ~~vi~~f. Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account. (7-1-96)
- ~~¶07.~~ Written Notification of Termination. The trust agreement shall provide that at least thirty (30) days, but not more than forty-five (45) days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary. (7-1-96)(\_\_\_\_)
- ~~¶08.~~ Subject to Laws of State in Which Trust is Established. The trust agreement shall be made subject to and governed by the laws of the state in which the trust is established. (7-1-96)(\_\_\_\_)
- ~~¶09.~~ Prohibit Invasion of Trust Corpus. The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying compensation to, or reimbursing the expenses of, the trustee. (7-1-96)(\_\_\_\_)
- ~~¶10.~~ Trustee Shall Be Liable. The trust agreement shall provide that the trustee shall be liable for its own negligence, willful misconduct or lack of good faith. (7-1-96)(\_\_\_\_)
- ~~¶11.~~ Purposes for Applying Amounts Drawn Upon Trust Account. Notwithstanding other provisions of this rule, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, such a trust agreement may, notwithstanding any other conditions in this rule, provide that the ceding insurer

shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, for the following purposes: (7-1-96)(\_\_\_\_)

ia. To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer; (7-1-96)

ib. To make payment to the assuming insurer of any amounts held in the trust account that exceed one hundred two percent (102%) of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or (7-1-96)

ic. Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution as defined in Idaho Code, Section 41-514(4) apart from its general assets, in trust for such uses and purposes specified in Subsections ~~071.04.k. and 071.04.k.ii.~~ 074.11 as may remain executory after such withdrawal and for any period after the termination date. (7-1-96)(\_\_\_\_)

12. Reinsurance Agreement Provisions. The reinsurance agreement entered into in conjunction with the trust agreement may, but need not, contain the provisions required by Subsection ~~071.06.a.ii~~ 076.01.b., so long as these required conditions are included in the trust agreement. (7-1-96)(\_\_\_\_)

**075. PERMITTED CONDITIONS.**

a01. Resignation of Trustee. The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than ninety (90) days after receipt by the beneficiary and grantor of the notice and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than ninety (90) days after receipt by the trustee and the beneficiary of the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee. (7-1-96)(\_\_\_\_)

b02. Grantor's Rights. The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any such interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name. (7-1-96)(\_\_\_\_)

e03. Trustee's Authority to Invest. The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions which the trustee determines are at least equal in market value to the assets withdrawn and that are consistent with the restrictions in Subsection ~~071.06.a.ii~~ 076.01.b. (7-1-96)(\_\_\_\_)

d04. Transfer of Assets. The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Such transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets. (7-1-96)(\_\_\_\_)

e05. Termination of Trust Account. The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor. (7-1-96)(\_\_\_\_)

**076. ADDITIONAL CONDITIONS APPLICABLE TO REINSURANCE AGREEMENTS.**

a01. Reinsurance Agreement in Conjunction with Trust Agreement. A reinsurance agreement, which is



entered into in conjunction with a trust agreement and the establishment of a trust account, may contain provisions that: (7-1-96)(\_\_\_\_)

ia. Require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, and specifying what the agreement is to cover; (7-1-96)

ib. Stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash (United States legal tender), certificates of deposit (issued by a United States bank and payable in United States legal tender), and investments of the types permitted by the Insurance Code or any combination of the above, provided that such investments are issued by an institution that is not the parent, subsidiary or affiliate of either the grantor or the beneficiary. The reinsurance agreement may further specify the types of investments to be deposited. Where a trust agreement is entered into in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, then the trust agreement may contain the provisions required by this paragraph in lieu of including such provisions in the reinsurance agreement; (7-1-96)

ic. Require the assuming insurer, prior to depositing assets with the trustee, to execute assignments or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate these assets without consent or signature from the assuming insurer or any other entity; (7-1-96)

id. Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and (7-1-96)

ie. Stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes: (7-1-96)

(1)i. To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies; (7-1-96)

(2)ii. To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement; (7-1-96)

(3)iii. To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer liabilities for policies ceded under the agreement. The account shall include, but not be limited to, amounts for policy reserves, claims and losses incurred (including losses incurred but not reported), loss adjustment expenses and unearned premium reserves; and (7-1-96)

(4)iv. To pay any other amounts the ceding insurer claims are due under the reinsurance agreement. (7-1-96)

b02. Other Provisions of Reinsurance Agreement. The Reinsurance Agreement may also contain provisions that: (7-1-96)(\_\_\_\_)

ia. Give the assuming insurer the right to seek approval from the ceding insurer to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided: (7-1-96)

(1)i. The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a market value equal to the market value of the assets withdrawn so as to maintain at all times the deposit in the required amount, or (7-1-96)

(2)ii. After withdrawal and transfer, the market value of the trust account is no less than one hundred and two percent (102%) of the required amount. (7-1-96)

- ~~(3)~~iii. The ceding insurer shall not unreasonably or arbitrarily withhold its approval. (7-1-96)
- ii**b**. Provide for: (7-1-96)
- ~~(1)~~i. The return of any amount withdrawn in excess of the actual amounts required for Subsections ~~071.06.a.iv.(1), (2) and (3)~~ 076.01.e.i. or 076.01.e.ii. or 076.01.e.iii., or in the case of Subsection ~~071.096.a.iv.(4)~~ 076.01.e.iv., any amounts that are subsequently determined not to be due; and ~~(7-1-96)(\_\_\_\_)~~
- ii**b**. Interest payments, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to Subsection ~~071.096.a.v~~ 076.01.e. ~~(7-1-96)(\_\_\_\_)~~
- iii**c**. Permit the award by any arbitration panel or court of competent jurisdiction of: (7-1-96)
- ~~(1)~~i. Interest at a rate different from that provided in Subsection ~~071.06.b.ii.~~ 076.02.b. ~~(7-1-96)(\_\_\_\_)~~
- ~~(2)~~ii. Court of arbitration costs, (7-1-96)
- ~~(3)~~iii. Attorney's fees, and (7-1-96)
- ~~(4)~~iv. Any other reasonable expenses. (7-1-96)
- ~~e03.~~ e03. Financial Reporting. A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this department in compliance with the provisions of this regulation when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure. (7-1-96)
- ~~d04.~~ d04. Existing Agreements. Notwithstanding the effective date of this rule, any trust agreement or underlying reinsurance agreement in existence prior to July 1, 1996 (7/1/96) will continue to be acceptable until July 1, 1996 (7/1/96), at which time the agreements will have to be in full compliance with this rule for the trust agreement to be acceptable. (7-1-96)
- ~~e05.~~ e05. Failure to Identify Beneficiary. The failure of any trust agreement to specifically identify the beneficiary as defined in Section ~~A 071~~ 071 of this section shall not be construed to affect any actions or rights which the director may take or possess pursuant to the provisions of the laws of this state. ~~(7-1-96)(\_\_\_\_)~~

**077. - - 080. (RESERVED).**

**FORM AR-1**  
**CERTIFICATE OF ASSUMING INSURER**

I, \_\_\_\_\_,  
(name of officer) (title of officer)  
of \_\_\_\_\_ the assuming insurer  
(name of assuming insurer)  
under a reinsurance agreement(s) with one or more insurers domiciled in \_\_\_\_\_,  
(name of state) hereby certify that  
\_\_\_\_\_ ("Assuming Insurer"):  
(name of assuming insurer)

1. Submits to the jurisdiction of any court of competent jurisdiction in

\_\_\_\_\_  
(ceding insurer's state of domicile)  
Idaho for the adjudication of any issues arising out of the reinsurance agreement(s), agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement(s) to arbitrate their disputes if such an obligation is created in the agreement(s).

2. Designates the ~~Insurance Commissioner of~~ \_\_\_\_\_  
(ceding insurer's state of domicile)  
Director of the Idaho Department of Insurance as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement(s) instituted by or on behalf of the ceding insurer.

3. Submits to the authority of the Insurance Commissioner of \_\_\_\_\_  
(ceding insurer's state of domicile) to examine its books and records  
and agrees to bear the expense of any such examination.

4. Submits with this form a current list of insurers domiciled in \_\_\_\_\_ Idaho reinsured by Assuming Insurer and  
(ceding insurer's state of domicile)  
undertakes to submit additions to or deletions from the list to the Insurance Commissioner at least once per calendar quarter.

Dated: \_\_\_\_\_  
(name of assuming insurer)  
BY: \_\_\_\_\_  
(name of officer)  
\_\_\_\_\_  
(title of officer)

**IDAPA 18 - DEPARTMENT OF INSURANCE**  
**18.01.78 - MUTUAL INSURANCE HOLDING COMPANY RULE**  
**DOCKET NO. 18-0178-9801**  
**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule making. These rules are proposed pursuant to the authority vested in the Director of the Department of Insurance under Title 41, Chapter 2, Idaho Code.

**PUBLIC HEARING SCHEDULE:** 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 October 21, 1998.

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

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

The rule is being proposed to implement Section 41-3821, Idaho Code, by establishing application requirements and procedures for creating, merging with or converting to a mutual insurance holding company.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning these proposed rules, contact Robert Murphy at (208) 334-4250.

Anyone may submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before October 28, 1998.

Dated this 12th day of August, 1998.

Mary L. Hartung, Acting Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720, Boise, ID 83720-0043  
Telephone No. (208) 334-4250

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0178-9801**

**000. LEGAL AUTHORITY.**

This rule is promulgated and adopted pursuant to the authority vested in the Director under Title 41, Chapter 2, Idaho Code. ( )

**001. TITLE AND SCOPE.**

01. Title. This rule shall be cited in full as Rules of the Idaho Department of Insurance, IDAPA 18, Title 01, Chapter 78, "Mutual Insurance Holding Company Rule". ( )

02. Scope. The purpose and intent of this rule is to implement the provisions of Title 41, Chapter 38, Section 41-3821, Idaho Code, by providing: ( )

a. The formation of a mutual insurance holding company through an application process subject to regulation by the Department of Insurance. A domestic mutual insurance company may reorganize by forming a

mutual insurance holding company based upon a mutual plan. The reorganized insurance company shall continue, without interruption, its corporate existence as a stock insurance company subsidiary to the mutual insurance holding company or as a stock insurance company subsidiary to an intermediate holding company which is a subsidiary to the mutual insurance holding company. ( )

b. The reorganization of a domestic mutual insurance company by merging its policyholders' membership interests into a mutual insurance holding company and continuing, without interruption, the corporate existence of the reorganized insurance company as a stock insurance company subsidiary to the mutual insurance holding company or as a stock insurance company subsidiary to an intermediate holding company which is a subsidiary to the mutual insurance holding company through an application process subject to regulation by the Department of Insurance. ( )

c. An application process for the approval of an initial sale of the shares of the capital stock of a reorganized domestic insurance company or an intermediate holding company, subject to the approval of the Department of Insurance. ( )

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(16)(b)(iv), Idaho Code, this agency may have 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. these documents will be available for public inspection and copying at cost in the main office of this agency. ( )

**003. ADMINISTRATIVE APPEALS.**

All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". ( )

**004. DEFINITIONS.**

For the purposes of this rule the following terms will be used as defined below: ( )

- 01. Affiliated Person. Affiliated person of another person shall mean: ( )
  - a. Any person directly or indirectly owning, controlling, or holding with power to vote, five percent (5%) or more of the outstanding voting securities of such other person; or ( )
  - b. Any person five percent (5%) or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person; or ( )
  - c. Any person directly or indirectly controlling, controlled by, or under common control with, such other person; or ( )
  - d. Any officer, director, partner, copartner, or employee of such other person. ( )
- 02. Director. The Director of the Idaho Department of Insurance. ( )
- 03. Department. The Idaho Department of Insurance. ( )
- 04. Domestic Mutual Insurance Company. An insurance company organized on a mutual plan and incorporated under the laws of the state of Idaho. ( )
- 05. Interested Person. Interested person of another person means: ( )
  - a. Any affiliated person of such person or company; or ( )
  - b. Any member on the immediate family of any natural person who is an affiliated person of such company; or ( )
  - c. Any person or partner or employee of any person who at any time since the beginning of the last two completed fiscal years of such company has acted as acted as legal counsel for such company; or ( )

d. Any natural person whom the Director by order shall have determined to be an interested person by reason of having had, at any time since the beginning of the last two completed fiscal years of such company, a material business or professional relationship with such company or with the principal executive officer of such company. ( )

06. Intermediate Holding Company. A holding company which is a subsidiary of a mutual insurance holding company or part of a holding company system controlled by a mutual insurance holding company pursuant to the provisions of Title 41, Chapter 38, Idaho Code. ( )

07. Limited Application. An application by a domestic mutual insurance company for reorganization to a mutual insurance holding company which will hold, at all times, one hundred percent (100%) of the stock of its insurance subsidiaries. ( )

08. Member of the Immediate Family. Any parent, spouse of a parent, child, spouse of a child, spouse, brother or sister, and includes step and adoptive relationships. ( )

09. Mutual Insurance Holding Company. A holding company organized of a mutual plan and incorporated under the laws of the state of Idaho, resulting from the reorganization of a domestic mutual insurance company pursuant to the provisions of Title 41, Chapter 38, Section 41-3821, Idaho Code, with one (1) or more stock insurance holding company subsidiaries or stock insurance company subsidiaries. A mutual insurance holding company shall be a person as defined in this chapter, and shall be subject to the provisions of Title 41, Idaho Code. ( )

10. Plan of Reorganization. A plan to reorganize a domestic mutual insurance company by forming a mutual insurance holding company. ( )

11. Standard Application. An application by a domestic mutual insurance company for reorganization to a mutual insurance holding company which may sell interests in its subsidiaries to third parties. ( )

12. Stock. Any security evidencing an equity interest in the issuing entity. ( )

13. Stock Offering. Any proposed sale, exchange, transfer or other change of ownership of stock or of securities convertible into or exchangeable or exercisable for stock. For the purposes of this chapter, "stock offering" shall not mean: ( )

a. An offering of preferred stock which is not convertible or exchangeable into common stock and which has no ordinary voting rights; or ( )

b. A transfer of stock between any of the following: ( )

i. A mutual insurance holding company; or ( )

ii. An insurance company subsidiary of a mutual insurance holding company; or ( )

iii. An intermediate holding company subsidiary of a mutual insurance holding company; or ( )

iv. An insurance company subsidiary of an intermediate holding company subsidiary to a mutual insurance holding company. ( )

**005. APPLICATION - CONTENT - PROCESS.**

01. Designation of Application as Limited or Standard. An application shall be designated as either a limited application or a standard application. The filing of a limited application shall not preclude the subsequent filing of an application for approval of an initial sale of stock as provided in this chapter. ( )

02. Information to be Contained in Application. The application shall be filed in duplicate with the

- Director and shall include the following information: ( )
- a. Designation as a limited or standard application; and ( )
  - b. A plan of reorganization as set forth in this chapter; and ( )
  - c. A plan to obtain the approval of the policyholders in accordance with the applicant's articles of incorporation and bylaws. Policyholders shall be given not less than twenty (20) days notice of any vote on approval of reorganization; and ( )
  - d. A copy of the mutual insurance holding company's proposed articles of incorporation and bylaws specifying all membership rights; and ( )
  - e. The names, addresses and occupational information of all corporate officers and member of the initial mutual insurance holding company board of directors; and ( )
  - f. Information sufficient to demonstrate that the financial condition of the applicant will not be diminished upon reorganization; and ( )
  - g. A copy of the proposed articles of incorporation and bylaws for any insurance company subsidiary or intermediate holding company subsidiary; and ( )
  - h. A "Form A" filing as described in IDAPA 18.01.23, "Rules Pertaining to the Idaho Insurance Holding Company System Regulatory Act"; and ( )
  - i. An index demonstrating where in the application information supplied in compliance with each of these rules is found; and ( )
  - j. Any other information requested by the Director at any time during the course of proceedings. ( )

**006. NOTICE OF HEARING.**

01. Scheduling of Hearing. Upon receipt and review by the Director of all information provided pursuant to Section 005 above, a hearing shall be held as provided in Title 41, Chapter 38, Section 41-3821, Idaho Code. ( )
02. Evidence to be Presented at Hearing. At hearing, the application shall present evidence establishing: ( )
- a. The application is in compliance with all pertinent sections of the Idaho Insurance Code and Administrative Rules; and ( )
  - b. The requirements for a plan of reorganization have been fulfilled. ( )
03. Notice of Hearing. Notice of the hearing shall be given at least twenty (20) days prior to the hearing by the Department by regular mail to all interested parties known to the Department. ( )

**007. PLAN OF REORGANIZATION.**

01. Limited Application. A limited application plan of reorganization shall include provisions as follows: ( )
- a. Establishing a mutual insurance holding company with at least one stock insurance company subsidiary or one intermediary stock holding company with a stock insurance company subsidiary, the share of which shall be held exclusively by the mutual insurance holding company; and ( )

- b. Protection of the interests of existing policyholders; and ( )
  - c. Ensuring immediate membership in the mutual insurance holding company of all existing policyholders of the reorganized domestic mutual insurance company; and ( )
  - d. Describing a plan providing for membership interests of future policyholders; and ( )
  - e. Describing the number of members of the board of directors of the mutual insurance holding company required to be policyholders; and ( )
  - f. Demonstrating that, in the event of proceedings under Title 41, Chapter 33, Idaho Code, involving a stock insurance company subsidiary of the mutual insurance holding company which resulted from the reorganization of a domestic mutual insurance company, the assets of the mutual insurance holding company will be available to satisfy the policyholder obligations of the stock insurance company; and ( )
  - g. Describing a plan how any accumulation or prospective accumulation of earnings by the mutual insurance holding company which is or would be in excess of that determined by the board of directors of the mutual insurance holding company to be necessary shall inure to the exclusive benefit of the policyholders of its insurance company subsidiaries who are members; and ( )
  - h. Describing the nature and content of the annual report and financial statement to be sent to each member; and ( )
  - i. For other matters, as the applicant deems appropriate. ( )
02. Standard Application. A standard application plan of reorganization shall include provisions as follows: ( )
- a. Establishing a mutual insurance holding company with at least one (1) stock insurance company subsidiary or one wholly owned intermediate stock holding company with a stock insurance company subsidiary, the shares of which shall be held exclusively by the wholly owned intermediate holding company; and ( )
  - b. Protection of the interests of existing policyholders; and ( )
  - c. Ensuring immediate membership in the mutual insurance holding company of all existing policyholders of the reorganizing domestic mutual insurance company; and ( )
  - d. Providing for membership interests of future policyholders; and ( )
  - e. Describing the number of members of the board of directors of the mutual insurance holding company required to be policyholders; and ( )
  - f. Demonstrating that, in the event of proceedings under Title 41, Chapter 33, Idaho Code, involving a stock insurance company subsidiary of the mutual insurance holding company which resulted from the reorganization of a domestic mutual insurance company, the assets of the mutual insurance holding company will be available to satisfy the policyholder obligations of the stock insurance company; and ( )
  - g. Describing how any accumulation or prospective accumulation of earnings by the mutual insurance holding company, which is or would be in excess of that determined by the board of directors of the mutual insurance holding company to be necessary, shall inure to the exclusive benefit of the policyholders of its insurance company subsidiaries who are members; and ( )
  - h. Describing the nature and content of the annual report and financial statement to be sent to each member; and ( )
  - i. Describing the applicant's plan for a stock offering in accordance with the provisions of this chapter; and ( )



- j. Describing other relevant matters the applicant deems appropriate; and ( )
- 03. Plan of Reorganization. With regard to either a limited or standard application, the plan of reorganization submitted to the Director shall demonstrate: ( )
  - a. Policyholder interests are properly preserved and protected; and ( )
  - b. The plan is fair and equitable to policyholders; and ( )
  - c. The financial condition of the applicant will not be diminished. ( )

**008. DUTIES OF THE DIRECTOR.**

- 01. Director Shall Retain Jurisdiction. The Director shall at all times retain jurisdiction over the mutual insurance holding company and its intermediate holding company subsidiaries with stock insurance company subsidiaries. ( )
- 02. Approval or Denial of Application. Following the hearing provided for in this chapter, the Director shall, by order, approve, conditionally approve, or deny the application. ( )
  - a. Conditions of Approval. The Director may require, as a condition of approval of the proposed reorganization, such modifications of the proposed plan of reorganization as the Director finds necessary. The applicant shall accept such required modifications by filing appropriate amendments to the proposed plan of reorganization with the Director within thirty (30) days of the date of the order of the Director requiring such modifications. If the applicant does not accept such required modifications by failing to file the required amendments to the proposed plan of reorganization within thirty (30) days, the proposed reorganization shall be deemed denied. ( )
  - b. Expiration of Conditional Approval. An approval or conditional approval of a plan of reorganization shall expire if the reorganization is not completed within one hundred eighty (180) days unless such time period is extended by the Director upon a showing of good cause. ( )
  - c. Revocation of Approval. The Director may revoke approval or conditional approval of an applicant's plan of reorganization in the event the Director finds the applicant has failed to comply with the plan of reorganization. The Director may compel completion of a plan of reorganization unless the plan is abandoned in its entirety, in accordance with the applicant's provisions for governance. The Director shall retain jurisdiction over the applicant until a plan of reorganization has been completed. ( )
  - d. Notice of Completion. Upon completion of all elements of a plan of reorganization, the applicant shall provide a notice of completion to the Director. ( )

**009. REGULATION - COMPLIANCE.**

- 01. Compliance with Insurance Holding Company Law Required. Mutual insurance holding companies shall comply with the provisions of Title 41, Chapter 38, Idaho Code, except as expressly provided herein. ( )
- 02. Wavier of Compliance not Allowed. No regulatory standards are waived during the pendency of an application of an application for a plan of reorganization. ( )
- 03. Approval of Merger or Acquisition Required. Mergers and acquisitions by a mutual insurance holding company must be approved by the Director pursuant to Title 41, Chapter 38, Idaho Code. At such time as a mutual insurance holding company acquires or plans to acquire more than fifty percent (50%) of a stock insurance company, the mutual insurance holding company shall submit to the Director a plan describing any membership interests of policyholders. ( )

04. Mutual Holding Company Annual Financial Statement Filing. Each mutual insurance holding company shall supply to the Department, by April 1 of each year, an annual statement consisting of the following: ( )

- a. An income statement; and ( )
- b. A balance sheet; and ( )
- c. A cash flow statement; and ( )
- d. Complete information on the status of any closed block formed as a part of a plan of reorganization; and ( )
- e. An investment plan covering all assets; and ( )
- f. A statement disclosing any intention to pledge, borrow against, alienate, hypothecate, or in any way encumber the assets of the mutual insurance holding company. ( )

05. Insurance Company Subsidiary Investment Requirements for Mutual Holding Company. At least fifty percent (50%) of the generally accepted accounting practices (GAAP) basis net worth of a mutual insurance holding company shall be invested in insurance company subsidiaries. ( )

06. Approval Required for Distribution to Policyholders. No policyholder who is a member of a mutual insurance holding company shall receive on account of such membership interest any payment of a policy credit, dividend or other distribution unless such payment has been approved by the Director. The Director, after a public hearing as provided in Title 41, Chapter 38, Idaho Code, if satisfied the proposed payment is fair and equitable to policyholders who are members, may approve the proposed payment and may require as a condition of such approval modification of the proposed payment as the Director finds necessary for the protection of such policyholders. ( )

**010. REORGANIZATION OF DOMESTIC MUTUAL INSURER WITH MUTUAL INSURANCE HOLDING COMPANY.**

A domestic mutual insurance company may apply to reorganize by merging its policyholders' membership interests into a mutual insurance holding company by filing with the Director a joint application with the mutual insurance holding company complying with the provisions of this chapter. ( )

**011. REORGANIZATION OF FOREIGN MUTUAL INSURER WITH MUTUAL INSURANCE HOLDING COMPANY.**

A foreign mutual insurance company, or a foreign health service corporation, which if a domestic corporation would be organized under Title 41, Chapter 28, Idaho Code, may apply to reorganize by merging its policyholders' membership interests into a mutual insurance holding company by filing with the Director a joint application with the mutual insurance holding company complying with the provisions of this chapter. ( )

**012. MERGERS OF MUTUAL INSURANCE HOLDING COMPANIES.**

A mutual insurance holding company may apply to merge with another mutual insurance holding company by filing with the Director a plan of merger and complying with the provisions of Title 41, Chapter 38, Idaho Code. ( )

**013. STOCK OFFERINGS.**

01. Director's Prior Approval Required. No stock offering by a mutual insurance holding company, an insurance company subsidiary of a mutual insurance holding company, an intermediate holding company subsidiary of a mutual insurance holding company, or an insurance company subsidiary of an intermediate holding company subsidiary to a mutual insurance holding company shall occur without the prior approval of the Director. The Director's approval may be obtained only through the application and hearing process described in this section. ( )

02. Application for Stock Offering. Every application for approval of a stock offering shall contain the following information: ( )

a. A description of the stock intended to be offered by the applicant, including a description of all shareholder rights; and ( )

b. The total number of shares authorized to be issued, the estimated number the applicant requests permission to offer, and the intended date or range of dates for the offer; and ( )

c. A justification for a uniform planned offering price or a justification of the method by which the offering price will be determined; and ( )

d. The name or names of any underwriter, syndicate member or placement agent involved and, if known, the name or names of each entity, person, or group of persons to whom the stock offering is to be made who will control five percent (5%) of the total outstanding class of shares, and the manner in which the offer is to be tendered. If any such entity or person is a corporation or business organization, the name of each member of its board of directors or equivalent management team shall be provided along with the name of each member of the board of directors of the offeror. Copies of any filings with the Securities and Exchange Commission disclosing intended acquisitions of the stock shall be included in the application; and ( )

e. A description of stock subscription rights to be afforded members of the mutual insurance holding company in conjunction with the stock offering; and ( )

f. A detailed description of all expenses to be incurred in conjunction with the stock offering; and ( )

g. An explanation of how funds raised by the stock offering are to be used; and ( )

h. Any other information requested by the Director. ( )

03. Required Provisions. No application regarding a planned stock offering shall be approved unless the plan contains provisions: ( )

a. Prohibiting officers, directors, and insiders of the mutual insurance holding company and its subsidiaries and affiliates from the purchase or ownership of shares of the stock offering, or issuance of stock options to or for the benefit of such officers, directors and insiders, for a period of at least six (6) months following the first date the offering was publicly and regularly traded. This paragraph shall not be construed to limit the rights of officers, directors and insiders from exercising subscription rights generally accorded members of the mutual insurance holding company, except that, pursuant to such subscription rights, the officers, directors, and insiders of the mutual insurance holding company and its subsidiaries and affiliates may not purchase or own, in the aggregate, more than five percent (5%) of the stock offering for a period of at least six months following the first date the offering was publicly and regularly traded; and ( )

b. Requiring a majority of the members of the board of directors of the mutual insurance holding company to be persons who are not interested persons of the mutual insurance holding company or of an affiliated person of such company. The Director may waive this requirement upon a showing of good cause; and ( )

c. For the mutual insurance holding company to adopt articles of incorporation prohibiting any waiver of dividends from stock subsidiaries except under conditions specified in its articles of incorporation and after approval of the waiver by the board of directors of the mutual insurance holding company and the Director; and ( )

d. Requiring that, after the initial stock offering by an insurance company subsidiary of a mutual insurance holding company, an intermediate holding company subsidiary of a mutual insurance holding company, or an insurance company subsidiary to a mutual insurance holding company, the boards of directors of each such insurance company or intermediate holding company include at least three directors who are not interested persons of the mutual insurance holding company; and ( )

e. Establishing, within the board of directors of the corporation offering stock, a pricing committee

consisting exclusively of directors who are interested persons whose responsibility is to evaluate and approve the price of any stock offering. ( )

04. More Than One Class of Stock Allowed. An insurance company subsidiary of a mutual insurance holding company, an intermediate holding company subsidiary of a mutual insurance holding company, or an insurance company subsidiary of an intermediate holding company subsidiary to a mutual insurance holding company may issue more than one class of stock provided, however, that at all times a majority of the voting stock is held by the mutual insurance holding company or its subsidiary and, provided further, that no class of common stock may possess greater dividend or other rights than the class held by the mutual insurance holding company or its subsidiary. ( )

05. Allowance for Experts. The Director may hire, at the applicant's expense, attorneys, actuaries, accountants, investment bankers and other experts as may reasonably be necessary to assist the Director in reviewing the application. ( )

06. Public Hearing. The Director may, at his discretion, hold a public hearing regarding any application for approval of a stock offering. Upon receipt of an application for approval of a stock offering which includes an initial offering of stock, the Director shall hold a public hearing at which all interested parties may appear and present evidence and argument regarding the applicant's planned offering. The Director shall provide the applicant adequate notice of the hearing, such that the applicant can provide notice of the hearing to members of the mutual insurance holding company, in manner approved by the Director, not less than twenty (20) days prior to the hearing. Following the hearing, the Director may approve, conditionally approve, or deny the application. the Director may approve the plan if: ( )

a. The offering complies with these rules and other provisions of law; and ( )

b. The method for establishing the price of a stock offering is consistent with generally accepted market or industry practices for establishing stock offering prices in similar transactions; and ( )

c. The plan and offering will not unfairly impact the interests of members of the mutual insurance holding company. ( )

07. Concurrent Filing with SEC Allowed. None of the foregoing shall be deemed to prohibit the filing of a registration statement with the Securities and Exchange Commission prior to or concurrently with the giving of notice to the members. ( )

08. Subsequent Offerings of Publicly Traded Stock. ( )

a. Notwithstanding the provisions of Section 013 of this chapter, stock offerings which are not an initial stock offering, and which offer stock regularly traded on the New York Stock Exchange, the American Stock Exchange, or another exchange approved by the Director, or designated on the national association of securities dealers automated quotations – national market system (NASDAQ), may be sold in accordance with the following procedure: If a mutual insurance holding company, an insurance company subsidiary of a mutual insurance holding company, an intermediate holding company, or an insurance company subsidiary of an intermediate holding company intends to make a stock offering which would be governed by the provisions of this section, that entity shall deliver to the Director, not less than thirty (30) days prior to the offering, a notice of the planned stock offering and information regarding: ( )

i. The total number of shares intended to be offered; and ( )

ii. The intended date of sale; and ( )

iii. Evidence the stock is regularly traded on one of the public exchanges noted above; and ( )

iv. A record of the trading pace and trading volume of the stock during the prior fifty-two (52) weeks. ( )

b. The Director shall be deemed to have approved the sale unless, within thirty (30) days following receipt of such notice, the Director issues an objection to the sale. If the Director issues an objection to the sale, the procedures set forth in 013.02 of this chapter shall be followed to determine whether the Director approves of the proposed sale. ( )

09. Expiration of Approval of Stock Offering. Approval of a stock offering obtained under either 013.06 or 013.07 above shall expire ninety (90) days following the date of the approval or deemed approval, except as otherwise provided by order of the Director. ( )

10. Representation of Director's Approval Not Allowed. No prospectus, information, sales material or sales presentation by the applicant, or by any representative, agent or affiliate of the applicant, shall contain a representation that the Director's approval of a stock offering constitutes an endorsement of the price, price range, or any other information relating to the stock. ( )

**014. PROHIBITED PRACTICES.**

The following practices are prohibited: ( )

01. Borrowing Funds. Borrowing funds from the mutual insurance holding company, or its subsidiaries and affiliates, to finance the purchase of any portion of a stock offering. ( )

02. Payment of Commissions. Payment of commissions, "special fees" and any other special payments or extraordinary compensation to officers, directors, interested persons and affiliates, for arranging, promoting, aiding or assisting in reorganization to a mutual insurance holding company, or for arranging promoting, aiding assisting or participating in the structuring and placement of a stock offering. ( )

03. Avoidance of Provisions of Chapter. Entering into an understanding or agreement transferring legal or beneficial ownership of stock to another person in avoidance of this chapter. ( )

**015. REGULATION OF HOLDING COMPANY SYSTEM.**

01. Compliance with Provisions of Insurance Holding Company Law. A mutual insurance holding company, and its subsidiaries and affiliates, shall be subject to all provisions of Title 41, Chapter 38, Idaho Code, Holding Company Systems. In addition to the provisions of that chapter, all material transactions between subsidiaries and affiliates of the mutual insurance holding company, as defined by Title 41, Chapter 38, Idaho Code, Section 41-3807, must be approved by a majority of the directors of the mutual insurance holding company as being both fair and reasonable, and made on terms and conditions not less favorable than those available from unaffiliated third parties. ( )

02. Violations of Insurance Code. If the Director finds, after notice and hearing, that activities within a mutual insurance holding company system have violated provisions of Title 41, Idaho Code, have violated administrative procedures, or act to circumvent requirements or prohibitions contained in the Idaho Insurance Code or administrative rules, the Director may prohibit or order rescission of any transaction relating to those activities. ( )

**016. REPORTING OF STOCK OWNERSHIP AND TRANSACTIONS.**

01. Acquisition of Ownership Interest. Any director or officer of a mutual insurance holding company, its subsidiary or affiliate, who acquires directly or indirectly the beneficial ownership of any security issued by any member of the mutual insurance holding company system shall, within fifteen (15) days following the transaction, file with the Director a statement of the transaction in a format prescribed by the Director. ( )

02. Filing of SEC Forms with Department. A mutual insurance holding company, and its subsidiaries and affiliates, shall file with the Director, within fifteen (15) days of receipt, copies of Form 3, Form 4 and Schedule 13D, or any equivalent filings, such filings made under the Securities and Exchange Act of 1934, as amended. ( )

**017. -- 999. (RESERVED).**

**IDAPA 19 - BOARD OF DENTISTRY**  
**19.01.01 - RULES OF THE STATE BOARD OF DENTISTRY**  
**DOCKET NO. 19-0101-9801**  
**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Sections 67-5220(1), Idaho Code, notice is hereby given this agency has proposed rulemaking. The action is authorized pursuant to Section 54-912, 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 October 21, 1998.

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

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

The rule-making is necessary in order to comply with the Patient Freedom Information Act and to update rules regarding anesthesia. The proposed Rules will increase license fees for general dentists and specialists, update anesthesia definitions, clarify the permit requirements for dentists who utilize other anesthesia personnel, and provide reporting of anesthesia-related incidents and routes of administration.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased.

The proposed rules will increase license fees for general dentists and specialists by \$25.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because the changes were in response to changes in law, the affected parties supported the changes, and staff and board members concurred with the need for changes.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Sylvia C. Boyle, Administrator, at (208) 334-2369.

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 October 28, 1998.

DATED this 26th day of August, 1998.

Sylvia C. Boyle, Administrator  
Idaho State Board of Dentistry  
708 1/2 W. Franklin St.  
Boise, Idaho 83702  
(208) 334-2369 (Telephone)  
(208) 334-3247 (Facsimile)

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 19-0101-9801**

**004. DEFINITIONS (Rule 4).**

For the purposes of these rules, the following terms will be used, as defined below:

(7-1-93)

01. ~~Anesthesia. The loss of feeling or sensation, especially loss of sensation of pain. (7-1-93)~~
02. ~~General Anesthesia. A state of unconsciousness produced by anesthetic agents with an absence of pain sensation over the entire body and a greater or lesser degree of muscular relaxation. (7-1-93)~~
03. ~~Deep Sedation. A controlled state of depressed consciousness or unconsciousness from which the patient is not easily aroused, which may be accompanied by a partial or complete loss of protective reflexes including, but not limited to, the ability to maintain a patent airway independently and respond purposefully to physical or verbal stimulation. (7-1-93)~~
04. ~~Conscious Sedation (light) with Parenteral Drugs. A minimally depressed level of consciousness during which the loss of consciousness is unlikely and unintended and during which the patient retains the ability to maintain a patent airway independently and continuously and respond appropriately to physical stimulation. This is a state of sedation produced by the intravenous or intramuscular injection of one (1) or more appropriate pharmacological agents. This does not include the use of nitrous oxide analgesia. (7-1-93)~~
01. Methods of Anxiety and Pain Control. ( )
- a. Local anesthesia. The elimination of sensation, especially pain, in one (1) part of the body by the topical application or regional injection of a drug. ( )
- b. General anesthesia. An induced state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including the inability to continually maintain an airway independently and respond purposefully to physical stimulation or verbal command, and is produced by a pharmacological or non-pharmacological method or a combination thereof. ( )
- c. Deep sedation. An induced state of depressed consciousness accompanied by partial loss of protective reflexes, including the inability to continually maintain an airway independently and/or to respond purposefully to physical stimulation or verbal command, and is produced by a pharmacological or non-pharmacological method or a combination thereof. ( )
- d. Conscious sedation. A minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command and that is produced by a pharmacological or non-pharmacological method or a combination thereof. In accord with this particular definition, the drugs and/or techniques used should carry a margin of safety wide enough to render unintended loss of consciousness unlikely. Further, patients whose only response is reflex withdrawal from repeated painful stimuli would not be considered to be in a state of conscious sedation. ( )
02. Routes of Administration. ( )
- a. Enteral. Any technique of administration in which the agent is absorbed through the gastrointestinal (GI) tract or oral mucosa (i.e., oral, rectal, sublingual). ( )
- b. Parenteral. A technique of administration in which the drug bypasses the gastrointestinal (GI) tract (i.e., intramuscular (IM), intravenous (IV), intranasal (IN), submucosal (SM), subcutaneous (SC), intraocular (IO). ( )
- c. Transdermal/transmucosal. A technique of administration in which the drug is administered by patch or iontophoresis. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**006. INCORPORATION BY REFERENCE (Rule 6).**

Pursuant to Section 67-5229, Idaho Code, this chapter incorporates by reference the following documents: (7-1-93)

01. Documents. (7-1-93)
- a. American Association of Oral and Maxillofacial Surgeons, Office Anesthesia Evaluation Manual, 45<sup>th</sup> Edition, November 1992~~5~~. (7-1-93)(    )
- b. American Dental Association, Council on Dental Education, Guidelines For Teaching The Comprehensive Control of Pain Aand Anxiety in Dentistry, 1992. (7-1-93)(    )
- c. American Dental Association, Infection Control Recommendations for the Dental Office and the Dental Laboratory, JADA, August 1992. (7-1-93)
- d. Centers for Disease Control, ~~Recommendationsed for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures, MMWR, Vol. 40, No. RR-8, July 12, 1991~~ Infection Control Practice for Dentistry, 1993. (7-1-93)(    )
02. Availability. These documents are available for public review at the following locations: Idaho State Board of Dentistry, 708 1/2 West Franklin Street, Boise, Idaho 83720. (7-1-93)(    )
- a. ~~Office of the State Auditor, Division of Statewide Administrative Rules, 700 West State Street, Boise, Idaho 83720.~~ (7-1-93)
- b. ~~Legislative Council, State Capitol Building, East Wing Basement, Boise, Idaho 83720.~~ (7-1-93)
- e. ~~Idaho State Board of Dentistry, 708 1/2 West Franklin Street, Boise, Idaho 83720.~~ (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. EXAMINATIONS (Rule 10).**

Examinations may be completed solely by the Board or, at its discretion, the Board may participate in and accept an examining agent. Examination results will be valid for Idaho licensure for a period of five (5) years from the date of successful completion of the examination. (7-1-93)(    )

**011. APPLICATIONS (Rule 11).**

Applications for license to practice dentistry or dental hygiene must be filed in the office of the Board of Dentistry, Boise, Idaho. The application must be accompanied by an unmounted photograph, bust only, taken within the year preceding the date of examination, and attested before a notary public. (7-1-93)(    )

**012. LICENSE AND APPLICATION FEES (Rule 12).**

The annual license fees and application fees shall be as follows: (7-1-93)

01. Application Fees For Dentists: (7-1-91)(    )
- a. General ~~one hundred dollars (\$100)~~;. (7-1-91)(    )
- i. By examination -- one hundred dollars (\$100). (    )
- ii. By credentials -- six hundred dollars (\$600). (    )
- b. Specialty: (7-1-91)
- i. By examination -- one hundred dollars (\$100). (7-1-91)
- ii. By credentials -- ~~two~~ six hundred and fifty dollars (\$25600). (7-1-93)(    )



02. Application Fees for Dental Hygienists: (7-1-91)
- a. By examination -- fifty dollars (\$50). (7-1-91)
- b. By credentials -- one hundred and fifty dollars (\$150). (7-1-92)
03. Annual License Fees ~~F~~for Dentists: (~~7-1-91~~)(    )
- a. Active -- one-hundred and ~~twenty-five~~ fifty dollars (\$~~125~~0). (~~7-1-91~~)(    )
- b. Inactive -- seventy-five dollars (\$75). (7-1-91)
- c. Specialty -- one hundred and ~~twenty-five~~ fifty dollars(\$~~125~~0). (~~7-1-91~~)(    )
04. Annual License Fees ~~F~~for Hygienists: (~~7-1-91~~)(    )
- a. Active -- ~~sixty-eight~~ seventy dollars (\$~~68~~70). (~~7-1-91~~)(    )
- b. Inactive -- forty dollars (\$40). (7-1-91)

**(BREAK IN CONTINUITY OF SECTIONS)**

**016. REQUIREMENTS FOR DENTAL LICENSURE (Rule 16).**

The Idaho State Board of Dentistry will approve for ~~admission to the licensing dental examinations~~ licensure only graduates of dental schools accredited by the Commission on Dental Accreditation of the American Dental Association at the time of graduation. (~~10-1-65~~)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**020. DENTAL HYGIENE LICENSURE BY CREDENTIALS (Rule 20).**

Applications for dental hygiene licensure by credentials must be filed with the ~~b~~Board along with the following: (~~7-1-92~~)(    )

01. Graduation. Proof of graduation from a school of dental hygiene accredited by the Commission on Dental Accreditation of the American Dental Association at the time of applicant's graduation. (7-1-92)

02. National Board Examination. Evidence of successful completion of the National Board of Dental Hygiene. Any other written examinations will be specified by the ~~b~~Board. (~~7-1-92~~)(    )

03. Cardiopulmonary Resuscitation. Evidence of current CPR certification. (7-1-92)

04. Local Anesthesia. Applicants who are currently licensed in another jurisdiction to practice local anesthesia must submit evidence of satisfactory completion of a ~~b~~Board-approved examination and attest to the regular practice of local anesthesia. (~~7-1-92~~)(    )

05. Provisional License. Applicants who meet all the requirements to be licensed by credentials, but who have not completed a ~~b~~Board-approved local anesthesia examination, may be provisionally licensed to practice without local anesthesia for a period of not more than one (1) year. Within that year, the applicant must pass a local anesthesia examination approved by the ~~b~~Board. (~~7-1-92~~)(    )

06. Interview. At the ~~b~~Board's discretion, applicants may be required to appear for a personal interview conducted by the ~~b~~Board. (~~7-1-92~~)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**025. PROVISIONAL LICENSURE (Rule 25).**

This type of license may be granted at the ~~h~~Board's discretion to applicants who meet the following requirements:

(7-1-93)( )

01. Active Practice. Active practice within the previous two (2) years. (7-1-93)
02. Current Licensure. Current licensure in good standing in another state. (7-1-93)
03. Evidence. Evidence that the applicant has not failed an exam given by the ~~h~~Board or its agent. (7-1-93)( )
04. Provisional License. The provisional license shall be valid only until the next regularly scheduled examination given by the ~~h~~Board or its agent. (7-1-93)( )
05. Additional. Any additional requirements as specified by the ~~h~~Board. (7-1-93)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**030. DENTAL HYGIENISTS - PRACTICE (Rule 30).**

Subject to the provisions of the Dental Practice Act, Chapter 9, Title 54, Idaho Code, dental hygienists are hereby prohibited from performing the activities specified below: (7-1-93)( )

01. Expanded Functions. Administration of local anesthetic and nitrous oxide except under the indirect supervision and responsibility of a licensed dentist or attending physician in a hospital setting. (7-1-93)( )
02. Restorative Procedures. The operative preparation of teeth for the placement of restorative materials or the placement or carving of restorative materials. (7-1-93)
03. General Anesthesia. Administration of any general anesthesia (7-1-93)
04. Written Orders. The dental hygienist is prohibited from working under general supervision unless written orders are received, recorded in the patient's record, and signed by the supervising dentist; within the twelve (12) months preceding treatment by the dental hygienist. (7-1-93)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**035. DENTAL ASSISTANTS - PRACTICE (Rule 35).**

01. Prohibited Duties. Subject to other applicable provisions of these rules and of the Act, dental assistants are hereby prohibited from performing any of the activities specified below: (7-1-93)

- a. Diagnosis. (7-1-93)
- b. The placement or carving of permanent restorative materials in any manner. (7-1-93)
- c. Initiate or regulate the flow of nitrous oxide on a patient. (7-1-93)
- d. The administration of any general anesthetic, infiltration anesthetic; or any injectable nerve block procedure; (7-1-93)( )
- e. Any oral prophylaxis. Oral prophylaxis is defined as the removal of plaque, calculus, and stains

from the exposed and unexposed surfaces of the teeth by scaling and polishing. (7-1-93)

f. The following expanded functions, unless authorized by a Certificate of Registration or certificate or diploma of course completion issued by an approved teaching entity: (7-1-93)

i. Place and remove temporary restorations; (7-1-93)

ii. Perform the mechanical polishing of restorations; (7-1-93)

iii. Monitor the patient while Nitrous Oxide is being administered. (~~7-1-93~~)( )

iv. Application of pit and fissure sealants; (7-1-93)

v. Coronal polishing, unless authorized by a Certificate of Registration; this refers to the technique of removing soft substances from the teeth with pumice or other such abrasive substances with a rubber cup or brush. This in no way authorizes the mechanical removal of calculus nor is it to be considered a complete oral prophylaxis. This technique (coronal polishing) would be applicable only after examination by a dentist and removal of calculus by a dentist or dental hygienist. (7-1-93)

02. Expanded Functions Qualifications. A dental assistant may be considered Board qualified in expanded functions, authorizing the assistant to perform any or all of the expanded functions described in Subsection 035.01.f. upon satisfactory completion of the following requirements: (7-1-93)

a. Completion of Board-approved training in each of the expanded functions. The required training shall include adequate training in the fundamentals of dental assisting, which may be evidenced by: (~~7-1-93~~)( )

i. Current certification by the Dental Assisting National Board; or (7-1-93)

ii. Successful completion of a Board-approved course in the fundamentals of dental assisting; or (~~7-1-93~~)( )

iii. Successfully challenging the fundamentals course. (7-1-93)

b. Successful completion of a Board-approved competency examination in each of the expanded functions. There are no challenges for expanded functions. (~~7-1-93~~)( )

03. Course Approval. Any school, college, institution, university or other teaching entity may apply to the Board to obtain approval of its courses of instruction in expanded functions. Before approving such course, the Board may require satisfactory evidence of the content of the instruction, hours of instruction, content of examinations, or faculty credentials. (~~7-1-93~~)( )

04. Other Credentials. Assistants, who have completed courses or study programs in expanded functions, which ~~that~~ have not been previously approved by the Board, may submit evidence of the extent and nature of the training completed, and, if in the opinion of the Board the same is at least equivalent to other Board-approved courses, and demonstrates the applicant's fitness and ability to perform the expanded functions, the Board may consider the assistant qualified to perform any expanded function(s). (~~7-1-93~~)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**040. UNPROFESSIONAL CONDUCT (Rule 40).**

A dentist or hygienist shall not engage in unprofessional conduct in the course of his practice. Unprofessional conduct by a person licensed under the provisions of Title 54, Chapter 9, Idaho Code, is defined as, but not limited to, one (1) of the following: (7-1-93)

01. Fraud. Obtaining fees by fraud or misrepresentation, or over-treatment either directly or through an insurance carrier. (7-1-93)
02. Unlicensed Practice. Employing directly or indirectly any suspended or unlicensed dentist or dental hygienist to practice dentistry or dental hygiene as defined in Title 54, Chapter 9, Idaho Code. (7-1-93)
03. Unlawful Practice. Aiding or abetting licensed persons to practice dental hygiene or dentistry unlawfully. (7-1-93)
04. Dividing Fees. A dentist shall not divide a fee for dental services with another party, who is not a partner or associate with him in the practice of dentistry, unless: (7-1-93)
- a. The patient consents to employment of the other party after a full disclosure that a division of fees will be made; (7-1-93)
- b. The division is made in proportion to the services performed and responsibility assumed by each dentist or party. (7-1-93)
05. Controlled Substances. Prescribing or administering controlled substances not reasonably necessary for, or within the scope of, providing dental services for a patient. In prescribing or administering controlled substances, a dentist shall exercise reasonable and ordinary care and diligence and exert his best judgment ~~as in~~ in the treatment of his patient as dentists in good standing in the state of Idaho, in the same general line of practice, ordinarily exercised in like cases. A dentist may not prescribe controlled substances for or administer controlled substances to himself. A dentist shall not use controlled substances as an inducement to secure or maintain dental patronage or aid in the maintenance of any person's drug addiction by selling, giving or prescribing controlled substances. (~~7-1-93~~)( )
06. Harassment. The use of threats or harassment to delay or obstruct any person in providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of Title 54, Chapter 9, Idaho Code, or the Board's Rules, or to aid in such compliance. (7-1-93)
07. Discipline ~~in~~ Other States. Conduct himself in such manner as results in a suspension, revocation or other disciplinary proceedings with respect to his license in another state. (~~7-1-93~~)( )
08. Altering Records. Alter a patient's record with intent to deceive. (7-1-93)
09. Office Conditions. Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession in the state of Idaho and current recommendations of the American Dental Association and the Centers for Disease Control as referred to in Subsections 006.01.c. and 006.01.d. (7-1-93)
10. Abandonment of Patients. Abandonment of patients by licensees before the completion of a phase of treatment, as such phase of treatment is contemplated by the customary practice and standards of the dental profession in the state of Idaho, without first advising the patient of such abandonment and of further treatment that is necessary. (7-1-93)
11. Use of Intoxicants. Practicing dentistry or dental hygiene while under the influence of an intoxicant or controlled substance where the same impairs the dentist's or hygienist's ability to practice dentistry or hygiene with reasonable and ordinary care. (7-1-93)
12. Mental or Physical Illness. Continued practice of dentistry or dental hygiene in the case of inability of the licensee to practice with reasonable and ordinary care by reason of one (1) or more of the following: (7-1-93)
- a. Mental illness; (7-1-93)
- b. Physical illness, including but not limited to, deterioration through the aging process, or loss of motor skill. (7-1-93)

13. Consent. Revealing personally identifiable facts, data, or information obtained in a professional capacity without prior consent of the patient, except as authorized or required by law. (7-1-93)(\_\_\_\_)
14. Scope of Practice. Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities ~~which~~ that the licensee knows or has reason to know that he or she is not competent to perform. (7-1-93)(\_\_\_\_)
15. Delegating Duties. Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or with the exercise of reasonable care and control should know, that such a person is not qualified, by training, or by licensure to perform them. (7-1-93)(\_\_\_\_)
16. Unauthorized Treatment. Performing professional services ~~which~~ that have not been authorized by the patient or his legal representative. (7-1-93)(\_\_\_\_)
17. Supervision. Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of a licensed professional. (7-1-93)
18. Legal Compliance. Failure to comply with any provisions of federal, state or local laws, statutes, rules, and regulations governing the practice of dentistry. (7-1-93)(\_\_\_\_)
19. Exploiting Patients. Exercising undue influence on a patient in such manner as to exploit a patient for the financial or personal gain of a practitioner or of a third party. (7-1-93)
20. Misrepresentation. Willful misrepresentation of the benefits or effectiveness of dental services. (7-1-93)
21. Disclosure. Failure to advise patients or their representatives in understandable terms of the treatment to be rendered, alternatives, and disclosure of reasonably anticipated fees relative to the treatment proposed. (7-1-93)(\_\_\_\_)
22. Sexual Misconduct. Making suggestive, sexual or improper advances toward a patient or committing any lewd or lascivious act upon or with a patient. (7-1-93)
23. Patient Management. Use of unreasonable and/or damaging force to manage patients, including but not limited to hitting, slapping or physical restraints. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**045. LICENSURE OF DENTAL SPECIALISTS (Rule 45).**

01. Qualifications. Each applicant shall have a general license for the practice of dentistry in the state of Idaho or another state. Any applicant who desires to be licensed in one of the recognized specialties must be a graduate of and hold a certificate from both a dental school and a Graduate Training Program that is accredited by the Commission on Dental Accreditation of the American Dental Association. Any dentist licensed in Idaho who has met the educational requirements and standards approved by the Board, and who has practiced in an American Dental Association recognized specialty prior to February 1, 1992, may be granted a specialty license by the Board without undergoing examination. (7-1-93)(\_\_\_\_)
02. Application. Application for license to practice a recognized dental specialty must be filed in the office of the Board of Dentistry, Statehouse Mail, Boise, Idaho. The application must be attested before a notary public. (7-1-93)
03. Examination. Specialty licensure in those specialties recognized by the American Dental

Association may be granted solely at the discretion of the Idaho State Board of Dentistry. An examination covering the applicant's chosen field may be required; and, if so, will be given by the Idaho State Board of Dentistry or its agent. Candidates who are certified by the American Board of that particular specialty within ten (10) years of Idaho application, and who meet the qualifications set forth in the Board's Rules, may be granted specialty licensure by Board approval. (7-1-93)(\_\_\_\_)

04. Advertising and Practice. No dentist shall announce or otherwise hold himself out to the public as a specialist unless he has first complied with the requirements established by the Idaho State Board of Dentistry for such specialty and has been issued a specialty license authorizing him to do so. The issuing of a specialty license allows him to announce to the public that he is specially qualified in a particular branch of dentistry. Any individual granted a specialty license must limit his practice to the specialty(s) in which he is licensed. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**050. CONTINUING EDUCATION FOR DENTISTS (Rule 50).**

Effective October 1994, renewal of any active dental license will require evidence of completion of continuing education ~~which~~ that meets the following requirements. (7-1-93)(\_\_\_\_)

01. Requirements: (7-1-93)(\_\_\_\_)

a. All active dentists must hold a current CPR card. (7-1-93)

b. All active dentists shall acquire fifteen (15) credits of continuing education in each renewal year. One (1) credit is defined as one (1) hour of instruction. (7-1-93)

c. Continuing education must be oral health/health-related for the professional development of a dentist. The fifteen (15) credits shall be obtained through continuing education courses, correspondence courses, college credit courses, and viewing of videotape or listening to other media devoted to dental education. (7-1-93)(\_\_\_\_)

02. Documentation. In conjunction with the annual license renewal, the dentist shall provide a list of continuing education credits obtained and certify that the minimum requirements were completed in the one (1) year period. (7-1-93)

**051. CONTINUING EDUCATION FOR DENTAL HYGIENISTS (Rule 51).**

Effective April 1994, renewal of any active dental hygiene license will require evidence of completion of continuing education ~~which~~ that meets the following requirements. (6-2-92)(\_\_\_\_)

01. Requirements: (6-2-92)(\_\_\_\_)

a. All active dental hygienists must hold a current CPR card. (6-2-92)

b. All active dental hygienists shall acquire twelve (12) credits of continuing education in each renewal year. One (1) credit is defined as one (1) hour of instruction. (6-2-92)

c. Continuing education must be oral health/health-related education for the professional development of a dental hygienist. The twelve (12) credits shall be obtained through continuing education courses, correspondence courses, college credit courses, viewing of videotape or listening to other media devoted to dental hygiene education. (6-2-92)(\_\_\_\_)

02. Documentation. In conjunction with the annual license renewal, the dental hygienist shall provide a list of continuing education credits obtained and certify that the minimum requirements were completed in the one (1) year period. (6-2-92)

(BREAK IN CONTINUITY OF SECTIONS)

**055. GENERAL ANESTHESIA AND DEEP SEDATION (Rule 55).**

Dentists licensed in the state of Idaho cannot use general anesthesia or deep sedation techniques in the practice of dentistry unless they have obtained the proper permit from the Idaho State Board of Dentistry by conforming with the following conditions: (10-1-87)

01. General Requirements. A dentist applying for a permit to administer general anesthesia and deep sedation shall provide proof that the dentist: (10-1-87)

a. Has completed a minimum of one (1) year of advance training in anesthesiology and related academic subjects beyond the undergraduate dental school level. This training is described in Part II of the "Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry," as referred to in Subsection 006.01.b. (10-1-87)(\_\_\_\_)

b. Is a diplomate of the American Board of Oral and Maxillofacial Surgery; or (10-1-87)

c. Is a member of the American Association of Oral and Maxillofacial Surgeons; or (10-1-87)

d. Is a Fellow of the American Dental Society of Anesthesiology; or (10-1-87)

e. ~~Employs or works under the direct supervision of a dentist who has attained the training or status described in Subsection 055.01.a., and who has obtained a permit for use of general anesthesia from the Idaho State Board of Dentistry, provided that the dentist holding the permit is the person who administers the anesthesia; or Has Certification of Advanced Cardiac Life Support Training or its equivalent; and~~ (10-1-87)(\_\_\_\_)

f. ~~Employs or works in conjunction with a practitioner licensed to practice medicine in the state of Idaho, or an Idaho registered nurse anesthetist, provided that such practitioner shall remain on the premises of the dental facility until any patient given a general anesthetic regains consciousness and such practitioner shall have: Has an established protocol or admission to a recognized hospital.~~ (10-1-87)(\_\_\_\_)

i. ~~Certification of Advanced Cardiac Life Support Training or its equivalent; and~~ (10-1-87)

ii. ~~An established protocol or admission to a recognized hospital.~~ (10-1-87)

02. Facility Requirements. The dentist must have a properly equipped facility for the administration of general anesthesia, staffed with a dentist-supervised team of auxiliary personnel capable of reasonably handling procedures, problems, and emergencies incident thereto. Adequacy of the facility and competence of the anesthesia team ~~may~~ will be determined by evaluators appointed by the Board. The Board adopts the standards regarding approval of equipment within the facility as set forth by the American Association of Oral and Maxillofacial Surgeons in their office anesthesia evaluation manual (see Subsection 006.01.a.). (10-1-87)(\_\_\_\_)

03. Personnel. For general anesthesia and deep sedation techniques, the minimum number of personnel shall be three (3) including: (10-1-87)

a. A qualified person to direct the sedation as described in Subsections 055.01.a. through 055.01.f. ~~(this person could be the operator); and~~ (10-1-87)(\_\_\_\_)

b. A qualified person whose primary responsibilities are observation and monitoring of the patient and who has documented current CPR certification; and (10-1-87)(\_\_\_\_)

c. An assistant for the operator who has documented current CPR certification. (10-1-87)(\_\_\_\_)

04. ~~Parenteral Drugs~~ Conscious Sedation. A dentist holding a permit to administer general anesthesia

under this rule may also administer ~~parenteral drugs~~ conscious sedation. (10-1-87)( )

05. Permit Renewal. Renewal of the permit will be required every three (3) years in conjunction with the routine dental licensure renewal. Proof of a minimum of ~~sixteen~~ fifteen (16~~5~~) credit hours of continuing education in general anesthesia and deep sedation techniques will be required to renew a permit. A fee may be assessed to cover administrative costs. (10-1-87)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**060. ADMINISTRATION OF CONSCIOUS SEDATION (LIGHT) WITH PARENTERAL DRUGS (Rule 60).**

Dentists licensed in the state of Idaho cannot use conscious sedation ~~with parenteral drugs~~ in the practice of dentistry unless they have obtained the proper permit from the Idaho State Board of Dentistry by conforming with the following conditions: (10-1-87)( )

01. General Requirements. A dentist applying for a permit to administer ~~parenteral drugs~~ for conscious sedation shall provide proof that the dentist has received formal training and certification in the use of parenteral conscious sedation drugs as described in the "Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry," as referred to in Subsection 006.01.b. published by the American Dental Association. The formal training program shall: (10-1-87)( )

a. Be sponsored by or affiliated with a dental school accredited by the Council on Dental Education of the American Dental Association or a teaching hospital or facility approved by the Board of Dentistry; and (10-1-87)

b. Consist of a minimum of sixty (60) hours didactic education and twenty (20) hours patient contact; ~~and. Patient contact includes the administration of the intravenous (IV) sedation and management by the participant from induction through emergence.~~ (7-1-93)( )

c. Include the issuance of a certificate of successful completion ~~which~~ that indicates the type, number of hours, and length of training received. (10-1-87)( )

02. Facility Requirements. The dentist must have a properly equipped facility for the administration of ~~parenteral drugs~~ conscious sedation, staffed with a dentist-supervised team of auxiliary personnel capable of reasonably handling procedures, problems, and emergencies incident thereto. Adequacy of the facility and competence of the anesthesia team ~~may~~ will be determined by evaluators appointed by the Idaho State Board of Dentistry. (10-1-87)( )

03. Personnel. For conscious sedation, the minimum number of personnel shall be two (2) including: (10-1-87)

a. The operator; and (10-1-87)

b. An assistant trained to monitor appropriate physiologic parameters and assist in any support or resuscitation measures required. (10-1-87)

c. Auxiliary personnel must have documented training in basic life support, shall have specific assignments, and shall have current knowledge of the emergency cart inventory. The practitioner and all office personnel ~~should~~ must participate in documented periodic reviews of office emergency protocol, including simulated exercises, to assure proper equipment function and staff interaction. (10-01-87)( )

04. Grandfather Clause. A licensed dentist who has been using ~~parenteral drugs~~ conscious sedation on an out-patient basis in a competent manner in the three (3) years preceding the effective date of this ~~regulation rule~~ rule (October 1, 1987), ~~(but has not had the benefit of formal training as outlined),~~ may continue such use provided he fulfills the provisions set forth in Section 050 and Subsections 060.02 and 060.03, and obtains a permit from the Board. (10-1-87)( )



05. Permit Renewal. Renewal of the permit will be required every three (3) years in conjunction with the routine dental licensure renewal. Proof of a minimum of ~~sixteen~~ fifteen (15) credit hours continuing education in parenteral drugconscious sedation will be required to renew a permit. A fee may be assessed to cover administrative costs. (10-1-87)( )

**061. USE OF OTHER ANESTHESIA PERSONNEL (Rule 61).**

Dentists performing dental procedures in a dental office who utilize the services of an anesthesiologist, a certified registered nurse anesthetist (CRNA) or another dentist with an anesthesia permit, must possess an anesthesia permit required under these rules for the level of anesthesia being provided to the patient. ( )

**062. INCIDENT REPORTING (Rule 62).**

Any anesthesia permit holder shall report to the Board, in writing, within seven (7) days after the death or transport to a hospital or emergency center for medical treatment for a period exceeding twenty-four (24) hours of any patient to whom conscious sedation or general anesthesia was administered. ( )

**0643. SUSPENSION, REVOCATION OR RESTRICTION OF ANESTHESIA PERMIT (Rule 643).**

The Board may, at any time and for just cause, institute proceedings to revoke, suspend, or otherwise restrict a permit issued pursuant to Sections 055 and 060. If the Board determines that emergency action is necessary to protect the public, summary suspension may be ordered pending further proceedings. Proceedings to suspend, revoke or restrict a permit shall be subject to applicable statutes and rules governing administrative procedures before the Board. (10-1-87)( )

**0624. -- 999. (RESERVED).**

**IDAPA 22 - BOARD OF MEDICINE**  
**22.01.03 - RULES FOR THE LICENSURE OF PHYSICIAN ASSISTANTS**  
**DOCKET NO. 22-0103-9802**  
**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section 54-1806 (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 October 21, 1998.

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

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rule-making: Rule changes apply only to Subsection 051.01 and 051.02 and reflects a \$40 fee increase for initial licensure from \$80 to \$120 and a \$20 fee increase for annual license renewal from \$30 to \$50.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:  
A \$40 fee increase for initial licensure from \$80 to \$120 and a \$20 fee increase for annual license renewal from \$30 to \$50. Statutory authority for setting fee for licensure and license renewal is Section 54-1807(2), Idaho Code.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because Section 54-1807(2), Idaho Code, authorizes the Board of Medicine to fix a licensure fee and licensure renewal fee for administrative costs and the necessary costs for enforcement. Fee increase to meet the anticipated costs for implementation and compliance to the Patient Freedom Of Information Act effective 1/2000.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Darleene Thorsted at 334-2822.

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 October 28, 1998.

DATED this 24th day of August, 1998.

Darleene Thorsted  
Executive Director  
Idaho State Board of Medicine  
280 North 8 th. Street  
PO Box 83720  
Boise, ID 83720-0058  
Phone: (208) 334-2822  
Fax: (208) 334-2801

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 22-0103-9802**

**051. FEES:**

01. Licensure Fee. The fee for licensure shall be ~~eighty~~ one hundred twenty dollars (\$~~80~~120) for a physician assistant, and ~~not less than~~ ten dollars (\$10) for registration as physician assistant trainee. ~~(8-5-98)T(\_\_\_\_)~~

02. Annual Renewal. License shall be renewed annually on July 1 of every year. The Board shall collect a fee of ~~not less than thirty dollars (\$30)~~ forty dollars (\$40) for each renewal of a license. ~~(8-5-98)F(\_\_\_\_)~~

03. License Cancellation. Failure to renew a license and pay the annual renewal fee shall cause the license to be canceled. However, a license can be renewed up to two (2) years following cancellation by payment of past renewal fees, plus a penalty fee of ~~not less than~~ twenty-five dollars (\$25). After two (2) years it will be necessary to file an original application for licensure with payment of the appropriate fee. ~~(8-5-98)F(\_\_\_\_)~~

**IDAPA 22 - BOARD OF MEDICINE**  
**22.01.09 - RULES FOR THE LICENSURE OF OCCUPATIONAL THERAPISTS**  
**AND OCCUPATIONAL THERAPY ASSISTANTS**

**DOCKET NO. 22-0109-9801**

**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section 54-3714 (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 October 21, 1998.

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

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

Proposed changes to the rules define the occupational aide, and the required supervision of the occupational aide by licensed occupational therapists and occupational therapy assistants.

**FEE SUMMARY:** No Changes.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because passage of Senate Bill 1449 amended the OT Practice Act which defined an occupational therapy aide and requires rule changes to incorporate the OT aide who assists licensed occupational therapists and occupational therapy assistants. Draft of rule changes sent to OT Association and interested parties school district and requests for changes to proposed rule were not submitted.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Nancy Kerr, Associate Director at 334-2822

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 October 28, 1998.

DATED this 24th day of August, 1998.

Nancy Kerr  
Associate Director  
Idaho State Board of Medicine  
280 North 8th Street  
PO Box 83720  
Boise ID 83720-0058  
(208) 334-2822  
Fax: (208)334-2801

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 22-0109-9801**

**010. DEFINITIONS.**

01. Association. The Idaho Occupational Therapy Association. (1-5-88)
02. Board. The Idaho State Board of Medicine. (1-5-88)
03. Licensure Board. The Occupational Therapy Licensure Board. (1-5-88)
04. Occupational Therapy. The use of purposeful, goal-oriented activity with individuals who are limited by physical injury or illness, psychological dysfunction, developmental or learning disabilities or deficits, poverty or cultural difficulties or the aging process in order to achieve optimum functional performance, independence, prevent further disability and maintain health. The practice of occupational therapy encompasses the evaluation, consultation and treatment of individuals whose abilities to cope with the tasks of daily living are threatened or impaired by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities or deficits, poverty or cultural difficulties or the aging process and includes a treatment program through the use of specific techniques which enhance functional performance and includes the evaluation or assessment of the patient or clients self-care, work and leisure skills, cognition, perception; sensory and motor performance; play skills; vocational and prevocational capacities; need for adaptive equipment; application of selected prosthetic or orthotic devices; and the administration of standardized and non-standardized assessments. (1-5-88)
05. Occupational Therapist. A person licensed to practice Occupational Therapy. (1-5-88)
06. Occupational Therapy Assistant. A person licensed to assist in the practice of Occupational Therapy, who works under the supervision of an Occupational Therapist. (1-5-88)
- a. Occupational Therapy Assistant Supervision. The occupational therapist shall be responsible for the supervision of the occupational therapy assistant. The supervising and consulting therapist need not be physically present or on the premises at all times the occupational therapy assistant is performing the service. The mode and extent of the communication between the supervising or consulting occupational therapist and the occupational therapy assistant shall be determined by the competency of the assistant, the treatment setting and the diagnostic category of the client. ( )
07. Graduate Occupational Therapist. A person who holds a certificate of graduation from an approved Occupational Therapy curriculum, has submitted a completed application for licensure by examination, and may practice Occupational Therapy in association with and under the supervision of an Occupational Therapist and under authority of a Limited Permit. (1-5-88)
- a. Graduate OT Supervision. Supervision of a "Graduate Occupational Therapist" shall require the supervising licensed occupational therapist to review and countersign all patient documentation. ( )
08. Graduate Occupational Therapy Assistant. A person who holds a certificate of graduation from an approved Occupational Therapy Assistant curriculum, has submitted a completed application for licensure by examination and is performing the duties of Occupational Therapy Assistant in association with and under the supervision of an Occupational Therapist and under the authority of a Limited Permit. (1-5-88)
- a. Graduate OTA Supervision. Supervision of a "Graduate Occupational Therapy Assistant" shall require the supervising licensed occupational therapist to review and countersign all patient documentation. ( )
- ~~09. Supervision. The practice will be in direct association with a licensed occupational therapist who shall be responsible for the activities of the person being supervised and the licensed occupational therapist shall review and countersign all patient documentation. (1-5-88)~~
09. Occupational Therapy Aide. An unlicensed person who aids a licensed occupational therapist or occupational therapy assistant in the practice of occupational therapy, whose activities require an understanding of occupational therapy but do not require professional or advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy. ( )
- a. Supervision. Supervision of an occupational therapy aide shall require that such person be licensed to practice as an Occupational Therapist or as an Occupational Therapy Assistant and be consistent with Section 033

of these rules. ( )

~~10. Graduate OTA Supervision. Supervision of a "Graduate Occupational Therapy Assistant" shall require the supervising licensed occupational therapist to review and countersign all patient documentation. (1-5-88)~~

~~11. OTA Supervision. Supervision of an "Occupational Therapy Assistant". The occupational therapist shall be responsible for the supervision of the occupational therapy assistant. The supervising and consulting therapist need not be physically present or on the premises at all times when the occupational therapy assistant is performing the service. The mode and extent of the communication between the supervising or consulting occupational therapist and the occupational therapy assistant shall be determined by the competency of the assistant, the treatment setting, and the diagnostic category of the client. (1-5-88)~~

**021. APPLICATION FOR LICENSURE.**

01. Licensure by Examination. Each applicant for licensure by examination shall submit a completed written application to the Board, on forms prescribed by the Board, ~~no less than thirty (30) days prior to the next examination date~~, together with the application fee. The application shall be verified and under oath and shall require the following information: (1-5-88)( )

a. A certificate of graduation from an approved Occupational Therapy curriculum; or an approved Occupational Therapy Assistant's curriculum; (1-5-88)

b. The disclosure of any criminal conviction or charges against the applicant other than minor traffic offenses; (1-5-88)

c. The disclosure of any disciplinary action against the applicant by any state professional regulatory agency or professional organization; (1-5-88)

d. The disclosure of the denial of registration or licensure by any state or district regulatory body; (1-5-88)

e. Not less than two (2) certificates of recommendation from persons having personal knowledge of the applicant's character; (1-5-88)

f. Two (2) unmounted photographs of the applicant, no larger than three by four inch (3" x 4") (head and shoulders), taken not more than one (1) year prior to the date of the application; (1-5-88)

g. Such other information as deemed necessary for the Board to identify and evaluate the applicant's credentials; and (1-5-88)

h. A copy of the application to write the qualifying exam and the date the examination is scheduled. (1-5-88)

02. Licensure by Endorsement. An applicant may be eligible for licensure without examination if he or she meets all of the other qualifications prescribed in Section 54-3708, Idaho Code, and also holds a current valid license or registration from some other state, territory or district of the United States, or certified by the ~~American Occupational Therapy Certification Board (AOTCB)~~ National Board for Certification in Occupational Therapy providing they meet Idaho standards and are equivalent to the requirements for licensure pursuant to these rules. (1-5-88)( )

a. Each applicant for licensure by endorsement shall submit a completed written application to the Board on forms prescribed by the Board, together with the application fee. The application shall be verified, under oath, and contain the specific information in Subsection 021.01, above. (1-5-88)

b. Proof of such licensure or registration shall be verified in a manner acceptable to the Board. (1-5-88)

03. Limited Permit. A Limited Permit shall not be issued unless a complete application has been filed with the board establishing that the person has completed the educational and experience requirements of the Act. (1-5-88)

a. A Limited Permit shall only allow a person to practice occupational therapy in association with and under the supervision of a licensed occupational therapist. (1-5-88)

b. A Limited Permit shall be valid only until the person is granted or denied a license under Idaho Code, Section 54-3709, or until the results of the examination are available to the Board, whichever occurs first; provided however, a Limited Permit shall not be effective for more than six (6) months from the date of issue. (1-5-88)

c. A Limited Permit may only be renewed once. (1-5-88)

04. Personal Interview. The Board may, at its discretion, require the applicant to appear for a personal interview. (1-5-88)

05. Occupational Therapists Practicing in Idaho on Effective Date of These Rules. All persons practicing Occupational Therapy in Idaho and holding American Occupational Therapy Certification Board (AOTCB) registration on the effective date of these rules shall qualify for license by endorsement, providing completed application is submitted within the six (6) months following the effective date of these rules. (1-5-88)

**(BREAK IN CONTINUITY OF SECTIONS)**

**032. DENIAL OR REFUSAL TO RENEW, SUSPENSION OR REVOCATION OF LICENSE.**

01. Disciplinary Authority. A new or renewal application may be denied, and every person licensed pursuant to Title 54, Chapter 37, Idaho Code and these rules is subject to discipline, pursuant to the procedures and powers established by and set forth in Idaho Code, Section 54-3712, and the Administrative Procedure Act. (1-5-88)

02. Grounds for Discipline. In addition to the grounds set forth in Idaho Code, Section 54-3712, applicants may be refused licensure and licensees are subject to discipline upon the following grounds, including but not limited to: (1-5-88)

a. Obtaining a license by means of fraud, misrepresentation, or concealment of material facts; (1-5-88)

b. Being guilty of unprofessional conduct or violating the Code of Ethics governing said licensees, including the provision of health care which fails to meet the standard of health care provided by other qualified licensees in the same community or similar communities, taking into account the licensee's training, experience and the degree of expertise to which he holds himself out to the public; (1-5-88)

c. Being convicted of a felony by a court of competent jurisdiction; (1-5-88)

d. The unauthorized practice of medicine; (1-5-88)

e. Violating any provisions of this act or any of the rules promulgated by the Board under the authority of the act; or (1-5-88)

f. Failure to properly supervise the activities of Occupational Therapy Assistants or occupational therapy aid. ~~(1-5-88)~~( )

**033. OCCUPATIONAL THERAPY AIDE.**

01. Evaluation of Patient/Client Before Task Assignment. The occupational therapist shall evaluate each patient/client before tasks are assigned to an occupational therapy aide. Only the occupational therapist or the occupational therapy assistant shall determine, assign, and modify those tasks that can be safely and effectively performed by an occupational therapy aide. ( )

02. What Aids Cannot Do. The occupational therapist and occupational therapy assistant shall not assign or permit aides to: ( )

a. Interpret referrals or prescriptions for occupational therapy services; ( )

b. Interpret or analyze evaluation data; ( )

c. Develop, plan, or modify treatment plans; ( )

d. Act independently without the supervision of an occupational therapist or occupational therapy assistant; ( )

e. Perform or document services represented as occupational therapy unless the occupational therapy aide is under the supervision of an occupational therapist or occupational therapy assistant. All documentation must be countersigned by the occupational therapist. ( )

03. Professional Supervision of an Occupational Therapy Aide Is Defined As: ( )

a. Documented training by the occupational therapist of the occupational therapy aide in each specific occupational therapy technique for each specific client and the training shall be performed on the client. ( )

b. Face to face meetings between the occupational therapy aide and the occupational therapist or an occupational therapy assistant under the direction of the occupational therapist occurring at such intervals as determined by the occupational therapist to meet the client's needs, but shall occur at least once every two (2) weeks; ( )

c. The occupational therapist shall observe the occupational therapy aide perform on the client the specific techniques for which the aide was trained at intervals as determined by the occupational therapist to meet the client's need, but shall occur at least once a month. ( )

d. Meetings and client contacts will be documented in the client's record. ( )

**0334. -- 040. (RESERVED).**



**IDAPA - BUREAU OF OCCUPATIONAL LICENSES**  
**24.01.01 - RULES OF THE BOARD OF ARCHITECTURAL EXAMINERS**

**DOCKET NO. 24-0101-9801**

**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section 54-312, 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 October 21, 1998.

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

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

Deletes that an applicant for reexamination must file a complete application; establishes that the board may order a licensee to pay the costs and fees incurred by the board in the investigation or prosecution of the licensee for violation of Section 54-305(1)(a)(i), Idaho Code.

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

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 October 28, 1998.

DATED this 26th day of August, 1998.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0101-9801**

**300. APPLICATION (Rule 300).**

- 01. Licensure by Examination. (7-1-93)
  - a. Application for examination ~~or reexamination~~ shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Executive Secretary of the Board. (7-1-98)(\_\_\_\_)
  - b. Applicants shall secure and furnish all information required by the uniform application form and shall include the following: (7-1-93)
    - i. Certified transcript of all subjects and grades received for all college courses taken. (7-1-93)

ii. If graduated from a college or university, furnish certification of graduation and a certified transcript of all work completed. (7-1-93)

iii. Furnish statement or statements, of all actual architectural or other applicable experience signed by the person under whose supervision the work was performed, giving kind and type of work done, together with dates of employment. (7-1-93)

iv. A recent two inch by three inch (2" x 3") photograph taken within the previous year for identification purposes. (7-1-93)

v. In addition to the above required information, an applicant having credits or a degree or degrees from any college or university shall furnish the Board a certified statement from each above institution stating by what accrediting group, if any, such credits or degree or degrees are accredited. (7-1-93)

c. Application shall not be presented to the Board or evaluated by the Board until all required information is furnished and the required fee is paid. (7-1-93)

d. To be considered by the Board, properly completed applications must be received by the Executive Secretary at least thirty (30) days prior to the first day of the month in which the Board will meet. (7-1-98)

e. Qualifications of Applicants. All applicants for the Architectural Registration Examination (ARE) shall possess the minimum qualifications required by the current NCARB Circular of Information #1, Appendix "A" where such Circular of Information does not conflict with Idaho law. After June 1, 1993, all applicants for the ARE must have completed the Intern Development Program (IDP) requirements. (7-1-97)

02. Licensure by Endorsement - Blue Cover. (7-1-97)

a. General requirements. Application shall be accompanied by a current blue cover dossier compiled by the NCARB certifying that the applicant has satisfactorily passed the standard NCARB examinations, or NCARB authorized equivalent and shall include letters, transcripts, and other documents substantiating all statements relative to education and experience made in said application as required by the Board. (7-1-97)

b. Seismic knowledge requirements for endorsement applicants. Each applicant for license under endorsement to practice architecture in the state of Idaho shall submit evidence of his skill and knowledge in seismic design and such evidence shall be submitted and signed by the applicants acknowledged before a notary public, and shall contain one of the following statements: (7-1-97)

i. "I have passed the examinations in Building Construction and Structural Design of the Western Conference of State Architectural Registration Boards in June 1963 or since and/or the NCARB in 1965 or since." (7-1-97)

ii. "I am registered in the State of \_\_\_\_\_ in 19\_\_\_\_, where competence in seismic was a requirement for registration since \_\_\_\_\_, 19\_\_\_\_." (7-1-93)

iii. Certification of the successful completion of the seismic seminar approved by the National Conference of Architectural Registration Boards. (7-1-93)

c. All applicants shall attach to their statement a certification from the State architectural registration agency of the cited state attesting the adequacy of the cited seismic examination. (7-1-93)

03. License By Endorsement - Equivalency. (7-1-97)

a. Application shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Executive Secretary of the Board. (7-1-97)

b. Applicant shall comply with all requirements set forth in Rules 300.01., 300.02.b.i.,ii., iii. and 300.02.c. (7-1-97)

c. Applicant shall provide proof of holding a current and valid license issued by another state, a licensing authority recognized by the Board. (7-1-97)

d. Applicant shall provide proof of satisfactorily passing the NCARB examinations or NCARB authorized equivalent examination, as determined by the Board. (7-1-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**751. COSTS AND FEES IN DISCIPLINARY PROCEEDING (Rule 751).**

The Board may order a licensed architect to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-305(1)(a)(i), Idaho Code. ( )

**~~751~~. -- 799. (RESERVED).**

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.02.01 - RULES OF THE BOARD OF BARBER EXAMINERS**  
**DOCKET NO. 24-0201-9802**  
**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. 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 October 21, 1998.

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

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

Establishes that the board may order a licensee to pay the costs and fees incurred by the board in the investigation or prosecution of the licensee for violation of Section 54-516, Idaho Code.

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

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 October 28, 1998.

DATED this 26th day of August, 1998.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0201-9802**

**551. -- 59974. (RESERVED).**

**575. DISCIPLINE (Rule 575).**

01. Proposed Fines.

<u>VIOLATION</u>	<u>MAXIMUM FINE</u> <u>(each violation)</u>
<u>Operating An Unlicensed Establishment/School.</u>	
<u>Includes: Failure to obtain original license (includes change of ownership or location);</u>	<u>\$ 500</u>
<u>Failure to renew license;</u>	<u>\$ 250</u>

<u>VIOLATION</u>	<u>MAXIMUM FINE</u> <u>(each violation)</u>
<u>Unlicensed Practice.</u> Includes: <u>Failure to renew license;</u> <u>Practice beyond the scope of license/permit;</u> <u>Practice with an altered license/permit.</u>	<u>\$ 250</u> <u>\$ 250</u> <u>\$1,000</u>
<u>Allowing Unlicensed Practice.</u> Includes: <u>Owners, Employees, Renters/Leasees, Partners, Family Members, Others.</u>	<u>\$1,000</u>
<u>Practice In An Unlicensed Establishment.</u> Includes: <u>Owners, Employees, Renters/Leasees, Partners, Family Members, Others.</u>	<u>\$ 250</u>
<u>Failing To Allow The Inspection Of An Establishment.</u> Includes: <u>Failure to admit investigator during business hours;</u> <u>Obstructing/hindering the inspection process;</u> <u>Threatening or exerting physical harm to investigators;</u> <u>Allowing acts of obstruction or harm to occur.</u>	<u>\$1,000</u>
<u>Failing To Correct Unacceptable Conditions Within 30 Days.</u> Includes: <u>Failure to separate other business/living areas;</u> <u>Failure to maintain floors, walls, ceilings in good repair;</u> <u>Failure to adequately clean instruments;</u> <u>Failure to adequately sanitize instruments;</u> <u>Failure to use clean towels;</u> <u>Failure to maintain sanitary barrier with multi-use capes;</u> <u>Failure to appropriately store instruments/equipment;</u> <u>Failure to appropriately maintain/dispense products;</u> <u>Failure to wear clean washable clothing;</u> <u>Failure to maintain approved water supply;</u> <u>Failure to maintain approved toilet facilities;</u> <u>Failure to wash hands prior to service;</u> <u>Failure to provide first aid kits;</u> <u>Failure to keep pets or birds out of establishment;</u> <u>Failure to prevent fire or safety hazard;</u> <u>Failure to conspicuously display required certificates;</u> <u>Failure to conspicuously display required licenses.</u>	<u>\$ 250</u>

( )

02. Fine in Addition to Other Discipline. In addition to the above schedule of fines, the Board may impose a fine of up to one thousand dollars (\$1000) in addition to the revocation, suspension, or refusal to issue of any certificate or license and may recover the costs and fees incurred in the investigation and prosecution of a license for the violation of any provision of the licensure act. ( )

03. Costs and Fees in Disciplinary Proceeding. The Board may order all licensed practitioners to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-516, Idaho Code. ( )

**576. -- 599. (RESERVED).**

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.03.01 - RULES OF THE STATE BOARD OF CHIROPRACTIC PHYSICIANS**

**DOCKET NO. 24-0301-9801**

**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section 54-707, 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 October 21, 1998.

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

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

Add Part IV of the national exam for new applicants; eliminate all Idaho examinations; require all applicants to submit a signed affidavit swearing under oath they have reviewed and understand and will abide by the chiropractic laws and rules; require endorsement applicants must pass the national board special purposes examination for chiropractors.

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

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 October 28, 1998.

DATED this 26th day of August, 1998.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0301-9801**

**100. APPLICATIONS (Rule 100).**

01. Application. Applications on forms furnished by the Bureau of Occupational Licenses must be on file thirty (30) days before the date of examination, and must be accompanied by an unmounted photograph, size three inches by three inches (3" x 3"), bust only, taken within the year preceding the date of examination. (7-1-93)

02. Qualifications. (7-1-93)

a. New applicants will meet the following requirements: (7-1-93)

i. National Boards Parts I, II, III, and ~~Physiotherapy~~ IV. (~~7-1-93~~)(    )

- ii. Graduation from a CCE approved college or university. (7-1-93)
- iii. ~~Applicants will be required to pass the following subjects of the Idaho Examination: Jurisprudence, Nutrition, X-Ray, Adjustive Technique Practical and Adjustive Technique Written sign an affidavit swearing under oath that they have fully reviewed and understand and will abide by the Chiropractic Act, Title 54, Chapter 7, Idaho Code, and the Board's Rules, IDAPA 24, Title 03, Chapter 01, "Rules of the State Board of Chiropractic Physicians".~~ (7-1-93)( )
- b. Endorsement applicants will meet the following requirements: (7-1-93)
  - i. ~~National Boards Parts I, II, III and Physiotherapy.~~ (7-1-93)
  - ii. If licensed prior to January, 1980, CCE approved college or university not required. If licensed after January, 1980, applicant must have graduated from a CCE approved college or university. (7-1-93)
  - iii. Five (5) years of consecutive experience immediately prior to application and a valid, unrevoked, unsuspended license to practice chiropractic in another state. (7-1-93)
  - iii. National Board Special Purposes Examination for Chiropractors (SPEC). ( )
  - iv. ~~Applicants will be required to pass the following subjects of the Idaho Examination: Jurisprudence, Nutrition, X-Ray and Adjustive Technique Written sign an affidavit swearing under oath that they have fully reviewed and understand and will abide by the Chiropractic Act, Title 54, Chapter 7, Idaho Code, and the Board's Rules, IDAPA 24, Title 03, Chapter 01, "Rules of the State Board of Chiropractic Physicians".~~ (7-1-93)( )

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.04.01 - RULES OF THE IDAHO BOARD OF COSMETOLOGY**  
**DOCKET NO. 24-0401-9801**  
**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section 54-821, 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 October 21, 1998.

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

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

Establishes separate rules for the requirements for electrologists and estheticians; requires that endorsement applicants may be required to pass an Idaho jurisprudence exam prior to licensure; establishes that the board may impose, upon a licensee, a civil fine not to exceed \$1,000 and may order a licensee to pay the costs and fees incurred by the board in the investigation and prosecution of the licensee for violation of law or rules.

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

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 October 28, 1998.

DATED this 26th day of August, 1998.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0401-9801**

**010. DEFINITIONS (Rule 10).**

01. Gender. Any reference to a gender shall mean both masculine and feminine. (7-1-97)
02. Board. The Idaho Board of Cosmetology as prescribed in Section 54-802, Idaho Code. (7-1-97)
03. Bureau. The Bureau of Occupational Licenses, Section 67-2601, Idaho Code. By authority delegated in written agreement, the Bureau of Occupational Licenses will act as the agent of the Board, in assisting the Board to carry out its duties as outlined in law and rule. (7-1-97)
04. Chief. The Bureau Chief of the Bureau of Occupational Licenses as established by Section



- 67-2602, Idaho Code. (7-1-97)
05. Current License. An unexpired license in good standing. (7-1-97)
06. Establishment. A licensed cosmetological establishment. (7-1-97)
07. Record of Instruction. The final documentation submitted by a school or, in the case of an apprentice, the instructor, detailing the total hours and operations completed by a student. (7-1-97)
08. Certificate of Graduation. A signed, notarized statement from a school or, in the case of an apprentice, the instructor, which indicates that the student has fulfilled all requirements of that school or apprenticeship and is eligible for examination. (7-1-97)
09. Rules. The rules of the board. (7-1-97)
10. School. A licensed school of cosmetology. (7-1-97)
11. School of Electrology/Esthetics. A licensed school of cosmetology approved to teach electrology/esthetics. (7-1-97)
12. Endorsement Certification. In accordance with 54-812, Idaho Code. (7-1-97)
13. Hospital Grade. Hospital grade means a sanitizing agent registered by the Environmental Protection Agency as an effective germicidal/bactericidal, fungicidal, and virucidal disinfectant when used in accordance with the manufacturer's instructions. (7-1-97)
14. First-Aid Kit. First-aid kit means a commercially packaged and identifiable assortment of medical supplies, including adhesive bandages, skin antiseptic, ~~approved~~ bio-hazard disposable container, disposable gloves, and gauze, which may be used for cleaning and protecting blood spills and other minor emergency traumas of the human body. (~~7-1-97~~)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**150. REQUIREMENTS FOR LICENSURE BY ENDORSEMENT (Rule 150).**

01. Filing Application. Applicants for license by endorsement under the provisions of Section 54-812, Idaho Code, shall file an application on forms provided by the board and (7-1-97)
- a. Furnish proof of current license in another state, territory, possession or country, having requirements equal to the requirements of Idaho; or (7-1-97)
- b. Document completion of three (3) years of practical experience under licensure within the five (5) years immediately preceding application. (7-1-97)
02. Certification of Licensure. Certification of licensure must be completed and signed by the licensing agency of the other state, territory, possession or country, and filed in the office of the board with the application for license and required fee. (7-1-97)
03. Application Must Be Accompanied By Proof of Meeting Educational Requirements. Application for license by endorsement must be accompanied by proof of the applicant having met the educational requirements as set forth in Section 54-805, Idaho Code, and satisfactory completion of at least two (2) years of high school (tenth grade), or equivalent education. (7-1-97)
04. Submit Proof of Birth. Endorsement applicants must furnish a copy of their birth certificate or other

acceptable proof of birth. (7-1-97)

05. Application Must Be Accompanied By Endorsement Fee and Original License Fee. Applications for license by endorsement must be accompanied by the endorsement fee and the original license fee. If the board finds that the applicant is ineligible for license by endorsement, but is eligible for license by examination, a refund may be made of the endorsement fee in excess of the required examination fee, and the applicant permitted to take the examination. (7-1-97)

06. Endorsement May Be Required. The board may require applicants for endorsement to pass the Idaho jurisprudence examination as noted under Section 450 prior to licensure by endorsement. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**~~302. MOBILE COSMETOLOGICAL ESTABLISHMENT REQUIREMENTS FOR LICENSURE AND OPERATION (Rule 302).~~**

~~01. Mobile Cosmetological Establishment. "Mobile Cosmetological Establishment" means a self-contained, self-supporting, enclosed mobile unit where one or more persons engage in practice of cosmetology, electrology/esthetics or nail technology. (7-1-97)~~

~~02. Procedures for Mobile Establishment. Mobile Cosmetological Establishment: Procedures for opening a new establishment or transfer of ownership: (7-1-97)~~

~~a. Ownership shall be determined by the person(s) or corporation owning or leasing the equipment and mobile unit. (7-1-97)~~

~~b. An application for a new or transfer of existing establishment license shall be filed with the board not less than ten days before the proposed opening date. Each application shall include the following: (7-1-97)~~

~~i. A detailed floor plan showing the location of doors, windows, restroom facilities, sinks, lift or ramps, ventilation, equipment and dimension of mobile unit. (7-1-97)~~

~~ii. Proof of purchase of mobile unit and shop equipment. (7-1-97)~~

~~iii. Required fee. (7-1-97)~~

~~iv. Proof that the unit meets applicable codes and standards as adopted by Idaho Division of Building Safety. (7-1-97)~~

~~e. After initial approval of floor plan and application has been granted, the applicant must schedule an appointment to show the mobile unit to the board for final approval. (7-1-97)~~

~~d. An itinerary showing dates, locations, and times of service throughout the state shall be available at the board's request. (7-1-97)~~

~~03. Mobile Cosmetological Establishments. Mobile Home Establishments shall comply with the following: (7-1-97)~~

~~a. All storage cabinets shall be secured by the use of spring struts or friction catches in mobile establishments. (7-1-97)~~

~~b. All equipment shall be securely anchored to the mobile unit. (7-1-97)~~

~~e. Mobile units shall be no less than twenty-four (24) feet long. (7-1-97)~~

- d. ~~A ramp or lift shall be provided for access to the mobile unit if providing services for handicapped individuals.~~ (7-1-97)
- e. ~~No services shall be performed while the mobile unit is in motion.~~ (7-1-97)
- f. ~~Sleeping provisions shall not be placed or maintained in the mobile unit.~~ (7-1-97)
- g. ~~Mobile units shall be required to provide facilities to properly sanitize equipment and to maintain the sanitization until used.~~ (7-1-97)
04. ~~Water Supply.~~ (7-1-97)
- a. ~~The potable water supply for mobile units shall be self-contained. Gray and black holding tanks shall be of adequate capacity. In the event of depletion of potable water, operation shall cease until the supply is replenished.~~ (7-1-97)
- b. ~~Mobile units shall have continuous demand hot water tanks which shall not be less than six (6) gallon capacity.~~ (7-1-97)
- 3032. -- 399. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**401. COSMETOLOGY REQUIREMENTS FOR LICENSURE BY EXAMINATION (Rule 401).**

01. Filing of Record of Instruction. Applicant must file Record of Instruction covering: cosmetology: two thousand (2,000) hours, apprentice, four thousand (4,000) hours. (7-1-97)
02. Credit For Training. Credit for training as a student or apprentice will be given for each year of practical experience under licensure in another state, territory, possession or country as follows: (7-1-97)
- a. Cosmetologist: Two hundred (200) hours, as an apprentice four hundred (400) hours. (7-1-97)
- b. Credit will be allowed only on six (6) month experience increments. (7-1-97)
03. Hours Credit Toward Licensure. (7-1-97)
- a. A licensed nail technician shall be given credit of two hundred fifty (250) hours toward the required two thousand (2000) hours for a cosmetology course or five hundred (500) hours toward the required four thousand (4,000) hours as a cosmetology apprentice. (7-1-97)
- b. ~~A licensed electrologist/esthetician shall be given credit of three hundred (300) hours toward the required two thousand (2000) hours for a cosmetology course or six hundred (600) hours toward the required four thousand (4,000) hours as a cosmetology apprentice.~~ (7-1-97)
- e.b. A licensed esthetician shall be given credit of two hundred fifty (250) hours toward the required two thousand (2000) hours for a cosmetology course. (7-1-97)
- e.c. A nail technician student (not licensed) may receive eighty (80%) percent of accumulated hours, but no more than 250 hours, as credit toward a student cosmetology course. (7-1-97)
- e.d. An esthetician student (not licensed) may receive eighty (80%) percent of accumulated hours, but no more than 250 hours as credit toward a student cosmetology course. (7-1-97)

f. ~~An electrologist/esthetician student or apprentice (not licensed) may receive eighty (80%) percent of accumulated hours, but no more than 300 hours as a student or 600 hours as an apprentice as credit toward a cosmetology course~~ (7-1-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**407. ELECTROLOGY/ESTHETICS REQUIREMENTS FOR LICENSURE BY EXAMINATION (Rule 407).**

01. Filing of Record of Instruction. Applicant must file Record of Instruction covering eight hundred (800) hours; apprentice, one thousand six hundred (1600) hours. (7-1-97)

02. Credit Given For Training. Credit given as ~~credit for training~~ as a student will be eighty (80) hours; as an apprentice, one hundred sixty (160) hours for each year of practical experience under licensure in another state, territory, possession, or country. (7-1-97)(\_\_\_\_)

~~03.~~ Credit For Experience. Credit ~~for experience~~ will be allowed only ~~in full~~ six (6) month ~~experience~~ increments. (7-1-97)(\_\_\_\_)

~~d.~~ ~~Electrologist/esthetician applicant lacking 300 hour requirement on skin care may apprentice for 600 hours under a licensed electrologist/esthetician instructor. Refer to Idaho Code 54-807.~~ (7-1-97)

~~03.~~ Hours Credit Toward Licensure. (7-1-97)

~~a.~~ ~~Individuals possessing a current Idaho Cosmetologist license will receive credit toward the requirements for licensure as an electrologist/esthetician in the esthetics requirement only as follows:~~ (7-1-97)

~~i.~~ ~~When attending a cosmetology school approved to teach electrology/esthetics: Three hundred (300) hours credit.~~ (7-1-97)

~~ii.~~ ~~When enrolled in the electrology/esthetics apprenticeship program: Six hundred (600) hours credit.~~ (7-1-97)

~~b.~~ ~~Cosmetology students or apprentices (not licensed) may receive one seventh (1/7) of accumulated cosmetology hours, but no more than two hundred (200) student or four hundred (400) apprentice hours toward the esthetics requirement for electrologist/esthetician licensure.~~ (7-1-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**413. ESTHETICS REQUIREMENTS FOR LICENSURE BY EXAMINATION (Rule 413).**

01. Filing of Record of Instruction. Applicant must file Record of Instruction covering five hundred (500) hours. (7-1-97)

02. Credit Given For Training. Credit given for training as a student will be fifty (50) hours for each year of practical experience under licensure in another state, territory, possession or country. (7-1-97)(\_\_\_\_)

03. Six (6) Month Allowance For Credit. Credit ~~for experience~~ will be allowed only ~~in full~~ six (6) month ~~experience~~ increments. (7-1-97)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**450. EXAMINATIONS - GENERAL (Rule 450).**

01. Dates and Places. (7-1-97)
- a. Examinations for licensure are to be held at the discretion of the board. (7-1-97)
- b. The dates and places of examination will be published annually. (7-1-97)
02. Written Examination. The written examination consists of two (2) parts: theory and Idaho jurisprudence. (7-1-97)
- a. The theory examination will be the national examination provided by the National Interstate Council of State Boards of Cosmetology. (7-1-97)
- b. The Idaho jurisprudence examination will be a comprehensive written examination which will include all aspects of Idaho laws and rules relating to the provision of cosmetological services. (7-1-97)
03. Oral Test. As authorized by Idaho Code 54-810, the examiners may direct questions to individual examinees during the course of the practical examination. (7-1-97)
04. Supplies. Each applicant is required to bring adequate supplies and materials for the practical examination. Detailed information will be provided upon notification of acceptance for examination. (7-1-97)
05. Failure To Pass Examination. ~~Failure to pass examination.~~ (7-1-97)( )
- a. The practical examination is failed when an applicant obtains an average score below seventy-five percent (75%). Reexamination shall consist of the entire examination. (7-1-97)
- b. Written examination is failed when the applicant obtains a score of below seventy-five (75%) percent on the national theory examination or the Idaho jurisprudence examination. Reexamination shall consist of the written examination on the portion or portions failed. (7-1-97)
- e. ~~When an applicant fails either a written or practical examination on a second attempt, reexamination shall consist of the written and practical examinations in their entirety.~~ (7-1-97)
06. Eligibility for Reexamination. A new application must be filed with the board. The prescribed fee must accompany said application. (7-1-97)
07. Termination. All application records in the bureau of applicants who have not qualified for reexamination within five (5) years of notification of failure in any examination under the Cosmetology Law will be terminated and destroyed. (7-1-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**457. ELECTROLOGY/~~ESTHETICS~~ EXAMINATION (Rule 457).**

01. The Written Examination. The written examination will cover all phases of the art of electrology, ~~esthetics~~ and sanitation. (7-1-97)( )
02. The Practical Examination. The practical examination will cover (7-1-97)
- a. Electrology: Preparation and sanitation of equipment and supplies, epilation, adjusting and control

of machine, after treatment and personal appearance, attitude, sanitation. (7-1-97)

~~b. Esthetics: Preparation, cleansing/basic facial, massage, makeup and personal appearance, attitude, sanitation. (7-1-97)~~

~~e. Additional training will be required when more than one section of the practical examination is failed or an applicant fails a portion of the examination more than once. (7-1-97)~~

03. Additional Training. Additional training required to qualify for reexamination shall be as follows: (7-1-97)

a. Additional training required to qualify for practical reexamination shall be twenty (20%) percent of the hour requirement for original examination. (7-1-97)

b. Additional training required to qualify for the written reexamination shall be not less than forty (40) hours in theory and Idaho jurisprudence, in a curriculum approved by the board, in an Idaho licensed school, and complying with all other requirements for reexamination. (7-1-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**483. MODELS FOR THE ELECTROLOGY/ESTHETICS EXAMINATION (Rule 483).**

~~01. Human Models. Human models will be used for the skin care demonstration only. (7-1-97)~~

~~02. Hair Removal. Hair removal will be demonstrated directly on the Examiners. (7-1-97)( )~~

~~03. Human Models. Human models must be people to whom makeup may be applied. (7-1-97)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**500. RULES OF SCHOOLS OF COSMETOLOGY (Rule 500).**

Section 54-808, Idaho Code, provides for the rules of schools of cosmetology. Supplementing this section, the board adopts the following rules: (7-1-97)

01. Application Before Opening and Operating a School. No school of cosmetology will be opened and/or operated until the board has issued its approval. See Section 54-806, Idaho Code. Application for a school license shall be made on forms furnished by the board. The fully completed application to operate a school, with the required fee, shall be submitted to the board. (7-1-97)

a. As soon as practicable, upon receipt of said application, the board or its designated agent, will cause the school to be inspected. Based on this inspection, a recommendation for the issuance or rejection of a license will be made and a decision entered, within a reasonable time not to exceed thirty (30) days, after said application has been received. (7-1-97)

b. All new schools applying for license must have one thousand eight hundred (1,800) square feet of space. Schools approved to teach electrology/esthetics refer to Rule 550. (7-1-97)( )

c. All new schools must be separated completely from establishments with no connecting entrances. (7-1-97)

02. Adequate Space. Schools provide adequate space for the number of students to be trained in said schools. An additional forty (40) square feet of floor space shall be provided in excess of the minimum one thousand

eight hundred (1,800) square feet required for each student enrolled over twenty (20) students. (7-1-97)

03. Annual Review of Curriculum and Catalog. Schools must provide a curriculum and catalog to the board. Schools must provide a curriculum and catalog to the board for review on an annual basis. Curricula must be submitted at the time of license renewal. If there are no changes in the curriculum or catalog during the previous year, the school may submit a letter of explanation to the board. (7-1-97)

04. Minimum Two Hundred (200) Hours of Instruction. Student cosmetologists. Student cosmetologists may not be permitted to render any clinical service to patrons until students have completed at least two hundred (200) hours of instruction, nor clinical services considered to be possibly harmful or detrimental to patrons, such as tints, hair-coloring, permanent waves and similar services, until the student has completed three hundred (300) hours of instruction. (7-1-97)

05. Records Required. Records required of schools of cosmetology: (7-1-97)

a. Schools shall maintain monthly records for each student which will show: (7-1-97)

i. Daily hours spent in classroom recitation and study. (7-1-97)

ii. Daily hours spent in instructional and practical training. (7-1-97)

iii. Theory grade, practical grade, sanitation grades, daily number of requirements completed. (7-1-97)

b. Monthly records shall be signed and dated by the student and instructor. A copy of the signed and dated monthly record shall be provided to the student. The school shall maintain the monthly records for a period of two (2) years following completion or termination of the student training. These records are subject to inspection by the board at any time. (7-1-97)

c. The number of operations and hours accumulated on the monthly record forms are to be totaled and transferred to the Record of Instruction Form, showing the day of the month beginning and the day of the month ending the monthly period of time. (7-1-97)

d. When a student's course of training at a school has been completed or terminated, the completed operations, number of classroom hours and practical training are to be totaled by the school on the Record of Instruction Form. This form is to be filed with the board by the school within thirty (30) days of the completion or termination of training or a letter of explanation filed with the board by the school as to why student's hours are not verified by the school. (7-1-97)

e. Schools shall maintain on the premises proof of student meeting education requirements. Schools must maintain proof of student having satisfactorily completed two (2) years of high school (tenth grade) or having equivalent education. If student is a high school graduate, schools may accept a photostatic copy of the high school diploma or transcript. A letter written on high school stationary, signed by an officer of the high school, may be accepted to verify student's satisfactory completion of the tenth grade and eligibility to commence the eleventh grade. (7-1-97)

f. Proof of age must be submitted. Schools must maintain on their premises proof of students compliance with minimum age requirement. Acceptable proof of birth date will be a copy of the student's birth certificate, a passport, military identification, drivers license or other similar form of documentation. (7-1-97)

06. Record of Training. The operations to be recorded on the monthly record form and the Student Record of Instruction Form performed by students are: (7-1-97)

a. Creative hair styling which shall include hair styles, wet sets/styling, thermal styles, fingerwaving, braiding/free styling - three hundred thirty five (335). (7-1-97)

b. Scalp Treatments - ten (10). (7-1-97)

- c. Permanent Waves (All Methods) - ninety (90). (7-1-97)
- d. Haircutting/shaping which shall include scissor and razor/clipper - one hundred (100). (7-1-97)
- e. Bleaching - ten (10). (7-1-97)
- f. Tinting - thirty-five (35). (7-1-97)
- g. Semi Permanent/Temporary Color - twenty (20). (7-1-97)
- h. Frosting/Hilites - ten (10). (7-1-97)
- i. Facials which shall include plain, makeup and arches - forty-five (45). (7-1-97)
- j. Manicures which shall include plain and oil - forty (40). (7-1-97)
- k. Pedicures - five (5). (7-1-97)
- l. Artificial Nails - five (5). (7-1-97)
- 07. Discontinuance of School. If a school discontinues to operate as a school, records of instruction covering all students attending said school at the time of discontinuance or prior thereto, must be filed in the office of the board. (7-1-97)
- 08. Out of State Applicants. (~~7-1-97~~)
  - a. ~~Prior to commencing a course of study in an Idaho approved school, an~~ Applicants is who have received training in out of state schools and who wish to complete training in an Idaho school are required to file with the board prior to applying for examination a copy of the record of instruction from the out of state school(s). For purposes of this section, the record of instruction will be a statement which gives detailed information regarding operations and hours of training, and which is to be verified by the licensing agency or school(s) in the state in which the training was obtained. (~~7-1-97~~)( )
- 09. Student Registration. Schools are required to register all students with the board within five (5) days of beginning training (post office cancelation date will be accepted). Student registration fee must be submitted at time of registration. (7-1-97)
- 10. Outside School Activities. Schools may allow a student credit for no more than thirty (30) hours for outside activities during the course of their training. These hours must be approved by the instructor. (7-1-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**550. RULES FOR COSMETOLOGY SCHOOLS APPROVED TO TEACH ELECTROLOGY/ESTHETICS (Rule 550).**

Section 54-802(n) provides for the teaching of electrology/~~esthetics~~ in cosmetology schools. (~~7-1-97~~)( )

01. Board Approval. The board may approve a school to teach electrology/~~esthetics~~ who makes application on forms provided by the board and who meets all the requirements set forth in the cosmetology law and these rules. Approval of curriculum must be submitted on a separate application. Approval may be suspended or terminated by the board for the school's failure to meet any one or more of the minimum requirements set forth in the cosmetology law and rules to teach electrology/~~esthetics~~. (~~7-1-97~~)( )

02. Minimum Square Footage. Schools provide a minimum of three hundred (300) square feet of designated floor space per six (6) students. (7-1-97)



03. Required Equipment. Each school shall have the following equipment, which is considered the minimum equipment necessary for the proper instruction of students. This amount of equipment is based on six (6) students. (7-1-97)

- a. Work stations equal to seventy-five percent (75%) of total enrollment. (7-1-97)
- b. Two (2) brands of machines (one with 3 method capability) Galvanic, Thermolysis, and Blend. (7-1-97)
- c. Two (2) treatment tables and adjustable technician chairs. (7-1-97)
- d. Two (2) swing arm lamps with magnifying lens. (7-1-97)
- e. ~~One (1) facial machine.~~ (7-1-97)
- f. ~~One (1) steam/vaporizer machine.~~ (7-1-97)
- g. Two (2) magnifying glasses. (7-1-97)
- h. Tweezers. (7-1-97)
- i. One (1) basin with approved water source. (7-1-97)
- j. Necessary sanitation equipment for implements. (7-1-97)
- k. Closed storage cabinet. (7-1-97)

04. Kit. Each student to be issued a basic kit containing: two (2) tweezers, disposable probes, eye shields, disposable gloves, before treatment solution, after treatment lotion, hair pins or clippies, one (1) sharps container. ~~Basic skin care kit: Cleansing lotion, toner, moisturizer, massage cream/oil, (2) facial sponges, (5) spatulas, (1) masque brush, protective eye covers, head and body drape, facial bowl. Basic cosmetic kit: foundation base, translucent powder, eye pencil, lip pencil, eyeshadow, mascara, blush, lip color, lip brush, eyebrow brush, (2) cosmetic sponges, mascara applicator brush, make up cape, mirror.~~ (7-1-97)( )

05. ~~Electrologist/Esthetician~~ Instructor/Student Ratio. Schools have at least one (1) licensed electrologist/~~esthetician~~ instructor for every six (6) students or portion thereof, being trained therein. (7-1-97)( )

06. Records Required. Records required of cosmetology schools approved to teach electrology/~~esthetics~~. (7-1-97)( )

- a. Students must complete a course of training which includes: (7-1-97)
  - i. ~~Electrology: Three hundred (300) clinical hours; Two hundred (200) theory hours, for a total of five eight hundred (5800) hours.~~ (7-1-97)( )
  - ii. ~~Skin care: Two hundred (200) clinical operations; One hundred (100) theory hours, a total of three hundred (300) hours.~~ (7-1-97)

b. Students may not render any clinical services to patrons until completing at least eighty (80) hours of instruction in electrology ~~and forty (40) hours of instruction in estheology.~~ (7-1-97)( )

07. Record of Training. The recorded operations on the monthly record form and the Student Record of Instruction Form performed by students are as follows: (The first numbers are required minimum hours of theory; the second numbers are required minimum clinical hours.) (7-1-97)

- a. Permanent Removal of Hair (Electrology). (7-1-97)
- i. Bacteriology, sanitation and sterilization, safety precautions, anatomy, and physiology - ~~fifty-five~~ (55). ~~(7-1-97)~~(    )
- ii. Electricity which shall include the nature of electrical current, principles of operating electrical devices and the various safety precautions used when operating electrical equipment - ~~fifteen~~ (15). ~~(7-1-97)~~(    )
- iii. Electrolysis which shall include the use and study of galvanic current - ~~fifteen/twenty~~ (15/20). ~~(7-1-97)~~(    )
- iv. Thermolysis which shall include the use and study of high frequency current automatic and manual ~~fifteen/fifty~~ (15/50). ~~(7-1-97)~~(    )
- v. A combination of high frequency and galvanic currents - ~~fifteen/thirty~~ (15/30). ~~(7-1-97)~~(    )
- vi. The study and cause of hypertrichosis - ~~fifteen~~ (15). ~~(7-1-97)~~(    )
- vii. Additional training of up to two hundred (200) hours may be taken in bookkeeping, salesmanship and public relations. (7-1-97)
- b. ~~Esthetics (The first numbers are required minimum theory operations; the second numbers are required minimum clinical operations.)~~ (7-1-97)
  - i. ~~Massage and manipulation application of lotions, creams, etc. - 30/60.~~ (7-1-97)
  - ii. ~~Cosmetics - 30/60.~~ (7-1-97)
  - iii. ~~Machine application: Use of mechanical or electrical equipment - 40/80.~~ (7-1-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**560. RULES FOR COSMETOLOGY SCHOOLS TEACHING ESTHETICS (Rule 560).**

Section 54-802 (p), Idaho Code, provides for the teaching of esthetics in cosmetology schools. (7-1-97)

01. Board Approval. The board may approve a school to teach esthetics who makes application on forms provided by the board and who meets all the requirements set forth in the cosmetology law and these rules. Approval of curriculum must be submitted on a separate application. Approval may be suspended or terminated by the board for the school's failure to meet any one or more of the minimum requirements set forth in the cosmetology law and rules to teach esthetics. (7-1-97)

02. Records Required. Records required of schools teaching esthetics. (7-1-97)

a. Students must complete a course of training which includes: Two hundred fifty (250) clinical hours; Two hundred fifty (250) theory hours, for a total of five hundred (500) hours. (7-1-97)

b. Students may not render any clinical services to patrons until completing at least sixty (60) hours of instruction in esthetics. (7-1-97)

c. The recorded operations on the monthly record form and the Student Record of Instruction Form performed by students are as follows: (The first numbers are required minimum hours of theory; the second numbers are required minimum clinical hours.) (7-1-97)

- i. Massage and Manipulation application of lotions, creams, etc. - thirty/sixty (30/60). (~~7-1-97~~)(    )
- ii. Cosmetics - thirty/sixty (30/60). (~~7-1-97~~)(    )
- iii. Machine Application: use of mechanical or electrical equipment - forty/eighty (40/80). (~~7-1-97~~)(    )
- (55). iv. Bacteriology, Sanitation and sterilization, safety precautions, anatomy and physiology - fifty-five (~~7-1-97~~)(    )
- v. Additional Training - sixty (60). (~~7-1-97~~)(    )
- vi. Eyebrow arch and hair removal - fifteen/twenty (15/20). (~~7-1-97~~)(    )
- vii. Special field sciences - fifteen/thirty (15/30). (~~7-1-97~~)(    )
- 03. Kit. Each student shall be issued a basic skin care and cosmetic kit containing: (    )
- a. Basic skin care kit: (    )
- i. Cleansing lotion (    )
- ii. Toner; (    )
- iii. Moisturizer; (    )
- iv. Massage cream/oil; (    )
- v. Two (2) facial sponges; (    )
- vi. Five (5) spatulas; (    )
- vii. One (1) masque brush; (    )
- viii. Protective eye covers; (    )
- ix. Head and body drape; and (    )
- x. Facial bowl. (    )
- b. Basic cosmetic kit: (    )
- i. Foundation base; (    )
- ii. Translucent powder; (    )
- ii. Eye pencil; (    )
- iii. Lip pencil; (    )
- iv. Eyeshadow; (    )
- v. Mascara; (    )
- vi. Blush; (    )
- vii. Lip color; (    )

- viii. Lip brush: ( )
- ix. Eyebrow brush: ( )
- x. Two (2) cosmetic sponges: ( )
- xi. Mascara applicator brush: ( )
- xii. Make up cape; and ( )
- xiii. Mirror. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**600. COSMETOLOGY, ELECTROLOGY/~~ESTHETICS~~ INSTRUCTOR RULES (Rule 600).**

- 01. Requirements for Instructor License. (7-1-97)
  - a. Application for an instructor license shall be made on forms furnished by the board and accompanied with the required fees. (7-1-97)
  - b. Section 54-805(2)(8), Idaho Code, provides for twelve (12) semester college credit hours or equivalent, as approved by the board, or successful completion of the examination required by board rules. Credit hours must be obtained from the Education Department, Speech Communications Department or from the Psychology/Sociology Department and other credit at the discretion of the Board. (7-1-97)
  - c. Equivalent: (7-1-97)
    - i. Teaching seminars directed to cosmetology or electrology/~~esthetics~~ must be approved by the board. Fourteen (14) clock hours is equivalent to one (1) semester college credit hour in an approved seminar. Verification of satisfactory completion must be submitted to the board for their approval. (~~7-1-97~~)( )
    - ii. Verified satisfactory teaching as a qualified instructor from another state three (3) of the previous five (5) years immediately prior to application. (7-1-97)
    - d. Experience Requirements for Instructor Applicant (Reference Section 54-805(2)(8), Idaho Code). Five (5) years experience is deemed "immediately preceding" if obtained during the seven (7) year period immediately preceding application for licensure. (7-1-97)
    - e. An electrologist/~~esthetician~~ with fewer than five (5) years' experience as a licensed electrologist/~~esthetician~~ must complete three (3) months, five hundred (500) hours of teacher's training in a cosmetology school approved to teach electrology/~~esthetics~~ as set forth in Subsection ~~3~~550.08. (~~7-1-97~~)( )
- 02. Examination Dates and Places. (7-1-97)
  - a. Instructor examinations will be held in conjunction with the board meeting in Boise on the Tuesday following the first (1st) Monday of February, June and October. (7-1-97)
  - b. The dates and places of examination are subject to change. (7-1-97)
- 03. Termination. All application records in the bureau of applicants who have not qualified for reexamination within five (5) years of notification of failure in any examination under the Cosmetology Law will be terminated and destroyed. (7-1-97)

04. Scope and Requirement of Examination for License. (7-1-97)
- a. Examination will consist of both a practical and written examination. The written examination will be in two parts: a national theory examination and an Idaho jurisprudence examination. (7-1-97)
- b. Mannequin shall be used in lieu of model. (7-1-97)
- c. Examinee would be required to demonstrate to the board ability to teach cosmetology services. One subject to be assigned when accepted for examination and a subject to be drawn at the time of the examination. (7-1-97)
- d. Supplies required for the instructor's examination. Bring sufficient materials and supplies to demonstrate in assigned category. (7-1-97)
05. Instructor Reexamination. To be eligible, an applicant must obtain two hundred (200) hours additional training in a school of cosmetology as a student instructor. (7-1-97)
06. Requirements for Student Instructor. (7-1-97)
- a. A student instructor shall file an application on forms provided by the board before beginning training and shall at all times be under the direct supervision of a licensed instructor. (7-1-97)
- b. The time spent as a student instructor to meet instructor licensure requirements will not be credited to the years experience required for an instructor license. (7-1-97)
- c. One (1) year experience may be obtained within a school upon completion of instructor training. (7-1-97)
- d. Six (6) months is considered to be one thousand (1,000) hours of training. Three (3) months is considered to be five hundred (500) hours of training. (7-1-97)
07. Student Registration. Schools are required to register all students with the board prior to providing any instruction. Student registration fee must be submitted at time of registration. (7-1-97)
08. Record of Training. The number of required operations on a monthly Record Form and Student Record of Instruction Form are as follows: (The first numbers are required operations for six (6) months/one thousand (1,000) hours of training; the second numbers are required operations for three (3) months/five hundred (500) hours of training.) (7-1-97)
- a. Lesson Planning - ~~twenty-five/ten~~ (25/10). (7-1-97)( )
- b. Audio Visual Aid Preparation - ~~twenty-five/ten~~ (25/10). (7-1-97)( )
- c. Theory Class. Teach ~~twenty-five~~ (25) classes/Teach ~~ten~~ (10) classes. (7-1-97)( )
- d. Practical Demonstrations - ~~twenty-five/ten~~ (25/10). (7-1-97)( )
- e. Testing and Evaluation Theory. - ~~Fifteen~~ (15) theory/~~five~~ (5) theory. (7-1-97)( )
- f. Testing and Evaluation. - ~~Fifteen~~ (15) practical/~~five~~ (5) practical. (7-1-97)( )
- g. Clinic Floor Supervision - ~~Seven hundred/three hundred~~ (700/300). (7-1-97)( )
- h. Related Subjects - ~~One hundred fifty/fifty-five~~ (150/55). (7-1-97)( )
- i. Counseling. (7-1-97)

- ii. Record Keeping. (7-1-97)
- iii. Business and Reception. (7-1-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**700. COSMETOLOGY - ELECTROLOGY, ESTHETICS, AND NAIL TECHNOLOGY APPRENTICE TRAINING (Rule 700).**

Sections 54-805(6)(c) and 54-807, Idaho Code, provide for the practice of apprentices. (7-1-97)( )

01. Cosmetology Apprentices. There must be at least one (1) licensed cosmetology instructor and one (1) licensed registered cosmetologist in any cosmetological establishment at all times for each apprentice who is being trained therein. (7-1-97)( )

02. Electrology/~~Esthetic~~ Apprentices. Apprentice training must be ~~done~~ obtained under the direct personal supervision of an electrologist/~~esthetician~~ instructor. (7-1-97)( )

a. An electrologist/~~esthetician~~ instructor may train no more than one (1) apprentice at a time. (7-1-97)( )

03. Esthetics Apprentices. There must be at least one (1) licensed cosmetology instructor and one (1) licensed cosmetologist or licensed esthetician in any cosmetological establishment at all times for each apprentice who is being trained therein. ( )

04. Nail Technology Apprentices. There must be at least one (1) licensed cosmetology instructor and one (1) licensed cosmetologist or nail technician in any cosmetological establishment at all times for each apprentice who is being trained therein. ( )

035. Filing Application. Application for license as an apprentice must be made on forms furnished by the board. (7-1-97)

046. Application For Cosmetology Apprentice ~~Must Show Name of Registered Cosmetologist~~. The application submitted for an ~~cosmetology~~ apprentice license must show list the names and license numbers of the licensed ~~registered~~ cosmetologists, electrologists, estheticians, and nail technicians employed in the establishment in which an apprentice will serve apprenticeship; ~~must be shown on the application for apprentice license.~~ (7-1-97)( )

057. Prior to Beginning Training. Prior to beginning of training, the instructor for any apprenticeship must submit and have board approval of a curriculum for the entire apprenticeship training. (7-1-97)( )

068. Application Must Be Accompanied by Proof of Meeting Educational Requirements. Applications must be accompanied by proof of having satisfactorily completed two (2) years of high school (tenth grade) or having equivalent education. If applicant is a high school graduate, a photostatic copy of the high school diploma may be submitted. A letter written on high school stationery, signed by an officer of the high school, may be forwarded with the application. Such letter shall indicate that the applicant has satisfactorily completed the tenth grade and is eligible to commence the eleventh grade. Do not send original high school diploma to the board. (7-1-97)

079. Submit Proof of Birth. Apprentices must furnish a copy of their birth certificate or other acceptable proof of birth with application. (7-1-97)

0810. Apprentice License. An apprentice license must be obtained from the board before training as an apprentice begins. (7-1-97)

~~a.~~ An original ~~cosmetology~~ apprentice license shall be dated and valid until such time as said apprentice is no longer enrolled as an apprentice in said establishment. (7-1-97)( )

~~b.~~ An original ~~electrology/esthetic~~ apprentice license shall be dated and valid until such time as said apprentice is no longer enrolled as an apprentice in said establishment. (7-1-97)

~~09~~11. Records Required. Establishments training apprentices must maintain records as set forth: (7-1-97)

a. For cosmetology apprentice in Subsection 500.05 ~~a., 500.05.b., 500.05.c., and 500.05.d.~~ (7-1-97)( )

b. For electrology/~~esthetic~~ apprentice in Subsection 550.06.a.i. ~~and 550.06.a.ii.~~ (7-1-97)( )

c. For esthetics apprentice in Subsection 560.02. ( )

d. For nail technology apprentice in Subsection 570.02. ( )

~~10~~2. Record of Training. The operations to be recorded on the monthly record form and the Student Record of Instruction form performed by apprentices are as set forth: (7-1-97)

a. For cosmetology apprentice in Rule 500.06. (7-1-97)

b. For electrology/esthetic apprentice in Rule 550.07. (7-1-97)

c. For esthetics apprentice in Subsection 560.02.c. ( )

d. For nail technology apprentice in Subsection 570.03. ( )

~~11~~3. Discontinuance of a Course. When an apprentice discontinues a course of study, the salon is to complete a Record of Instruction Form with the credited hours completed by the apprentice. This form is to be submitted to the board. If an apprentice discontinues a course of training and does not transfer to another salon within sixty (60) days, the apprentice license is automatically canceled and is to be submitted to the board along with the Record of Instruction. (7-1-97)

~~12~~4. Before Resuming Training. Before resuming training, after having discontinued a course, an apprentice must file a new application and pay an additional fee. The apprentice must receive a license before resuming training. (7-1-97)

~~13~~5. Discontinuance of Establishment Training Apprentices. If a licensed establishment where apprentices are being trained discontinues to operate as a salon, records of instruction covering all apprentices obtaining training at the time of discontinuance or prior thereto, must be filed in the office of the board. (7-1-97)

~~14~~6. Out of State Apprenticeship. Prior to commencing a course of study in an Idaho approved establishment, an apprentice applicant is required to file with the board a copy of the record of instruction from the out of state apprenticeship. For purposes of this section, the record of instruction will be a statement which gives detailed information regarding operations and hours of training, and which is to be verified by the licensing agency or instructor(s) in the state in which the training was obtained. (7-1-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**800. INSPECTION AND SANITARY RULES. (Rule 800).**

Each cosmetological establishment and school of cosmetology and barber shop and school of barbering is subject to inspection by the board or its designated agents in accordance with the following rules (reference Section 54-824, and

54-524, Idaho Code). Maximum possible score is indicated by number. (7-1-97)

01. Premises. All shops and schools shall be open to inspection during business hours to authorized agents of the Cosmetology/Barber boards. Shops and schools must be separated from living areas by substantial walls and/or closable doors. All shops and schools must be maintained in an orderly manner and shall be heated, lighted, and ventilated so as to be safe and comfortable to the operators and patrons. Score five (5) (7-1-97)

02. Floors, Walls, and Ceilings. Floors, walls, ceilings, furniture, and all other fixtures shall be kept clean and in good repair at all times. Score five (5) (7-1-97)

03. Instrument Cleaning. All instruments used by operators shall be thoroughly cleaned after each use and prior to storage and/or sanitation. Score fifteen (15) (7-1-97)

04. Instrument Sanitation. All instruments used by operators shall be sanitized after cleaning and prior to use on each patron, with a sanitizing agent registered by the Environmental Protection Agency as Hospital Grade or better. Every precaution shall be taken to prevent the transfer of disease-causing pathogens from person to person. Score fifteen (15) (7-1-97)

05. Towels. Clean towels shall be used for each patron. A clean paper or cloth neckband shall be used to provide a sanitary barrier which shall be maintained between each patron's neck and all multi-use capes. Paper towels and paper neckstrips shall be disposed of after one (1) use. Score five (5) (7-1-97)

06. Storage of Equipment. All instruments, towels, and linens shall be stored in clean, closed cabinets, drawers, and/or containers after they are cleaned and sanitized. Score five (5) (7-1-97)

07. Dispensers. All solutions and/or compounds shall be clearly labeled, maintained, and dispensed in a sanitary manner. All single-use applicators shall be disposed of after one (1) use. Paraffins, waxes and all other solutions and/or compounds shall be maintained free of any foreign contaminants. Score five (5) (~~7-1-97~~)( )

08. Uniforms. All clothing worn by operators shall be clean and washable. Score five (5) (7-1-97)

09. Water Supply. Water supplies shall be from an approved source. Sufficient basins with hot and cold running water, approved drainage systems, soap and single-use towels shall be conveniently located within the work area. Every operator and/or student shall wash their hands prior to providing service to any patron. Score ten (10) (7-1-97)

10. Toilet Facilities. Clean, adequate and convenient toilet facilities, located and accessible from within the building where the shop or school is located, shall be available for use by operators and patrons. A basin with hot and cold running water, approved drainage systems, soap and single-use towels shall be provided within said facilities. Score ten (10) (7-1-97)

11. Safety. Each shop and school shall have a clearly identifiable first-aid kit readily accessible on the premises. No animals are allowed in shops or schools except those animals trained to provide service to the physically impaired. Score five (5) (7-1-97)

12. Licenses and Certificates. All shops and schools must be licensed prior to their operation and must be under the direct supervision of a licensed operator. A current shop and/or school license, valid operator license(s) or permit(s), a copy of these rules, and a valid classification card shall be conspicuously displayed in the work area of each shop and/or school for the information of operators, board agents, and the public in general. Score fifteen (15) (7-1-97)

13. Classification of Shops and Schools. Following an inspection, each shop and school will receive classification as follows: 100% - 90% = "A"; 89% - 80% = "B"; 79% and below = "C". The "C" classification denotes an unacceptable rating and improvements are required within thirty (30) days for continued operation. (7-1-97)

**801. -- 82514. (RESERVED).**



**815. DISCIPLINE (Rule 815).**

01. Proposed Fines.

<u>VIOLATION</u>	<u>MAXIMUM FINE</u> <u>(each violation)</u>
<u>Operating An Unlicensed Establishment/School.</u> Includes: <u>Failure to obtain original license (includes change of ownership or location);</u> <u>Failure to renew license;</u>	<u>\$ 500</u> <u>\$ 250</u>
<u>Unlicensed Practice.</u> Includes: <u>Failure to renew license;</u> <u>Practice beyond the scope of license/permit;</u> <u>Practice with an altered license/permit.</u>	<u>\$ 250</u> <u>\$ 250</u> <u>\$1,000</u>
<u>Allowing Unlicensed Practice.</u> Includes: <u>Owners, Employees, Renters/Leasees, Partners, Family Members, Others.</u>	<u>\$1,000</u>
<u>Practice In An Unlicensed Establishment.</u> Includes: <u>Owners, Employees, Renters/Leasees, Partners, Family Members, Others.</u>	<u>\$ 250</u>
<u>Failing To Allow The Inspection Of An Establishment.</u> Includes: <u>Failure to admit investigator during business hours;</u> <u>Obstructing/hindering the inspection process;</u> <u>Threatening or exerting physical harm to investigators;</u> <u>Allowing acts of obstruction or harm to occur.</u>	<u>\$1,000</u>
<u>Failing To Correct Unacceptable Conditions Within 30 Days.</u> Includes: <u>Failure to separate other business/living areas;</u> <u>Failure to maintain floors, walls, ceilings in good repair;</u> <u>Failure to adequately clean instruments;</u> <u>Failure to adequately sanitize instruments;</u> <u>Failure to use clean towels;</u> <u>Failure to maintain sanitary barrier with multi-use capes;</u> <u>Failure to appropriately store instruments/equipment;</u> <u>Failure to appropriately maintain/dispense products;</u> <u>Failure to wear clean washable clothing;</u> <u>Failure to maintain approved water supply;</u> <u>Failure to maintain approved toilet facilities;</u> <u>Failure to wash hands prior to service;</u> <u>Failure to provide first aid kits;</u> <u>Failure to keep pets or birds out of establishment;</u> <u>Failure to prevent fire or safety hazard;</u> <u>Failure to conspicuously display required certificates;</u> <u>Failure to conspicuously display required licenses.</u>	<u>\$ 250</u>

( )

02. Fine in Addition to Other Discipline. For any one (1) or combination of those violations noted under Section 54-816 or 54-819, Idaho Code, the Board may impose a fine of up to one thousand dollars (\$1000) in addition to any refusal to issue, revocation, or suspension of any certificate or license. ( )

03. Costs and Fees in Disciplinary Proceeding. The Board may order all licensed practitioners to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-

816. Idaho Code.

( )

~~8016.~~ -- 825. (RESERVED).

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.04.01 - RULES OF THE IDAHO BOARD OF COSMETOLOGY**  
**DOCKET NO. 24-0401-9802**

**NOTICE OF TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** These temporary rules are effective, October 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 54-821, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be held as follows: No public hearings are scheduled.

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:

Establishes original license fee for makeover or glamour photography business to be \$50 and annual renewal fee to be \$35; increases registered cosmetologist and nail technician original license fee and annual renewal fee to \$25; increases instructor original license and annual renewal fee to \$30; increases electrologist and esthetician original license fee and annual renewal fee to \$27; increases all examination fees to \$75.

**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 board is in a deficit position and the new fees are needed to keep their financial situation from further deterioration.

**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 54-818, 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 October 28, 1998.

DATED this 26th day of August, 1998.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0401-9802**

**125. FEES (Rule 125).**

Fees are established in accord with Section 54-818, Idaho Code, as follows: (7-1-97)

- 01. Original Registrations, Licenses, and Annual Renewals. (7-1-97)
  - a. Cosmetological establishment, original registration - Fifty dollars (\$50). (7-1-97)
  - b. Cosmetological establishment, annual renewals - ~~Thirty-five~~ thirty dollars (~~\$305~~). (~~7-1-97~~)(10-1-98)T
  - c. Retail cosmetics Dealer, original registration - Fifty dollars (\$50). (7-1-97)
  - d. Retail cosmetics dealer, annual renewals - ~~Thirty-five~~ thirty dollars (~~\$305~~). (~~7-1-97~~)(10-1-98)T
  - e. Makeover or glamour photography business, original registration - Fifty dollars (\$50). (10-1-98)T
  - f. Makeover or glamour photography business, annual renewals - Thirty-five dollars (\$35). (10-1-98)T
  - eg. Domestic school of cosmetology, original registration - Five hundred dollars (\$500). (7-1-97)
  - fh. Domestic school of cosmetology, annual renewals - One hundred fifty dollars (\$150). (7-1-97)
  - gi. Registered cosmetologist, original license/annual renewals - ~~Twenty-five~~ thirty dollars (~~\$205~~). (~~7-1-97~~)(10-1-98)T
  - hj. Nail technician, original license/annual renewals - ~~Twenty-five~~ thirty dollars (~~\$205~~). (~~7-1-97~~)(10-1-98)T
  - ik. Apprentice, original license (no renewal fees required) - Twenty dollars (\$20). (7-1-97)
  - jl. Student certificate (registration) (no renewal fees required) - Twenty dollars (\$20). (7-1-97)
  - km. Instructor, original license/annual renewals - ~~Twenty-five~~ thirty dollars (~~\$2530~~). (~~7-1-97~~)(10-1-98)T
  - ln. Student instructor certificate - Twenty-five dollars (\$25). (7-1-97)
  - mo. Electrologist/~~esthetician~~, original license/annual renewals - ~~Twenty-two~~ twenty-seven dollars (~~\$227~~). (~~7-1-97~~)(10-1-98)T
  - np. Esthetician, original license/annual renewals - ~~Twenty-two~~ twenty-seven dollars (~~\$227~~). (~~7-1-97~~)(10-1-98)T
  - oq. Endorsement - One hundred dollars (\$100). (7-1-97)
  - pr. Interim certificate when endorsement denied, also constitutes examination - ~~Thirty~~ thirty-seven dollars (~~\$375~~). (~~7-1-97~~)(10-1-98)T
  - qs. Temporary license to practice, demonstrate and teach - Ten dollars (\$10). (7-1-97)
- 02. Examination Fees. (7-1-97)
  - a. As a registered cosmetologist - ~~Thirty~~ thirty-seven dollars (~~\$375~~). (~~7-1-97~~)(10-1-98)T
  - b. As a nail technician - ~~Thirty~~ thirty-seven dollars (~~\$375~~). (~~7-1-97~~)(10-1-98)T

- c. As an instructor - ~~Thirty~~ Seventy-five dollars (\$~~375~~). (~~7-1-97~~) (10-1-98)T
- d. As an electrologist/~~esthetician~~ - ~~Thirty~~ Seventy-five dollars (\$~~375~~). (~~7-1-97~~)(10-1-98)T
- e. As an esthetician - ~~Thirty~~ Seventy-five dollars (\$~~375~~). (~~7-1-97~~)(10-1-98)T
03. Fees Shall Not Be Prorated or Returnable. Fees shall not be prorated or returnable. (7-1-97)
04. All Certificates Expire December 31. All certificates expire December 31. (7-1-97)
05. Default. When the board is notified by a lending facility, that a person holding a license is in loan default, no license may be issued or renewed until proper documentation is received from the lending institution. Reference Section 54-816(9), Idaho Code. (7-1-97)

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.05.01 - RULES OF THE BOARD OF ENVIRONMENTAL HEALTH SPECIALIST EXAMINERS**  
**DOCKET NO. 24-0501-9801**  
**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Sections 54-2403 and 54-2405, 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 October 21, 1998.

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

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

Establishes that the board may impose a civil fine not to exceed \$1,000 upon a registered environmental health specialist for each violation of Section 54-2410, Idaho Code; and the board may order a registered environmental health specialist to pay the costs and fees incurred by the board in the investigation or prosecution of the licensee for violation of Section 54-2410, Idaho Code.

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

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 October 28, 1998.

DATED this 24th day of August, 1998.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0501-9801**

**402. -- ~~499~~24. (RESERVED).**

**425. DISCIPLINE (Rule 425).**

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a registered environmental health specialist for each violation of Section 54-2410, Idaho Code . ( )

02. Costs and Fees. The Board may order a registered environmental health specialist to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-2410, Idaho Code . ( )

**426. -- 499. (RESERVED).**

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.06.01 - RULES OF THE BOARD OF HEARING AID DEALERS AND FITTERS**  
**DOCKET NO. 24-0601-9801**  
**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section 54-2914, 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 October 21, 1998.

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

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

Establishes that the board may impose a civil fine not to exceed \$1,000 upon a licensee for violation of Section 54-2912(b)(1)(13), Idaho Code; and establishes that the board may order a licensee to pay the costs and fees incurred by the board in the investigation or prosecution of the licensee for violation of Section 54-2912(b)(1)(13), Idaho Code.

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

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 October 28, 1998.

DATED this 24th day of August, 1998.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0601-9801**

**~~551. -- 599.~~ (RESERVED).**

**551. DISCIPLINE (Rule 551).**

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed hearing aid dealer and fitter for each violation of Section 54-2912(b), Idaho Code. ( )

02. Costs and Fees. The Board may order a licensed hearing aid dealer and fitter to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-2912(b), Idaho Code. ( )

**552. -- 599. (RESERVED).**

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.07.01 - RULES OF THE IDAHO BOARD OF LANDSCAPE ARCHITECTS**

**DOCKET NO. 24-0701-9801**

**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section 54-3003, 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 October 21, 1998.

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

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

Deletes rule requiring applicants to pass all parts of the national exam in three years; deletes the Idaho plant examination; and establishes that the board may impose upon a licensee a civil fine not to exceed \$1,000 and may order a licensee to pay the costs and fees incurred by the board in the investigation and prosecution of the licensee for violation of law or rules.

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

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 October 28, 1998.

DATED this 26th day of August, 1998.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0701-9801**

**300. EXAMINATIONS (Rule 300).**

The examination shall be that published by the Council of Landscape Architectural Registration Board ~~and may include an Idaho Plant material examination.~~ Examinations will be in the months of June and December.

~~(11-25-94)~~( )

01. Minimum Passing Score. The minimum passing score for each section of the examination shall be seventy-five percent (75%). (7-1-93)

02. Failing A Section of Exam. An applicant failing any section of the examination will be required to retake only that section failed. (7-1-93)



~~03. Timeline For Passing Exam. Such an applicant will have three (3) consecutive years beginning with the date of first examination in which to obtain a passing score on the failed section or sections. If the applicant does not do so, he will be required to file an original application, pay the required fees and retake the entire examination.~~  
~~(11-25-94)~~

043. Required Forms. Application and reference forms are required for original applications. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**302. RECIPROCITY/LIMITED EXAMINATION (Rule 302).**

The board may certify for registration ~~with limited examination~~ an applicant who has achieved licensing in another state by successfully passing the Landscape Architect Registration Examination as required by Section 300 or holds a current Council of Landscape Architectural Registration Board certificate. ~~The limited examination shall consist of an Idaho plant materials examination.~~  
~~(7-1-93)( )~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**401. -- 494. (RESERVED).**

**450. DISCIPLINE (Rule 450).**

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a registered landscape architect for each violation of Section 54-3004, Idaho Code. ( )

02. Costs and Fees. The Board may order a registered landscape architect to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-3004, Idaho Code. ( )

**451. -- 499. (RESERVED).**

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.08.01 - RULES OF THE STATE BOARD OF MORTICIANS**

**DOCKET NO. 24-0801-9801**

**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Sections 54-1106 and 54-1107, 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 October 21, 1998.

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

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

Establishes a mortician resident trainee shall not sign a death certificate; and establishes that the board may impose upon a licensee a civil fine not to exceed \$1,000 and may order a licensee to pay the costs and fees incurred by the board in the investigation and prosecution of the licensee for violation of law or rules.

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

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 October 28, 1998.

DATED this 26th day of August, 1998.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0801-9801**

**250. MORTICIAN RESIDENT TRAINEE (Rule 250).**

01. Definition. The term "Mortician Resident Trainee" as herein used is a person who is engaged in learning the practice of embalming and/or the profession of mortuary science. Training shall be understood to mean diligent attention to the subject matter in the course of regular and full-time paid employment. Full-time employment shall mean a minimum of thirty-six (36) hours per week for fifty (50) weeks per year within the mortuary where the sponsoring resident mortician is practicing. It shall be further required that at least three-fourths (3/4) of the training period consists of a sponsoring licensed mortician instructing and demonstrating practices and procedures to increase knowledge of the service performed by a mortician as defined in Chapter 11, Title 54-1102 Section A., Idaho Code. A Mortician Resident Trainee shall not sign a death certificate as provided under Idaho law. For the balance of the required hours it would be the responsibility of the sponsoring mortician, or his licensed appointee, to be immediately available for consultation with the trainee. All training must be served in the state of Idaho. (7-1-93)(\_\_\_\_)

02. Sponsoring Mortician. A practicing mortician within the state of Idaho who is duly registered as such with the Bureau of Occupational Licenses and assumes responsibility for the proper supervision and instruction of a "Resident Mortician Trainee". (7-1-93)

03. Eligibility To Be Licensed. No person shall be eligible to be licensed as a "Mortician Resident Trainee" who has practiced as a resident trainee or apprentice for a total cumulative period of more than two (2) years in the state of Idaho. For purposes of accounting for total cumulative training as a "Mortician Resident Trainee" the sponsoring mortician is required to notify the bureau at the beginning and termination of the training period. When a "Mortician Resident Trainee" has completed his training, he must proceed to qualify as a licensed "Mortician" within the following three (3) year period or show good reason for further delay. (7-1-93)

04. Resident Trainee Applicants to Qualify. (7-1-93)

a. Must be at least eighteen (18) years of age. (7-1-93)

b. Must be of good moral character. (7-1-93)

c. Must have graduated from an accredited high school or have received an equivalent education as determined by the standards set and established by the state board of education. (7-1-93)

d. A signed and notarized photo as specified in Section 200 above. (7-1-93)

e. The effective date of the resident training shall be determined by the board at its next meeting. In no case shall it be prior to the date the application, together with the required fees, are received in the office of Occupational License Bureau. (7-1-93)

f. Resident mortician training must be served under the direction of a qualified full time resident mortician licensed and practicing in Idaho. (7-1-93)

g. Complete resident training affidavits showing time served, the number of bodies embalmed. (7-1-93)

h. The applicant must appear in person before the board before licensure may be completed. (7-1-93)

05. Temporary Permits. Temporary permits may be issued to applicants for "Mortician Resident Trainee" licenses. (7-1-93)

06. Interruption in Training. An interruption in training of 60 days or more constitutes termination of training. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**~~501. -- 549.~~ (RESERVED).**

**501. DISCIPLINE (Rule 501).**

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed mortician for each violation of Section 54-1116, Idaho Code. ( )

02. Costs and Fees. The Board may order a licensed mortician to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-1116, Idaho Code. ( )

**~~502. -- 549.~~ (RESERVED).**

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.11.01 - RULES OF THE STATE BOARD OF PODIATRY**  
**DOCKET NO. 24-1101-9801**  
**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section 54-605, 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 October 21, 1998.

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

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

Establishes that the board may impose a civil fine not to exceed \$1,000 upon a licensee for violation of Sections 54-608 and 54-609, Idaho Code; and establishes that the board may order a licensee to pay the costs and fees incurred by the board in the investigation or prosecution of the licensee for violation of Sections 54-608 and 54-609, Idaho Code.

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

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 October 28, 1998.

DATED this 26th day of August, 1998.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1101-9801**

**501. -- 549. (RESERVED).**

**550. DISCIPLINE (Rule 550).**

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed podiatrist for each violation of Sections 54-608 and 54-609, Idaho Code . ( )

02. Costs and Fees. The Board may order a licensed podiatrist to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Sections 54-608 and 54-609, Idaho Code . ( )

**551. -- 599. (RESERVED).**

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.12.01 - RULES OF THE STATE BOARD OF PSYCHOLOGIST EXAMINERS**

**DOCKET NO. 24-1201-9801**

**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section 54-2305, 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 October 21, 1998.

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

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

Increases the time period during which an applicant can accrue 1000 hours of supervised practice to 36 months; establishes the examination and reexamination fee to be equal to that charged by the national examining entity plus a processing fee of \$25; deletes the requirement wherein the service provider received monetary compensation; deletes the requirement that a psychologist employing more than three service extenders must provide a plan of compliance with this rule and must be completed in one year; and establishes that the board may impose upon a licensee a civil fine not to exceed \$1,000 and may order a licensee to pay the costs and fees incurred by the board in the investigation and prosecution of the licensee for violation of law or rules.

**FEE SUMMARY:** The following is a specific description of the fee or change imposed or increased: The fees being established are as stated above in the descriptive summary. Statute authorizing these fees is Section 54-2307(d), Idaho Code.

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

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 October 28, 1998.

DATED this 26th day of August, 1998.

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

---

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1201-9801**

**150. FEES (Rule 150).**

01. Annual Renewal Fee. Annual renewal fee - two hundred dollars (\$200). (7-1-98)

02. Application Fee. Application fee - two hundred dollars (\$200). (7-1-93)
03. Examination Fee. Examination fee shall be equal to that charged by the national examining entity plus a processing fee of one hundred fifty twenty-five dollars (\$15025). (7-1-93)( )
04. Reexamination Fee. Reexamination fee shall be equal to that charged by the national examining entity plus a processing fee of one hundred fifty twenty-five dollars (\$15025). (7-1-93)( )
05. Reciprocity Fee. Reciprocity fee - one hundred dollars (\$100) as established by Section 54-2312, Idaho Code. (7-1-93)
06. Examination, Reexamination or Reciprocity Fee In Addition to Application Fee. The examination, reexamination or reciprocity fee shall be in addition to the application fee and must accompany the application. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**351. -- 39974. (RESERVED).**

**375. DISCIPLINE (Rule 375).**

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed psychologist for each violation of Section 54-2309, Idaho Code. ( )
02. Costs and Fees. The Board may order a licensed psychologist to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-2309, Idaho Code. ( )

**376. -- 399. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**450. GUIDELINES FOR USE OF SERVICE EXTENDERS TO LICENSED PSYCHOLOGISTS (Rule 450).**

The board recognizes that licensed psychologists may choose to extend their services by using service extenders. The board provides general rules to cover all service extenders as well as specific rules to cover service extenders with different levels of training and experience. (7-1-93)

01. General Provisions for Licensed Psychologists Extending Their Services Through Others. (7-1-93)
- a. The licensed psychologist exercising administrative control for a service extender shall: (7-1-93)
- i. Have the authority to cause termination of compensation for the service extender. (7-1-93)
- ii. Have the authority to cause the suspension or removal of the service extender from his position as a service provider. (7-1-93)
- b. The licensed psychologist exercising professional direction for a service extender shall: (7-1-93)
- i. Within thirty (30) days after employing the service extender, formulate and provide to the board a written supervisory plan for each service extender. The plan shall include provisions for supervisory sessions and chart review. If the psychologist requires tapes to be made of psychological services delivered by the service extender, then the plan shall also specify review and destruction of these tapes. The plan shall also specify the hours per

calendar week that the licensed psychologist will be at the same physical location as the person extending the services of the licensed psychologist. The plan shall be accompanied by a completed application form and an application fee of fifty dollars (\$50). (7-1-93)

ii. Establish and maintain a level of supervisory contact sufficient to be readily accountable in the event that professional, ethical, or legal issues are raised. There will be a minimum of one (1) hour of face-to-face supervisory contact by a licensed psychologist with the service extender for each one (1) to twenty (20) hours of services provided by the service extender during any calendar week. At least one half (1/2) of this face-to-face supervisory contact will be conducted individually, and up to one half (1/2) of this face-to-face supervisory contact may be provided using a group format. A written record of this supervisory contact, including the type of activities conducted by the service extender, shall be maintained by the licensed psychologist. Except under unusual circumstances, the supervisory contact will occur either during the week the services are extended or during the week following. In no case will services be extended more than two (2) weeks without supervisory contact between the service extender and a licensed psychologist. (7-1-93)

iii. Provide the service extender a copy of the current Ethical Standards of the American Psychological Association, and obtain a written agreement from the service extender of his intention to abide by them. (7-1-93)

02. Qualifications for Service Extenders. (7-1-93)

a. Category I: A service extender will be placed in Category I if: (7-1-93)

i. The licensed psychologist wishing to employ the service extender verifies in writing to the satisfaction of the board that the service extender holds a license issued by the state of Idaho to practice a specific profession, and that the issuance of that license requires the licensee hold a master's degree or its equivalent as determined by the board; or (7-1-93)

ii. The service extender meets the criteria for Category II specified below and the licensed psychologist wishing to employ the service extender verifies in writing to the satisfaction of the board that the service extender has satisfactorily functioned as a service extender to one (1) or more licensed psychologist for at least twenty (20) hours per calendar week over a period totaling two hundred sixty (260) weeks. (7-1-93)

b. Category II: A service extender will be placed in Category II if the licensed psychologist wishing to employ the service extender verifies in writing to the satisfaction of the board that the service extender holds a master's degree from a program in psychology, counseling, or human development as determined by the board. (7-1-93)

03. Conditions for Use of Service Extenders. (7-1-93)

a. All persons used to extend the services of a licensed psychologist shall be under the direct and continuing administrative control and professional direction of a licensed psychologist. These service extenders may not use any title incorporating the word "psychologist" or any of its variants or derivatives, e.g. "psychological," "psychotherapist," etc. (7-1-93)

b. Work assignments shall be commensurate with the skills of the service extender and procedures shall be planned in consultation with the licensed psychologist under all circumstances. (7-1-93)

c. Public announcement of fees and services, as well as contact with lay or professional public shall be offered only in the name of the licensed psychologist whose services are being extended. However, persons licensed to practice professions other than psychology may make note of their status in such announcements or contacts. (7-1-93)

d. Setting and collecting of fees shall remain the sole domain of the licensed psychologist; excepting that when a service extender is used to provide services of the licensed psychologist, third party payers shall be informed of this occurrence in writing at the time of billing. Unless otherwise provided in these rules and regulations, licensed psychologists may neither claim or imply to service recipients or to third party payers an ability to extend their services through any person who has not been approved as a service extender to that psychologist as specified in

this section. (7-1-93)

e. All service recipients shall sign a written notice of the service extender's status as a service extender for the licensed psychologist. A copy of the signed written notice will be maintained on file with the licensed psychologist. (7-1-93)

f. Within the first three (3) contacts, the licensed psychologist shall have face-to-face contact with each service recipient. (7-1-93)

g. A licensed psychologist shall be available to both the service extender and the service recipient for emergency consultation. (7-1-93)

h. Service Extenders shall be housed in the same service delivery site as the licensed psychologist whose services they extend. Whatever other activities they may be qualified to perform, service extenders shall limit themselves to acting as service extenders of the licensed psychologist when providing direct services so long as they are physically located in the offices of the licensed psychologist. (7-1-93)

i. A service extender in Category I may deliver as much as, but not more than fifty percent (50%) of their service while the licensed psychologist is not physically present at the service delivery site. A service extender in Category II may deliver as much as, but not more than twenty-five percent (25%) of their service while the licensed psychologist is not physically present at the service delivery site. Service Extenders providing as many as, but no more than, three (3) hours of service extension per calendar week shall be exempted from these provisions. Without notification to the board, short term exemption from this rule for atypical circumstances, such as irregular travel by the licensed psychologist, may occur for periods as long as, but no longer than three (3) calendar weeks. Longer exemptions may be granted at the discretion of the board on written request by the licensed psychologist to the board. (7-1-93)

j. The licensed psychologist shall employ no more than three (3) service extenders. ~~Any licensed psychologist employing more than three (3) service extenders at the time this rule is adopted shall, within thirty (30) days after its adoption, provide, for the approval of the board, a plan to comply with this rule. Compliance with this rule will be complete within one (1) calendar year from its adoption.~~ (7-1-93)( )

k. When a licensed psychologist terminates employment of a service extender, the licensed psychologist will notify the board in writing within thirty (30) days. (7-1-93)

l. At the time of license renewal the licensed psychologist shall submit: (7-1-93)

i. A copy of the written record of supervisory contact for the previous twelve (12) months with the names of service recipients removed. (7-1-93)

ii. The percentage of time during the previous twelve (12) months that the service extender extended services while the licensed psychologist was at the service delivery site. (7-1-93)

iii. The modal number of hours per calendar week, during the previous twelve (12) months, that the licensed psychologist delivered services at the site on which the service extender extended his services. (7-1-93)

iv. An updated plan for the supervision of each of his service extenders. The updated plan shall be accompanied by a fee of fifty dollars (\$50). (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**550. REQUIREMENTS FOR SUPERVISED PRACTICE (Rule 550).**

01. Duration and Setting of Supervised Practice. (7-1-93)



a. A year of supervised experience is defined as a minimum of one thousand (1000) hours of supervised service provision acquired during not less than a twelve (12) month and no more than a thirty-six (36) calendar month period, and for which the service provider received monetary compensation. The first year of supervised experience shall be accredited only after acquiring the equivalent of two (2) years of full time graduate study. A second year must be obtained post-doctorally. (7-1-93)(\_\_\_\_)

b. A minimum qualifying supervised experience consists of two (2) years of supervised experience, neither of which is the internship, and at least one (1) of which is obtained post-doctorally. (7-1-93)

02. Qualifications of Supervisors. (7-1-93)

a. Supervising psychologists shall be licensed and shall have training in the specific area of practice in which they are offering supervision. (7-1-93)

03. Amount of Supervisory Contact. One (1) hour per week of face-to-face individual contact per twenty (20) hours of applicable experience is a minimum. (7-1-93)

04. Evaluation and Accreditation of Supervised Practice. The board shall require submission of information by the supervisor(s) which enable it to evaluate and credit the extent and quality of the candidate's supervised practice. The form requesting such information shall cover the following: (7-1-93)

- a. Name of supervisee; (7-1-93)
- b. Educational level of supervisee; (7-1-93)
- c. Supervisor's name, address, license number, state in which granted and area of specialization; (7-1-93)
- d. Name and nature of setting in which supervised practice took place; (7-1-93)
- e. Date of practice covered in this report; (7-1-93)
- f. Number of practice hours during this period; (7-1-93)
- g. Supervisee's duties; (7-1-93)
- h. Number of one-to-one supervisory hours; (7-1-93)
- i. Assessment of supervisee's performance; and (7-1-93)
- j. Whether or not the supervisee received monetary compensation for the supervised services they provided. (7-1-93)

05. Unacceptable Supervision. Supervised practice time during which the supervisor deems supervisee's performance to have been unacceptable shall not be credited towards the required supervised practice hours. (7-1-93)

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.14.01 - RULES OF THE STATE BOARD OF SOCIAL WORK EXAMINERS**  
**DOCKET NO. 24-1401-9801**  
**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section 54-3204, 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 October 21, 1998.

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

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

Establishes that the board may impose a civil fine not to exceed \$1,000 upon a licensee for violation of Section 54-3211, Idaho Code; and establishes that the board may order a licensee to pay the costs and fees incurred by the board in the investigation or prosecution of the licensee for violation of Section 54-3211, Idaho Code.

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

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 October 28, 1998.

DATED this 26th day of August, 1998.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1401-9801**

**451. -- ~~499~~74. (RESERVED).**

**475. DISCIPLINE (Rule 475).**

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed social worker for each violation of Section 54-3211, Idaho Code. ( )

02. Costs and Fees. The Board may order a licensed social worker to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-3211, Idaho Code. ( )

**476. -- 499. (RESERVED).**

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.15.01 - RULES OF THE IDAHO COUNSELOR LICENSING BOARD**

**DOCKET NO. 24-1501-9801**

**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section 54-3404, 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 October 21, 1998.

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

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

Establishes requirements for a conditional counseling license to be: must possess a bachelor degree; sets forth the ethical standards; establishes an application fee of \$75; establishes original license fee to be \$75; and annual renewal fee to be \$60; changes the name of the American Association for Counseling and Development to American Counseling Association; and establishes that the board may impose upon a licensee a civil fine not to exceed \$1,000 and may order a licensee to pay the costs and fees incurred by the board in the investigation and prosecution of the licensee for violation of law or 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 54-3405B, Idaho Code.

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

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 October 28, 1998.

DATED this 26th day of August, 1998.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1501-9801**

**238. -- 2439. (RESERVED).**

**240. CONDITIONAL COUNSELING LICENSE (Rule 240).**

The following requirements must be met for the issuance of a conditional counseling license: ( )

01. Possess a Bachelor's Degree. Possess a bachelor's degree in a counseling field from an accredited university or college offering an undergraduate program in counseling. ( )

a. A counseling field shall be in social work, psychology, mental health areas or such other degree as determined by the board in one or more of those areas stated in Subsection 150.01.a.iv. ( )

b. An accredited university or college shall be a college or university accredited by one (1) of the following: the Middle States Association of Colleges and Secondary Schools, the New England State Association of Colleges and Secondary Schools, the North Central Association of Colleges and Secondary Schools, the Northwest Association of Colleges and Secondary Schools, the Southern Association of Colleges and Secondary Schools, or the Western College Association. ( )

02. Follow the Ethical Standards of a Licensed Professional Counselor. The Board adopts the American Counseling Association (ACA) Code of Ethics as the same may be modified or amended. All applicants will receive a copy of the ACA Code of Ethics. All licensees will be required to adhere to the ACA Code of Ethics. ( )

**241. -- 249. (RESERVED).**

**250. FEES (Rule 250).**

01. Application Fee. Application fee: (7-1-97)

a. Licensed Professional Counselor - Seventy-five dollars (\$75). (7-1-97)

b. Licensed Professional Counselor-Private Practice - Seventy-five dollars (\$75). (7-1-97)

c. Licensed Pastoral Counselor - Seventy-five dollars (\$75). (7-1-98)

d. Conditional Counseling License - Seventy-five dollars (\$75). ( )

02. Licensed Professional Counselor and Licensed Pastoral Counselor Examination or Reexamination Fee. Licensed Professional Counselor and Licensed Pastoral Counselor examination or reexamination fee - Fifty dollars (\$50). (7-1-98)

03. Original License Fee. Original License fee: (7-1-97)

a. Licensed Professional Counselor - Seventy-five dollars (\$75). (7-1-97)

b. Licensed Professional Counselor-Private Practice - Twenty dollars (\$20) (7-1-97)

c. Licensed Pastoral Counselor - Seventy-five dollars (\$75). (7-1-98)

d. Conditional Counseling License - Seventy-five dollars (\$75). ( )

04. Annual Renewal Fee. Annual renewal fee for Licensed Professional Counselor, Licensed Professional Counselor-Private Practice, ~~and~~ Licensed Pastoral Counselor, and Conditional Counseling License - Sixty dollars (\$60). (7-1-98)( )

05. Fees are Non-refundable. All fees are non-refundable. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**350. CODE OF ETHICS (Rule 350).**

The Board adopts the American Association for Counseling and Development Association (AACD) Code of Ethics

as the same may be modified or amended. All applicants will receive a copy of the AACDA Code of Ethics. All licensees will be required to adhere to the AACDA Code of Ethics. (7-1-93)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**500. DISCIPLINARY PROCEDURES (Rule 500).**

01. Disciplinary Procedures. The disciplinary procedures of the Bureau of Occupational Licenses are the disciplinary procedures of the Counselor Licensing Board. (7-1-93)( )

02. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed counselor for each violation of Section 54-3407, Idaho Code. ( )

02. Costs and Fees. The Board may order a licensed counselor to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for a violation of Section 54-3407, Idaho Code. ( )

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.16.01 - RULES GOVERNING THE STATE BOARD OF DENTURITRY**

**DOCKET NO. 24-1601-9801**

**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section 54-3309, 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 October 21, 1998.

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

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

Establishes that the board may impose a civil fine not to exceed \$1,000 upon a licensee for violation of Section 54-3314(a), Idaho Code; and establishes that the board may order a licensee to pay the costs and fees incurred by the board in the investigation or prosecution of the licensee for violation of Section 54-3314(a), Idaho Code.

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

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 October 28, 1998.

DATED this 26th day of August, 1998.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1601-9801**

**477. -- 4979. (RESERVED).**

**480. DISCIPLINE (Rule 480).**

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed denturist for each violation of Section 54-3314(a), Idaho Code. ( )

02. Costs and Fees. The Board may order a licensed denturist to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-3314(a), Idaho Code. ( )

**481. -- 499. (RESERVED).**

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.18.01 - RULES OF THE REAL ESTATE APPRAISER BOARD**  
**DOCKET NO. 24-1801-9801**  
**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 54-521, Idaho Code.

**DESCRIPTIVE SUMMARY:** These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No.98-8, August 5, 1998, pages 170 through 173.

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

DATED this 26th day of August, 1998.

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

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**IDAPA 24**  
**TITLE 18**  
**Chapter 01**

**RULES OF THE REAL ESTATE APPRAISER BOARD**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-8, August 5, 1998,  
pages 170 through 173.**

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

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.18.01 - RULES OF THE REAL ESTATE APPRAISER BOARD**  
**DOCKET NO. 24-1801-9802**  
**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section 54-4106, 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 October 21, 1998.

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

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

Deletes the requirement that education must be completed within the previous ten (10) years; deletes acceptance of credit for a course by challenge examination; deletes from acceptable non field appraisal experience teaching of appraisal courses; decreases experience requirement for certified residential appraiser to 2,500 hours; establishes the experience requirement for certified general appraiser shall be a minimum of 3,000 hours in not less than thirty (30) months; increases the length of time a temporary practice permit will be issued to six (6) months; adds that a temporary permit may be extended one time only; and establishes that the board may impose upon a licensee a civil fine not to exceed \$1,000 and may order a licensee to pay the costs and fees incurred by the board in the investigation and prosecution of the licensee for violation of law or rules.

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

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 October 28, 1998.

DATED this 26th day of August, 1998.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1801-9802**

**299. REQUIREMENTS FOR LICENSURE/CERTIFICATION (Rule 299).**

All applicants for licensure/certification in any real estate appraiser classification must meet the following requirements in addition to those requirements set forth in Sections 300, 350, and 400 below. (7-1-97)

01. Examination. Successful completion of an examination approved by the Board pursuant to the guidelines of the Appraisal Foundation. (7-1-97)



02. Education. (7-1-97)
- a. Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen (15) hours, and the individual successfully completes an examination pertinent to the educational offering. (7-1-97)
- b. Credit for the classroom hour requirement may be obtained from the following: (7-1-97)
- i. Colleges or Universities. (7-1-97)
- ii. Community or Junior Colleges. (7-1-97)
- iii. Any member of the Appraisal Foundation. (7-1-97)
- iv. State or Federal Agencies or Commissions. (7-1-97)
- v. Other providers approved by the Board. (7-1-97)
- c. Only those courses completed ~~within the ten (10) years immediately~~ preceding the date of application will be accepted for meeting educational requirements, ~~except for the Uniform Standards of Professional Appraisal Practice, and Code of Ethics as noted in Subsections 300.02.a.; 350.02.a.; 400.02.a.~~ (7-1-97)(    )
- d. ~~The Board may grant credit for courses where the applicant obtained credit from the course provider by challenge examination without attending the courses, provided the Board is satisfied with the quality of the challenge examination that was administered by the course provider. Course credits which are obtained from the course provider by challenge examination without attending the course will not be accepted.~~ (7-1-97)(    )
- e. Various appraisal courses may be credited toward the classroom hour education requirement. Applicants must demonstrate that their education involved coverage of all topics listed below. Licensed Residential and Certified Residential must include emphasis in one (1) to four (4) unit residential properties; Certified General must include emphasis in nonresidential properties. (7-1-97)
- i. Influences on Real Estate Value. (7-1-97)
- ii. Legal Considerations in Appraisal. (7-1-97)
- iii. Types of Value. (7-1-97)
- iv. Economic Principles. (7-1-97)
- v. Real Estate Markets and Analysis. (7-1-97)
- vi. Valuation Process. (7-1-97)
- vii. Property Description. (7-1-97)
- vii. Highest and Best Use Analysis. (7-1-97)
- ix. Appraisal Statistical Concepts. (7-1-97)
- x. Sales Comparison Approach. (7-1-97)
- xii. Site Value. (7-1-97)
- xiii. Cost Approach. (7-1-97)
- xiv. Income Approach. (7-1-97)

- xv. Valuation of Partial Interests. (7-1-97)
- xvi. Appraisal Standards and Ethics. (7-1-97)
- f. Advanced courses will be those courses for which an introductory or basic course is required. Typically classes titled "Introductory," "Basic," or "Principles" will not be accepted for advanced requirements. (7-1-97)
03. Experience. (7-1-97)
- a. The work product claimed for experience credit must be in conformity with the Uniform Standards of Professional Appraisal Practice or shall be in compliance with generally accepted standards which were in effect at the time those appraisals were prepared. (7-1-97)
- b. A year of experience is equal to a minimum of one thousand (1,000) hours worked during a consecutive twelve (12) month period. Regardless of the number of experience hours submitted or obtained during any twelve (12) month period, no more than one thousand (1,000) of those hours may be credited to meet this requirement. Hours obtained in excess of one thousand (1,000) hours during any consecutive twelve (12) month period may not be credited or carried over into the next twelve (12) month period. (7-1-97)
- c. Only experience gained during the five (5) years preceding application will be considered for evaluation. (7-1-97)
- d. Acceptable non field appraisal experience includes, but is not limited to the following: Fee and Staff appraisal analysis, tax appraisal, appraisal analysis, review appraisal, real estate counseling, highest and best use analysis, and feasibility analysis/study ~~and teaching of appraisal courses.~~ (7-1-97)( )
- e. An appraiser applying for certification/licensure must verify his completion of the required experience via affidavit, under oath subject to penalty of perjury, and notarized on a form provided by the Board. (7-1-97)
- i. To demonstrate experience the Board requires submission of a log which details hours claimed for experience credit. (7-1-97)
- ii. The Board reserves the right to contact an employer for confirmation of length and extent of experience claimed. This may require an employer to submit appraisal reports and/or an affidavit. (7-1-97)
- iii. The Board may request submission of written reports or file memoranda which substantiate an applicant's claim for experience credit. (7-1-97)
- f. Ad valorem tax appraisers who demonstrate that they use techniques to value properties similar to those used by appraisers and effectively use the process as defined in Subsection 010.10, Field Real Estate Appraisal Experience will receive experience credit. (7-1-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**350. CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA (Rule 350).**

The State Certified Residential Real Estate Appraiser classification applies to the appraisal of residential properties of four (4) or less units without regard to transaction value or complexity. Applicants must meet the following examination, education, and experience requirements in addition to complying with Section 299. Subsequent to being certified an individual must meet the continuing education requirement. (7-1-97)

01. Education. As a prerequisite to taking the examination for certification as an Idaho Certified Residential Real Estate Appraiser, an applicant shall present evidence satisfactory to the board that he has successfully completed not less than one hundred twenty (120) classroom hours of courses in subjects related to real estate appraisal approved by the board. Each applicant must have successfully completed not less than ninety (90) classroom hours of study related to those topics outlined under Subsection 299.02.e., the basic principles of real estate appraising and thirty (30) classroom hours of advanced residential or non-residential specialized courses relating to the topics specified at Subsection 299.02.e. Not less than fifteen (15) and no more than twenty (20) classroom hours of studies within the last five (5) years specifically relating to the Uniform Standards of Professional Appraisal Practice, and Code of Ethics; will be credited to the classroom hour requirement. (7-1-97)

02. Experience. ( )

a. Prerequisite to sit for the examination: Equivalent of three (3) years appraisal experience (see Subsection 299.03.b.). Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. (7-1-97)( )

~~ab. Of the required three thousand (3,000) hours, the applicant must accumulate a minimum of twenty-two thousand five hundred (2,500) hours from residential field of real estate appraisal experience in not less than twenty-five (25) months. Two thousand (2,000) hours of the experience shall be from residential field appraisal experience.~~ The balance of five hundred (500) hours may include non field experience, refer to Subsection 299.03.c. (7-1-97)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**400. CERTIFIED GENERAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA (RULE 400).**

The State Certified General Real Estate Appraiser classification applies to the appraisal of all types of real property. Applicants must meet the following examination, education, and experience requirements in addition to complying with Section 299. Subsequent to being certified, an individual must meet the continuing education requirement.

(7-1-97)

01. Education. As a prerequisite to taking the examination for certification as an Idaho State Certified General Real Estate Appraiser, an applicant shall present evidence satisfactory to the board that he/she has successfully completed not less than one hundred eighty (180) classroom hours of courses in subjects related specifically to real estate appraisal approved by the board. Each applicant must have successfully completed not less than one hundred sixty (160) classroom hours of study related to those topics outlined under Subsection 299.02.e. Not less than fifteen (15) and no more than twenty (20) classroom hours of studies within the last five (5) years specifically relating to the Uniform Standards of Professional Appraisal Practice, and Code of Ethics; and one hundred (100) classroom hours of advanced non residential specialized courses relating to the topics specified at Subsection 299.02.e. (7-1-97)

02. Experience. ( )

a. Prerequisite to sit for the examination. Equivalent of three (3) years appraisal experience (See Subsection 299.03.b.). Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. (7-1-97)( )

~~ab. Of the 3,000 hours required,~~ The applicant must accumulate a minimum of ~~two~~ three thousand (2,3,000) hours ~~from nonresidential field real estate~~ of appraisal experience in not less than thirty (30) months. ~~Two thousand (2,000) hours of the experience must be nonresidential field appraisal experience.~~ The balance of one thousand (1,000) hours may be solely residential experience or can include up to five hundred (500) hours of nonfield experience as outlined in Subsection 299.03.c. (7-1-97)( )

**401. CONTINUING EDUCATION (Rule 401).**

All certified/licensed appraisers must comply with the following continuing education requirements: (7-1-97)

01. Purpose of Continuing Education. The purpose of continuing education is to ensure that the appraiser participates in a program that maintains and increases his skill, knowledge and competency in real estate appraising. (7-1-97)

02. Hours Required. The equivalent of fifteen (15) classroom hours of instruction in courses or seminars for each year during the three (3) years during the period preceding the renewal is required. (For example, a three (3) year certification term would require forty-five (45) hours. These hours may be obtained any time during the three (3) year term. (7-1-97)

a. A classroom hour is defined as fifty (50) minutes out of each sixty (60) minute segment. (7-1-93)

b. Credit toward the classroom hour requirement may be granted only where the length of the educational offering is at least two (2) hours. (7-1-97)

c. Credit for the classroom hour requirement may be obtained by accredited courses which have been approved by the appraisal members of The Appraisal Foundation. All other courses must have approval of the Board. (7-1-93)

d. Once every five (5) years an Idaho State Certified/Licensed Real Estate Appraiser will be required to attend fifteen (15) hours of a Uniform Standards of Professional Appraisal Practice course and receive a passing grade on a course examination. (7-1-97)

03. Credit for Appraisal Educational Processes and Programs. Continuing education credit may also be granted for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities which are determined to be equivalent to obtaining continuing education. (7-1-97)

04. Requirement When a Certificate/License is Cancelled. For ~~any~~ each year (less than five (5)) in which a license is lapsed, cancelled, or otherwise non-renewed, fifteen (15) hours of continuing education must be obtained prior to reinstatement. (7-1-97)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**500. TEMPORARY PRACTICE (Rule 500).**

01. Requirements for Issuance. A permit to temporarily practice may be issued to individuals coming to Idaho who are certified/licensed in another state and are either transferring to Idaho or have a temporary assignment in Idaho. (7-1-93)

02. Provide Proof of Current Certification or Licensure. Must provide proof of current certification or licensure in good standing in another state or meet the requirements as set forth in these rules, and comply with Section 54-4115(3), Idaho Code, regarding irrevocable consent. (7-1-93)

03. Assignments and Length of Time Permit Will Be Issued. Permit to temporarily practice will be issued on a per appraisal assignment basis for a period not to exceed ~~four~~ six (46) months. A temporary permit may be extended one (1) time only. (7-1-97)(    )

**501. -- 54924. (RESERVED).**

**525. DISCIPLINE (Rule 525).**

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed or certified real estate appraiser for each violation of Section 54-4107(1), Idaho Code. ( )

02. Costs and Fees. The Board may order a licensed or certified real estate appraiser to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-4107(1), Idaho Code. ( )

**526. -- 549. (RESERVED).**

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.19.01 - RULES OF THE BOARD OF RESIDENTIAL CARE FACILITY ADMINISTRATORS**  
**DOCKET NO. 24-1901-9801**  
**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section 54-4205, 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 October 21, 1998.

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

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

Establishes that the board may impose a civil fine not to exceed \$1,000 upon a licensee for violation of Section 54-4213(1) Idaho Code; and establishes that the board may order a licensee to pay the costs and fees incurred by the board in the investigation or prosecution of the licensee for violation of Section 54-4213(1), Idaho Code.

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

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 October 28, 1998.

DATED this 26th day of August, 1998.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1901-9801**

**601. -- 6949. (RESERVED).**

**650. DISCIPLINE (Rule 650).**

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed residential care facility administrator for each violation of Section 54-4213(1), Idaho Code. ( )

02. Costs and Fees. The Board may order a licensed residential care facility administrator to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-4213(1), Idaho Code. ( )

**651. -- 699. (RESERVED).**

**IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION**

**26.01.30 - IDAHO SAFE BOATING RULES**

**DOCKET NO. 26-0130-9801**

**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 67-4223, 67-4249, and 67-7002, 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 October 22, 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, Title 01, Chapter 30 establishes the Idaho Safe Boating Rules. It is being proposed to amend these rules to eliminate the requirement to carry life jackets on a float tube when the float tube is being operated on a lake or reservoir which is less than 200 surface acres, at natural or ordinary high water, in size.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because this proposed rule was heard at a meeting of the Idaho Park and Recreation Board.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Mark E. Brandt, Policy 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 October 28, 1998.

DATED this 18th day of September, 1998.

Mark E. Brandt, Policy 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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 26-0130-9801**

**050. PERSONAL FLOTATION DEVICES (PFD's).**

01. Personal Flotation Devices Required. Except seaplanes, sailboards, and as provided in Subsections 050.03 and 050.04. of this chapter, no person shall operate or permit to be operated any vessel on the waters of this state without carrying on board personal flotation devices (Type I life preservers, Type II buoyant vests, Type III special purpose marine buoyant devices, Type IV buoyant cushions or ring life buoys, or Type V restricted use devices) as follows: (7-1-93)

a. Recreational vessels (used for non-commercial use) less than sixteen (16) feet in length, and canoes and kayaks of any length, shall have one (1) type I, II, or III wearable personal flotation devices of a suitable size for each person on board. (5-1-95)

b. Recreational vessels sixteen (16) feet in length and over, except as stated in Subsection 050.01.a. of this chapter, shall have one (1) type I, II, or III wearable personal flotation device of a suitable size for each person on board and, in addition, one (1) type IV throwable device. (1-1-94)

c. Commercial vessels less than forty (40) feet in length not carrying passengers for hire shall have at least one (1) Type I, II, or III wearable personal flotation device of a suitable size for each person on board. (1-1-94)

d. Commercial vessels carrying passengers for hire and commercial vessels forty (40) feet in length or longer not carrying passengers for hire shall have at least one Type I wearable personal flotation device of a suitable size for each person on board. (1-1-94)

e. Commercial vessels twenty-six (26) feet in length or longer shall have at least one (1) Type IV throwable ring life buoy in addition to other requirements. (1-1-94)

02. Location and Condition. All personal flotation devices required by Section 050 of this chapter shall be readily accessible to persons on board and be of good and serviceable condition. All such devices shall be approved by the U.S. Coast Guard, and shall be marked in accordance with U.S. Coast Guard standards. All such devices shall comply with the construction and design standards set forth by 46 U.S.C. Section 2101 et seq. and Section 4301 et seq., and applicable federal regulations. (1-1-94)

03. Alternative PFD Requirement. A Type V personal flotation device may be carried in lieu of any required personal flotation device if U.S. Coast Guard approved for the activity engaged in. (7-1-93)

04. Exemptions. ( )

a. Racing shells, rowing sculls and racing kayaks are exempt from the requirements of Section 050 of this chapter provided they are manually propelled, recognized by a national or international racing association and designed solely for competitive racing. ( )

b. Float tubes are exempt from the requirements of Section 050 of this chapter while being operated on lakes and reservoirs of this state of less than two hundred (200) surface acres in size at natural or ordinary high water. (7-1-93)( )



**IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION**  
**26.01.31 - RULES GOVERNING THE ADMINISTRATION OF THE BOAT SAFETY ACCOUNT**  
**DOCKET NO. 26-0131-9801**  
**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), 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 October 21, 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:

It is being proposed to repeal in whole IDAPA 26, Title 01, Chapter 31 and replace this chapter with the Rules Governing the Administration of Idaho Department of Parks and Recreation Recreational Program Grant Funds. This new chapter will combine the rules administering the Boat Safety Account, Waterways Improvement Fund (WIF), Land and Water Conservation Fund (LWCF), Recreational Vehicle (RV) Account, Off-Road Motor Vehicle (ORMV) Account, Cross-Country Skiing Recreation Account, and the State Trust for Outdoor Recreation Enhancement (STORE).

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because this proposed rule was heard at a meeting of the Idaho Parks and Recreation Board.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Mark E. Brandt, Policy 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 October 28, 1998.

DATED this 18th day of September, 1998.

Mark E. Brandt, Policy 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

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**THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.**

**IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION**

**26.01.31 - RULES GOVERNING THE ADMINISTRATION OF IDAHO DEPARTMENT  
OF PARKS AND RECREATION RECREATIONAL PROGRAM GRANT FUNDS**

**DOCKET NO. 26-0131-9802**

**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), 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 October 21, 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:

Recreational program fund grants administered by the department include the Boat Safety Account, Waterways Improvement Fund (WIF), Land and Water Conservation Fund (LWCF), Recreational Vehicle (RV) Account, Off-Road Motor Vehicle (ORMV) Account, Cross-Country Skiing Recreation Account, and the State Trust for Outdoor Recreation Enhancement (STORE). Currently, each account is administered by separate and distinct sets of rules, with the exception of the Cross-Country Skiing Recreation Account which has no established rules. The department is proposing to have the current rules for administration of these accounts repealed and replaced with one, all-encompassing set of rules.

By combining these seven sets of rules, applicants for recreational program grants will realize less confusion caused by having different rules and procedures for each account.

In addition to the melding of these rules, changes to current operating procedures are also being proposed. Substantive changes proposed include:

1. Re-defining the Boat Safety Account grant procedures to better allow for the new board policy on distributing funds from this account;
2. Changing the date on which expenses may be incurred against a grant from the RV Account and WIF Account to be the deadline date for applications;
3. Allowing for project cost increases of up to 15 percent, but not \$20,000 or more, to be approved by the director;
4. Allowing the director to approve recreational program grants of less than \$20,000 (currently \$10,000);
5. Allowing the Idaho Park and Recreation Board to approve access or use fees to project sites funded with recreational program grant funds for the purpose of maintenance and upkeep of the site, and to allow program managers to approve access fees and the collection of donations for special events on these sites; and
6. Include "access to" a project site when requiring applicant control and tenure of the site prior to grant approval.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because this proposed rule was heard at a meeting of the Idaho Park and Recreation Board.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Mark E. Brandt, Policy 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 October 28, 1998.

DATED this 18th day of September, 1998.

Mark E. Brandt, Policy 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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 26-0131-9802**

**IDAPA 26**  
**TITLE 01**  
**Chapter 31**

**RULES GOVERNING THE ADMINISTRATION OF IDAHO DEPARTMENT  
OF PARKS AND RECREATION RECREATIONAL PROGRAM GRANT FUNDS**

**000. LEGAL AUTHORITY.**

The Idaho Park and Recreation Board is authorized under Section 67-4223(a), Idaho Code, to adopt, amend, or rescind rules as may be necessary for proper administration of the department and its programs. ( )

**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 26.01.31, "Rules Governing the Administration of the Idaho Department of Parks and Recreation Recreational Program Grant Funds". ( )

02. Scope. This chapter establishes procedures for the administration of the Off-Road Motor Vehicle Account, the Recreational Vehicle Account, the Boat Safety Account, the Waterway Improvement Fund, the Cross-Country Skiing Recreation Account, the State Trust for Outdoor Recreation Enhancement, and the Recreational Trails Fund, including requirements for project application, eligibility, review, award and management. ( )

**002. WRITTEN INTERPRETATIONS.**

This agency 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. In addition, participation manuals prepared and maintained by the department provide additional interpretation of these rules. These documents are available for public inspection and copying in the central office of the agency. ( )

**003. ADMINISTRATIVE APPEALS.**

Any applicant who may be adversely affected by a final decision, ruling, or direction as outlined under IDAPA 26.01.01, "Rules of Administrative Procedure of the Idaho Park and Recreation Board," Section 250. ( )

**004. PUBLIC RECORDS.**

The records relative to any recreational program grant project are public records, and are to be controlled as outlined under IDAPA 26.01.01, "Rules of Administrative Procedure of the Idaho Park and Recreation Board," Section 300.

( )

**005. CITATION.**

The official citation of this chapter is IDAPA 26.01.31.000 et seq. For example, the citation for this section is IDAPA 26.01.31.005.

( )

**006. -- 009. (RESERVED).**

**010. DEFINITIONS.**

As used in this chapter:

( )

01. Applicant. A public entity, user group, organization, or individual that identifies a need for a project, supplies initial support data, and applies for a recreational program grant through the department.

( )

02. Board. The Idaho Park and Recreation Board.

( )

03. Boating Law Administrator. The staff administrator of the Waterways Improvement Fund and the Boat Safety Account.

( )

04. Boat Safety Account. Those grant funds given to the department by the U.S. Coast Guard, and which originate from the Federal Aquatic Resources Trust Fund, Boat Safety Account.

( )

05. Boat Safety Program. The subdivision of the department responsible for administering the Boat Safety Account.

( )

06. County Waterways Committee. Those committees created by Section 67-7012, Idaho Code.

( )

07. Cross-Country Skiing Recreation Account. That account established by Section 67-7117, Idaho Code.

( )

08. Cross-Country Skiing Recreation Program. The subdivision of the department responsible for administering the Cross-Country Skiing Recreation Account.

( )

09. Department. The Idaho Department of Parks and Recreation.

( )

10. Director. The chief administrator of the department, or the designee of the director.

( )

11. Grant. A grant from the Off-Road Motor Vehicle Account, Recreation Vehicle Account, Waterways Improvement Fund, Boat Safety Account, Recreational Trails Fund, Cross-Country Skiing Recreation Account, or State Trust for Outdoor Recreation Enhancement.

( )

12. Management. The actions taken in exercising control over, regulating the use, operation, and maintenance of facilities or programs.

( )

13. Motorbike Recreation (MBR) Fund. This fund, created by Section 67-7122, Idaho Code, may be used for all of the purposes outlined in Subsection 010.14 of this chapter and rider education programs. When reference is made to the ORMV Account in this chapter, it is intended to include the MBR Fund the same as if it was specifically denoted as such except enforcement of laws and rules governing the use of off-road motor vehicles in Idaho.

( )

14. Off-Road Motor Vehicle (ORMV) Account. That account created by Section 57-1901, Idaho Code. These moneys may be used to acquire, purchase, improve, repair, maintain, furnish and equip off-road motor vehicle facilities and sites or areas used by off-road vehicles on public or private land, and to assist with enforcement of laws

- and regulations governing the use of off-road vehicles in the state of Idaho. ( )
15. Off-Road Motor Vehicle (ORMV) Account Advisory Committee. A nine (9) member committee appointed by the board to advise the department on matters involving ORMV Fund grants. ( )
16. Off-Road Motor Vehicle (ORMV) Program. The subdivision of the department responsible for administering the ORMV Account. ( )
17. Participation Manual. A compilation of state procedures, rules, and instructions assembled in manual form for dissemination to the potential applicant and public entities that may wish to participate in recreational program grants. ( )
18. Project. An effort to comply with Idaho statutes and rules for which recreational program grant funds shall be used to assist the applicant in achieving the objectives of the recreational grant programs. ( )
19. Project Manager. Any individual who has the principle responsibility for the ongoing management of projects. ( )
20. Public Entity. The state, federal or local government or a subdivision thereof, or an Indian tribe. ( )
21. Recreational Program. The Off-Road Motor Vehicle Program, Recreational Vehicle Program, Waterways Improvement Fund Program, Boat Safety Program, Cross-Country Skiing Recreation Program, Snowmobile Program, Recreational Trails Program, State Trust for Outdoor Recreation Enhancement Program, and the Land & Water Conservation Fund Program administered by the department. ( )
22. Recreational Program Managers. The Trails Program Supervisor, Recreational Vehicle Program Coordinator and Boating Law Administrator. ( )
23. Recreational Trails Fund (Recreational Trails Program) (RTF). The account created by the Transportation Equity Act for the 21st Century (Section 1112). This fund may be used for maintenance and restoration of existing recreational trails, development and rehabilitation of trailside and trailhead facilities and trail linkages for recreational trails, purchase and lease of recreational trail construction equipment, construction of new recreational trails, acquisition of easements and fee simple title to property for recreational trails or recreational trail corridors, and the operation of education programs to promote safety and environmental protection as those objectives relate to the use of recreational trails. ( )
24. Recreational Trails Fund (RTF) Advisory Committee. A ten (10) member advisory committee appointed by the board to advise the department on matters related to the Recreational Trails Fund. ( )
25. Recreational Vehicle (RV) Account. That account created by Section 49-448, Idaho Code. The moneys may be used for the acquisition, lease, development, improvement, and maintenance of facilities designed to promote the health, safety, and enjoyment of recreational vehicle users. ( )
26. Recreational Vehicle (RV) Advisory Committee. A six (6) member committee appointed by the board to advise the board and department on matters involving the RV Account. ( )
27. Recreational Vehicle (RV) Coordinator. The staff administrator of the Recreational Vehicle Program. ( )
28. Recreational Vehicle (RV) Program. The subdivision of the department responsible for administering the RV Account. ( )
29. Staff. Any individual employed by the department. ( )
30. State Trust for Outdoor Recreation Enhancement (STORE). The recreation account created by Section 67-4247, Idaho Code. ( )

31. Trails Program. The subdivision of the department responsible for administering the ORMV Program, Motorbike Program, Recreational Trails Program, Snowmobile Program, Non-Motorized Trails Program, and the Cross-Country Skiing Recreation Program. ( )

32. Trails Program Supervisor. The staff administrator of the Trails Program. ( )

33. Waterways Improvement Fund (WIF). That fund created by Section 57-1501, Idaho Code. These moneys may be used for the protection and promotion of safety, waterways improvements, creation and improvement of parking areas for boating purposes, making and improving boat ramps and moorings, marking of waterways, search and rescue, and all things incident to such purposes including the purchase of real and personal property. ( )

34. Waterways Improvement Fund Grant Advisory Committee. A six (6) member committee appointed by the board to advise the department on matters relating to Waterways Improvement Fund grants. ( )

**011. -- 049. (RESERVED).**

**050. GENERAL PROVISIONS OF THE RECREATIONAL PROGRAMS.**

It is the intent of the department, through the recreational programs, to provide funds and planning assistance to entities for the acquisition, lease, development, improvement and maintenance of facilities and equipment to promote the health, safety, enjoyment and general welfare of recreational users in the state of Idaho. ( )

**051. -- 074. (RESERVED).**

**075. ELIGIBLE APPLICANTS.**

Applicants eligible for recreational program fund grants are as follows: ( )

01. Boat Safety Account. Public entities as defined in Section 010 of this chapter, and recognized national or statewide boating safety organizations that can demonstrate evidence of responsibility in providing public boating safety services. Federal funds shall not be used as match for Boat Safety Account grants. ( )

02. Cross-Country Skiing Recreation Account. Public entities as defined in Section 010 of this chapter and nonprofit entities. ( )

03. Off-Road Motor Vehicle Account. Public entities as defined in Section 010 of this chapter, and private groups, organizations or individuals which provide evidence of its ability to implement or operate and maintain the project following the completion of the project. ( )

04. Recreational Trails Fund. Public entities as defined in Section 010 of this chapter, and private groups, organizations or individuals which provide evidence of its ability to implement or operate and maintain the project following the completion of the project. Federal funds shall not be used as match for RTF grants except when specifically allowed by federal law. ( )

05. Recreational Vehicle Account. Public entities as defined in Section 010 of this chapter. ( )

06. State Trust for Outdoor Recreation Enhancement Fund. The state of Idaho and any of its subdivisions legally authorized to provide public recreation facilities. ( )

07. Waterways Improvement Fund. Public entities as defined in Section 010 of this chapter. All applications for projects involving the construction or improvements of physical facilities shall be approved by the county waterways committee or the county commissioners. ( )

**076. -- 099. (RESERVED).**

**100. APPLICATION PROCEDURE.**

All forms and documents required by these rules and the department shall be completed and submitted according to

these rules in order for a grant application to be considered for approval. ( )

01. Forms. To be considered for a grant, an applicant must file with the department a completed grant application form and other documentation specified in the participation manual, all of which shall have original signatures. Except for Boat Safety Account block grants, an applicant must file with the department a completed grant agreement form, with original signatures, within thirty (30) calendar days of written notification of grant approval. An applicant for a Boat Safety Account block grant shall sign a Memorandum of Understanding with the director at least thirty (30) days prior to the beginning of the block grant award period. The application, grant agreement or Memorandum of Understanding forms shall be provided to the applicant by the department. ( )

02. Review. The applicant or applicant's representative may review the project and all associated documentation with the department prior to submitting the application to ensure the project and documentation meet the criteria of the recreational program grant. When possible, department staff may perform an on-site visit to the project site for preliminary fact finding and to evaluate the viability and eligibility of the project. ( )

03. Public Comment. The applicant shall submit to the department proof of public comment regarding the project. Proof of public comment shall include the results of public meetings, scoping of National Environmental Policy Act (NEPA) processes, individual contacts with recreationists and others that may be affected by the project, newspaper articles and/or other media releases which describe the project and request public input. ( )

04. Deadline. The deadline for applications to recreational program grants shall be established by the department. The department shall announce the availability of funds at least sixty (60) days prior to the deadline date for receipt of applications. ( )

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

**150. ELIGIBILITY AND PRIORITY RATING OF PROJECTS.**

Eligibility of all projects shall be determined by the appropriate recreational program manager who shall consider relevant rules and statutes. ( )

01. Pre-Application Activities. Projects, or any part thereof, either paid for by the applicant or completed prior to the grant application deadline date established by the department, shall be ineligible for Recreational Vehicle Account and Waterways Improvement Fund grant funding or to be considered as match. However, costs for design and engineering incurred within one year prior to the date awarded may be considered as match, provided they are listed as a scope element on the application. ( )

02. Priority Rating Criteria. The department and/or advisory committee shall establish project priorities by rating each eligible project using criteria established by the department. All eligible projects shall be rated by the committee. Specific evaluation criteria for each recreational program shall be listed in their associated participation manual and may include: ( )

- a. Conformance with legal requirements; ( )
- b. Compliance with program objectives; ( )
- c. Accuracy of estimated costs of the project; ( )
- d. Potential of the project to enhance the health, safety, enjoyment and general welfare of recreational users in Idaho; ( )
- e. History of prior recreational program grant management by the applicant; ( )
- f. Adequacy of project design or construction, if applicable; ( )
- g. The applicant's level of matching share provided for the project; ( )
- h. Suitability of the project for the proposed site, use and location; and ( )

- i. Grant amount requested compared to the amount of funds available. ( )

**151. -- 174. (RESERVED).**

**175. PROJECT TIME PERIOD.**

01. Grant Cycle. Applications for ORMV Fund, RV Account, WIF or STORE projects shall be considered at least once each state fiscal year (July 1 through June 30). Applications for RTF or Boat Safety Account projects shall be considered at least once each federal fiscal year (October 1 through September 30) dependent upon adequate funding availability. ( )

02. Expenditure of Grant Funds. Except as herein provided, the applicant shall have only the designated fiscal year to expend recreational program grant funds. If the recreational program grant funds are not expended within the designated fiscal year, the grant shall be revoked unless the applicant requests and receives an extension of time from the department. ( )

03. Requests for Extension. A written request for an extension of the project period shall be received by the department prior to the end of the project period. The appropriate recreational program manager shall make the final determination of extensions. No project extension shall be granted for more than one (1) year. ( )

**176. -- 199. (RESERVED).**

**200. AUTHORITY FOR FUNDING APPROVAL.**

Projects of less than twenty thousand dollars (\$20,000) may be approved by the director. Projects of twenty thousand dollars (\$20,000) or more shall be presented to the board for approval. ( )

01. Minor Cost Increases. Cost increases of fifteen percent (15%) or less of the original grant amount may be approved by the director, except such increases that bring the initial project cost from less than twenty thousand dollars (\$20,000) to twenty thousand dollars (\$20,000) or more shall be presented to the board for approval. ( )

02. Major Cost Increases. Cost increases of more than fifteen percent (15%) of the original grant amount shall require the project be presented as a totally new proposal and compete through the general application process described herein. Should the revised project not receive approval for cost increase grant funding, the applicant shall be required to complete the scope of the project as originally proposed at its expense or return any project grant funds paid to it so that the project may be canceled and the grant funds reallocated. ( )

03. Waterways Improvement Fund Grant Limit. The total sum of Waterways Improvement Fund grant funds approved to be used in any one county may not exceed thirty percent (30%) of the total WIF grant funds approved to be used statewide in any state fiscal year. ( )

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

**250. DISBURSEMENT OF FUNDS.**

01. Documentation. The applicant must submit to the department copies of all vouchers, canceled checks, invoices, and other required billing forms within forty-five (45) calendar days of the end of the grant period. ( )

02. Reimbursement. Except as herein provided, the department shall authorize disbursement of funds by reimbursement only, after the applicant has acquired the project items and has presented a copy of the billing or other required documentation to the department in order to show satisfactory evidence of compliance with the project application and grant agreement form. ( )

03. Advances. A disbursement of funds may be made on an advance basis if written justification is provided showing the need for an advance and if approved by the department after considering recreational program



objectives and relevant rules and statutes. Upon completion of the expenditure of the recreational program grant funds, if it is discovered the actual costs were less than the total project amount, the difference plus any interest accrued as a result of the applicant having the advanced funds on deposit with a bank shall be immediately returned to the department and deposited in the appropriate recreational program fund account. ( )

04. Block Grants. Each applicant receiving Boat Safety Account block grant funds shall remit a complete activities report to the boating law administrator no later than January 31 of each year which shall cover the preceding calendar year and shall be on forms provided by the department. ( )

05. Partial Payments. Partial payments may be authorized by the department during the course of a project upon presentation of billings or other required documentation showing satisfactory evidence of partial compliance with the application, grant agreement or Memorandum of Understanding. ( )

06. Contingency Fund. The department may retain grant funds from each recreational program grant account for the exclusive purpose of providing facilities or services. ( )

07. Accounting For Project Costs. All costs incurred on a project shall have prior approval and shall be accountable before and after payment is made. All claims against the recreational program grant funds shall be examined, audited, and allowed in the same manner now or hereafter provided by law for claims against the state. ( )

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

**300. APPLICANT OBLIGATIONS.**

01. Project Completion. Except as herein proved, upon approval of a grant application or Memorandum of Understanding, the applicant shall be obligated to complete all elements of a project as described on the approved recreational program grant application, grant agreement, approved amendment, or Memorandum of Understanding. ( )

02. Project Management. Except as herein provided, upon approval of a grant application or Memorandum of Understanding, the applicant shall ensure adequate management of the project as specified in the approved recreational program grant application, grant agreement or Memorandum of Understanding. ( )

03. Grant Modification. Only for good cause, and upon the submission of detailed justification shown in writing and approval by the appropriate recreational program manager may the terms of the obligations of the recreational program grant application, grant agreement or Memorandum of Understanding be modified. ( )

04. Maintenance and Operation. Real property, physical facilities and equipment funded by a recreational program grant fund shall be maintained and operated in the condition or state equivalent to that existing when such facility was completed or property or equipment purchased, normal wear and tear excepted. ( )

05. Public Use/Nondiscrimination. Physical facilities and real property purchased in whole or in part with recreational program grant moneys shall be available for public use regardless of race, color, religion, national origin, gender, age, or disability. Facilities constructed with recreational program grant moneys shall meet the requirements as set by the Americans with Disabilities Act. ( )

06. Fees and Donations. Except as herein provided, fees may be charged or donations subscribed for the use of or access to facilities or real property developed or purchased with recreational program grant funds at a level commensurate with the costs of maintenance and upkeep of the facility or real property with the approval of the board. Fees may be charged or donations subscribed for special events of limited duration at the facility when approved by the appropriate recreational program manager. ( )

07. Acknowledgment of Funding Assistance. Applicants shall post and maintain appropriate permanent signs or decals upon project sites or equipment acknowledging funding assistance from the appropriate recreational program grant fund and the department immediately upon completion of the project or purchase of equipment. ( )

08. Notice of Registration Requirements. Off-Road Motor Vehicle Account project applicants and sponsors shall be responsible for posting a written notice of the requirement of applicable registration requirements and enforcing such requirements for special events as well as general use. ( )

09. Project Liability. Applicants, through a signed agreement, shall assume all project liability and hold the department harmless. ( )

10. Purchase and Bidding Requirements. The applicant shall follow all local, state and federal laws pertaining to the expenditure of recreational program grant funds. ( )

11. Permits. The applicant shall legally acquire all required local, state and federal permits for the construction or development of the project before recreational program grant funds shall be expended. Construction shall comply with the then current codes and standards as set by the Uniform Building Code, Uniform Plumbing Code, and the National Electrical Code. ( )

12. Failure to Comply. Failure by the applicant or department to comply with such terms and obligations as set forth in the approved recreation program grant application, grant agreement or Memorandum of Understanding shall result in the immediate revocation of an approved grant or shall constitute a conversion pursuant to Section 350 of this chapter, as applicable. ( )

**301. -- 349. (RESERVED).**

**350. PROJECT CONVERSIONS.**

No project funded by recreational program grant funds shall, without the prior written approval of the director, be converted to uses other than for the authorized purposes specified in the original recreational program grant application, grant agreement, or Memorandum of Understanding. ( )

01. Approval of a Conversion. The department shall approve a conversion only when the recreational program grant moneys spent on the project can be returned to the appropriate recreational program account or the applicant can provide an immediate substitution of other projects of at least equal current fair market value and of reasonably equivalent recreational usefulness and location. The director has authority to disapprove a conversion request or to reject proposed project substitutions. ( )

02. Resolving a Conversion. If there is a project conversion, the applicant is responsible for repaying the appropriate recreational program fund account an amount determined by investment amortization through use, project life expectancy, and depreciation or appreciation of the facilities or equipment. ( )

03. Conversion Requests. Project conversion requests shall be in writing by the applicant prior to any conversion attempts. ( )

**351. -- 399. (RESERVED).**

**400. RESPONSIBILITY FOR EQUIPMENT.**

01. Totally Grant Funded. Single units of equipment with a current fair market value of one thousand dollars (\$1,000) or more as determined by the department, which are purchased wholly with recreational program grant funds, shall remain the property of the department to be leased to the applicant through a lease contract. If the equipment is being underutilized, misused, or used for purposes other than the original grant purposes it may be reclaimed by the department at the expiration or cancellation of the lease or with thirty (30) days written notice. ( )

a. Equipment which is the property of the department shall be leased to the project applicant for the length of time determined by the appropriate recreational program manager as necessary to accomplish the project under the parameters of project viability, equipment usability and user needs. Either party may cancel the lease by providing the other party with at least thirty (30) days written notice. ( )

b. Equipment lease price or consideration shall be negotiated and determined prior to project approval and shall be commensurate with the cost/benefit ratio of services provided the recreational program user group which it serves. ( )

c. A project applicant shall bear the full responsibility for damage to or destruction of project facilities and equipment through its own means or applicable insurance. ( )

02. Partially Grant Funded. Single units of equipment with a current fair market value of one thousand dollars (\$1,000) or more as determined by the department, which are purchased only partially (less than one hundred percent (100%)) with recreational program grant funds, shall become the property of the applicant. Such units of equipment shall be subject to Section 350 of this chapter. ( )

03. Minor Purchases. Single units of equipment with a current fair market value of less than one thousand dollars (\$1,000) as determined by the department, which are purchased wholly or in part with recreational program grant funds shall become the property of the applicant. Such units or equipment shall be subject to Section 350 of this chapter. ( )

**401. -- 449. (RESERVED).**

**450. REAL PROPERTY.**

01. Appraisals. A real estate appraisal is required for all real property to be acquired with recreational program grant funds. All appraisals shall be prepared according to department procedures. The appraisal shall be paid for by the applicant, but may be included as part of eligible project costs. The selection of the appraiser shall be approved by the department. ( )

02. Appraisal Review. The department shall review appraisals as necessary. Any appraisal report which does not meet content requirements or use correct analysis procedures shall be corrected to the satisfaction of the department. All costs shall be covered by the applicant. ( )

03. Negotiated Price. An approved appraisal is an acceptable estimate of property value. The negotiation between a willing seller and a willing buyer may set a price which is higher than the appraisal, and this value can be considered along with the appraised value in establishing the reasonable limits of assistance. If the applicant believes the negotiating price is a better indication of market value, yet is higher than the appraised value, a detailed statement of this difference shall be submitted to the department. ( )

04. Adequate Title and Public Access. The applicant shall have clear title to, or adequate control and tenure of, the real property (land, land improvement, structures, and appurtenances) to be developed. The term "adequate control and tenure" of real property means a lease or an easement that provides the applicant sufficient control over the real property to permit the proposed development and use for a period of at least twenty-five (25) years from the date of application, unless specifically approved in writing by the appropriate recreational program manager for a shorter term. The applicant shall list all outstanding rights or interests held by others in the real property to be developed. If access to the real property to be developed is over private property, then the applicant shall describe the provisions made to ensure adequate public access. In the event the real property becomes unusable for its intended purposes or if such use ceases, the applicant shall be responsible for conversion of the project as described in Section 350 of this chapter. ( )

05. Limitations on Use. Property rights obtained with recreational program grant funds shall be free of all reservations or encumbrances which would limit the use of the site disproportionate to the public benefit. ( )

**451. -- 999. (RESERVED).**

**IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION**

**26.01.32 - RULES GOVERNING THE ADMINISTRATION  
OF THE WATERWAYS IMPROVEMENT FUND**

**DOCKET NO. 26-0132-9801**

**NOTICE OF PROPOSED RULE**

**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 October 21, 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:

It is being proposed to repeal in whole IDAPA 26, Title 01, Chapter 32 and replace this chapter with the Rules Governing the Administration of Idaho Department of Parks and Recreation Recreational Program Grant Funds. This new chapter will combine the rules administering the Boat Safety Account, Waterways Improvement Fund (WIF), Land and Water Conservation Fund (LWCF), Recreational Vehicle (RV) Account, Off-Road Motor Vehicle (ORMV) Account, Cross-Country Skiing Recreation Account, and the State Trust for Outdoor Recreation Enhancement (STORE).

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because this proposed rule was heard at a meeting of the Idaho Park and Recreation Board.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Mark E. Brandt, Policy 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 October 28, 1998.

DATED this 18th day of September, 1998.

Mark E. Brandt, Policy 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

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**THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.**

**IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION**

**26.01.34 - RULES GOVERNING THE ADMINISTRATION  
OF THE RECREATIONAL VEHICLE ACCOUNT**

**DOCKET NO. 26-0134-9801**

**NOTICE OF PROPOSED RULE**

**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 October 21, 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:

It is being proposed to repeal in whole IDAPA 26, Title 01, Chapter 34 and replace this chapter with the Rules Governing the Administration of Idaho Department of Parks and Recreation Recreational Program Grant Funds. This new chapter will combine the rules administering the Boat Safety Account, Waterways Improvement Fund (WIF), Land and Water Conservation Fund (LWCF), Recreational Vehicle (RV) Account, Off-Road Motor Vehicle (ORMV) Account, Cross-Country Skiing Recreation Account, and the State Trust for Outdoor Recreation Enhancement (STORE).

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because this proposed rule was heard at a meeting of the Idaho Park and Recreation Board.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Mark E. Brandt, Policy 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 October 28, 1998.

DATED this 18th day of September, 1998.

Mark E. Brandt, Policy 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

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**THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.**

**IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION**  
**26.01.35 - RULES GOVERNING THE OFF-ROAD MOTOR VEHICLE FUND**  
**DOCKET NO. 26-0135-9801**  
**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), 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 October 21, 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:

It is being proposed to repeal in whole IDAPA 26, Title 01, Chapter 35 and replace this chapter with the Rules Governing the Administration of Idaho Department of Parks and Recreation Recreational Program Grant Funds. This new chapter will combine the rules administering the Boat Safety Account, Waterways Improvement Fund (WIF), Land and Water Conservation Fund (LWCF), Recreational Vehicle (RV) Account, Off-Road Motor Vehicle (ORMV) Account, Cross-Country Skiing Recreation Account, and the State Trust for Outdoor Recreation Enhancement (STORE).

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because this proposed rule was heard at a meeting of the Idaho Park and Recreation Board.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Mark E. Brandt, Policy 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 October 28, 1998.

DATED this 18th day of September, 1998.

Mark E. Brandt  
Policy 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

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**THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.**

**IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION**  
**26.01.38 - RULES GOVERNING THE ADMINISTRATION OF THE TRUST FOR OUTDOOR  
RECREATION ENHANCEMENT (STORE) AND THE RECREATION  
AND ENERGY CONSERVATION PATHWAYS (RECP) PROGRAM**

**DOCKET NO. 26-0138-9801**

**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), 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 October 21, 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:

It is being proposed to repeal in whole IDAPA 26, Title 01, Chapter 38 and replace this chapter with the Rules Governing the Administration of Idaho Department of Parks and Recreation Recreational Program Grant Funds. This new chapter will combine the rules administering the Boat Safety Account, Waterways Improvement Fund (WIF), Land and Water Conservation Fund (LWCF), Recreational Vehicle (RV) Account, Off-Road Motor Vehicle (ORMV) Account, Cross-Country Skiing Recreation Account, and the State Trust for Outdoor Recreation Enhancement (STORE).

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because this proposed rule was heard at a meeting of the Idaho Park and Recreation Board.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Mark E. Brandt, Policy 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 October 28, 1998.

DATED this 18th day of September, 1998.

Mark E. Brandt  
Policy 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

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**THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.**

**IDAPA 27 - BOARD OF PHARMACY**  
**27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY**  
**DOCKET NO. 27-0101-9802**

**NOTICE OF TEMPORARY AND PROPOSED RULE**

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

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted temporary rules. The action is authorized pursuant to Section 54-1717, 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 October 21, 1998.

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

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

These temporary and proposed rules amend the requirements for prescribing, faxing, and dispensing of Schedule II Controlled Substances; the eligibility criteria for Idaho controlled substance registrations; the partial filling of prescriptions; and the controlled substance inventory requirements (Red "C").

**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:

To comply with the 1998 legislative changes and federal DEA regulation changes.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this temporary rule, contact Richard Markuson at (208) 334-2356.

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 October 28, 1998.

DATED this 7th day of August, 1998.

Richard K. Markuson, Director  
Idaho Board of Pharmacy  
280 N. 8th St., Ste. 204  
Boise, ID 83702

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 27-0101-9802**

**161. FACSIMILE PRESCRIPTION TRANSMISSION.**

The receipt of prescriptions through facsimile (FAX) transmission for dispensing purposes will be allowed from an authorized prescribing practitioner to a pharmacy only under the following provisions: (7-1-98)

01. Actual Transmittal. Actual transmittal of the signed prescription is done by the prescribing practitioner or the practitioner's authorized agent. (6-30-95)



02. Voice Verification. Practitioners or their authorized agents must provide voice verification upon request of the pharmacist receiving the medication order. If voice verification is refused, the prescription may not be filled. (6-30-95)

03. Supplying Facsimile Equipment. Pharmacies are precluded from supplying facsimile equipment to practitioners, hospitals, nursing homes, or any health care provider or facility. (6-30-95)

04. Use of Facsimile Machine by Pharmacy. The receiving facsimile machine must be located within the prescription department of the pharmacy. (6-30-95)

05. Facsimile Prescription. The facsimile prescription must be received as a non-fading document retaining legibility for a minimum of three (3) years. (6-30-95)

06. Schedule II Facsimile Prescriptions. ~~Facsimile of Schedule II prescriptions will be allowed under the following conditions: A prescription for a Schedule II substance may be transmitted by the practitioner or the practitioner's agent to a pharmacy via facsimile equipment, provided that the original written and signed prescription is presented to the pharmacist for review prior to the actual dispensing of the controlled substance. The following prescriptions for Schedule II substances may be dispensed upon receipt of the faxed prescription and the faxed copy shall serve as the original written prescription:~~ (6-30-95)(7-1-98)T

a. ~~A Schedule II prescription for infusion/intravenous (IV) pain therapy may be transmitted by facsimile to a home infusion pharmacy by a practitioner or the practitioner's agent. The facsimile copy of the prescription shall be retained as an original prescription, and it must contain all the information required by state and federal law. This rule does not extend to the dispensing by facsimile of oral dosage units of controlled substances. A Schedule II prescription to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous or intraspinal infusion.~~ (6-30-95)(7-1-98)T

b. ~~Schedule II prescriptions written for patients in Long Term Care Facilities (LTCF) may be sent by facsimile to the dispensing pharmacy by the practitioner or the practitioner's agent. The facsimile copy of the prescription shall be retained as an original prescription, and it must contain all the information required by state and federal law. A Schedule II prescription for a resident of a Long Term Care Facility (LTCF)~~ (6-30-95)(7-1-98)T

c. ~~A Schedule II prescription for a patient residing in a hospice certified by Medicare under Title XVIII or licensed by the state. The practitioner or the practitioner's agent shall note on the prescription that the patient is a hospice patient.~~ (7-1-98)T

d. Copies of Schedule II facsimile prescriptions will not be required to be sent to the Idaho Board of Pharmacy office. (6-30-95)

07. Facsimile Prescriptions of Schedules III, IV, and V. For drugs in Schedules III, IV, and V, a facsimile copy of a written, signed prescription transmitted directly by the prescribing practitioner to the pharmacy can serve as an original prescription. All federal and state laws and rules pertaining to written prescriptions for Schedule III, IV, and V drugs apply to facsimile transmitted prescriptions. (6-30-95)

08. Responsibility of Pharmacist. The pharmacist receiving a facsimile prescription will be responsible for the authenticity of the prescription and for ensuring that prescriptions for controlled substances have been issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice pursuant to 21 CFR 1306.04(a). Orders purporting to be prescriptions, which are not issued in the usual course of professional treatment, are not considered prescriptions within the meaning and intent of the Controlled Substances Act. A person who issues or fills such an order shall be subject to penalties provided by law. That responsibility applies equally to an order transmitted by facsimile. (6-30-95)

**(BREAK IN CONTINUITY OF SECTIONS)**

**435. PREREQUISITES FOR REGISTRATION.**

An applicant for an Idaho Controlled Substances Registration must hold a valid, ~~unrevoked and unsuspended unrestricted license in Idaho to practice as a physician, veterinarian, dentist, podiatrist, osteopath, optometrist, certified euthanasia technician, or pharmacist~~ prescribe, dispense, or administer controlled substances. Applicants for an Idaho Controlled Substances Registration (excepting pharmacists and certified euthanasia technicians) must hold a valid federal DEA registration. ~~(12-7-94)(7-1-98)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**442. REQUIREMENT OF PRESCRIPTION - SCHEDULE II.**

01. Pharmacist. A pharmacist may dispense a controlled substance listed in Schedule II, which is a prescription drug as determined under the Federal Food, Drug and Cosmetic Act, only pursuant to a written prescription signed by the prescribing individual practitioner, and on delivery signed by the individual receiving such, except as provided in Subsection 442.04. (7-1-93)

02. Practitioner. An individual practitioner may administer or dispense a controlled substance listed in Schedule II in the course of his professional practice without a prescription, subject to Section 37-2701(d), Idaho Code. (7-1-93)

03. Institutional Practitioner. An institutional practitioner may administer or dispense directly (but not prescribe) a controlled substance listed in Schedule II only pursuant to a written prescription signed by the prescribing practitioner or to an order for medication made by an individual practitioner which is dispensed for immediate administration to the ultimate user. (7-1-93)

04. Emergency. In the case of an emergency situation, as defined by the secretary in Section 37-2722(b), Idaho Code, a pharmacist may dispense a controlled substance listed in Schedule II upon receiving oral authorization of a prescribing individual practitioner. (7-1-93)

a. The quantity prescribed and dispensed is limited to the amount adequate to treat the patient during the emergency period (dispensing beyond the emergency period must be pursuant to a written prescription signed by the prescribing individual practitioner). (7-1-93)

b. The prescription shall be immediately reduced to writing by the pharmacist and shall contain all information required in Section 37-2723, Idaho Code, except for the signature of the prescribing individual practitioner. (7-1-93)

c. If the prescribing individual practitioner is not known to the pharmacist, he must make a reasonable effort to determine that the oral authorization came from a registered individual practitioner, which may include a callback to the prescribing individual practitioner using his phone number as listed in the telephone directory and/or other good faith effort to insure his identity. (7-1-93)

d. Within ~~seventy-two (72) hours~~ days after authorizing an emergency oral prescription, the prescribing individual practitioner shall cause a written prescription for the emergency quantity prescribed to be delivered to the dispensing pharmacist; in addition to conforming to the requirement of Section 37-2723, Idaho Code, the prescription shall have written on its face "Authorization for Emergency Dispensing," and the date of the oral order. ~~(7-1-93)(7-1-98)T~~

e. The written prescription may be delivered to the pharmacist in person or by mail, but if delivered by mail it must be postmarked within the ~~seventy-two (72) hours~~ day period. ~~(7-1-93)(7-1-98)T~~

f. Upon receipt, the dispensing pharmacist shall attach this prescription to the oral emergency prescription which had earlier been reduced to writing. (7-1-93)

g. The pharmacist shall notify the nearest office of the Bureau if the prescribing individual practitioner fails to deliver a written prescription to him; failure of the pharmacist to do so shall void the authority conferred by this subsection to dispense without a written prescription of a prescribing individual practitioner. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**444. PARTIAL FILLING OF PRESCRIPTIONS.**

The partial filling of a prescription for a controlled substance listed in Schedule II is permissible if the pharmacist is unable to supply the full quantity called for in a written or emergency oral prescription and he makes a notation of the quantity supplied on the face of the written prescription (or written record of the emergency oral prescription). (7-1-93)

01. Remainder. The remaining portion of the prescription may be filled within the seventy-two (72) hour period, the pharmacist shall so notify the prescribing individual practitioner. (7-1-93)

02. Quantity. No further quantity may be supplied beyond the seventy-two (72) hours without a new prescription. (7-1-93)

03. Partial Quantities. A prescription for a Schedule II controlled substance written for a patient in a Long Term Care Facility (LTCF) or for a patient with a medical diagnosis documenting a terminal illness may be filled in partial quantities to include individual dosage units. The pharmacist must record on the prescription whether the patient is "terminally ill" or an "LTCF patient." (7-1-98)T

a. For each partial filling, the dispensing pharmacist shall record on the back of the prescription (or on another appropriate record, uniformly maintained and readily retrievable) the date of the partial filling, quantity dispensed, remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist. (7-1-98)T

b. Schedule II prescriptions for patients in a LTCF or patients with a medical diagnosis documenting a terminal illness shall be valid for a period not to exceed sixty (60) days from the issue date unless sooner terminated by the discontinuance of medication. (7-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**496. CONTROLLED SUBSTANCE INVENTORY.**

Each registered pharmacy shall maintain the inventories and records of controlled substances as follows: (7-1-93)

01. Schedules I and II. Inventories and records of all controlled substances listed in Schedule I and II shall be maintained separately from all other records of the pharmacy, and prescriptions for such substances shall be maintained in a separate prescription file; (7-1-93)

02. Schedules III, IV, V. Inventories and records of controlled substances listed in Schedules III, IV, and V shall be maintained either separately from all other records of the pharmacy or in such form that the information required is readily retrievable from ordinary business records of the pharmacy and prescriptions for such substances shall be maintained either in a separate prescription file for controlled substances listed in Schedules III, IV, and V only or in such form that they are readily retrievable from the other prescription records of the pharmacy. (7-1-93)

03. Readily Retrievable. Prescriptions will be deemed readily retrievable if, at the time they are initially filed, the face of the prescription is stamped in red ink in the lower right corner with the letter "C" no less than one (1) inch high and filed either in the prescription file for controlled substances listed in Schedules I and II or in the usual consecutively numbered prescription file for non-controlled substances, provided that for pharmacies employing an electronic record-keeping system for prescriptions which permits identification by prescription number and retrieval

of original documents by prescriber's name, patient's name, drug dispensed, and date filled, the requirement to mark the hard copy prescription with a red "C" is waived. ~~(7-1-93)~~(7-1-98)T

04. Inventory. Each registered pharmacy shall annually, on the same date each year, take an inventory of all stocks of controlled substances on hand, following the general requirements for inventories. (7-1-93)

a. The annual inventory as required in Section 496 shall be a written record resulting from a physical (or actual) count of stock on hand or in the control of the pharmacist in charge of a particular pharmacy. (7-1-93)

b. Automated data processing equipment may be used to provide lists of items (products) and to record receipts and issues of various items but not to produce the annual inventory. (7-1-93)

c. The record of inventory shall be kept in the inventory book provided by the Board or in another bound book (not loose leaf) suitable to meet the needs of inventory reports. (7-1-93)

d. Upon completion, the inventory will be dated as of the day taken, indicating whether it was taken at the opening or closing of business and signed by the party that took the inventory. (7-1-93)

05. Location. A separate inventory shall be made by a registrant for each registered location, such inventory for a registered location shall be kept at the registered location. (7-1-93)

06. Time. The registrant may take an inventory either as of the opening of business or as of the close of business on the inventory date indicating on the inventory records whether the inventory is taken as of the opening or as of the close of business and the date the inventory is taken. (7-1-93)

07. Form. An inventory must be maintained in a written, typewritten or printed form, if taken by use of an oral recording device it must be promptly transcribed. (7-1-93)

08. Maintained. Such inventory must be maintained on the premises for a minimum of three (3) years. (7-1-93)

09. Additions. On the effective date of a rule adding a substance to any schedule of controlled substances, which substance was, immediately prior to that date, not listed on any such schedule, every registrant required to keep records who possesses that substance shall take an inventory of all stocks of the substance on hand and thereafter such substance shall be included in each inventory made by the registrant pursuant to Subsection 496.04. (7-1-93)

10. List. Each registered pharmacy shall maintain on a current basis a complete list of each substance manufactured, received, ordered, sold, delivered, or otherwise disposed of by him; order forms and other pertinent records in such a manner as to be readily retrievable. (7-1-93)

**IDAPA 31 - PUBLIC UTILITIES COMMISSION**  
**31.42.01 - RULES FOR TELEPHONE CORPORATIONS SUBJECT TO THE**  
**REGULATION OF THE IDAHO PUBLIC UTILITIES COMMISSION**  
**UNDER THE TELECOMMUNICATIONS ACT OF 1988**  
**(THE TITLE 62 TELEPHONE CORPORATION RULES)**

**DOCKET NO. 31-4201-9801**

**NOTICE OF TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of this temporary rule is August 10, 1998.

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given of the Idaho Public Utilities Commission's proposed rulemaking. This action is authorized pursuant to the Commission's legal authority under the Public Utilities Law, Chapters 1 through 7, Title 61, Idaho Code, and the Telecommunications Act of 1988, Chapter 6, Title 62, Idaho Code and the specific authority of Sections 62-602, 62-606, 62-611, 62-614, 62-615, 62-616, and 62-622, 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 October 21, 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 Commission's address set out below.

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

The proposed new rules adopt interconnection and access standards for facilities-based telephone corporation competitors that provide basic local service in unserved areas.

**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 protect the public welfare because they promote basic local exchange service provider choices for telephone customers located in areas served only by non-incumbent facilities-based telephone corporations and discourage the development for non-price regulated monopolies. These rules set standards for providing access and interconnection in unserved areas by Title 62 Telephone Corporations.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Cheri C. Copsey, Deputy Attorney General at (208) 334-0314.

Anyone may submit written comments regarding this proposed rules. All written comments and data concerning the proposed rules must be delivered to the Commission Secretary at the address identified below or must be postmarked on or before October 28, 1998. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 10th day of August, 1998.

Myrna J. Walters  
Commission Secretary  
Idaho Public Utilities Commission  
PO Box 83720  
Boise, ID 83720-0074  
Telephone: (208) 334-0338  
FAX: (208) 3343762

Street Address for Express Mail  
472 West Washington Street  
Boise, ID 83702-5983

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-4201-9801**

**IDAPA 31**  
**TITLE 42**  
**Chapter 01**

**Rules for Telephone Corporations Subject to the Regulation of the Idaho Public  
Utilities Commission Under the Telecommunications Act of 1988**  
**(The Title 62 Telephone Corporation Rules)**

**000. LEGAL AUTHORITY (Rule 0).**

These rules are adopted under the general legal authority of the Telecommunications Act of 1988, as amended, chapter 6, title 62, Idaho Code, and the specific authority of ~~Sections 62-602, 62-606, 62-611, 62-614, 62-615, and 62-616~~ and 62-622. ~~(7-1-93)(8-10-98)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**303. -- ~~999400.~~ (RESERVED).**

**RULES 401 THROUGH 500 - ACCESS AND  
INTERCONNECTION STANDARDS IN UNSERVED AREAS**

**401. DEFINITIONS (Rule 401).**

As used in Rules 401 through 412:

(8-10-98)T

01. Facilities-based Competitor. "Facilities-based competitor" means a non-incumbent telephone corporation that offers basic local exchange service exclusively over its own telecommunications service facilities or predominantly over its own facilities in combination with the resale of telecommunications services of another carrier.

(8-10-98)T

02. Incumbent Telephone Corporation. "Incumbent telephone corporation" means a telephone corporation or its successor which was providing basic local exchange service on or before February 8, 1996.

(8-10-98)T

03. Network Element. "Network element" means a facility or equipment used in the provision of a telecommunications service. Such term also includes features, functions, and capabilities that are provided by means of such facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service.

(8-10-98)T

04. Non-incumbent Telephone Corporation. "Non-incumbent telephone corporation" means a telephone corporation which was not providing basic local exchange service on or before February 8, 1996.

(8-10-98)T

05. Rural Telephone Company. "Rural telephone company" means a telephone corporation that:

(8-10-98)T

a. Provides basic local exchange service to a service area that does not include either:

(8-10-98)T

i. Any incorporated place of ten thousand (10,000) inhabitants or more, or any part thereof, based on the most recently available population statistics of the bureau of the census; or (8-10-98)T

ii. Any territory, incorporated or unincorporated, included in an urbanized area, as defined by the bureau of the census as of August 10, 1993; (8-10-98)T

b. Provides basic local exchange service including exchange access, to fewer than fifty thousand (50,000) access lines; (8-10-98)T

c. Provides basic local exchange service to any service area with fewer than one hundred thousand (100,000) access lines; or (8-10-98)T

d. Has less than fifteen percent (15%) of its access lines in communities of more than fifty thousand (50,000) on the date of enactment of the federal telecommunications act of 1996. (8-10-98)T

06. Telephone Corporation. "Telephone corporation" means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, providing basic local exchange services for compensation within this state, except municipal, cooperative, or mutual nonprofit telephone companies, or telephone corporations providing radio paging, mobile radio telecommunications services, answering services (including computerized or otherwise automated answering or voice message services), or one-way transmission to subscribers of video programming, or other programming service, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service or surveying are not included. (8-10-98)T

07. Unbundled Element. "Unbundled element" means a single network element that a competitor telephone corporation may lease on its own, or if the competitor telephone corporation wishes, in combination with other elements. (8-10-98)T

08. Unserved Area. "Unserved area" means a geographic area in which no incumbent telephone corporation has facilities providing basic local exchange service to customers. (8-10-98)T

**402. INTERCONNECTION STANDARDS (Rule 402).**

If a facilities-based competitor builds facilities to provide basic local service within an unserved area, it shall provide interconnection with its network for the facilities and equipment of any telephone corporation requesting the transmission and routing of telephone exchange service. (8-10-98)T

**403. EXCHANGE ACCESS QUALITY STANDARDS (Rule 403).**

If a facilities-based competitor builds facilities to provide basic local service within an unserved area, it shall provide exchange access at any technically feasible point within its network that is at least equal in quality to that provided to itself or to any subsidiary, affiliate, or any other party to which it provides interconnection. (8-10-98)T

**404. UNBUNDLED ACCESS STANDARDS (Rule 404).**

If a facilities-based competitor builds facilities to provide basic local service within an unserved area, it shall provide nondiscriminatory access to network elements to any telephone corporation requesting provision of a telecommunications service on an unbundled basis at any technically feasible point and shall provide such unbundled network elements in a manner that allows requesting telephone corporations to combine such elements in order to provide basic local exchange service. (8-10-98)T

**405. RESALE STANDARDS (Rule 405).**

If a facilities-based competitor builds facilities to provide basic local service within an unserved area, it shall offer any telecommunications service for resale at wholesale rates that it provides at retail to subscribers who are not telephone corporations and shall not prohibit or impose unreasonable or discriminatory conditions or limitations on the resale of such telecommunications service. (8-10-98)T

**406. PHYSICAL COLLOCATION STANDARDS (Rule 406).**

If a facilities-based competitor builds facilities to provide basic local service within an unserved area, it shall provide for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the

premises of the telephone corporation, on rates, terms, and conditions that are just, reasonable, and nondiscriminatory. (8-10-98)T

**407. EXEMPTION FOR VIRTUAL COLLOCATION (Rule 407).**

If a facilities-based competitor builds facilities to provide basic local service within an unserved area, it may provide for virtual collocation if it demonstrates to the commission that physical collocation is not practical for technical reasons or because of space limitations. (8-10-98)T

**408. VOLUNTARY NEGOTIATION (Rule 408).**

Upon receiving a request for interconnection, services, or network elements, a facilities-based competitor that built facilities to provide basic local service within an unserved area may negotiate and enter into a binding agreement with the requesting telephone corporation without regard to the standards set forth in Rules 402 through 407. The agreement shall include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement and shall be submitted to the commission for approval. (8-10-98)T

**409. COMMISSION MEDIATION (Rule 409).**

Any party negotiating an agreement under Rule 408 may, at any point in the negotiation, ask the commission to participate in the negotiation and to mediate any differences arising in the course of the negotiation. (8-10-98)T

**410. REFUSAL TO NEGOTIATE (Rule 410).**

The refusal by any party to negotiate pursuant to Rule 408, to cooperate with the commission in carrying out its function as an arbitrator, or to continue to negotiate in good faith in the presence, or with the assistance, of the commission shall be considered a failure to negotiate in good faith. (8-10-98)T

**411. PETITION FOR SUSPENSION OF RULES 402-410 (Rule 411).**

If any facilities-based competitor that is a rural telephone company petitions the commission to suspend the application of Rules 402 through 410, the commission shall grant the petition and suspend the application of Rules 402 through 410 for a period of not less than three (3) years nor more than five (5) years. (8-10-98)T

**412. PETITION FOR EXEMPTION FROM RULES 402-410 (Rule 412).**

Any facilities-based competitor may petition the commission to exempt it from the application of Rules 402 through 410. The commission may grant the petition if the petitioner demonstrates there are functionally equivalent, competitively priced basic local services reasonably available to both residential and small business customers within the unserved area from a telephone corporation unaffiliated with the petitioner. (8-10-98)T

**413. EFFECTIVE DATE (Rule 413).**

The commission adopted Rules 401 through 413 by Order No. 27674 issued on August 10, 1998, in docket number 31-4201-9801. The effective date for these rules is the date of that Order, August 10, 1998. (8-10-98)T

**414. -- 999. (RESERVED).**



**IDAPA 35 - STATE TAX COMMISSION**  
**35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES**  
**DOCKET NO. 35-0103-9801**  
**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective January 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105A, Idaho Code.

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

That the advertised proposed Property Tax Rule 137, be amended as follows:

**IDAPA 35.01.03, Subsection 137.02.c.** should read as follows:

c. Improvements included in land value 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

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

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the July 1, 1998, Idaho Administrative Bulletin, Volume 98-7, pages 208 and 209.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Alan Dornfest, at (208) 334-7530.

DATED this 26th day August of 1998.

Alan Dornfest, Tax Policy Specialist  
State Tax Commission  
800 Park Blvd. Plaza IV  
P. O. Box 36  
Boise, ID 83722  
(208) 334-7530 FAX (208) 334-7844

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**IDAPA 35**  
**TITLE 01**  
**Chapter 03**

**PROPERTY TAX ADMINISTRATIVE RULES**

**There are 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 98-7, July 1, 1998,  
pages 208 and 209.**

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

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**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 included in land value, 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~~(\_\_\_\_)

**IDAPA 35 - STATE TAX COMMISSION**  
**35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES**  
**DOCKET NO. 35-0103-9805**  
**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Section(s) 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 October 21, 1998.

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

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

The proposed amendment renumbers Property Tax Rule 137 to Rule 620 and amends Subsection 620.01.b. to delete from the value of exempt residential improvements to land septic tanks, wells, and improvements designed to provide utility services and access.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

No fee is applicable.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because the proposed change is of a general application and the Tax Commission is unable to identify representatives of affected interests.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Alan Dornfest, at (208) 334-7530.

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 October 28, 1998.

DATED this 26th day of August, 1998.

Alan Dornfest, Tax Policy Specialist  
State Tax Commission  
800 Park Blvd. Plaza IV  
P. O. Box 36  
Boise, ID 83722  
(208) 334-7530  
FAX (208) 334-7844

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-9805**

**136. -- 150. (RESERVED).**

~~138 -- 150.~~     ~~(RESERVED).~~

**(BREAK IN CONTINUITY OF SECTIONS)**

~~601. -- 63419.~~     ~~(RESERVED).~~

~~137620.~~     **EXEMPTION FOR NEVER OCCUPIED RESIDENTIAL IMPROVEMENTS (Rule**  
~~137620).~~

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 ~~137620.01.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 ~~137620.02.~~     (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 ~~137620.01.b.~~) that are not located on the parcel on which the improvement is located, identified in Subsection ~~137620.01.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

~~621. -- 634.~~     ~~(RESERVED).~~

**IDAPA 35 - STATE TAX COMMISSION**  
**35.02.01 - ADMINISTRATION AND ENFORCEMENT**  
**DOCKET NO. 35-0201-9802**  
**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section(s) 63-105 and 63-3039, 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 October 21, 1998.

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

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

Section 63-3045, Idaho Code, provides for the calculation of the rate of interest due for the next calendar year, or portion thereof, upon any deficiency, or payable upon an overpayment or refund. The rate of interest, rounded to the nearest whole number, is two percent (2%) plus the rate determined under Section 1274(d), Internal Revenue Code, by the secretary of the treasury of the United States as the mid-term federal rate as it applies on October 15 of the immediately preceding year. Rule 310 is updated to add the interest rate applicable for 1999.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: No fees applicable.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because the proposed change is of a simple nature.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Janice Boyd, (208) 334-7530.

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 October 28, 1998.

DATED this 26th day of August, 1998.

Janice Boyd, Tax Policy Specialist  
State Tax Commission  
800 Park Blvd. Plaza IV  
P. O. Box 36  
Boise, ID 83722  
(208) 334-7530  
FAX (208) 334-7844

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0201-9801**

**310. INTEREST ON AMOUNTS OF TAX ACCRUING OR UNPAID (Rule 310).**  
Section 63-3045, Idaho Code.

(3-20-97)

01. July 1, 1981, Through December 31, 1993. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of the period from July 1, 1981, through December 31, 1993, subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is twelve percent (12%) simple interest. (3-20-97)

02. Calendar Year 1994. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1994 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is seven percent (7%) simple interest. See Revenue Ruling 93-64. (3-20-97)

03. Calendar Year 1995. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1995 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is nine percent (9%) simple interest. See Revenue Ruling 94-61. (3-20-97)

04. Calendar Year 1996. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1996 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is eight percent (8%) simple interest. See Revenue Ruling 95-67. (3-20-97)

05. Calendar Year 1997. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1997 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is nine percent (9%) simple interest. See Revenue Ruling 96-49. (3-20-97)

06. Calendar Year 1998. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1998 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is eight percent (8%) simple interest. See Revenue Ruling 97-41. (1-1-98)T

07. Calendar Year 1999. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1999 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is seven percent (7%) simple interest. See Revenue Rule 98-50. ( )

**IDAPA 37 – DEPARTMENT OF WATER RESOURCES**

**37.03.13 - WATER MANAGEMENT RULES**

**DOCKET NO. 37-0313-9701**

**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 42-603 and 42-1805(8), Idaho Code.

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

**October 19, 1998, 1:30 p.m., Lewiston Community Center  
1424 Main Street, Lewiston, Idaho;**

**October 21, 1998, 1:30 p.m., Idaho Department of Water Resources,  
1301 North Orchard Street, Conference Room A & B, Boise, Idaho;**

**October 27, 1998, 7:00 p.m. Cavanaugh's on the Falls,  
475 River Parkway, Idaho Falls;**

**October 29, 1998, 7:00 p.m., College of Southern Idaho,  
Room 108, Aspen Vo-Tec Building, 315 Falls Avenue, Twin Falls, Idaho**

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 rule-making:

Rules are proposed to guide enforcement of laws prohibiting unauthorized uses of water, governing the use of water from surface water sources prior to using water from ground water where rights exist from both sources for the same use, and providing procedures for measuring and reporting diversion and use of water. The proposed rules are intended to apply statewide.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: The rule-making does not propose to impose or increase fees or charges.

**NEGOTIATED RULE-MAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rule-making was conducted. The Notice of Negotiated Rule-making was published in the Idaho Administrative Bulletin No. 97-12, Page 210. The negotiators were not able to reach agreement on all issues. The proposed rules incorporate the proposals as last reviewed by the negotiators concerning the unresolved issues. Public review and comment is particularly solicited on the following rules: 1) Enforcement of Diversion Rate and Volume (Rule 033); 2) Enforcement of the Use of Water Rights from Surface Water Sources Prior to Using Water from Ground Water Sources (Rule 039); and 3) Enforcement Methods - Diversions from Sources of Public Water not within a Water District (Rule 040.02).

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OR WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Norman C. Young at (208) 327-7910.

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 November 10, 1998.

Dated this 26th day of August, 1998.

Karl J. Dreher  
Director  
Idaho Department of Water Resources  
1301 North Orchard Street  
Boise, ID 83706  
Phone: (208) 327-7910 Fax: (208) 327-7866

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 37-0313-9701**

**IDAPA 37**  
**TITLE 03**  
**Chapter 13**

**37.03.13 - WATER MANAGEMENT RULES**

**000. LEGAL AUTHORITY (RULE 0).**

These rules are promulgated pursuant to the Idaho Administrative Procedures Act Chapter 52, Title 67, Idaho Code, and Section 42-603, Idaho Code, which provides that the Director of the Department of Water Resources is authorized to adopt rules for the distribution of water from the streams, rivers, lakes, ground water and other natural water sources as shall be necessary to carry out the laws in accordance with the priorities of the rights of the water users. These rules are also issued pursuant to Section 42-1805(8), Idaho Code, which provides the Director of the Idaho Department of Water Resources with authority to promulgate rules implementing or effectuating the powers and duties of the Department. ( )

**001. TITLE AND SCOPE (RULE 1).**

01. Title. These rules may be cited as IDAPA 37.03.13, "The Water Management Rules". ( )

02. Scope. The rules are applicable statewide to the use of the waters of the state except as otherwise provided in rules adopted for a particular administrative basin or area as needed to address unique conditions existing in that basin. The rules provide procedures for preventing and resolving unauthorized uses of water, for measuring and reporting diversions of water of the state of Idaho, and for the use of surface water rights before using ground water rights. The rules provide the framework for management of water under existing water rights and the procedures for preventing diversion and use of water without a water right. ( )

**002. WRITTEN INTERPRETATIONS (RULE 2).**

Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rule-making that originally proposed the rules, the review of comments, if any, submitted in the adoption of these rules and any declaratory rulings issued subsequent to adoption of these rules are available from the Idaho Department of Water Resources, Statehouse, Boise, Idaho 83720. ( )

**003. ADMINISTRATIVE APPEALS (RULE 3).**

Appeals may be taken pursuant to Section 42-1701A, Idaho Code, and IDAPA 37.01.01, "Rules of Procedure of the Idaho Department of Water Resources". ( )

**004. OTHER AUTHORITIES REMAIN APPLICABLE (RULE 4).**

Nothing in these rules shall limit the Director's authority to take alternative or additional actions relating to the management of water resources as provided by Idaho law. ( )

**005. -- 009. (RESERVED)**

**010. DEFINITIONS (RULE 10).**

For the purposes of these rules, the following terms are used as defined below. ( )

01. Accomplished Transfer. A change made to the point of diversion or place, period, or nature of use of an existing water right without prior approval pursuant to Section 42-222, Idaho Code, which can be claimed and decreed in accordance with Section 42-1425, Idaho Code. ( )

02. Claim. A notice of claim to a water right acquired through diversion and beneficial use of public



water filed in accordance with Section 42-243, Idaho Code, or Section 42-1409(2), Idaho Code, and the right has not been established by the permit/license procedure of Chapter 2, Title 42, Idaho Code, or previously decreed by a court of law. ( )

03. Conjunctive Management. Legal and hydrologic integration of administration of the diversion and use of water under water rights from surface and ground water sources, including areas having a common ground water supply. ( )

04. Critical Ground Water Area. Any ground water basin, or designated part thereof, not having sufficient ground water to provide a reasonably safe supply for irrigation of cultivated lands, or other uses in the basin at the then current rates of withdrawal, or rates of withdrawal projected by consideration of valid and outstanding applications and permits designated in accordance with Section 42-233a, Idaho Code. ( )

05. Department. The Idaho Department of Water Resources created by Section 42-1701, Idaho Code. ( )

06. Director. The Director of the Idaho Department of Water Resources appointed as provided by Section 42-1801, Idaho Code, or an employee, hearing officer, or other appointee of the Department who has been delegated to act for the Director as provided by Section 42-1701, Idaho Code. ( )

07. Domestic. A water right or water use that meets the requirements of Section 42-111, Idaho Code. ( )

08. Eastern Snake Plain Aquifer (ESPA). The area of common ground water supply as determined in IDAPA 37.03.11, "Rules for Conjunctive Management of Surface and Ground Water Resources," Rule 50.01. ( )

09. Enlargement. Any increase in one or more of the elements of a water right. ( )

10. Firefighting. The use of water in times of emergency to extinguish an existing fire, to prevent the spread of an existing fire, or by personnel engaged in fighting an existing fire. Firefighting does not include the use of water to prevent a fire from occurring in the future, the use of water for domestic or other purposes in regularly maintained firefighting stations, or the storage of water for fighting future fires. ( )

11. Ground Water. Water under the surface of the ground whatever may be the geological structure in which it is standing or moving as provided in Section 42-230(a), Idaho Code. ( )

12. Ground Water District. A district created in accordance with the provisions of Chapter 52, Title 42, Idaho Code. ( )

13. Ground Water Management Area. Any ground water basin or designated part thereof which the Director has determined may be approaching the conditions of critical ground water area and designated in accordance with Section 42-233b, Idaho Code. ( )

14. Ground Water Management District. A district created in accordance with the provisions of Chapter 51, Title 42, Idaho Code. ( )

15. Hydrographer. The official elected by the members of a water measurement district and appointed by the Director to measure water and perform the other duties provided in Section 42-709, Idaho Code. ( )

16. Person. Any individual, partnership, corporation, association, governmental subdivision or agency, or public or private organization or entity of any character. ( )

17. Power Consumption Coefficient (PCC). A parameter used to estimate the volume of water pumped during a period of time. It is the number of kilowatt hours of electricity required by a system to pump one (1) acre foot of water. ( )

18. Stockwater. A water right or use that meets the requirements of Section 42-1401A, Idaho Code.

- ( )
19. Surface Water. Rivers, streams, lakes and springs when flowing in their natural channels as provided in Sections 42-101 and 42-103, Idaho Code. ( )
20. Unauthorized Diversion. Diversion of water for an unauthorized use. ( )
21. Unauthorized Use. Use of water without a right to do so or in a manner not in conformance with the elements or terms and conditions of a water right or Idaho law as provided in Rule 30. ( )
22. Water Measurement District. A district created in accordance with Section 42-706, Idaho Code. ( )
23. Water Measurement Guideline. A document entitled Guidelines for Measuring and Reporting Water Diversions and Ground Water Levels in Idaho, Idaho Department of Water Resources, 1998. ( )
24. Water Right. The legal right to divert and use or to protect in place the public waters of the state of Idaho where such right is evidenced by a decree, a permit or license issued by the Department, a beneficial or constitutional right or a right based upon federal law. ( )
25. Waters of the State or Public Water. All surface or ground water located within the boundaries of Idaho or in boundary streams, rivers and lakes. ( )

**011. -- 019. (RESERVED).**

**020. GENERAL STATEMENTS OF MANAGEMENT POLICY (RULE 20).**

01. Authorized Uses. All uses of water in Idaho are to be made only in accordance with the provisions of applicable laws, rules, and orders of the court and the Department. ( )
02. Unauthorized Use. The Department may seek an appropriate remedy, including any restoration and mitigation measures, and civil penalties will be sought in accordance with these rules and applicable law for the unauthorized use of water. ( )
03. Regulation of Diversions. Water diversion and use in Idaho will be regulated to protect water rights and to maintain the validity and accuracy of the rights. The Department will require measurement and reporting of water diversion and use for all diversions except domestic or stockwater uses, whether or not a diversion is in a water district or a water measurement district. ( )
04. Enforcement. The Department will enforce these rules within the resources available to the Department, through the creation of water districts, water measurement districts, critical ground water areas, and ground water management areas in accordance with applicable law to aid measurement and enforcement of water use or through other administrative and judicial actions. Water districts presently existing and those created in the future will be required to measure and report water diversion and use throughout the year in addition to distributing water in accordance with priority of right during times of scarcity. ( )
05. Prevention of Injury. The Department will give priority to preventing unauthorized uses that cause injury to other water rights. ( )
06. Conjunctive Management. The surface and ground water resources of a designated area of common ground water supply (reference Section 42-237ag, Idaho Code) will be managed conjunctively. ( )
07. Ground Water. Ground water diversions will be managed to prevent use in excess of the reasonably anticipated average rate of future natural recharge and to maintain reasonable pumping lifts in accordance with Idaho law. (Ref. Sections 42-226 and 42-237ag, Idaho Code). ( )
08. Changes to Water Rights. The point of diversion, place, period or nature of use of existing rights

will be changed only in accordance with Idaho law. ( )

09. Surface Water Use First. If water rights for a beneficial use have been established from both natural flow surface water and ground water sources, the surface water source shall be used before the ground water source to the extent it is available, except as provided in Rule 39. The rate of diversion and the annual volume diverted from the combined sources shall not exceed the amount reasonably necessary for the beneficial use. ( )

10. Forfeiture or Abandonment. When the Department has evidence of forfeiture or abandonment of all or part of a water right, the Department may initiate administrative proceedings for a licensed right in accordance with Section 42-350, Idaho Code, or may initiate judicial proceedings to confirm that a decreed or claimed right has been abandoned or forfeited. The Department will not consider the diversion of water at a reduced rate as evidence of partial forfeiture unless there has been a corresponding decrease in the beneficial uses for which the right was established. Forfeiture will not be considered to have taken place if an irrigation system substantially irrigates the parcel to which the license or decree has been made appurtenant and the parts of the parcel which are not irrigated have not been permanently converted to another use. ( )

11. Voluntary Compliance. The Department will place emphasis upon informing all water users of applicable rules and laws to allow and encourage voluntary compliance. ( )

12. Recovery of Water. Canal companies, irrigation districts, and other owners of irrigation works that recover and use ground water resulting from irrigation under such irrigation works for further use on or drainage of lands to which appurtenant, under the provisions of Section 42-228, Idaho Code, shall not be considered to have expanded the water right associated with such lands. ( )

**021. -- 029. (RESERVED).**

**030. ENFORCEMENT IN CASE OF UNAUTHORIZED USE (RULE 30).**

Unauthorized uses, including, but not limited to the following, shall be enforced in Idaho: ( )

01. Use Without Water Right. Use of water for any purpose other than domestic from ground water, or in accordance with Rule 020.12 without a recorded water right. For purposes of these rules a recorded water right is a permit or license issued by the Department, a decree issued by a court of competent jurisdiction, or a valid claim to a right based upon diversion and beneficial use where such right has been claimed in the Snake River Basin Adjudication (SRBA) or other ongoing proceeding under Chapter 14, Title 42, Idaho Code, or a valid claim has been filed in accordance with Section 42-243, Idaho Code. ( )

02. Use Not in Compliance with Water Right. Use of water which is not in compliance with a water right or Idaho law. ( )

03. Out-of-Priority Use. Diversion and use of water under a claim in a water district when the watermaster is delivering water in accordance with priority of rights. ( )

04. Order or Designation. Use of water in conflict with any order or designation of the Director. ( )

05. Interference with Diversion. Diversion and use of water resulting from tampering with or changing any headgate or diversion control structure setting by the watermaster, as determined by the Director. ( )

06. Designated Areas of Limited Supply. Out of priority diversion within a water district under the supervision of a watermaster, a critical ground water area, or ground water management area or any other area for which the Director, a local ground water board (Ref. Section 42-237d, Idaho Code), or the court has ordered a reduction in diversion in accordance with applicable law or the diversion and use is not in accordance with an approved mitigation plan. ( )

07. Exchange. Diversion or use of water under an exchange that has not been reviewed and approved by the Director. ( )

08. Rotation. Water rotation arrangement that is not in accordance with applicable law. ( )

09. Waste. Diversion or use of water that the Director determines, after an opportunity for hearing, constitutes a waste of water under the circumstances. ( )

10. Surface Water First. Use of water under a ground water right when adequate water is available under a natural flow surface water right for the same beneficial use, except as provided in Rule 39. ( )

**031. -- 032. (RESERVED).**

**033. ENFORCEMENT OF DIVERSION RATE AND VOLUME (RULE 33).**

01. Diversion Rate and Volume. Diversion and use of water shall not exceed the diversion rate and annual diversion volume authorized under the water right. Enforcement shall occur pursuant to Rule 40 of these rules. ( )

02. Measurement at Point of Diversion. The rate of diversion authorized by the water right shall be measured at the point of diversion from the public water source or as near as practical to the diversion as determined by the Director, and not at the field headgate or other place of use unless otherwise provided by the terms of the water right. ( )

**034. ENFORCEMENT OF PRIORITY (RULE 34).**

Water rights shall be regulated in order of priority whenever such regulation is found necessary to fill a senior unsubordinated water right. ( )

**035. ENFORCEMENT OF POINT OF DIVERSION (RULE 35).**

Diversion shall occur only at the point or points authorized by the water right, however, the diversion from points other than the point or points authorized by the water right will not be regulated to prevent diversion if the following conditions are satisfied: the new point of diversion is claimed on an accomplished transfer and there is no information available to show that the claim is erroneous or that such use will cause injury to other water rights or is an enlargement. ( )

**036. ENFORCEMENT OF PLACE OF USE (RULE 36).**

01. Place of Use. Use of water shall occur only at the place of use authorized by a water right; however, use of water at a place other than the place of use authorized by a water right will not be regulated to prevented such use if the following conditions are satisfied: ( )

a. The new place of use is claimed as an accomplished transfer and there is no information to show that the claim is erroneous or that the change will cause injury to or has injured other water rights or is an enlargement; ( )

b. The water right is the subject of a valid rotation arrangement; or ( )

c. The water right is the subject of a valid exchange approved by the Director. ( )

02. Measurement Accuracy. In determining whether an expansion in place of use has occurred, the Department will consider the accuracy and precision of acreage measurements. Generally, an expansion in acreage under a right will not be considered as having occurred if the acreage found to be irrigated does not exceed the authorized amount by more than five percent (5%) for any forty (40) acre subdivision or government lot, unless irrigation has been expanded to include parcels not previously irrigated under the right. ( )

**037. ENFORCEMENT OF PERIOD OF USE (RULE 37).**

The period of use for a water right is the period described by the water right within which water may be diverted for the authorized uses or the period ordered by the Director if the water right does not describe the period of use. Diversion and use of water under the right shall occur only during the authorized period. ( )

**038. CRITERIA FOR ENFORCEMENT OF NATURE OF USE (RULE 38).**

01. Nature of Use. A wateruser shall not use a water right for a use which is not authorized by the right; however, use of water for a use which is not authorized by the right will not be regulated to prevent such use if water diverted for irrigation is incidentally used for stockwater or water from any water right is used for firefighting purposes. ( )

02. Storage. Impoundment of water in a tank, pond, or reservoir having a capacity less than the volume authorized under a water right or rights to be diverted during a 24-hour period is included within the delivery and use of the water and shall not require that the description of the right or rights with the Department include a storage component. ( )

**039. ENFORCEMENT OF THE USE OF WATER RIGHTS FROM SURFACE WATER SOURCES PRIOR TO USING WATER FROM GROUND WATER SOURCES (RULE 39).**

01. Surface Water First. Water shall not be diverted and used under a ground water right unless the amount of water available for use from a natural flow surface water right for the same beneficial use is physically or legally unavailable under the right for the beneficial use authorized under the rights. ( )

02. Surface Water Unavailable. For the purposes of this rule, water will be considered to be unavailable under a natural flow surface water right if one (1) or more of the following conditions exist: ( )

a. The surface water source does not have a sufficient supply to provide water for the beneficial use or the supply is physically unavailable to the water user. ( )

b. The natural flow surface water right becomes legally unavailable for beneficial use prior to the effective date of this rule. ( )

c. The facilities necessary for diversion, conveyance, and application of the natural flow surface water right were removed or made permanently inoperable, as determined by the Director, prior to the effective date of this rule and have not been replaced. ( )

03. Changes to Ground Water Rights. The Department will not approve a change in the place of use or nature of use of a ground water right unless any natural flow surface water rights appurtenant to the same place of use are also changed to the new use or the change is to supplement another natural flow surface water right supplying a similar supply as the original natural flow surface water right, or unless an equivalent ground water right is substituted for the right being transferred. ( )

04. Existing Uses Exempted. This rule shall not be applied to require water users who have initiated prior to the adoption of this rule a practice of using ground water in preference to surface water to revert to using natural flow surface water. ( )

**040. ENFORCEMENT METHODS (RULE 40).**

01. Water Districts. Diversions From Sources of Public Water Within a Water District: ( )

a. The watermaster shall supervise the distribution of water from sources of public water within a water district in accordance with the rights to divert and use water from the source. The watermaster has authority to shut, lock or otherwise regulate the headgates and other controlling works of each surface and ground water diversion to distribute the water in accordance with the priority of the rights as provided by these rules and Chapter 6, Title 42, Idaho Code. ( )

b. The watermaster shall prevent unauthorized diversions of water. ( )

c. After notice as provided in Section 42-701, Idaho Code, if a wateruser has not installed and maintained a suitable control device or measuring device, the watermaster shall refuse to deliver water until an adequate control device and measuring device are installed or other actions are taken to protect prior water rights.

( )

d. Upon becoming aware the watermaster will immediately advise the Department if water diverted under a water right is not in accordance with the right. The Department will respond in accordance with the procedures provided in Rule 40.02. ( )

e. The watermaster shall file an annual report with the Director in a form approved by the Department in accordance with Section 42-606, Idaho Code, documenting the diversion and use of water under each water right in the water district. ( )

02. Outside of Water Districts. Diversions from sources of public water not within a water district. ( )

a. If the Director finds, on the basis of available information, that a person is diverting water or has diverted water from a natural watercourse or from a ground water source without having obtained a water right to do so or is applying water or has applied water not in conformance with the elements of a water right, then the Director shall have the discretion to take action against such person. ( )

b. The Director may provide a person who is diverting public water without a water right or is applying water or has applied water not in conformance with the elements of a water right an opportunity to comply before issuing a Notice of Violation (NOV) as provided in Rule 040.02.c. of these rules. ( )

c. The Director may file an action seeking injunctive relief or may commence an administrative enforcement in accordance with Section 42-1701B, Idaho Code. ( )

d. The Director may seek criminal enforcement in accordance with the provisions of Chapter 43, Title 18, Idaho Code. ( )

**041. -- 049. (RESERVED).**

**050. MEASUREMENT AND REPORTING OF WATER DIVERSION AND USE (RULE 50).**

01. Measurement and Reporting Procedures. Unless a written waiver is received from the Director, the holder of a right to divert water meeting one (1) of the following described circumstances shall install, calibrate, and maintain a measuring device in a manner approved by the Director. The holder of the water right, or a water district or water measurement district on behalf of the holder of the water right, shall measure and report water diversion and use to the Department in a manner approved by the Director. A procedures manual to be entitled Guidelines for Measuring and Reporting Water Diversions and Ground Water Levels in Idaho shall be published and maintained by the Department. ( )

02. Diversions Subject to Measurement and Reporting. Any diversion subject to one (1) of the following circumstances shall be measured and reported as required by Rule 50.01 of this rule. ( )

a. A diversion located within a water district or a water measurement district, unless the diversion is used solely for domestic or stockwater purposes. ( )

b. A diversion required to be measured by an order issued under Section 42-701, Idaho Code. ( )

c. A diversion required to be measured by a condition of a permit, license, transfer, exchange, or other approval or order of the Director. ( )

03. Alternative Methods. Where the installation and maintenance of a measuring device would be burdensome for the holder of a water right, as determined by the Director, the Director may allow the power consumption coefficient (or PCC) method or another method suggested in writing by the holder of the water right and approved by the Director to estimate the amount of water diverted. Use of the PCC method or other alternate methods shall be in a manner approved by the Director. ( )

**051. -- 059. (RESERVED).**

**060. MEASUREMENT AND REPORTING OF GROUND WATER LEVELS (RULE 60).**

01. Measurement and Reporting Procedures. The depth to ground water shall be reported at each well from which water is authorized to be diverted in accordance with an order issued pursuant to Section 42-701, Idaho Code, or a measurement plan submitted by a water district or water measurement district and approved by the Director. The Water Measurement Guideline and Reporting Water Diversions and Ground Water Levels in Idaho shall be published and maintained by the Department. ( )

02. Measurements by Right Holder. The holder of a water right required to report pursuant to an order issued under Section 42-701, Idaho Code, or Rule 060.01 shall measure and report in a manner approved by the Director. ( )

03. Measurement by Districts. A water district or water measurement district shall measure and report the depth to water in a network of wells approved in a measurement plan approved by the Director. ( )

**061. -- 099. (RESERVED).**

**100. MANAGEMENT OF WATER USES IN CRITICAL GROUND WATER AREAS AND GROUND WATER MANAGEMENT AREAS (RULE 100).**

01. Management Plan. When information is available for the director to determine that the use of water in a critical ground water area or a ground water management area exceeds the average rate of future natural recharge, that one or more holders of senior priority ground water rights are having to pump from a level that exceeds the reasonable pumping lift for the area, or that prior surface water rights are being deprived of water to which they are entitled, the director will enter an order providing a management plan to balance water use with supply and to protect prior rights. The plan may include: ( )

a. An estimate of the rate of future natural recharge and the procedure for estimating the value. ( )

b. A list of the rights based upon priority of right including those based upon claims that are entitled to divert and use water within the available supply. ( )

c. A list of rights not authorized to divert and use water for which an order will be issued prior to September 1 of the first year after which diversion and use shall be curtailed. ( )

d. A procedure for monitoring and assuring compliance with the order. ( )

e. A procedure for recognizing approved mitigation plans allowing pumping under rights that otherwise would be required to curtail. ( )

02. Notice of Management Plan. Notice of the management plan shall be mailed to the holder of each water right included within the critical ground water area or ground water management area and to holders of other rights the director determines to be affected by use of ground water in the area covered by the plan. Any person objecting to the order adopting the plan is entitled to a hearing and judicial review in accordance with Section 42-1701A, Idaho Code. ( )

**101. -- 999. (RESERVED).**

**IDAPA 39 - IDAHO DEPARTMENT OF TRANSPORTATION**

**39.03.64 - RULES GOVERNING TOURIST ORIENTED  
DIRECTIONAL SIGNS (TODS)**

**DOCKET NO. 39-0364-9801**

**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Section 40-312(3), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), public hearing(s) will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. The request must be made within fourteen (14) days of the date of publication of this notice in the Bulletin, or within fourteen (14) days prior to the end of the comment period, whichever is later.

The hearing site(s) will be accessible to 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:

This rule is being amended to revise the publication date of "Tourist Oriented Directional Signs (TODS) for Businesses and Attractions along Primary and Secondary Highways Except Fully Controlled Access Highways", incorporated by reference.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: No fee.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Larry VanOver at (208) 334-8558.

Anyone may submit written comments regarding this proposed rule-making. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before October 28, 1998.

DATED this 25th day of August 1998.

Linda L. Emry  
Administrative Secretary  
Idaho Transportation Department  
PO Box 7129  
Boise, ID 83707-1129  
Phone: (208) 334-8810  
FAX: (208) 334-8195

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0364-9801**



**IDAPA 39**  
**TITLE 03**  
**Chapter 64**

**39.03.64 - RULES GOVERNING TOURIST ORIENTED**  
**DIRECTIONAL SIGNS (TODS)**

**000. LEGAL AUTHORITY.**

The Idaho Transportation Board adopts this rule under the authority of Sections 40-312, 40-313, 40-1911(5) and 67-5203A, Idaho Code, and incorporates by reference its September, 1990 publication titled "Tourist Oriented Directional Signs (TODS) for Services and Activities Along Primary and Secondary Highways Except Fully Controlled Access Facilities." (12-11-90)( )

**001. TITLE AND SCOPE.**

01. Title. These rules shall be cited as Rules of the Idaho Department of Transportation, IDAPA 39.03.64, "Rules Governing Tourist Oriented Directional Signs (TODS)". ( )

02. Scope. This program is to provide for installation and administration of tourist oriented directional signing within the right-of-way of the primary and secondary highway system, excluding fully controlled access sections, for tourist oriented businesses (including seasonal agricultural products,) services and activities. (12-11-90)( )

**002. INCORPORATION BY REFERENCE.**

The Idaho Transportation Board incorporates by reference its July, 1999 publication titled "Tourist Oriented Directional Signs (TODS) for Services and Activities Along Primary and Secondary Highways Except Fully Controlled Access Highways." ( )

**0023. -- 099. (RESERVED).**

**IDAPA 46 - IDAHO STATE BOARD OF VETERINARY MEDICAL EXAMINERS**  
**46.01.01 - RULES OF THE STATE OF IDAHO BOARD OF VETERINARY MEDICINE**

**DOCKET NO. 46-0101-9801**

**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Section 54-2105, 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 October 21, 1998.

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

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

The rule-making is necessary in order to move to computerized exams, clarify supervisory requirements for various categories, incorporate veterinary technicians into the regulatory structure (licensing, discipline, standards, etc.), revise existing fee structure and add fees for licensure of veterinary technicians, and clarify certified euthanasia technicians regulations.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

Rules increase license application and renewal fees for veterinarians, certified euthanasia technicians, and adds license application and renewal fees for veterinary technicians.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the affected parties were in favor of the changes and staff and board members agreed.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Sheila Jensen, Administrative Secretary, at 208-332-8588.

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 October 28, 1998.

DATED this 26th day of August 1998.

Sheila Jensen  
Administrative Secretary  
Idaho State Board of Veterinary Medical Examiners  
2270 Old Penitentiary Road  
Boise, Idaho 83707  
208-332-8588 (Phone)  
208-334-4062 (Fax)

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 46-0101-9801**

**IDAPA 46**  
**TITLE 01**  
**Chapter 01**

**46.01.01 - RULES OF THE STATE OF IDAHO BOARD OF VETERINARY MEDICINE**

**001. TITLE AND SCOPE.**

01. Title. The title of this chapter is the "Rules of the State of Idaho Board of Veterinary Medicine," hereinafter referred to in these rules as the board. ~~This chapter has the following~~ ( )

02. Scope. These rules govern the licensing procedures, supervision requirements, standards of practice, inspections, and grounds for discipline of veterinarians, veterinary technicians, euthanasia task force members, and certified euthanasia technicians and agencies. The official citation of this chapter is IDAPA 46.01.01.000 et. seq. For example, this section's citation is IDAPA 46.01.01.001. (7-1-97)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. LICENSE.**

01. Qualifications. Applicants for license to practice veterinary medicine and surgery in Idaho shall be of good moral character and reputation and have: (7-1-97)

a. Graduated from an approved school of veterinary medicine or the veterinary department of a university, approval based on the list of approved schools by the Council of Education of the American Veterinary Medical Association ~~Idaho Code~~, Section 54-2103(24), Idaho Code; or (7-1-97)( )

b. In compliance with ~~Idaho Code~~, Section 54-2107(3), Idaho Code, the board will accept as eligible for licensure, any graduate of a veterinary school, college or university outside of the United States and Canada that fulfills the requirements for foreign veterinary graduates as set forth by current American Veterinary Medical Association standards. The board hereby incorporates by reference and adopts the current Educational Commission for Foreign Veterinary Graduates of the AVMA's "Information for Graduates of Colleges of Veterinary Medicine Outside the U.S. and Canada" as amended as the requirements for foreign veterinary graduates. (Copies of this publication are on file at the State Law Library and the board office.) A graduate enrolled with the AVMA foreign graduate program would be considered a student as defined by ~~Idaho Code~~, Section 54-2104, subsection (2)(b), Idaho Code. (7-1-97)( )

02. Application. Application for license may be obtained from the board office. (7-1-97)

03. Examination. ~~There are three (3) required examinations:~~ The national licensing examinations developed by the National Board Examination Committee for Veterinary Medicine, or its designees, and the state jurisprudence examination as prepared by the Board. (7-1-97)( )

a. ~~The National Board Examination as prepared by the examination service, designated by the American Veterinary Medical Association, and which may be taken at any time and as many times as necessary.~~ National licensing examinations developed by the National Board Examination Committee, or its designee, that include, but are not limited to: (7-1-97)( )

i. National Board Examination (NBE) and Clinical Competency Test (CCT), which may be taken at

any time and as many times as necessary: ( )

ii. As of 2000, the North American Veterinary Licensing Examination (NAVLE), which may be taken at any time and as many times as necessary. ( )

b. ~~The Clinical Competency Test as prepared by the examination service, designated by the American Veterinary Medical Association and which may be taken at any time and as many times as necessary.~~ (7-1-97)

eb. The jurisprudence examination, as prepared by the board or its designee, and which may be taken more than once, at three (3) month intervals. (7-1-97)( )

i. The jurisprudence exam will consist of twenty-five (25) to fifty (50) questions on the Idaho veterinary law and rules, and will be an open book exam. (7-1-97)

ii. ~~The Idaho~~ The Idaho jurisprudence exam, a copy of Title 54, Chapter 21, Idaho Code, and a copy of the rules of the board, IDAPA 46.01.01, shall be sent to each applicant along with the application for licensure. (7-1-97)( )

04. Passing Score. (7-1-97)

a. A passing score for the ~~National Board Examination and Clinical Competency Test~~ national licensing examinations shall be calculated and reported by the ~~examination service designated by the American Veterinary Medical Association~~ American Association of Veterinary State Boards or its designated test vendor. If such a score is not available, the passing score shall be as reported by the ~~examination service designated by the American Veterinary Medical Association~~ American Association of Veterinary State Boards or its designated test vendor and shall be considered equal to or greater than one point five (1.5) standard deviation below the mean score of the examination. (7-1-97)( )

b. A passing score for the ~~Idaho~~ jurisprudence examination shall be ninety percent (90%) or such score as deemed appropriate by the board. All application materials and fees shall be at the board office, with the exception of the Clinical Competency Examination results when an applicant is applying for a temporary permit or specialty license, before the ~~Idaho~~ jurisprudence examination shall be graded. (7-1-97)( )

05. Review of Examination. (7-1-97)

a. An applicant wishing to review the results of the jurisprudence examination shall make a written request to the board within thirty (30) days of receipt of the jurisprudence examination results. (7-1-97)

b. The review shall be conducted no later than sixty (60) days from the date of the written request, shall not exceed two (2) hours in length, and no written materials or any reproductions shall be removed from the review premises. (7-1-97)

c. The review shall take place at the office of the board during normal business hours. (7-1-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**012. LICENSE RENEWAL.**

An "active" or "inactive" veterinary license may be renewed by submission of the completed and signed annual renewal form prescribed by the board, submission of a continuing education report as outlined in Subsection 015.03.d. for the appropriate hours of continuing education, payment of the annual renewal fee and any other applicable fees as established by the board. (7-1-97)

01. Reinstatement to "Active" License Status. A licensee may convert from "inactive" license status to "active" license status by: (7-1-97)

- a. Making written application to the board on an application form prescribed by the board. (7-1-97)
- b. Providing thirty (30) hours of continuing education credits earned in the three (3) fiscal years; (July 1 to June 30); prior to activation of an "inactive" license. (~~7-1-97~~)(    )
- c. Providing verification of active veterinary practice in another state for the past five (5) years or by providing verification of passing scores on the National Board Examination and Clinical Competency Examination national licensing examinations developed by the National Board Examination Committee for Veterinary Medicine, or their designee. These include, but are not limited to, passing scores on the National Board Examination (NBE) and Clinical Competency Test (CCT) or, as of November 2000, the North American Veterinary Licensing Examination (NAVLE) taken within the past five (5) years. (~~7-1-97~~)(    )
- d. Taking and passing the ~~Idaho~~ jurisprudence exam with a score of ninety percent (90%) or better. (~~7-1-97~~)(    )
- e. Providing two (2) affidavits of moral character from veterinarians currently licensed in any state and issued during the past calendar year. (7-1-97)
- f. Providing verification of license in good standing from the licensing board in any state where a license is or has been held. (7-1-97)
02. Reinstatement of Expired Licenses. Licenses expiring prior to July 1, 1995 may be reinstated anytime prior to five (5) years from their expiration date by: (7-1-97)
- a. Making application to the board to reinstate the expired license. (7-1-97)
- b. Paying the late fee and back renewal fees as prescribed by the board for up to five (5) years. (7-1-97)
- c. Providing thirty (30) hours of continuing education earned during the past three (3) fiscal years; (July 1 to June 30). (~~7-1-97~~)(    )
- d. Providing verification of active veterinary practice in another state for the past five (5) years or by providing verification of a passing score on the Clinical Competency Examination or, as of November 2000, other national licensing examinations developed by the National Board Examination Committee for Veterinary Medicine, or its designee, taken within the past five (5) years. (~~7-1-97~~)(    )
- e. Taking and passing the ~~Idaho~~ jurisprudence exam with a score of ninety percent (90%) or better. (~~7-1-97~~)(    )
- f. Providing two (2) affidavits of moral character from veterinarians currently licensed in any state and issued during the past calendar year. (7-1-97)
- g. Providing verification of license in good standing from the licensing board in any state where a license is or has been held. (7-1-97)
03. Late Renewal. Any license renewal received within thirty (30) days of the expiration date, may be reinstated by paying the established late fee and the active or inactive renewal fee. (7-1-97)
04. Military Waiver. License renewal fees for licensees on active duty with the armed services of the United States may be waived one (1) time, not to exceed the longer of three (3) years or the duration of a national emergency. (    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**014. FEES.**

Fees are established as authorized under Title 54, Chapter 21, Idaho Code by action of the board as follows: (7-1-97)

- 01. Veterinarian: ( )
- a. Application Fee and ~~First Year~~ License Fee (Section 54-2107, Idaho Code) - ~~One Two~~ Two hundred fifty dollars (~~\$15200~~). (7-1-97)( )
- ~~02~~b. Annual Renewal Fee (Section 54-2112, Idaho Code). (7-1-97)( )
- ~~02~~c. "Active" License - ~~Seventy One~~ One hundred twenty-five dollars (\$7125). (7-1-97)( )
- ~~02~~d. "Inactive" License - ~~Thirty-five~~ Fifty dollars (\$350). (7-1-97)( )
- ~~03~~e. Specialty License Fee. (7-1-93)( )
- ~~03~~i. First Year - ~~One Two~~ Two hundred fifty dollars (~~\$15200~~). (7-1-97)( )
- ~~03~~ii. Annual Renewal Fee (Section 54-2110, Idaho Code) - ~~Seventy-five~~ One hundred twenty-five dollars (~~\$7125~~). (7-1-97)( )
- ~~04.~~ ~~Duplicate License and Certificate Fee - Twenty-five dollars (\$25). When a new license or certificate is issued for the purpose of changing the veterinarian's name, the current license or original certificate shall be returned to the board office.~~ (7-1-97)
- ~~05~~f. Conversion/Late Fee (Section 54-2112, Idaho Code) - ~~Twenty-five~~ Fifty dollars (~~\$250~~). (7-1-97)( )
- ~~06~~g. Temporary Permit Fee (Section 54-2111, Idaho Code) ~~Seventy-five~~ One hundred dollars (~~\$75100~~). (7-1-97)( )
- ~~07~~h. Certificates of Good Standing (Section 54-2112, Idaho Code) - Ten dollars (\$10). ( )
- ~~07~~2. Certified Euthanasia Agency License Fee (Section 54-2105(5)(j), Idaho Code). (7-1-97)( )
- a. ~~First Year~~ Application and License Fee - One hundred dollars (\$100). (7-1-97)( )
- b. Annual Renewal Fee - One hundred dollars (\$100). (7-1-97)
- c. Reinstatement Fee - Twenty-five dollars (\$25). (7-1-97)
- ~~08~~3. Certified Euthanasia Technician License Fee (Section 54-2105(5)(j), Idaho Code). (7-1-97)( )
- a. ~~First Year~~ Training and License Fee - ~~Seventy-five~~ One hundred dollars (~~\$75100~~). (7-1-97)( )
- b. Annual Renewal Fee - ~~Twenty-five~~ Fifty dollars (~~\$250~~). (7-1-97)( )
- c. Reinstatement Fee - Twenty-five dollars (\$25). (7-1-97)
- ~~04.~~ Veterinary Technician Certification Fee (Section 54-2105(5)(m), Idaho Code). ( )
- a. Application and Certification Fee - One hundred dollars (\$100). ( )
- b. Annual Renewal Fee - Fifty dollars (\$50). ( )

c. Reinstatement/Late Fee – Twenty-five dollars (\$25). ( )

d. Temporary Permit Fee – Fifty dollars (\$50). ( )

05. Duplicate License and Certificate Fee – Twenty-five dollars (\$25). When a new license or certificate is issued for the purpose of changing the veterinarian's certified euthanasia technician's or veterinary technician's name, the current license or original certificate shall be returned to the board office. ( )

096. Adjustment of Renewal Fees. The board may adjust renewal fees downward to a minimum of fifty dollars (\$50) for "active" license renewals and a minimum of twenty-five (\$25) for "inactive" license renewals if, by majority vote of the board members, the board's free-fund balance is sufficiently high. (7-1-97)( )

**015. MANDATORY CONTINUING VETERINARY EDUCATION.**

01. Statement of Purpose. It is of primary importance to the public that veterinarians continue their veterinary education throughout the period of their active practice of veterinary medicine. These rules establish the minimum continuing veterinary education requirements necessary for veterinarians to maintain a license to engage in the practice of veterinary medicine in the state of Idaho. (7-1-97)

02. Course Approved Courses. Approved courses include those courses and providers listed on the American Association of Veterinary State Board's Continuing Education Registry and those courses and providers approved by the board. Board Approval for a continuing education course may be obtained by sending a written request to the board office and enclosing copies of the course agenda, dates, times, locations, and requested number of credit hours in management and veterinary medicine. (7-1-97)( )

03. Education Requirements. (7-1-93)

a. Minimum Requirement. Each active veterinarian in the state of Idaho shall complete a minimum of thirty (30) credit hours of accredited continuing veterinary education activity in each and every three (3) year period following the date of his or her admission to the practice of veterinary medicine in this state. Each active member admitted to the practice of veterinary medicine before July 1, 1990 shall complete a minimum of thirty (30) credit hours of accredited continuing veterinary education activity in each and every three (3) year period beginning July 1, 1990. (7-1-93)

b. Credit Requirements. The following are the minimum and maximum credits that may be earned for each reporting period. (7-1-93)

i. A minimum of twenty-one (21) hours of continuing education in veterinary medicine, surgery, and dentistry. (7-1-93)( )

ii. A maximum of nine (9) hours of continuing education in management. (7-1-93)

c. Attendance Period. The attendance period shall be based upon the fiscal year; (July 1 to June 30). (7-1-97)( )

d. Report. Each veterinarian subject to these rules shall file a written report, on a form prescribed by the Board, as provided in this rule. (7-1-93)

i. Content of Report. The report shall set forth the record of the veterinarian's compliance with these rules during the attendance period and shall contain at least: (7-1-93)

(1) A list of the courses attended; (7-1-93)

(2) The dates of attendance; (7-1-93)

(3) The sponsoring organization; (7-1-93)

- (4) The hours attended, rounded to the nearest half (1/2) of an hour; and (7-1-97)
- (5) The veterinarian's signature, under penalty of perjury. (7-1-93)
- ii. Place of filing. The report of compliance with the continuing veterinarian education requirement shall be filed with the secretary of the board. (7-1-97)
- iii. Time of filing. The report shall be filed on, or prior to, July 1 in the year the veterinarian is required to complete the continuing education requirement. (7-1-93)
04. Exemptions. Upon a showing of good cause by a licensee to the board, the board may exempt such licensee from any, all or part of the continuing education requirement. Written requests for exemptions from continuing education credits shall be sent to the board office. (7-1-97)
05. Credit for Attendance. Continuing veterinary education credits may be earned by attending approved courses in continuing veterinary education. (7-1-97)
- a. Credits. One (1) credit hour shall be given for each fifty (50) minutes actually spent by the active member in attendance at an accredited, domestic or foreign, course. No credit shall be given for: (7-1-97)
- i. Time spent in introductory remarks, coffee and lunch breaks; business meetings; or other activities not involving the educational aspects of the course. (~~7-1-93~~)( )
- ii. Any course attended before admission to practice veterinary medicine in Idaho. (7-1-93)
- iii. Journal and magazine articles, videos or correspondence courses, unless specially approved by the board. (7-1-97)
- b. In cases of panel presentations, credit shall be calculated by multiplying the actual number of course hours by two (2) and dividing by the number of panel members involved. ( )
- bc. Carryover Credit. No credit for attending approved courses in continuing veterinary education shall be applicable to any reporting period other than that during which the credit is actually earned. (7-1-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. CERTIFICATION OF VETERINARY TECHNICIANS.**

Beginning February 1, 2000, any person performing any of the tasks designated by the board in Subsection 104.02, (Animal Health Care Tasks - Veterinary Technicians), and any person representing themselves as a veterinary technician, licensed veterinary technician, registered veterinary technician or certified veterinary technician, shall hold a valid, unexpired certificate to practice veterinary technology in Idaho. ( )

01. Application for Certification - Contents - Examinations. An individual desiring to be certified as a veterinary technician shall make written application to the board upon a form furnished by the board. A complete application shall be valid and maintained at the board office for a period of one (1) year, contain the applicant's notarized signature, and include: ( )

a. A copy of a birth certificate, religious certificate, or passport proving that the applicant is eighteen (18) years of age or more. ( )

b. Affidavits issued during the year preceding licensure from two (2) veterinarians currently licensed in any state attesting to the fact that the applicant is of good moral character. ( )



- c. Education/Training/Experience. ( )
- i. A copy of a diploma or certificate verifying graduation from an approved veterinary technology program, approval based on the list of schools accredited by the American Veterinary Medical Association Committee on Veterinary Technician Education and Activities; or ( )
- ii. The equivalent, as determined by the board, of a diploma or certificate verifying graduation from a veterinary technology program accredited by the American Veterinary Medical Association Committee on Veterinary Technician Education and Activities, from a college or other institution approved by the board; or ( )
- iii. Has been awarded a D.V.M. or V.M.D. degree or equivalent from an approved school of veterinary medicine or the veterinary department of a university, approval based on the list of approved schools by the Council of Education of the American Veterinary Medical Association; or ( )
- iv. Applicants applying for certification prior to June, 2003 and who had been actively practicing as veterinary technicians prior to July 1, 1999, may provide verification from a licensed veterinarian in the United States or Canada that the applicant has been employed for at least two (2) years as a veterinary assistant under the veterinarian's supervision or as a licensed, registered or certified veterinary technician and is recommended to the board by the employing veterinarian or veterinarians. ( )
- d. Verification of a criterion-referenced passing score reported by the National Board Examination Committee for Veterinary Medicine or its designated test vendor on the Veterinary Technician National Examination (VTNE) or other examination(s) approved by the National Board Examination Committee for Veterinary Medicine or an equivalent recognized by the board. If such a score is not available, the passing score shall be as reported by the National Board Examination Committee for Veterinary Medicine or its designated test vendor and shall be considered equal to or greater than one and five-tenths (1.5) standard deviation below the mean score of the examination. ( )
- i. VTNE or other examination(s) approved by the National Board Examination Committee for Veterinary Medicine or an equivalent recognized by the board may have been taken at any time. ( )
- ii. Scores for the VTNE or other examination(s) approved by the National Board Examination Committee for Veterinary Medicine or an equivalent recognized by the board are to be provided by the National Board Examination Committee for Veterinary Medicine or its designated test vendor. ( )
- e. A passing score of at least ninety percent (90%) correct on the Idaho Veterinary Technician Jurisprudence examination. ( )
02. Application for Certification - Fee - Deadline - Validity. ( )
- a. The completed application, other required documents, and first year's certification fee in the amount established by the board shall be received at the board office by the first day of January or June. ( )
- b. The board will review applications and issue certifications in January and June of each year. If an applicant is found not qualified, the board shall notify the applicant in writing of such finding and grounds therefor. An applicant denied certification may request a hearing pursuant to the procedures set forth in Chapter 52, Title 67, Idaho Code. Any applicant who is denied certification shall be allowed the return of the certification fee portion of the application fee. ( )
- c. Any applicant taking and passing the Idaho Veterinary Technician Jurisprudence examination and not wanting to be certified at the next review by the board, per Section 101, shall be allowed the return of the certification fee portion of the application fee only. ( )

**101. DISQUALIFICATION OF VETERINARY TECHNICIAN APPLICANTS.**

The board may deny an application for certification as a veterinary technician if the applicant has: ( )

01. Grounds. Committed any act which would be grounds for the suspension or revocation of certification. ( )

02. Aiding or Abetting. While uncertified, committed or aided and abetted the commission of any act for which a certification is required. ( )

03. False Statements. Knowingly made any false statement in the application. ( )

04. Conviction of a Crime. Been convicted of a crime substantially related to the qualifications, functions, and duties of a certified veterinary technician. ( )

05. Revocation. Revocation by another state of a certification, registration, license, etc., allowing the practice of veterinary technology in that state for acts other than nonpayment of the established renewal fee and nonfulfillment of other renewal requirements. ( )

**102. TEMPORARY CERTIFICATION.**

The board may, at its discretion, issue a temporary certification. The temporary certification shall be valid for one (1) year or until the next certification review by the board, whichever comes first, and under no circumstances shall a second temporary certification be issued to the same person. A temporary certification shall not be issued to any applicant whose certification has been revoked in any state for a reason other than nonpayment or nonfulfillment of the renewal fee and requirements. An applicant granted a temporary certification shall provide verification of twelve (12) months of active practice during the past year as a veterinary technician in another state or shall work under the direct supervision of a veterinarian licensed in Idaho or veterinary technician certified in Idaho, except when assisting a veterinarian in surgery with tissue or instrument handling. When performing these tasks, the veterinary technician shall be under the immediate supervision of the veterinarian. Temporary certifications shall be consecutively numbered beginning with the number one (1) and all numbers shall be prefixed with the letters TC. ( )

01. Certification Requirements. Certification requirements for a temporary permit shall be the same as for the original certification. ( )

02. Responsibility. Nothing herein shall be construed to relieve the temporary permit holder of any responsibility or liability for any of their own acts and omissions. ( )

**103. CERTIFIED VETERINARY TECHNICIAN MANDATORY CONTINUING EDUCATION.**

01. Statement of Purpose. Each certified veterinary technician shall be required to obtain ongoing education in the field of veterinary technology in order to best serve the citizens of Idaho and their animals. ( )

02. Approved Courses. Approved courses include those courses and providers listed on the American Association of Veterinary State Board's Continuing Education Registry and those courses and providers approved by the board. Board approval for a continuing education course may be obtained by sending a written request to the board office and enclosing copies of the agenda, dates, times, locations, and requested number of credit hours in management and veterinary technology. ( )

03. Education Requirements. Each certified veterinary technician shall complete a minimum of twenty-one (21) hours of continuing education in each and every three (3) year certification period. Certification periods shall be based upon the fiscal year (July 1 to June 30). A maximum of six (6) credit hours of continuing education in management may be used toward the fulfillment of the CE requirement. ( )

04. Credit for Attendance. One (1) credit hour shall be awarded for each fifty (50) minutes spent in actual attendance at an accredited course. ( )

a. No credit shall be given for: ( )

i. Time spent in introductory remarks, coffee and lunch breaks, business meetings or other activities not involving the educational aspects of the course. ( )

ii. Any course attended before veterinary technician certification in Idaho. ( )

iii. Journal and magazine articles, videos or correspondence courses, unless specially approved by the board. ( )

iv. In cases of panel presentations, credit shall be calculated by multiplying the actual number of course hours by two (2) and dividing by the number of panel members involved. ( )

b. Carryover credit. No credit for attending approved courses in veterinary technician continuing education shall be applicable to any reporting period other than that during which the credit is actually earned. ( )

05. Report. Each certified veterinary technician shall file a signed, written continuing education report with the board, which shall accompany the application for renewal. The report shall state the courses attended, the dates of attendance, the sponsoring organization, and the hours attended. ( )

06. Exemptions. Upon a showing of good cause by a certified veterinary technician to the board, the board may exempt such individuals from any, all or part of the continuing education requirement. Written requests for exemptions from continuing education credits shall be sent to the board office. ( )

#### **1004. SUPERVISING VETERINARIANS.**

01. Statement of Purpose. Veterinarians licensed under the provisions of Idaho Code, Title 54, Chapter 21, shall be responsible for temporary licensees, certified euthanasia technicians, veterinary technicians, and veterinary assistants and shall be available to supervise and direct their activities as follows: (7-1-97)( )

a. No veterinarian shall: (7-1-93)

i. Permit any veterinary technician to perform any animal health care services not authorized by Subsection 1004.02. (7-1-97)( )

ii. Permit any assistant to perform any animal health care services not authorized by Subsection 1004.023. (7-1-97)( )

b. For purposes of the rules applicable to health care tasks for veterinary technicians and assistants, the supervising veterinarian of a veterinary technician or assistant shall: (7-1-93)

i. Have legal responsibility for the health, safety, and welfare of the animal patient which the veterinary technician or assistant serves. (7-1-93)( )

ii. Not delegate an animal health care task to a veterinary technician or assistant who is unqualified to perform the particular task. (7-1-93)

iii. Not use a level of supervision which is lower than that designated for a specific animal health care task as set forth in Subsections 1004.02 and 104.03. (7-1-97)( )

iv. Make all decisions relating to the diagnosis, treatment, management, and future disposition of an animal patient. (7-1-93)( )

c. A supervising veterinarian shall have examined the animal patient prior to the delegation of any animal health care task to either a veterinary technician or assistant. The examination of the animal patient shall be conducted at such times as acceptable veterinary ~~medicine~~ medical practice dictates, consistent with the particular delegated animal health care task. (7-1-93)( )

d. A supervising veterinarian shall diagnose and perform operative dentistry, oral surgery, and teeth extraction procedures. Operative dentistry is considered to be any dental procedure which invades the hard or soft tissue including, but not limited to, a procedure that alters the structure of one (1) or more teeth or repairs damaged and diseased teeth. ( )

de. Pursuant to Subsection 1004.03.eb., a veterinary technician is authorized to provide supervision for

an assistant performing a specified health care task. The veterinary technician shall be under the same degree of supervision by the veterinarian as if the veterinary technician ~~were~~ was performing the task. (7-1-97)(    )

ef. Unless specifically so provided by law or rule, a veterinarian shall not authorize a veterinary technician or an assistant to perform the following functions: (7-1-97)

i. Surgery; (7-1-93)

ii. Diagnosis and prognosis of animal disease; (7-1-93)

iii. Prescribing drugs, medicines, and appliances. (7-1-93)(    )

02. Animal Health Care Tasks - Veterinary Technicians. (7-1-93)

a. Definition. A veterinary technician means a person who has graduated from a veterinary technology program accredited by the American Veterinary Medical Association or a person who has received equivalent training or experience pursuant to Subsection 100.01.c. as recognized by the Idaho Board of Veterinary Medicine. The board shall prescribe the application format for veterinary technician status and shall review each application for compliance with the certification requirements. (7-1-97)(    )

b. Immediate supervision. The following tasks may be performed only under the immediate supervision of a veterinarian: (7-1-93)

i. Assist veterinarian in surgery with tissue handling; (7-1-93)

ii. Assist veterinarian in surgery with instrument handling; and (7-1-93)(    )

iii. Assist veterinarian when performing operative dentistry, oral surgery, and teeth extraction. (    )

c. Direct supervision. The following tasks may only be performed under the direct supervision of a veterinarian: (7-1-93)

i. Endotracheal intubation; (7-1-93)

ii. Blood administration; (7-1-93)

iii. Fluid aspiration; (7-1-93)

iv. Intraperitoneal injections; (7-1-93)

v. Monitoring of vital signs of anesthetized patient; (7-1-93)

vi. Application of casts and splints; (7-1-93)(    )

vii. Inducement of anesthesia by intravenous, intramuscular, or subcutaneous injection or by inhalation; (7-1-93)(    )

viii. When the animal is anesthetized, those tasks listed under Subsection 100.02.d. of this section; (7-1-97)(    )

ix. ~~Administration of immunological agents.~~ Euthanasia (all circumstances as otherwise allowed by law); (7-1-93)(    )

x. Catheterization of the unobstructed bladder; (    )

xi. Flushing of abscesses following surgery by a veterinarian; (    )

- xii. Wound flushing; ( )
- xiii. Gavage; and ( )
- xiv. Dental maintenance tasks including dental prophylaxis and certain procedures that do not result in altering the shape, structure or positional location of teeth in the dental arch. ( )
- d. Indirect supervision. The following tasks may only be performed under the indirect supervision of a veterinarian; provided, that, if the animal is anesthetized, the following tasks require the direct supervision of a veterinarian: (7-1-93)( )
- i. Teeth cleaning above the gum, taking impressions, making models, charting veterinary dental pathology, taking and developing dental radiographs, performing non-surgical subgingival root scaling and debridement, providing that the structure of the tooth is not altered; (7-1-93)( )
- ii. Enema; (7-1-93)
- iii. Electrocardiography; (7-1-93)
- iv. Application of bandages; (7-1-93)
- v. ~~Catheterization of the unobstructed bladder~~ Preparation of cultures for bacteriological examination; (7-1-93)( )
- vi. ~~Gavage~~ Preparation of medications for dispensing to clients on the direct or written order of the supervising veterinarian; (7-1-93)( )
- vii. Ear flush; (7-1-93)
- viii. Radiology: (7-1-93)
- (1) Patient positioning; (7-1-93)
- (2) ~~Operation of X~~ x-ray machines and exposing and developing of x-ray film; (7-1-93)( )
- (3) Oral and rectal administration of radiopaque materials. (7-1-93)
- ix. Injections of medications not otherwise prohibited: (7-1-93)
- (1) Intramuscular; (7-1-93)
- (2) Subcutaneous; (7-1-93)
- (3) Intravenous, including catheterization. (7-1-93)
- x. Oral medications; (7-1-93)
- xi. Topical medications; (7-1-93)
- xii. Specimen collection: (7-1-93)
- (1) Collection of tissue during or after a veterinarian has performed necropsy; (7-1-93)
- (2) Urine (except cystocentesis); (7-1-93)
- (3) Hematology; (7-1-93)

- (4) Parasitology; (7-1-93)
- (5) Exfoliative cytology; (7-1-93)
- (6) Microbiology. (7-1-93)
- xiii. Administer preanesthetic drugs; (7-1-93)
- xiv. Oxygen therapy; (7-1-93)
- xv. Removal of partially exposed foreign bodies from skin and feet; (7-1-97)
- xvi. Removal of sutures; (7-1-93)( )
- xvii. Implanting of microchips in animals for identification purposes; (7-1-97)( )
- xviii. Non-invasive therapeutic options or alternate therapies as defined by Idaho Code Section 54-2103(26), Idaho Code, may be performed by veterinary technicians under the indirect supervision of a licensed veterinarian; provided, that chiropractic care and ultrasound therapy may only be performed by an allied health professional in the disciplines of chiropractics or ultrasound as provided by law. Before any therapeutic option or alternative therapy is performed on an animal by a veterinary technician or an allied health professional, a veterinarian must first perform a diagnostic evaluation of the patient to rule out the use of conventional forms of veterinary medicine as provided by law. In the event the patient's owner desires to use therapeutic options or alternative therapies on the patient, the veterinarian must first inform the patient's owner of the availability of any conventional treatments; (7-1-97)( )
- xix. Administration of antibiotics and immunological agents; ( )
- xx. Introduction of food into the stomach through a tube; and ( )
- xxi. Prepare patients, instruments, equipment, and medications for surgery; ( )
- (1) Prepare and sterilize surgical packs; ( )
- (2) Clip, surgically scrub, and disinfect the surgical site in preparation for surgery. ( )
- e. Under emergency conditions, a certified veterinary technician may render lifesaving aid and treatment. Such emergency aid and treatment, if rendered to an animal patient not in the presence of a licensed veterinarian, may only be continued under the appropriate supervision of a licensed veterinarian and shall include; ( )
- i. Application of tourniquets or pressure bandages to control hemorrhage; ( )
- ii. Administration of pharmacological agents, which shall only be performed after direct communication with a veterinarian authorized to practice in this state; ( )
- iii. Administration of parenteral fluids; ( )
- iv. Resuscitative oxygen procedures; ( )
- v. Establishing open airways including intubation appliances, but excluding surgery; ( )
- vi. External cardia massage; ( )
- vii. Application of temporary splints or bandages to prevent further injury to bones or soft tissues; ( )

viii. Application of appropriate wound dressings and external supportive treatment in severe burn cases; ( )

ix. External supportive treatment in heat prostration cases; and ( )

x. Gavage. ( )

03. Animal Health Care Tasks - Assistants. Any individual who is not a veterinary technician or veterinarian who is utilized by a veterinarian for the purpose of assisting a veterinarian in the practice of veterinary medicine shall be defined as an assistant and shall be restricted to those tasks designated by the board in Subsection 104.03. (7-1-93)( )

a. Immediate Supervision. The following tasks may only be performed under the immediate supervision of a veterinarian: (7-1-93)

i. Assist veterinarian in surgery with tissue handling; (7-1-93)

ii. Assist veterinarian in surgery with instrument handling; (7-1-93)

iii. Endotracheal intubation; (7-1-93)

iv. Fluid aspiration; (7-1-93)

v. Intraperitoneal injections; (7-1-93)

vi. Blood administration; (7-1-93)

vii. Catheterization of unobstructed bladder; (7-1-93)

viii. Gavage; (7-1-93)

ix. Radiology; rectal administration of radiopaque materials; (7-1-93)( )

(1) Patient positioning; (7-1-93)

(2) Film exposure; (7-1-93)

(3) Rectal and oral administration of radiopaque materials. (7-1-93)

x. Intravenous injections of medications not otherwise prohibited; (7-1-93)

xi. Specimen collection; (7-1-93)

(1) Hematology; (7-1-93)

(2) Exfoliative cytology; (7-1-93)

(3) Microbiology; (7-1-93)

(4) Electrocardiography. (7-1-93)

b. Direct Supervision—Veterinarian. The following tasks may only be performed under the direct supervision of a veterinarian: (7-1-97)

i. Monitor vital signs of anesthetized patient; (7-1-93)

vii. When the animal is anesthetized, perform those tasks listed under Subsection 1004.023, db.

- ~~"indirect supervision."~~ "Direct Supervision – Veterinarian/Veterinary Technician"; (7-1-97)( )
- viii. ~~Specimen collection;~~ Collection of tissues specimens during or after a veterinarian has performed necropsy. (7-1-93)( )
- iv. ~~Removal of sutures;~~ (7-1-93)
- ix. Monitor vital signs of anesthetized patient; ( )
- x. Removal of partially exposed foreign bodies; ( )
- xi. Dental maintenance tasks including dental prophylaxis and certain procedures that do not result in altering the shape, structure, or positional location of teeth in the dental arch. ( )
- eb. Direct Supervision - Veterinarian/Veterinary Technician. The following tasks may only be performed under the direct supervision of either a licensed veterinarian or a certified veterinary technician; provided that if the animal is anesthetized, the following tasks may only be performed under the immediate supervision of a licensed veterinarian; (7-1-97)( )
- i. Application of bandages; (7-1-93)
- ii. Ear flush; (7-1-93)
- iii. Enema; (7-1-93)( )
- d. ~~Indirect Supervision. The following tasks may only be performed under the indirect supervision of a veterinarian; provided, that if the animal is anesthetized, the following tasks require the direct supervision of a veterinarian;~~ (7-1-93)
- iy. Teeth cleaning above the gum, taking impressions, making models, charting veterinary dental pathology, taking and developing dental radiographs, performing non-surgical subgingival root scaling and debridement, providing that the structure of the tooth is not altered; (7-1-93)( )
- iiy. Injections of medications not otherwise prohibited; (7-1-93)( )
- (1) Intramuscular; (7-1-93)
- (2) Subcutaneous. (7-1-93)
- vi. Intravenous injections of medications not otherwise prohibited; ( )
- iii. ~~Oral medications;~~ (7-1-93)
- iv. ~~Topical medications;~~ (7-1-93)
- vii. Radiology; ( )
- (1) Patient positioning; ( )
- (2) Film exposure; ( )
- (3) Oral administration of radiopaque materials. ( )
- viii. Administer blood fluids and medications through an established intravenous catheter; (7-1-93)( )
- vix. Specimen collection; (7-1-93)



- ~~(1)~~ Collecting of voided urine and fecal material; (7-1-93)
  - ~~(2)~~ Parasitology (except skin scraping); (7-1-93)( )
  - (2) Hematology; ( )
  - (3) Exfoliative cytology; ( )
  - (4) Microbiology; ( )
  - (5) Electrocardiography; ( )
  - ~~vii~~x. Oxygen therapy; (7-1-93)( )
  - ~~viii~~. Removal of partially exposed foreign bodies; (7-1-97)
  - ~~ix~~. Establish open airways including intubation appliances but excluding surgery; (7-1-93)
  - ~~x~~. External cardiac resuscitation; (7-1-93)
  - xi. Application of temporary splints or bandages to prevent further injury to bones or soft tissues; (7-1-93)
  - ~~xii~~. Application of appropriate wound dressings and external supportive treatment in severe burn cases; (7-1-93)
  - xiii. External supportive treatment in heat prostration cases; (7-1-93)
  - ~~xiv~~ii. Implanting of microchips in animals for identification purposes. (7-1-97)
  - xiv. When the animal is anesthetized, perform those tasks listed under Subsection 104.03.c., Indirect Supervision. ( )
  - ~~xv~~. ~~Non-invasive therapeutic options or alternate therapies as defined by Idaho Code Section 54-2103(26) may be performed by assistants under the indirect supervision of a licensed veterinarian; provided, that chiropractic care and ultrasound therapy may only be performed by an allied health professional in the disciplines of chiropractic or ultrasound as provided by law. Before any therapeutic option or alternative therapy is performed on an animal by an assistant or an allied health professional, a veterinarian must first perform a diagnostic evaluation of the patient to rule out the use of conventional forms of veterinary medicine as provided by law. In the event the patient's owner desires to use therapeutic options or alternative therapies on the patient, the veterinarian must first inform the patient's owner of the availability of any conventional treatments.~~ (7-1-97)
- c. Indirect Supervision. The following tasks may only be performed under the indirect supervision of a veterinarian; provided that, if the animal is anesthetized, the following tasks require the direct supervision of a veterinarian or veterinary technician: ( )
- i. Oral medications; ( )
  - ii. Topical medications; ( )
  - iii. Specimen collection of voided urine and fecal material; ( )
  - iv. Preparation of specimens for laboratory examination; ( )
  - v. Removal of sutures; ( )

vi. Preparation of medications for dispensing to clients on the direct or written order of the supervising veterinarian; ( )

vii. Prepare patients, instruments, equipment, and medications for surgery; ( )

(1) Prepare and sterilize surgical packs; ( )

(2) Clip, surgically scrub, and disinfect the surgical site in preparation for surgery. ( )

vii. Non-invasive therapeutic options or alternate therapies as defined by Section 54-2103(26), Idaho Code, may be performed by assistants under the indirect supervision of a licensed veterinarian; provided that chiropractic care and ultrasound therapy may only be performed by an allied health professional in the disciplines of chiropractics or ultrasound as provided by law. Before any therapeutic option or alternative therapy is performed on an animal by an assistant or an allied health professional, a veterinarian must first perform a diagnostic evaluation of the patient to rule out the use of conventional forms of veterinary medicine as provided by law. In the event the patient's owner desires to use therapeutic options of alternative therapies on the patient, the veterinarian must first inform the patient's owner of the availability of any conventional treatments. ( )

ed. Under emergency conditions of an emergency, an assistant may render the following lifesaving aid and treatment to an animal: such emergency aid and treatment, if rendered to an animal patient not in the presence of a licensed veterinarian, may only be continued under the appropriate supervision of a licensed veterinarian or certified veterinary technician. (7-1-93)( )

i. Application of tourniquets and/or pressure bandages to control hemorrhage; (7-1-93)

ii. Resuscitative oxygen procedures; (7-1-93)

iii. Establish open airways including the usual intubation appliances but excluding surgery; (7-1-93)( )

iv. Administration of pharmacological agents and parenteral fluids which shall only be performed after direct communication with a veterinarian authorized to practice in this state, and such veterinarian is either present or en route to the location of the distressed animal; ( )

v. External cardiac massage; ( )

vi. Application of temporary splints or bandages to prevent further injury to bones or soft tissues; ( )

vii. Application of appropriate wound dressings and external supportive treatment in severe burn cases; ( )

viii. External supportive treatment in heat prostration cases. ( )

**105. EXPIRATION OF VETERINARY TECHNICIAN CERTIFICATION – NOTICE – RENEWAL.**

01. Term of Certification. A certification to practice veterinary technology in the state of Idaho shall be valid for a period of one (1) year. ( )

02. Expiration and Renewal. All licenses shall expire annually on July 1, but may be renewed by submission of the renewal form prescribed by the board, proof of completion of the appropriate hours of continuing education, by meeting other requirements as defined in the rules adopted by the board, and by payment of the annual renewal fee established and published by the board. The form for renewal of a veterinary technician certificate shall include, but not be limited to: ( )

a. Current employment status; ( )

- b. Current employment address and phone number: ( )
- c. Current home address and phone number; and ( )
- d. Continuing education credits earned. ( )

03. Notice and Form for Renewal. On or about May 1, the board shall mail a notice to each certified veterinary technician whose certification expires on July 1 of that year, and shall also provide a form for renewal. The board shall issue a new certificate to all veterinary technicians registered under Chapter 21, Idaho Code. ( )

04. Expired Certification Fees. Payment of established reinstatement/late fee and the annual renewal fee will reinstate an expired certification received within thirty (30) days of the expiration date. ( )

05. Failure to Renew or Reinstatement Certification. Any person who shall practice as a veterinary technician after the expiration of a certification and who fails to renew or reinstate the certification shall be practicing in violation of Chapter 21, Idaho Code. ( )

**106. REVOCATION OR SUSPENSION - GROUNDS FOR DISCIPLINE OF VETERINARY TECHNICIANS.**

The board may refuse to issue, renew or reinstate, or revoke or suspend for a certain time, the certification of, or otherwise discipline, a veterinary technician pursuant to the procedures set forth in Chapter 52, Title 67, Idaho Code for any of the following reasons: ( )

01. Fraud, Misrepresentation, or Deception. The employment of fraud, misrepresentation, or deception in obtaining certification. ( )

02. Conviction(s). Conviction of a charge of cruelty to animals or conviction of a felony, in which case the record of such conviction will be conclusive evidence. ( )

03. Physical or Mental Condition. Having, being diagnosed as having, or having been treated for having, a physical or mental condition, including drug or alcohol addictions, which inhibits the individual's ability to perform with reasonable skill and safety the veterinary technician procedures in veterinary medicine. ( )

04. Standard of Care. Failure to practice within the standard of care in connection with the performance of veterinary technician procedures in veterinary medicine. ( )

05. Current Certification. Practicing as a veterinary technician without a current certification. ( )

06. Unlawful Practice. Representing oneself as a doctor of veterinary medicine, which constitutes the unlawful practice of veterinary medicine in violation of Title 54, Chapter 21, Idaho Code. ( )

07. Violation of Law, Rules, or Order. Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation or conspiracy to violate any of the provisions of the veterinary law or rules or a written order of the board issued pursuant to Title 54, Chapter 21, Idaho Code. ( )

08. Improper Supervision. Performance of any veterinary technician act under improper veterinary supervision. ( )

09. Limited, Suspended, or Revoked Certification of License. Having a veterinary or animal technician certification, license or registration limited, suspended, revoked, or subject to any other disciplinary action in another state or U.S. jurisdiction. ( )

10. Acceptance of Fees. Accepting fees for animal health care services from a client. ( )

**107. -- 149. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**205. CERTIFIED EUTHANASIA TECHNICIAN.**

The term Certified Euthanasia Technician (CET) means: A person employed by a certified euthanasia agency, a law enforcement agency, an animal control agency, or a society for the prevention of cruelty to animals, or working under the direct supervision of a licensed veterinarian, ~~Idaho Code~~ Section 54-2103(7)(a), Idaho Code, who has been licensed by the board and registered with the Idaho Board of Pharmacy to possess and administer approved drugs. Licensed CETs shall have been instructed in the proper methods of humane euthanasia, security and recordkeeping as well as possess other skills as deemed necessary by the board. In addition, licensed law enforcement CETs shall have additional training in the proper use and handling of approved restraint drugs and equipment. (7-1-97)(\_\_\_\_)

01. Training and Examinations. The CETF shall develop training sessions and materials which shall include, but not be limited to, the following topics: (7-1-97)

- a. The theory and history of euthanasia methods. (7-1-97)
- b. Animal anatomy. (7-1-97)
- c. Proper animal handling to ease trauma and stress. (7-1-97)
- d. Dosages of chemical agents, recordkeeping and documentation of usage, storage, handling, and disposal of out-dates in accordance with the Uniform Control Substances law. (7-1-97)
- e. Proper injection techniques. (7-1-97)
- f. Proper use and handling of approved restraint drugs and equipment by law enforcement CETs. (7-1-97)
- g. Examination. Following the training, a written examination shall be given. Those passing the written examination will be eligible for the practical examination for licensure as a CET. (7-1-97)

02. Licensing and Certification Standards. Applicants for CET positions shall be eighteen (18) years of age or older and demonstrate proficiency in compliance with the following standards. (7-1-97)

- a. Euthanize animals in the presence of one (1) or more CETF members: (7-1-97)
  - i. The CET is fully responsible for all actions that take place in the euthanasia area when an animal is brought to the area, including, but not limited to, animal handling, use of the proper restraint technique, the proper drug dosage, and drug handling. (7-1-93)(\_\_\_\_)
  - ii. Each animal shall be handled with the least amount of restraint necessary, but human safety shall always be the primary concern. (7-1-93)
  - iii. The CET shall be able to properly perform intravenous injections on dogs and intraperitoneal injections on both dogs and cats. Intravenous injections on cats shall not be required, but if performed, shall meet the standards listed below. Intracardiac injections shall not be required and are restricted to the limitations listed below. (7-1-93)
  - iv. Intravenous injections: The CET shall be able to properly and efficiently insert the needle into an animal's vein in no more than two (2) attempts on ninety percent (90%) of the animals injected by this method. IV injections in the cephalic vein shall be used on all dogs over the age of three (3) months unless the animal's physical condition or size makes this type of injection impossible, or the animal's behavior would make this type of injection a serious danger to the CET or handler. (7-1-93)
  - v. Intraperitoneal injections: The CET shall be able to efficiently insert the needle into the proper injection site in no more than two (2) attempts on ninety-five percent (95%) of the animals injected by this method. It

is recommended that animals injected by this method shall be held or otherwise restrained by the handler until the animal is unconscious. If an animal cannot be held, it shall be placed into a cage with no other animals. The front of the cage shall be covered with cloth or other material that can keep the cage isolated from the normal activities in the euthanasia area. The animal shall be checked every five (5) minutes until death occurs. (7-1-93)

vi. Intracardiac injections: Intracardiac injection shall be performed only on an anesthetized animal. The CET shall be able to efficiently insert the needle into the heart of an animal in no more than two (2) attempts on ninety percent (90%) of the animals injected by this method. (7-1-97)

vii. No other injection procedure is permitted in any type of animal. (7-1-93)

(1) A minimum of two (2) persons shall be required for any IV injection. One (1) person shall be a CET and one (1) or more persons shall be a handler. The handler(s) do not have to be CET(s), but the handler(s) should be trained in human safety and animal handling techniques. (7-1-93)

(2) Intraperitoneal and intracardiac injections may be administered by a CET without a handler. (7-1-93)

viii. Injections: On all injections, the CET shall aspirate the syringe to determine if the needle is in the correct site. (7-1-93)

(1) For human safety, the cap shall be kept on the needle until such time that the injection is ready to be made. (~~7-1-93~~)( )

(2) The needle shall be of the size and length appropriate for the specific animal involved. (7-1-93)

(3) The dosage of any approved drug used shall be no less than the minimum dosage recommended by the drug's manufacturer. (7-1-97)

ix. Oral administration of approved drugs: This is permitted for any animal that cannot be captured or restrained without serious danger to human safety. (7-1-97)

x. Demonstrate an understanding of ~~gas~~ carbon monoxide-induced euthanasia chambers. (~~7-1-97~~)( )

b. Demonstrate proper recordkeeping: A record of all approved drugs received and used by the agency shall be kept. The record shall contain the following information: (7-1-97)

i. A weekly verification of the drug stock on hand, signed by the CET. (7-1-93)

ii. An entry of the date that a new bottle of any approved drug is opened and the volume of the bottle, signed by the CET. (7-1-97)

iii. The species and approximate weight of each animal administered a drug. (7-1-93)

iv. The amount of the drug that was administered. (7-1-93)

v. The signature of the CET who administered the drug. (7-1-93)

vi. A record of any wastage of the drug, signed by the CET administering the drug. (7-1-93)

vii. Any disposal of expired or unwanted approved drugs or other chemical agent(s) should be in conformance with the Idaho Board of Pharmacy law and rules. (7-1-97)

c. Demonstrate understanding and concern for the needs of individual animals; (~~7-1-97~~)( )

i. Once they have collapsed, injected animals shall be lowered to the surface on which they were

being held at the time of injection. Injected animals shall not be permitted to drop or otherwise collapse without human support. (7-1-93)

ii. All animals shall be handled in a manner that minimizes stress to the animal and maximizes the personal safety of the CET and the handler(s). Handling includes all aspects of moving an animal from one (1) area to another. (7-1-93)

iii. The use of control sticks and other similar devices shall be limited to fractious or potentially dangerous animals. (7-1-93)

iv. Animals shall not be placed in cages or kennels with other breeds or species that are incompatible with the animal in question. Animals shall not be overcrowded in a cage or kennel. (7-1-93)

d. Demonstrate ability to verify death. The animal should become unconscious and show terminal signs within thirty (30) seconds after an IV or IC injection, within fifteen (15) minutes after an IP injection, or within sixty (60) minutes after an oral administration. If any animal does not show any of these signs within the designated time periods, the CET shall readminister the drug. An animal that has received an approved drug orally may be injected with ~~an other~~ another approved drug after it has become unconscious. Terminal signs include: no visual indications of breathing or heartbeat, lack of capillary response in the gums and/or lack of corneal or pupillary reflexes. Each animal shall be checked to verify death. Verification is the responsibility of the CET and shall be made by physical examination of the individual animal. One (1) of the following two (2) standards for death shall be met: (7-1-97)(    )

i. Rigor mortis; or (7-1-93)

ii. Complete lack of heartbeat (as checked with a stethoscope); and complete lack of respiration; and complete lack of corneal, palpebral, and pupillary reflexes. (7-1-93)

e. Demonstrate ability to communicate with ~~helpers~~ handlers during the euthanasia process. (5-25-94)(    )

03. Licensing. An applicant shall not be licensed as a CET until such time as the applicant has demonstrated proficiency in the practical examination which shall be conducted following the applicant having satisfactorily passed the written exam. Training courses and written and practical examinations will be given as needed. ~~License and renewal examinations will be conducted prior to June 1 of each year at the applicants' place of employment or at a place selected by the CETF.~~ (7-1-97)(    )

a. An applicant who has passed the written exam may serve as a euthanasia technician under the direct supervision of an Idaho licensed veterinarian or CET until such time as the next training course, practical exam and certification are conducted by a CETF member. (7-1-97)

b. Failure. An applicant who has not passed the written exam may not serve as a euthanasia technician or assistant. (7-1-97)

c. Probation. An applicant who passes the written exam but fails the practical exam may serve on probation until the CETF member re-examines the applicant. If the applicant fails to pass the practical exam a second time and wishes to apply again, the applicant shall attend the next regular training session and written exam. (7-1-97)

d. Upon termination from an agency as defined in ~~Subsection 202-01-a-4~~ of these rules, a CET shall not perform animal euthanasia until employed by another licensed, certified agency as defined by ~~Idaho Code, Section 54-2103(7)(a), Idaho Code.~~ (7-1-97)(    )

e. The agency shall notify in writing the board office and/or a CETF member within thirty (30) days from such time that the CET is terminated from employment from that agency. (7-1-97)

f. If a CET is employed again within eighteen (18) months of last licensure, the CET and/or employer may request reinstatement and renewal of the CET's license. If licensure has expired past the eighteen (18) months

maximum, the CET may euthanize animals under the direct supervision of an Idaho licensed veterinarian or currently licensed certified euthanasia technician until such time as a CETF member can administer a written examination and authorize recertification. (7-1-97)

~~g. One (1) or more CETF members shall visit each licensed, certified agency at least annually, and require a satisfactory demonstration, either practical or written, of the CET's skills as provided for in compliance with these rules. (7-1-97)~~

~~hg. All licenses expire on June 30 July 1 of each year and are effective for no longer than twelve (12) months from the date of licensure. (7-1-97)( )~~

~~04. License Renewal. Licenses may be renewed upon successful completion of: by payment of the annual renewal fee, except every third year following date of licensure, the CET must complete the training session developed by the CETF and pass the written and practical examinations. (7-1-97)( )~~

~~a. A written or practical examination to be administered by the CETF or the board; and (7-1-97)~~

~~b. Payment of the annual renewal fee. (7-1-97)~~

05. Duties. The duties of a CET shall include, but are not limited to: (7-1-97)

a. Preparing animals for euthanasia. (7-1-97)

b. Accurately recording dosages administered and drug wasted. (7-1-97)

c. Ordering supplies. (7-1-93)

d. Maintaining the security of all controlled substances and drugs. (7-1-97)

e. Directly supervising probationary CET(s). (7-1-97)

f. Reporting to the board violations or suspicions of violation of these rules or any abuse of drugs. (7-1-97)

g. Humanely euthanizing animals. (7-1-97)

h. Proper and lawful disposal of euthanized animals. (7-1-97)

06. Grounds for Discipline. Discipline shall be imposed for, but is not limited to, the following actions by a CET: (7-1-97)( )

a. Failure to carry out the duties of a CET; (7-1-97)

b. Abuse of any chemical substance by; (7-1-97)

i. Selling or giving chemical substances away; (7-1-97)

ii. Stealing chemical substances; (7-1-97)

iii. Using chemical substances; or; (7-1-97)( )

iv. Abetting anyone in the foregoing activities. (7-1-97)

c. Euthanizing animals without proper supervision while on probationary status; (7-1-97)

d. Euthanizing animals without being properly licensed to do so; or (7-1-97)

e. Violating any provision of the board law and rules including those contained herein; the Idaho Board of Pharmacy law and rules; and the Uniform Controlled Substances Act. (7-1-97)



**IDAPA 48 - IDAHO DEPARTMENT OF COMMERCE**  
**48.01.01 - IDAHO COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (ICDBG)**

**DOCKET NO. 48-0101-9801**

**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Section(s) of Housing and Community Development Acts of 1974, as amended, (42 USC. Sec. 5301), and Department of Housing and Urban Development Rules 24 CFR. Pt. 570, Subpart I.

**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 October 21, 1998.

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

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

The proposed rule changes are primarily designed to clarify and/or strengthen Idaho Community Development Block Grant application criteria. Also, a schedule change requires downtown revitalization slum and blight projects to compete with public facility and housing slum and blight projects, to be awarded once a year. Downtown revitalization projects have previously been in the economic development setaside, which are awarded quarterly. With increasing interest in downtown projects and limited funding, the focus is on those applications that are most organized and planned. The application criteria for downtown revitalization projects has been revised to favor those communities. This is more easily determined by combining these project applications for review. Job quality and fringe benefits will be evaluated for job creation projects.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: No fee

**NEGOTIATED RULE-MAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because the proposed rule changes are to create a benefit for communities by supporting better planned ICDBG projects.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Gloria Mabbutt, Idaho Department of Commerce at 208-334-2470.

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 October 28, 1998.

DATED this 26th day of August 1998.

Gloria Mabbutt, Program Manager  
Idaho Department of Commerce  
700 West State Street  
PO Box 83720  
Boise, Idaho 83720-0093  
208-334-2470 (Phone)  
208-334-2631 (Fax)

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 48-0101-9801**

**013. QUALIFICATION OF APPLICANTS.**

Applicants shall only apply for a grant for a project which lies within their jurisdictional or impact area boundary. The project must address the needs of the residents of their jurisdiction or impact area. Applications shall not be submitted in behalf of other jurisdictions solely for administrative convenience (see Section 014). Counties may apply in behalf of more than one (1) unincorporated community or unincorporated urbanized area. However, counties may apply for only one (1) grant which has county-wide benefit. Counties or cities may apply on behalf of senior citizen groups for a senior citizen facility grant. Applying for a PFH grant does not disqualify an applicant from applying for a CS or SR grant. Applicants shall apply for only one (1) project from each setaside with the exception of economic development projects. In accordance with Subsection 082.05 of these rules, applicants must be eighty percent (80%) drawn down from any prior PFH grants as of the last date for accepting applications. ED applicants for job creation projects may apply for one (1) ED grant in any quarterly application cycle. If applicants have an existing ED grant it must be under contract prior to submitting a new ED application. A county or a city shall not be eligible to apply for a grant if it has unresolved audit findings, any unresolved disallowed costs, or any unresolved prior performance problems from any previous grants in any category. (7-1-98)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**016. BENEFIT TO LOW AND MODERATE INCOME PERSONS.**

01. Definition. Members of a family having an income within family income standards established by HUD for housing and community development programs. Unrelated individuals are considered one (1) person families. Low income is defined as families with income of fifty percent (50%) or less of the county median income. Moderate income is defined as families with income of eighty percent (80%) or less of the county median income. HUD established that county median income is the greater of either the county median income or the median income of the "non-entitlement" area of the state. Activities considered to benefit LMI persons are divided into four (4) categories: area benefit activity, limited clientele activity, housing activity, and job creation or retention activity. (7-6-94)

02. Area Benefit Activity. A grant project which meets the needs of LMI persons residing in an area where at least fifty-one percent (51%) of the residents are LMI persons. The benefits of this project are available to all persons in the area regardless of income. Such an area need not have the same boundaries as census tracts or other officially recognized boundaries but must be the entire area served by the project. A project that serves an area that is not primarily residential in character (i.e. street construction in an industrial park) shall not qualify under this category. (7-6-94)

03. Limited Clientele Activity. A grant project which benefits a specific group of people, at least fifty-one percent (51%) of whom are LMI persons. Limited clientele activities also include special projects to remove material and architectural barriers which restrict the mobility and accessibility of elderly or persons with disabilities to publicly-owned and privately-owned non-residential buildings. To qualify in limited clientele activity, the activity must meet one (1) of the following tests: (7-6-94)

- a. Benefits a clientele group who are generally presumed to be principally LMI persons. Currently, the following groups are presumed by HUD to meet this criterion: elderly persons, homeless persons, persons with disabilities, migrant farm workers, abused children, battered spouses, illiterate persons; or (7-6-94)
- b. Information on family size and income proves that at least fifty-one percent (51%) of the clientele are persons whose family income does not exceed the LMI limit; or (7-6-94)
- c. Income eligibility requirements limit the activity exclusively to LMI persons; or (7-6-94)

- d. By the nature and location it may be concluded that the clientele will primarily be LMI persons; or (7-6-94)
- e. A special project directed to removal of material and architectural barriers which restrict the mobility and accessibility of elderly or persons with disabilities to publicly owned and privately owned non-residential buildings, facilities and improvements, and the common areas of residential structures containing more than one dwelling unit. (7-6-94)
04. Housing Activity. A grant project which adds to or improves permanent, residential structures which, upon completion, will be occupied by LMI households. This project may include, but not necessarily be limited to, the acquisition or rehabilitation of property, conversion of non-residential structures, and new housing construction. (7-6-94)
- a. The housing may be either one (1) family or multifamily structures. If the structure contains two (2) dwelling units, at least one (1) must be so occupied, and if the structure contains more than two (2) dwelling units, at least fifty-one percent (51%) of the units must be so occupied. Where two (2) or more rental buildings being assisted are or will be located on the same or contiguous properties, and the buildings will be under common ownership and management, the grouped buildings may be considered for this purpose as a single structure. For rental housing, occupancy by low and moderate income households must be at affordable rents to qualify under this criterion. The unit of general local government shall adopt and make public its standards for determining "affordable rents" for this purpose. (7-6-94)
- b. The following shall also qualify under this criterion. When less than fifty-one percent (51%) of the units in a structure will be occupied by low and moderate income households, ICDBG assistance may be provided in the following limited circumstances: the assistance is for an eligible activity to reduce the development cost of the new construction of a multifamily, non-elderly rental housing project; not less than twenty percent (20%) of the units will be occupied by low and moderate income households at affordable rents; and the proportion of the total cost of developing the project to be borne by ICDBG funds is no greater than the proportion of units in the project that will be occupied by low and moderate income households. (7-6-94)
05. Job Creation or Retention Activity. A grant project which creates or retains permanent jobs, at least fifty-one percent (51%) of which are either taken by LMI persons or considered to be available to LMI persons. (7-6-94)
- a. Acceptable documentation on applicant/employee family income includes any of the following: (3-20-97)
- i. Notice that employee/applicant is a referral from state, county, or local employment agency or other entity that agrees to refer individuals who they determine to be low or moderate income based on HUD's criteria. These entities must maintain documentation which is to be available for grantee, Department, or federal inspection; or (3-20-97)
- ii. Written certification signed by the employee/applicant of family income and size to establish income status showing either: The actual income of the family; or, A statement that the family income is below that required by CDBG standards; These forms must include a statement that they are subject to verification by the local or federal government; or (3-20-97)
- iii. Evidence that employee/applicant qualifies for assistance under another program with income qualification criteria at least as restrictive as those used by HUD (e.g., referrals from the Joint Training Partnership Act (JTPA) Program), except for referrals under the JTPA Title III program for dislocated workers. (3-20-97)
- b. For an activity designed to create permanent jobs where at least fifty-one percent (51%) of the jobs, computed on a full time equivalent basis, involve the employment of low and moderate income persons. For an activity that creates jobs, the unit of general local government must document that at least fifty-one percent (51%) of the jobs will be "held by", or will be made "available to", low and moderate income persons. The unit of local government and the business must determine at the time of pre-application whether they will use "held by" or the

“available to” criteria as their method of documenting LMI jobs. The option chosen cannot be changed at a later date (3-20-97)

c. For an activity that retains jobs, the unit of general local government must document that the jobs would actually be lost without the ICDBG assistance and that either or both of the following conditions apply with respect to at least fifty-one percent (51%) of the jobs at the time the ICDBG assistance is provided: The job is known to be held by a low or moderate income person; or the job can reasonably be expected to turn over within the following two (2) years and that it will be filled by, or that steps will be taken to ensure that it is made available to, a low or moderate income person upon turnover. (7-6-94)

d. Jobs will be considered to be “available to” low and moderate income persons for these purposes only if: special skills that can only be acquired with substantial training or work experience or education beyond high school are not a prerequisite to fill such jobs, or the business agrees to hire unqualified persons and provide training; and the unit of general local government and the assisted business take actions to ensure that low and moderate income persons receive first consideration for filling such jobs. First consideration shall consist of the business using a hiring practices that in all likelihood will result in over fifty-one percent (51%) of persons hired being LMI persons, the business must seriously consider/interview an adequate number of LMI applicants, the availability of transportation must be considered to allow LMI persons to commute to the job site. The hiring practice used to make jobs available to LMI persons shall be identified in the pre-application and approved by the Department. (3-20-97)

e. As a general rule, each assisted business shall be considered to be a separate activity for purposes of determining whether the activity qualifies under this paragraph, except: in certain cases, such as where ICDBG funds are used to acquire, develop or improve a real property (e.g., a business incubator or an industrial park), the requirement may be met by measuring jobs in the aggregate for all the businesses that locate on the property, provided the businesses are not otherwise assisted by ICDBG funds; and where ICDBG funds are used to pay for the staff and overhead costs of a subrecipient specified in Section 105(a)(15) of the Act making loans to businesses from non-ICDBG funds, this requirement may be met by aggregating the jobs created by all of the businesses receiving loans during any one (1) year period. (7-6-94)

f. In any case where ICDBG funds are used for public improvement (e.g., water, sewer and road) and the national objective is to be met by job creation or retention as a result of the public improvement, the requirement shall be met as follows: the assistance must be reasonable in relation to the number of jobs expected to be created or retained by the affected business(es) within ~~three~~ two (32) years from the completion of the public improvement. ~~Before ICDBG assistance is provided for such an activity, the unit of general local government shall develop an assessment which identifies the businesses located or expected to locate in the area to be served by the public improvement. The assessment shall include for each identified business a projection of the number of jobs to be created or retained as a result of the public improvement; and the jobs to be considered for purposes of meeting the requirement shall be all jobs created or retained as a result of the public improvement by the business(es) identified in the assessment as well as any other business that locates in the area within a period of three (3) years following the completion of the activity; except that, in any case where the amount of ICDBG assistance provided for the public improvement in relation to the number of jobs projected to be created or retained by the business(es) identified in the assessment is such that the amount per job does not exceed ten thousand dollars (\$10,000), [unless HUD regulations are more restrictive and then the more restrictive HUD requirement will apply], jobs created by the businesses not identified in the assessment need not be considered. If the ICDBG assistance is under ten thousand dollars (\$10,000) per job created or retained, then only businesses applying for ICDBG assistance need to be assessed for low and moderate income job creation or retention. If the ICDBG equals ten thousand dollars (\$10,000) per job then any business benefiting by the public improvement, for a period of up to one (1) year after the physical completion of the public improvement, must be assessed for low and moderate income job creation or retention.~~ (3-20-97)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**053. GRANT APPLICATION PROCESS.**

01. Grant Application. The Grant Application generally consists of a Notice of Intent to apply, the

Application, and an Addendum. These are submitted to the Department at different times in the application process. (7-6-94)

a. Notice of Intent. A one (1) page letter sent to the Department as soon as a community decides to submit a grant application. This is an optional, but strongly recommended, step. It allows the Department to assist the community with eligibility and structuring of the proposed project. (7-6-94)

b. Application. The major required document which describes and documents the applicant's proposed project. It contains the information required to document that the proposed project will meet a national objective and consists of eligible activity(ies). The Application is the basis of the Department's and the EAC's review and ranking of the project. (7-6-94)

c. Addendum. Additional information required by the Department to further document the project or to fulfill additional federal requirements once the Application has been selected by the Economic Advisory Council. (7-6-94)

02. Project. A project shall address a single need and may consist of one (1) or more eligible activities which are to be undertaken with the ICDBG funds and any other funds committed to the project. A project also includes all the benefits which are to result from the related activities and from compliance with all federal and state laws and regulations which are conditions of the grant. The principal activity which directly addresses the problem area shall represent a majority of funds requested; other activities must be incidental to, and in support of, the principal activity. For example, a program which addresses a housing need might include housing rehabilitation as the principal activity. Support activities such as street improvements or demolition must be incidental and clearly in support of the principal activity. (7-6-94)

03. Funding. In addition to ICDBG funds, the other funds committed to a project are divided into other government funds, local matching funds, and private funds. Other government funds are from state, federal, or foundation sources provided to the grantee for the project. Local matching funds are defined as cash donations, capital reserves, program income (Section 171), cash resulting from debt financing, local improvement districts, general obligation or revenue bonds, tax levies, land sales or miscellaneous revenue. Local matching funds are generally those funds and contributions raised by the residents of the grantee. Also to be considered as local matching funds are; the time of local government crews (force account) working on the project, donations of land, materials, and equipment for the project, waiver of local fees, and volunteer labor. Private funds are from individuals, businesses, or corporations which are spent on private property, but are necessary to the completion of the project and the generation of the benefits. Direct loans to individuals on housing projects will not be considered local match. (7-6-94)( )

04. Documentation. Firm evidence of in-kind contributions of equipment or materials will be considered as cash. The value of land may be considered as local match if the value of the real estate is documented. Architectural or engineering estimates of labor, materials and equipment should be prepared to determine value of these items. Other documentation such as Bills of Sale, catalogue price lists, retail prices, etc. should be used. The value of a donation or a commitment of land should be documented by appraisals or fair market value. Volunteer labor should be estimated by man hour, types of skills needed and wage rates. Documentation of insurance coverage for volunteers should be included in the application. This documentation should be a letter from the insurance agent of the community or civic group. (7-6-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**074. SECTIONS.**

The Application shall consist of the following sections: (7-6-94)

01. Cover. The cover shall contain "An application for an Idaho Community Development Block Grant by the \_\_\_\_\_ (City/County) of \_\_\_\_\_ (Name) \_\_\_\_\_ Date: \_\_\_\_\_". (one (1) page) (7-6-94)

02. Cover Letter. A cover letter signed by the Mayor or the Chairman of the Board of County Commissioners on official stationery. This is the official letter of application for a grant. (one (1) page) (7-6-94)

03. Table of Contents. (one (1) page) (7-6-94)

04. ICDBG Application Information Form. Fully completed and signed by the applicant. (one (1) page) (7-6-94)

05. Threshold Factors. The first four (4) factors must all be answered in the affirmative before an Application is to be reviewed and ranked. An Application shall include only Subsections 074.05.a. through 074.05.ed. An Addendum shall include Subsections 074.05.ae. through 074.05.g. (7-6-94)(\_\_\_\_)

a. The applicant must be an eligible applicant (Section 012). Describe how the applicant meets the eligibility criteria. If this is a joint or in-behalf-of application, describe agreements and arrangements for managing the grant and the project. (7-6-94)

b. The project shall be an eligible activity(ies). Describe why the project and the various activities are eligible according to the rules in Section 022. (7-6-94)

c. The applicant shall adopt a citizen participation plan and shall conduct a public participation process. Applicants shall submit a copy of the Citizen Participation Plan and results of citizen involvement in developing the project. A copy of the Citizen Participation Plan must be submitted with the Application ~~and Addenda~~. An ICDBG may be awarded only if the grantee certifies that it is following a detailed citizen participation plan which: provides for and encourages citizen participation, with particular emphasis on participation of persons of low and moderate income who are residents of slum and blight areas or provides for participation of residents in low and moderate income neighborhoods as defined by the applicant; provides citizens with reasonable and timely access to local meetings, information, and records relating to the grantee's proposed use of funds; provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including, at least, the development of needs, the review of proposed activities, and review of program performance. Hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for persons with disabilities; provides for a timely written answer to written complaints and grievances, within fifteen (15) working days where practicable; and identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate. (3-20-97)(\_\_\_\_)

d. At least one (1) public hearing is required to permit public examination and appraisal of the Application. Public hearings shall be scheduled in ways and at times to provide for full participation of citizens. The building or facility must be accessible to persons with disabilities. All information presented in the hearings shall also be available, upon request, in a form usable by persons with disabilities. Proper notification shall be given by a public advertisement in a local newspaper no less than seven (7) days prior to the meeting date. The seven (7) days shall be counted beginning the date the advertisement appears and ending the day before the date of the hearing. The notice shall include: a brief description of the proposed project; the amount of funds being requested; the time and place of the public hearing, including a statement that the hearing will be held in a handicapped accessible facility; notification that both written and verbal comments will be accepted; and a description of the availability of services for persons with disabilities, upon request. It is recommended the applicant also post notification of the public hearing at various public locations and use other media notices of the hearing. At a minimum, applicants shall provide in the minutes of the meeting, evidence the following occurred at the public hearing: The Application and Application Handbook were available for review; the amount of funds available for local community development and housing activities was discussed; the range of activities to be undertaken was presented including community impact and benefit to low and moderate income (LMI) persons; verification that citizen's comments and views on the proposed Application were considered prior to submittal and, if determined appropriate, a description of how the Application was modified; a copy of the public notice, minutes and a list of those attending the public hearing(s); a description of any plans for the project regarding citizen participation, i.e., the formation of a citizen's advisory committee; and a description of any assistance for persons with disabilities requested and provided. (3-20-97)

e. The applicant shall have the administrative capacity to administer the grant. This means having

completed the procurement process for a Department-approved grant manager in accordance with the Section 212. The grant manager shall be included in project development and Application writing efforts. (3-20-97)

f. The applicant shall have adopted a Fair Housing Ordinance or resolution. This ordinance or resolution must have been adopted and publicly advertised within the twelve (12) month period preceding the ~~Application Addendum~~ deadline date. Once the Fair Housing Resolution or Ordinance has been adopted, applicants do not have to re-adopt the Resolution or Ordinance. The applicant will be required to show documentation the Resolution or Ordinance was published within the previous twelve (12) month period. (7-6-94)( )

g. The applicant shall have adopted an Anti-Displacement and Relocation Plan. This ordinance or resolution must have been publicly advertised within the twelve (12) month period preceding the ~~Application Addendum~~ deadline date. Once the Anti-Displacement and Relocation Plan has been adopted, applicants do not have to re-adopt the Plan. The applicant will only be required to show documentation the Plan was published within the previous twelve (12) month period. (7-6-94)( )

06. General Project Description. This is the critical section of the Application. It should include enough information for the reviewer to clearly understand the community, its needs, the project, and how the grant will help to solve the community problem. The information in each ranking section should substantively expand upon the project description. The narrative should, in three (3) pages, succinctly describe the following items: a description of the community as to size, location and economy; a thorough assessment of all the community's needs and how the proposed project is a priority in comparison with the other needs addressed. The applicant should also include a description which discusses how the existing condition came about, the number of people affected, and the seriousness of the problem(s); the particular project that is being proposed shall be described in detail. Describe the project, the various components, anticipated costs, schedule of activities, maps showing the location of the project to the community (detailed enough to locate it by car) and a map of the boundaries of the project area. This description shall be detailed enough that it can be used to write a contract scope of work; describe the benefits of the project, how it solves the identified need, and how it will enhance the community and its economy. Provide a demographic profile of the persons to benefit. This shall include gender, minority status, ~~handicapped status~~ persons with disabilities, and female head of household. Describe how the project meets the state objectives of the ICDBG program (see Sections 000, 010, and 011); and if program income is expected to be generated, a re-use plan must be developed according to Section 175. (7-6-94)( )

07. ICDBG Budget Form Fully Completed by the Applicant. (one (1) page) (7-6-94)

08. Assurances. The applicant shall sign the Assurances Form certifying that it will comply with the following federal laws and regulations: National Environmental Policy Act of 1969; Civil Rights Act of 1964 Pub.L 88-352; Civil Rights Act of 1968 Pub.L 90-284; Age Discrimination Act of 1975; Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 as amended and the implementing regulations at 49 CFR Part 24; Rehabilitation Act of 1973, Section 504 "Handicapped Accessibility"; Housing and Community Development Act of 1974 as amended Pub. L 93-383; Davis-Bacon Act (40-USC 276a--5); Historic Preservation Act; Anti-Lobbying Certification; Excessive Force Certification; and Section 106 of the Housing and Urban Recovery Act of 1983, certifying they will: minimize displacement and follow a residential anti-displacement and relocation assistance plan; affirmatively further fair housing; provide citizen participation; not use assessments or fees on low and moderate income owner occupants to recover capital costs of ICDBG-funded public improvements. (one (1) page). (7-6-94)

09. Review and Ranking Narrative. The applicant shall address each point category in the order given in the review and ranking section of the applicable grant category, referenced below. If a particular point category is not applicable or not selected, it should be indicated. (7-6-94)

a. Economic Development Grants: (ten (10) pages) (7-6-94)

i. Infrastructure (Section 096). (7-6-94)

ii. Downtown Revitalization (Section 097). (7-6-94)

b. PFH (Sections 083 through 087) and SR (Section 101) Grants: (7-6-94)

- i. Program Impact and Eligible Activity Point Form. (two (2) pages) (7-6-94)
- ii. National Objectives. (one (1) page) (7-6-94)
- iii. Project Categories. (one (1) page) (7-6-94)
- iv. Advisory Council Points Narrative. (one (1) page) (7-6-94)
- 10. Additional Information From Applicant (Appendix). Maps, letters of support, technical studies and appropriate background documentation should be placed in this section and bound into the Application. (no page limit) (7-6-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**081. PUBLIC FACILITIES AND HOUSING GRANTS.**

Public Facilities and Housing Grants refers to provision of local government utilities or facilities or the rehabilitation of housing for low to moderate income persons. Applicants for these grants shall compete in one (1) of the two (2) categories: public facilities or housing. PFH grants may be funded to a maximum of five hundred thousand dollars (\$500,000). The PFH selection process consists of two (2) major components, the Application and the Addendum. See Section 092 entitled "Award Process" for details of the award process. See Subsection 135.02 of these rules for "Tag-on For Accessibility For Persons With Disabilities". (7-6-94)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**084. PROGRAM INTACT.**

Three hundred twenty (320) points. Some or all of the points may be granted in each subcategory. The local financing factors, which represents the largest portion of the total number of points each applicant may receive, is intended to ensure that the best overall proposals are selected for funding. The score on this factor is determined by evaluating how effectively local funds are used in comparison with other applicants. The Department may require an applicant to provide supplemental financial information to clarify the local ability to finance all or a portion of a proposed ICDBG project. The applicant should provide evidence or documentation of the nature, amount and/or value of match committed to the project. Housing projects should (if match is not committed) provide the names of the agency, staff person and program(s) which may provide match, a description of the program and a time table for the match approval process. (7-6-94)

01. Percentage of ICDBG Dollars in Total Project (~~sixty fifty~~ (650) points). All Applications will be ranked by percentage of Community Development funds requested divided by total project costs. Total project costs are the total funds committed from all sources - federal, state, local and private funds. The applicant must clearly identify the other funding sources with dollar amounts from each. The rankings shall be divided into four (4) equal categories. The lowest ICDBG percent (%) receives the most points and the highest ICDBG percent (%) receives the least points. Points will be assigned according to the following schedule: (7-6-94)( )

- a. First Quartile - ~~sixty fifty~~ (650) points. (7-6-94)( )
- b. Second Quartile - ~~forty thirty~~ (430) points. (7-6-94)( )
- c. Third Quartile - ~~twenty fifteen~~ (2015) points. (7-6-94)( )
- d. Fourth Quartile - zero (0) points. (7-6-94)

02. Percentage of Local Matching Funds (sixty (60) points). All Applications will be ranked by the percentage of local matching funds divided by the total of local match and ICDBG funds. The highest percentage of



local dollars will receive the highest points. See Subsection 053.03 for definition of local match. The rankings shall be divided into four (4) equal categories. The highest local match percent (%) receives the most points and the lowest local match percent (%) receives the least points. Points will be assigned according to the following schedule:

- (7-6-94)
- a. First Quartile - sixty (60) points. (7-6-94)
- b. Second Quartile - forty (40) points. (7-6-94)
- c. Third Quartile - twenty (20) points. (7-6-94)
- d. Fourth Quartile - zero (0) points. (7-6-94)

03. ICDBG Dollars Per Person (fifty (50) points). The ratio of total persons directly benefited by the project, compared to ICDBG funds requested (ICDBG dollars per person) shall be ranked and divided into quartiles. The lowest ICDBG dollars receives the most points and the highest ICDBG dollars receives the least points. The points shall be assigned to the ratio of ICDBG dollars per person as follows: (7-6-94)

- a. First Quartile - fifty (50) points. (7-6-94)
- b. Second Quartile - thirty (30) points. (7-6-94)
- c. Third Quartile - fifteen (15) points. (7-6-94)
- d. Fourth Quartile - zero (0) points. (7-6-94)

04. Local Matching Funds Per Person (~~fifty sixty~~ (560) points). The ratio of total persons directly benefited by the project, compared to local matching funds shall be ranked and divided into quartiles. The Department may request supplemental financial data from any applicant to determine local ability to finance a proposed project or clarify a community's financial situation. The Department may take into consideration a community's ability to contribute local matching funds in determining all rating and ranking points. The highest local funds per person receives the most points and the lowest local funds per person receives the least points. The points shall be assigned to the ratio of local matching funds per person as follows: (~~7-6-94~~)(    )

- a. First Quartile - ~~fifty sixty~~ (560) points. (~~7-6-94~~)(    )
- b. Second Quartile - ~~thirty forty~~ (340) points. (~~7-6-94~~)(    )
- c. Third Quartile - ~~fifteen twenty~~ (1520) points. (~~7-6-94~~)(    )
- d. Fourth Quartile - zero (0) points. (7-6-94)

05. Eligible Activity Priority Ranking (one hundred (100) points). Each eligible activity (Sections 022 through 051) is assigned a priority point factor. The applicant should list the activities and the ICDBG funds budgeted to each. These points shall be assigned to an Application based upon the percentage of the total ICDBG funds committed to each activity and multiplied by the priority points assigned to each. The total of the priority points so calculated is the total of the priority points for the Application. Health and safety-related projects are defined as sewer, water, fire protection facilities, medical facilities, nursing homes, streets, and other similar projects. Social service facilities are defined to include community centers, senior centers, libraries, assisted housing, shelter care, senior housing, auditoriums, cultural facilities, recreation facilities, and parks. (7-6-94)

TABLE 1 -- "Eligible Activity Priority Ranking"	
Acquisition of Real Property	twenty-five (25) points
Acquisition of Real Property for Housing Projects	fifty (50) points

<b>TABLE 1 -- "Eligible Activity Priority Ranking"</b>	
Public Facilities and Improvements - Health and Safety Related	one hundred (100) points
Public Facilities and Improvements - Housing Related	seventy-five(75) points
Public Facilities and Improvements - Social Service Related	fifty (50) points
Code Enforcement	fifty (50) points
Clearance and Demolition	ten (10) points
Removal of Architectural Barriers	fifty (50) points
Rental Income Payments	zero (0) points
Disposition of Property	ten (10) points
Public Services	zero (0) points
Completion of Urban Renewal Projects	zero (0) points
Relocation Payments	twenty-five (25) points
Planning Activities	zero (0) points
Administration Activities	one hundred (100) points
Grants to Nonprofit Community Organizations	zero (0) points
Grants to Nonprofit Community Organizations for Housing Projects	seventy-five (75) points
Energy Planning	zero (0) points
Housing Rehabilitation	seventy-five (75) points

(7-6-94)

**085. NATIONAL OBJECTIVES**

Two hundred sixty (260) points. The Application must qualify in one (1) of two (2) national objective categories: benefit to low and moderate income persons or the prevention or elimination of slum and blight. If the Application does not qualify in at least one (1) category it will be declared ineligible for review and ranking. The Application will not be considered further. The applicant must choose only one (1) of the two (2) categories in which to compete.

(7-6-94)

01. Benefit to Low and Moderate Income (LMI) Persons (two hundred sixty (260) points). To qualify in the LMI category the applicant shall demonstrate at least fifty-one percent (51%) benefit to LMI persons.

(3-20-97)

a. The applicant shall show that the project shall principally benefit a majority of LMI residents of the project area. Benefit is shown only if it meets one (1) of the following criteria: the activity shall be carried out in a neighborhood consisting of fifty-one percent (51%) LMI persons and provide services to such persons; the activity shall involve facilities designed for use predominantly by persons of LMI; or the activity shall improve permanent, residential structures which will be occupied by LMI households upon completion. See Section 016 for more information.

(7-6-94)

b. All benefits shall be verified by an appropriate source(s). Numbers shall be documented either by census data or a reliable survey. This material shall be verifiable by the Department of Commerce. Multiplier effects or ratios shall not be considered in assigning benefit points because these numbers do not show direct benefit. The cost of planning, management, and administration shall not be included in calculating benefit of LMI persons.

(7-6-94)

c. Applicants shall provide additional documentation that low and moderate income persons are

receiving direct benefits of the program as determined by the following: (7-6-94)

i. A narrative description with maps showing the location of the project area (census tract or enumeration districts must also be included when identifying these areas); (7-6-94)

ii. The total number of households and persons in the project area; (7-6-94)

iii. The total number of persons shown to be LMI in the project area; (7-6-94)

iv. The percentage of LMI persons in the project area (7-6-94)

v. Identification of all the needs of LMI persons in the project area including the scope and magnitude of these needs; (7-6-94)

vi. The map(s) must also outline the area where there is a concentration of these needs; (7-6-94)

vii. The total number of "minority households" in the project area and their needs, ie. The term "minority household" is defined as one where one (1) or more adults are Black, Hispanic, Asian and Pacific Islanders, American Indian, or other non-white. If minority household information is not available from a survey, then Census data on the number of minority persons sixteen (16) years and over is acceptable; (7-6-94)

viii. The total number of "~~handicapped~~ households" where persons with disabilities reside in the project area. ~~The term "handicapped household" is defined as one (1) in which there are one (1) or more persons who are physically or mentally disabled or handicapped. If handicapped household information is not available from a survey, then Census data on the number of disabled persons sixteen (16) years and over is acceptable and a description of LMI citizen participation during the data gathering process.~~ (7-6-94)(\_\_\_\_)

d. LMI Need points for Public Facility projects will be determined according to the following standards. Critical Need receives the full eighty (80) points. Critical is defined as existing (officially identified) violations of federal or state health or safety regulations. Moderate Need is an officially identified problem related to health and safety regulations, but the situation is not in violation of any regulation. Moderate Need receives sixty (60) points. Potential Need is related to solving a current situation that would become a violation if left uncorrected. Potential Needs receives forty (40) points. Community Need is a general improvement not related to health and safety, but is a major improvement in community services and infrastructure. Community Need receives twenty (20) points. (7-6-94)

e. Identification of Impact (eighty (80) points). The applicant shall submit the following: specific identification of the project activities that will be undertaken to meet identified LMI needs. A distinction must also be made regarding direct and indirect benefits; a discussion of project impact in providing long-term permanent solutions to alleviate the need(s) identified above; identify procedures that are or will be developed to measure impact throughout the project; and describe and provide documentation of the process used to identify the LMI needs. Documented health and safety needs are awarded higher points. (7-6-94)

02. Housing Need and Impact. (7-6-94)

a. Identification of Need (eighty (80) points). An applicant shall develop a housing ~~conditions study~~ needs assessment to determine the need for a housing grant. Information to be collected about the community shall include population and growth, family size, the number of elderly, ~~handicapped persons with disabilities,~~ and minority persons, and family incomes. Housing information collected shall be total number of units, number of rental units, age of housing, vacancy rates, overcrowding, number of substandard units in the community, and the number of each type of housing, i.e. owner, rental, institutional and seasonal. ~~Historical trends should be included in this information. The housing need shall be reviewed and assigned points by the following criteria: percent (%) of housing stock older than 1970; percent (%) vacancy rates of rental units; estimated population growth rates since 1990 Census; number of overerowed units and percent (%) of total housing units; and number of substandard units and percent (%) of total housing units. Housing applications shall be compared to each other and to the 1990 census statewide averages in each category. Data in any category which does not exceed the statewide average will receive a maximum of forty (40) points, even though the formula points may be a higher value. Each category shall be ranked~~

by the seriousness of the problem demonstrated by the data. The most serious will be assigned eighty (80) points. Each rank will be separated by the number of points found by dividing eighty (80) by the number of housing applications. The average of the five (5) category points shall be the total need points assigned to the application. If the housing application does not exceed the statewide averages in a category, the rankings shall be calculated using forty (40) points. Substandard unit is defined as a housing unit which does not meet the Uniform Building Code standards. Overcrowding is defined as a housing unit occupied by more than one and one-half (1 1/2) persons per room as defined by the U.S. Census. The applicant shall address how the proposed housing project will meet the needs outlined in the housing conditions study. The maximum points will be assigned to those housing projects meeting the most need as outlined in the housing needs assessment. (7-6-94)( )

b. Identification of Impact (eighty (80) points). ~~The housing application shall demonstrate that the proposed project shall have a substantial impact on the needs identified above. In addition, the application shall be assigned points based upon the number and percentage of families living in poverty and the ICDBG dollars per bedroom. Housing units of more than four (4) bedrooms will be counted as a four (4) bedroom unit. Each category shall be ranked by the seriousness of the problem demonstrated by the data. The most serious will be assigned eighty (80) points. Each rank will be separated by the number of points found by dividing eighty (80) by the number of housing applications. The average of the two (2) category points shall be the total need points assigned to the application.~~ (7-6-94)( )

i. In the housing impact area, points would be awarded on the level of income the proposed project would target, based on the following formulas: ( )

- (1) Percent of eighty percent (80%) of medium income x forty (40) = ( )
- (2) Percent of fifty percent (50%) of medium income x sixty (60) = ( )
- (3) Percent of thirty percent (30%) of medium income x eighty (80) = ( )

ii. Applicants will be required to submit a written management plan showing how the housing units would be allocated to the different income levels and show how the proposed housing matches the needs outlined in the need category. Housing market data will also be required for this category. ( )

c. Low and Moderate Income Percentage Points (one hundred (100) points). Points will be assigned according to the percentage of LMI in the project area. They are:

TABLE 2 -- "Percentage of LMI in Project Area"	
Percentage	Points
0 - 50.00%	zero (0)
51.00 - 60.00%	twenty (20)
60.01 - 70.00%	forty (40)
70.01 - 80.00%	sixty (60)
80.01 - 90.00%	eighty (80)
90.01 - 100.00%	one hundred (100)

(7-6-94)

03. Prevention or Elimination of Slum and Blight (two hundred sixty (260) points). To qualify in the Slum and Blight category, the applicant shall receive at least one hundred (100) total points by demonstrating that the proposed project will have a direct impact on the elimination or prevention of slum and blight conditions. In evaluating impact, the information described below shall be considered (see Slum and Blight definition, Section 020). (7-6-94)

a. Provide the following community data: location of the project area including a narrative description and map(s) showing the boundaries of the area; and an official declaration by the governing body that the area is an "Area of Slum and Blight". (7-6-94)

b. Identify need (one hundred thirty (130) points). Describe the nature and seriousness of existing conditions/needs in the project area. References to published engineering studies or surveys or letters from appropriate local agencies shall be included. Use maps to locate the conditions and their relationship to each other. The applicant shall describe the nature and seriousness of the need as it exists in the following areas: the number, location, and type of deteriorating structures present in the project area; the unsafe/unsanitary conditions that exist in the structures and area; the infrastructure and site improvements that are deteriorating (i.e., streets, sidewalks, parking lots, utilities, driveways, fences and landscaping); the danger to life and/or property that exists from fire, hazards or other causes; or the condition of the property that impairs economic growth in the community by being an economic or social liability. (7-6-94)

c. Identify Impact (one hundred thirty (130) points). Specify how project activities will eliminate or prevent conditions of slum and blight. Identify the impact of the proposed project in providing permanent solutions to alleviate the identifiable conditions. Identify the procedure that is or will be developed to measure impact throughout the project. (7-6-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**090. PROJECT CATEGORIES.**

Two hundred and twenty (220) points. PFH Applications shall address each of the categories below. The project description and its benefits should be discussed in previous sections. This section is a measure of the preparedness of the project and the community to undertake the project. To earn points, the applicant must demonstrate that the appropriate actions, procedures, agencies, permits, financing and inspections to initiate and complete the project were discovered and show how much has been completed. The object is to have well thought out projects which will then be quickly executed if funded. The items identified in the following five (5) categories must be related to each other. For example: if a building permit is required; it should be described in the Planning section; what has been done to secure the permit should be described in the Previous Action section; a date should be assigned to receiving the permit in the Schedule section and any costs associated with securing the permit should be described in the Cost section; Any efforts by the Gem team to assist in the process should be described in the Gem Community section. (3-20-97)

01. Planning (~~fifty sixty~~ (560) points). The applicant shall describe the process used to plan the project and describe the components of the project. The completeness of the process and project detail earn more points. Describe the problem identification process, the public involvement, the appropriate agency(s) involvement. Describe the steps and actions necessary to implement or construct the project, including, but not limited to, permits, approvals, easements and property acquisition, demolition, relocation, other funding needed and the process to secure it, zoning, environmental problems, historic preservation, preliminary architectural or engineering, construction period, service hookups, fees and special assessments, program income, grant administration, accounting and audits. (3-20-97)( )

02. Previous Actions (~~fifty sixty~~ (560) points). This is a measure of how prepared the applicant is to undertake the project and how much of the planning described above has actually been accomplished. The faster a project can be implemented and completed (given the nature of the project), the more points the Application will earn. Also to be considered is all the other related actions a community has accomplished to prepare to undertake the project. For example, if a community wishes to improve its water storage capacity, other related actions might include water conservation, energy efficiency, other water system improvements, and water rate review. For fire stations, applicants must also provide information on annual building inspections, fire hydrant inspection and maintenance, current equipment inventory, current pump tests, reported incidents and current number of engines and staff. (3-20-97)( )

a. For street and street related projects, applicants must also provide a maintenance record for the project area for eighteen (18) months, prior to submittal of the application or addendum and a method of how the project was prioritized over other needs. ( )

b. For water and sewer projects, ten (10) bonus points will be assigned to applicants having conducted a rate study. ( )

03. ~~Cost Analysis (fifty forty (540) points).~~ Cost estimates for the project should be an accurate and realistic analysis of the administrative, legal, accounting, engineering or architectural services, property acquisition, construction and closeout costs. The various sources of funding should be assigned to the appropriate parts of the project. The source of the cost estimate should be described and documented. (7-6-94)( )

04. Schedule (forty (40) points). All of the activities needed to successfully administer and construct a project should be carefully scheduled to advance the project to completion rapidly and smoothly. The following items must be included in the schedule along with any additional necessary items. The schedule should include compliance activities such as asbestos, historic preservation and permits.

TABLE 3 -- Schedule	
	DATE
Grant Award	
Administrative Contract	
Engineering/Architectural Contract	
Environmental Review Begins	
Environmental Release	
Adoption and Publication of 504 Policy on Nondiscrimination	
Establish 504 Review Committee	
Bid Document Approval	
Bid Opening	
Preconstruction Conference	
Acquisition Completed	
Second Public Hearing	
Civil Rights Report Completed	
Start Construction	
Adoption and Public Notification of Grievance Procedures	
Twenty-Five Percent (25%) Complete	
Fifty Percent (50%) Complete	
Complete 504 Self-Evaluation	
Seventy-Five Percent (75%) Complete	
Construction Completed and Accepted	
Complete 504 Transition Plan (if needed)	

TABLE 3 -- Schedule	
Monitoring Visit	
Final Report	
Closeout	
Audit	

(7-6-94)

05. Certified Gem Communities (~~forty twenty (420)~~ points). Applicants which are "Certified Gem Communities" will receive twenty (20) points. ~~Applicants which are enrolled in the "Certified Gem Communities" will receive ten (10) points.~~ A Certified Gem Community is one which has been certified for the first time and/or recertified, according to the Department's records as of the deadline date for Application or Addendum submission and is actively involved in the Gem Community Program. ~~To promote the ongoing planning process and to more directly relate the grant funding to the local economic development efforts, points will be awarded to local efforts to inventory their infrastructure. To receive the other twenty (20) points, any applicant shall have completed an "Infrastructure Inventory" which details the condition, character, quality and quantity of infrastructure such as water and sewer systems, fire and safety facilities, police protection, streets, roads and bridges, park and recreation facilities government offices and cultural facilities.~~ (3-20-97)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**094. APPLICATION.**

Preparation and filing of the Application and Addendum will be assisted by the Department Staff. (7-6-94)

01. Notice of Intent. Accepted continuously. To be submitted following an applicant's decision to prepare an Application (see Section 061). (7-6-94)

02. Information to Be Included. The Application shall contain the information required by Sections 072 through 074. The Application shall be reviewed and ranked according to the criteria contained in Section 096 or Section 097. The Application may be rejected at any time that, in the opinion of the Department, the evaluation process indicates the project is unable to meet the minimum requirements or that the project will receive a point ranking below the minimum required for approval. (7-6-94)

03. Deadline. ED Applications for job creation projects will be due in on the third Monday of the month prior to a quarterly Economic Advisory Council (EAC) meetings held in January, April, July and October. Applications received after this date will not be presented to the Council at that quarterly meeting. ED Applications for slum and blight downtown revitalization projects will be due in November and if invited to submit an Addendum in March. (7-6-94)(\_\_\_\_)

04. Deadline Exception. The EAC may hold a special meeting to consider projects when, in the opinion of the Chairperson, a project's urgency will not permit a delay in processing an Application. (7-6-94)

05. Restrictions. If an applicant has a currently funded ED grant(s), they may apply for an additional ED grant(s) if additional administrative capacity is demonstrated, and, if all previous ED grant(s) are under contract. Only one (1) Ed application for job creation projects is allowed in any quarterly funding cycle with the conditions noted above. (7-6-94)(\_\_\_\_)

06. Presentation. If the project passes the threshold point total it will be recommended by the staff to the EAC where the applicant may make a presentation, according to Section 065. (7-6-94)

**095. THRESHOLD.**

01. Applications Shall be Reviewed, Assigned Points and Ranked. An Application must receive, at minimum, the following points for staff to recommend it to the EAC for consideration: Downtown Revitalization. (six hundred (600) points); and Business Expansion. (five hundred (500) points). (7-6-94)

02. Application Addendum. An Application must receive a minimum of seven hundred (700) points from both the staff assigned points and the Economic Advisory Council points to be invited to submit an Application Addendum. (7-6-94)

**096. REVIEW AND RANKING NARRATIVE FOR BUSINESS EXPANSION PROJECTS.**

The following are the review and ranking narrative requirements for those projects which assist business expansion through the provision of infrastructure and creation of jobs: (7-6-94)

01. Minimum Criteria. (7-6-94)

a. The project must meet the national objective of benefiting LMI persons through job creation. Fifty-one percent (51%) of all the new jobs created or retained must be held by or made available to a member of a low and moderate income family. (LMI as defined in Section 016). Family income must be certified by the employee at time of hire and must be able to be verified or may be documented through a ~~JTPA~~ Department of Labor screening referral agency. (3-20-97)( )

b. The applicant and the business must certify compliance with applicable federal circulars A-87, A-102, A-110, and A-122 and meet the necessary assurances as listed in Subsection 074.08 as applicable. (7-6-94)

c. A public hearing shall be held on the Application in accordance with Subsection 074.05.d. (7-6-94)

d. The project may qualify as a Special Economic Development Project under Subsection 040.02.a. If the project qualifies under Subsection 040.02.b., a determination of Necessary or Appropriate is required. (7-6-94)

e. Attach an eight and one-half inch (8-1/2") x eleven inch (11") map showing the location of the proposed project in the community. Attach a site plan of the proposed project showing existing and proposed improvements both business and infrastructure; existing and proposed land uses in the surrounding area and natural features and conditions on the site and nearby. (3-20-97)

f. (Attachment) A brief analysis of the business to be assisted, including the market for the product/services to be produced, the business' position in the market, and the financial and managerial capabilities of the business(es) to be assisted. This should also include financial statements and balance sheets for the business(es) to be assisted indicating sales, income, and net position for the prior three (3) years, and the names and experience of senior managers of the business. (3-20-97)

g. (Attachment) A letter of commitment from the business(es) stating their agreement to be part of the grant project, their ability to accomplish their expansion, their understanding of and compliance with all applicable federal regulations, their understanding of and compliance with the payback liability if the jobs creation does not meet federal standards; and their willingness to make available all records and information necessary to document all jobs created. (3-20-97)

h. (Attachment) A description of the type and number of all the jobs to be created, a calculation of fulltime equivalents (FTE), and a beginning payroll of the business(es) at the location of the proposed project, a detailed description of the hiring process and any training to be provided. The information should include both current job information and the job creation projected for two (2) years beyond the completion of the grant funded construction. If training is necessary, a training plan and schedule outlining the responsibilities must be included in the application. A description of the quality of new and retained jobs shall be included. A description of the median annual income and fringe benefits package for new or retained jobs shall be provided. (3-20-97)( )

02. Ranking Criteria (one thousand (1,000) points possible). (7-6-94)



a. Direct new or retained jobs, in fulltime equivalents (FTE's), created within two (2) years of grant construction completion. Direct new jobs are those jobs created as a result of the ICDBG grant, over and above employment at the project site prior to the grant, and which do not displace any other employment in the same labor market area. A job creation cost of more than ten thousand dollars (\$10,000) ICDBG per job will not be considered. Points are assigned by the formula: (Number of jobs) X (~~maximum grant two hundred fifty thousand dollars (\$250,000)~~) divided by (the requested ICDBG funds), up to ~~two hundred ninety (209)~~ points. (3-20-97)( )

a. Quality of New or Retained Jobs (ninety (90) points). Points in this category are assigned based upon a comparison of the full time equivalent (FTE) wages or salaries created (excluding benefits, and the average county salary as determined by the most recent quarterly Idaho Department of Labor survey. To convert part time or seasonal positions, take the total number of hours of employment created for a given pay rate and divide by one thousand nine hundred twenty (1,920). If the average county wage exceeds the state average wage; comparison with the state average will be used. The grantee will be awarded points based upon the percentage of FTE's exceeding the state or county average salary. The formula is: Percentage of jobs above state or county average salary x ninety (90) = Wage Quality Points. ( )

b. Fringe Benefits (twenty (20) points). The businesses creating or retaining jobs as a result of ICDBG assistance shall document their fringe benefit plans for low and moderate income employees. Ten (10) points will be given for a comprehensive employer paid health program and ten (10) points for an employer paid pension program, 401 K matching program, or equivalent. If health or pension benefits are not offered, applicants may receive ten (10) points in this category if the employer provides training or education courses, daycare and paid vacation and sick leave are offered. All three (3) benefits must be available to receive the ten (10) points. ( )

b.c. Business Risk and Management. The probability of achieving the projected jobs and payroll within one (1) and two (2) years, as determined by the Department. The determination may be made on the basis of: the business plan and schedule, the financial position and a credit analysis of the business; the performance record of senior management of the business project; and other criteria reasonably required by the Department. Projects receiving less than seventy-five (75) points in this category will be eliminated from further consideration. (zero (0) to one hundred (100) points) (3-20-97)

ed. Planning, Cost and Schedule and Cost (one hundred and ~~thirty five~~ fifty (1350) points possible). Describe planning efforts to enhance economic development. A detailed and reliable cost estimate and a project construction schedule is required of all Applications. Cost analysis and schedule will receive equal emphasis. Because of the priority the Department and Economic Advisory Council places on project costs and schedule, applicants are advised to seek experienced construction management counsel for their Application. (Subsection 090.04) (3-20-97)( )

i. Planning. ~~Forty five~~ fifty (450) points. Describe planning efforts to identify and detail all steps related to the implementation of the entire project. Identify all participants in the process. Describe all the partnerships and relationships involved in implementing the project. This will include local government actions, the business actions, other agency and utility actions, real estate, environmental, legal, financial and grant considerations. (3-20-97)( )

ii. Schedule. ~~Forty five~~ fifty (450) points. A detailed and reliable schedule of all actions identified in the plan. Also a separate grant funded project construction schedule is required of all Applications. (3-20-97)( )

iii. Cost. ~~Forty five~~ fifty (450) points. Detailed cost estimates of all actions, permits, construction, real estate etc. should be prepared by an engineer or architect. Because of the priority the Department and Economic Advisory Council places on project costs and schedule, applicants are advised to seek experienced construction management counsel for their Application. (Subsection 090.04) (3-20-97)( )

d. Idaho Inputs. (~~twenty (20) points~~) The percentage of the value of Idaho produced inputs or products included in the total production/service cost for the business(es) assisted by the project, exclusive of payroll (percentage points divided by two (2), (zero (0) to twenty (20) points)). This is a measure of the value added to Idaho products. Include in the narrative a description of the products, their material components, the source of the components, the value of the components, and the finished product. (3-20-97)

e. ~~Minority Benefit. Percentage of the direct new jobs projected to be filled by minority applicants. (Percentage points, zero (0) to fifteen (15)) points. Applicants for job creation projects can receive minority benefit points if their employment goals, for minorities, are comparable to the U.S. Department of Labor (DOL). The DOL has established employment goals for minorities based on demographic characteristics of each area. Full points can also be given if businesses hire minorities for management or supervisory positions or if minority or women owned businesses benefit from the ICDBG project.~~ (3-20-97)( )

f. ~~Local Investment Leverage. (one hundred (100) points) The percentage of ICDBG funds in the total of local matching funds plus ICDBG funds in the project. Applicants shall state if there is a Revolving Loan Fund (RLF) available in their region and, if so, describe what attempts have been made to secure funds from the RLF for the project. Program Income from previous grants to be used in this project may be considered as local match. (one hundred (100) minus ICDBG percentage).~~ (7-6-94)( )

g. ~~Distressed Areas. A maximum of thirty (30) points will be given to distressed areas: Fifteen (15) points if the Pprojects is located in a county which has an average annual unemployment that is one and one-half percent (1.5%) above the state average and fifteen (15) points if the per capita income is above below the statewide average shall receive twenty-five (25)points.~~ (7-6-94)( )

h. ~~Rural Impact. Jobs created in smaller communities have a greater stabilizing influence than in larger communities. The points shall be assigned as follows:~~

<b>TABLE 4</b>	
<b>"Rural Impact On Jobs" Community Population</b>	
<b>Population (latest census estimates)</b>	<b>Points 25 Total</b>
0 - 1,000	25
1,001 - 3,000	15
3,001 - 10,000	5
10,001 - 50,000	0

(7-6-94)

i. ~~Gem Community. Applicants which are "Certified Gem Communities" will receive thirty (30) points. Applicants which are enrolled in the "Gem Community Program" will receive fifteen (15) points. Certified Communities must be currently certified or recertified and actively participating in the Gem Community Program as of the quarterly deadline date to be eligible for these points.~~ (3-20-97)( )

j. ~~Private Leverage. (one hundred (100) points) This is the percentage of ICDBG funds in the sum of total private investment plus ICDBG funds in the project. This includes the business' private investment in the capital facilities, real estate and site development costs. Payroll and start-up costs are not included in this calculation. (one hundred (100) minus ICDBG percentage).~~ (3-20-97)

k. ~~Activities. Points will only be awarded for the percentage of ICDBG dollars committed to the acquisition, construction, or reconstruction of public infrastructure (Section 024); and for publicly-owned commercial building rehabilitation for the purpose of assisting a business or businesses. (Percentage of twenty-five (25) points).~~ (7-6-94)

l. ~~Grant Management. If the grant funded activities are managed by the grantee, twenty-five (25) points will be awarded. Grantee management includes management under contract with a Department approved Grant Manager.~~ (3-20-97)

m. ~~Economic Advisory Council Evaluation. The EAC will evaluate each Application on the basis of overall value, including its ability to make a significant impact on the Idaho economy and the commitment of the~~

community to the project. (two hundred (200) points).

(7-6-94)

**097. REVIEW AND RANKING OF DOWNTOWN REVITALIZATION.**

01. Introduction. Downtown Revitalization occurs only as merchants and landowners and other community representatives implement a series of actions which take advantage of ~~the~~ community strengths and the economic and market forces operating in their community. An Idaho Community Development Block Grant program is only one (1) of the resources which can assist a downtown revitalization process. Therefore, the grant Application must be reviewed against the background of the total revitalization efforts. The following areas are reviewed by staff to evaluate the project. (7-6-94)( )

02. Organization (one hundred (100) points). This is a measure of the strength and depth of the local commitment to downtown revitalization. Obvious problems and lack of cooperation will detract from the points. The Application should describe how the community is actively organized to plan and implement a downtown revitalization process. At the center of the process there should be a take-charge steering committee representing the major community actors, such as merchants, city officials, local economic development organizations, utilities, and banks. Active subcommittees ~~may shall~~ undertake components of the process ~~such as in promotion, design, and economic restructuring.~~ Other areas include infrastructure, finance, ~~marketing and promotion,~~ historic preservation, architecture, and various regulations ~~and economy.~~ The process will be unsuccessful without the participation of, communication with, and cooperation from, various local, state and federal governmental agencies, such as the Department of Transportation, Health and Welfare, Post Office, BLM, Forest Service, City Hall, County Courthouse, School Board, Highway Districts, Sewer, Water, and Fire Districts and Irrigation Districts. Participation of major companies, particularly those which drive the local economy, along with the utilities and banks, is also critical to the process. (7-6-94)( )

03. Assessments (one hundred (100) points). This is a measure of the accuracy, completeness and comprehensiveness of each of the assessments which underlie the implementation plan. Knowing and understanding the market forces which support a community's downtown is the foundation of any revitalization effort. Consequently, an analysis of the local economy's market or trade area is critical to determine the effort's direction. Only with this information can plans be made to select the mix of goods and services that can be supported and to decide the nature of the improvements to infrastructure, regulations, buildings, and promotional campaigns. The downtown area may no longer be a retail center and maybe some other use is appropriate. This should be identified and the plans accordingly developed around this activity. Therefore, the Application must contain the background studies that were conducted to assess the local economic forces, market conditions, demographics, and sales volumes; the present conditions of streets and sidewalks, sewers, water and storm drain systems, and traffic patterns; the mix of land uses, conditions of buildings and vacancy rates, physical design, including accessibility for persons with disabilities, and environmental conditions. To receive full points, a community assessment must include market analysis which includes a survey of the primary trade areas, customer market and business and property owner information. (7-6-94)( )

04. Implementation (two hundred (200) points). The Implementation Plan, by its very nature, needs to be action-oriented, with resources, time frames, and assigned responsibilities for each activity. The Plan should begin with an estimate of the economic potential of the downtown and the effect that revitalization will have upon the businesses and services. Next should be the goal statement(s) of the revitalization effort. Goals should be stated in general terms with implementation activities in specific, measurable terms. Suggested goal statements include marketing, promotion, regulatory, cleanup, and infrastructure. The Implementation Activities should be set out in detail with the responsible party(ies) identified, a completion time frame established, and the needed resources identified. Since revitalization will take a partnership of the public and private sectors to accomplish the goals, the activities may be divided into public and private categories. Points will be assigned to the Implementation Plan as follows: (7-6-94)

a. Action plan (fifty (50) points). This is a measure of the detail of the implementation plan. The detail should include specific actions with assigned responsibilities and time frames for completion. (7-6-94)

b. Architectural/engineering plans (fifty (50) points). This will measure the extent of architectural design or engineering undertaken to determine the scope of the grant project and estimate costs. (7-6-94)

c. Implementation time frame (fifty (50) points). This will measure whether reasonable time frames have been determined for the grant project and that all the major actions and accomplishments have been identified, including those necessary for the implementation of the grant. (7-6-94)

d. Previous amount accomplished (fifty (50) points). This is a measure of all other action items in the implementation plan, how many have been started, and the progress towards completion. (7-6-94)

05. Slum and Blight (two hundred (200) points). This is a threshold which shall be met for the Application to be eligible for review. An Application will be disqualified if, in the opinion of the Department, the project does not meet the definition of Slum and Blight, (Section 020) or does not receive more than one hundred twenty-five (125) points in this category. The geographic boundaries of the downtown area shall be reasonable and officially designated. The conditions within the area shall be described and shall include the condition of all the infrastructure, the conditions of buildings and structures, and the economic forces which are causing the conditions of slum and blight. The Application shall describe the need for the proposed ICDBG project and the impact the project will have on the conditions of slum and blight. This will include the overall impact on the downtown revitalization efforts and the long-term impact on the community. Some project activities may, more appropriately, meet another national objective. If so, it should be described in detail and documented according to the standards for that national objective. (7-6-94)

a. Need and impact (one hundred (100) points). This is a measure of the proposed area's need to prevent or eliminate conditions of slum and blight. It is also a determination of the project's impact on the conditions of slum and blight. A project must address the critical need of the slum and blighted area, have an impact on the economics of the downtown area, and have a measurable impact. The criteria for measuring the impact of the project on the conditions of slum and blight must be described in measurable terms, such as increase in private investment, establishment of new businesses or business expansions, sales growth, improvement in the appearance and value of property, reduction in vacancy rates and increase in housing units. This includes the economic impact and community impact. (7-6-94)

b. Relationship to overall plan (one hundred (100) points). This is a measure of: how the proposed grant project is related to the other actions and needs of the Implementation Plan; whether it is foundational to the revitalization of the downtown economy or it is peripheral to the needs of the economy; and how logically sequenced the activities being proposed are in relation to the other activities. If another national objective is included in the justification for some of the activities, include the description here and it will be judged upon its need and impact as described in this section. (7-6-94)

06. The ICDBG Project (three hundred (300) points). The Application shall generally describe the eligible activities being proposed for funding. Any combination of eligible activities may be considered in designing the project. The eligible activity(ies) should be located on a detailed map. The relationship of the block grant project to the other implementation activities must be clear. Any matching funds shall be committed with the sources and schedules identified. All the other collateral implementation activities should be discussed and the funds expended documented. The Application shall describe the following items: (7-6-94)

a. Project Local Match (seventy-five (75) points). The amount and percentage of "local match" firmly committed to the grant project shall be described. Evidence of commitment shall be provided by letter or agreements. The percentage shall be calculated by dividing the local match by the sum of local match plus the ICDBG request. The percentage times the points (seventy-five (75)) will determine the amount of points assigned. (7-6-94)

b. Project Other Match (seventy-five (75) points). The percentage of other funds committed to the proposed ICDBG project from private and other state and federal sources. The percentage shall be calculated by dividing the total of the other sources by the sum of total project costs which is all match plus the ICDBG request. The percentage times the points (seventy-five (75)) will determine the amount of points assigned. (7-6-94)(\_\_\_\_)

c. Gem Community (fifty (50) points). In order to promote the ongoing planning process and to more directly relate the grant funding to local economic development efforts, a proposed project should be identified as a priority in the One (1) Year Gem Community Plan. Certified Communities which generally include the proposed project in their One (1) Year Gem Community plan are awarded the full fifty (50) points. The proposed project must be identified in the current one (1) year plan on file with the Department at the date of application. The project must

also be related to the goals and objectives of the plan. Applicants which are "Certified Gem Communities" will receive ~~twenty-five~~ fifty (250) points. ~~Applicants which are enrolled in the "Certified Gem Communities" will receive fifteen (15) points.~~ Certified communities must be currently certified or re-certified and active in the program as of the quarterly deadline date to be eligible for these points. (7-6-94)(    )

d. Related Implementation Expenditures (fifty (50) points). The percentage of private investment or other funds spent on the other implementation plan action items compared to the ICDBG funds being requested. Amounts spent within one (1) year prior to the grant Application submittal and those committed to be spent during the year following the submittal of the Application may be counted for this section. The percentage shall be calculated by dividing the total of the other funds by the sum of other funds plus the ICDBG request. The percentage multiplied by the points (fifty (50)) will determine the amount of points assigned. (7-6-94)

e. Long-term Program Involved (fifty (50) points). The use of grant funds to leverage a payback mechanism so that funds will sustain the downtown redevelopment efforts over the long term. For example, this can be done through various types of loans, fees, bonds and tax increment financing. The pool of funds is to be dedicated to the downtown area. (7-6-94)

07. Advisory Council Points (one hundred (100) points). The Economic Advisory Council, after hearing the community's presentation and reviewing the staff's ranking and recommendation, shall award its points based upon both the information presented and the Application. The Council may award all or some of the points depending upon its opinion that the grant will promote the revitalization of the downtown economy. Projects which only fix a problem but do not leave the downtown in a better economic condition would receive fewer points. (7-6-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**135. ACCESSIBILITY TAG-ON ~~HANDICAPPED ACCESS~~ FOR PERSONS WITH DISABILITIES FUNDING.**

01. Additional Activity. An applicant may include in their PFH or ED application as additional activity to improve the accessibility of public buildings for persons with disabilities, if the applicant meets all of the following conditions: (    )

a. ~~¶~~The applicant has adopted a Section 504 Transition Plan; (    )

b. ~~¶~~The applicant's total grant request does not exceed the maximum grant amount allowed for PFH or ED grants; (    )

c. ~~¶~~The applicant matches the ~~handicapped~~ ICDBG access funds requested with an equal amount of local matching funds; (    )

d. ~~¶~~The grant funds requested for this activity does not exceed ten thousand dollars (\$10,000); (    )

e. ~~¶~~And the applicant can show previous progress in implementing the Transition Plan. (7-6-94)(    )

02. Separate Description and Cost Estimate. The applicant shall provide a separate description of the handicapped accessibility items to be improved and a separate cost estimate. The activities shall be included in the general project budget and schedule. (7-6-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**152. GRANT AWARD.**

01. Funding Allocations. Each year the Department will receive an allocation from the Department of Housing and Urban Development. This allocation is derived from the formula contained in 42 USC, Sec. 5301, the Housing and Community Development Act of 1974, as amended. The allocation shall be generally divided in the following manner: first, one hundred thousand dollars (\$100,000) plus two percent (2%) of the total shall be reserved for the Department's administrative costs; second, one percent (1%) of the total shall be reserved for Technical Assistance Grants; third, five percent (5%) or three hundred thousand dollars (\$300,000), whichever is less, of the total allocation shall be set aside for Imminent Threat (IT) grants; fourth, six percent (6%) or six hundred thousand dollars (\$600,000) whichever is less, of the total allocation, shall be set aside for Community Center (CS) or Senior Citizen Center (SR) grants; fifth, any program income, recaptured funds, or carryover funds from the previous fiscal years shall be added to the remainder; and finally, of the remainder, fifty percent (50%) shall be reserved for Public Facilities or Housing (PFH) grants and fifty percent (50%) for Economic Development (ED) grants. (7-1-98)

02. Shifting of Funds. The above allocation divisions are to establish target amounts for decision making by the Economic Advisory Council (EAC). This division shall be made for the January EAC meeting. These targets may be modified by the Department Director with the advice of the EAC. The allocation system shall be updated quarterly before each quarterly EAC meeting to include any additional recaptured funds, program income, or carryover funds. Of the allocation for ED grants, one quarter of the amount shall be set aside for funding full-applications during the quarter following each EAC meeting. The quarterly set-aside amount may be modified at the discretion of the Department Director upon the advice of the Council. Any funds not awarded in the PFH category shall be shifted to the first quarter ED category. If in any quarter there are surplus funds in the ED category, the Department Director, with the advice of the EAC, may shift funds back to the PFH or CC and SR category to fund standby projects. Otherwise, surplus funds not awarded to ED projects in a quarter shall be carried into the succeeding quarter ED set-aside. (7-1-98)

03. Standby Applications. At its quarterly meeting in April of each year, the Economic Advisory Council (EAC) may recommend PFH or CC and SR Applications for funding even though not enough funds are available to fund the project(s). These Applications become "standby projects." Standby projects shall be eligible for funding should additional funds become available or surplus funds exist in the ED category. At any subsequent quarterly meeting, the Advisory Council may review and recommend a standby project to the Governor for funding. Standby status shall continue through the fourth quarterly meeting. Any standby projects not funded shall automatically be invited to submit an Addendum for the next Fiscal Year, thus bypassing the Application stage of the application process. However, the Application must remain eligible and must continue to meet all requirements of the program regulations. The standby applicant shall update its Application during the Addendum process. (7-1-98)

04. Termination of Project Selection for Funding. (7-6-94)

a. If, during the period between the award of a grant and signing of a grant contract, a project loses its viability, its status of being selected for funding may be terminated by the Department. The Department shall, by letter, notify the applicant that in the judgment of the Department, the applicant's project is no longer viable and that the applicant has a clearly stated period of time no less than fourteen (14) days to demonstrate the project's viability. If viability cannot be demonstrated within the stated period of time the award of the grant status shall be considered terminated and the funds be made available for the next standby project. (7-6-94)

b. After a grant contract has been executed, the Department shall periodically evaluate the progress of the project. If, at any time, the project loses viability and/or cannot be completed as described in the Application, the Department shall, by letter, notify the grantee that the grant contract shall be terminated within a clearly stated period of time of no less than fourteen (14) days from the date of the letter. The grantee may, within the stated period of time, demonstrate substantial progress on the project and request the Department revoke the termination. If viability cannot be demonstrated within the specified amount of time, the grant shall be considered terminated. (7-6-94)

c. Loss of viability will be defined to include: the inability to secure the other project financing; the lack of due diligence to pursue the implementation of project requirements; the lack of local coordination with all funding and regulatory agencies; the inability to develop agreements necessary to manage the cash flow and ownership of the project where several different entities are involved in the project; and the inability to complete a project of the same general size and benefits as presented in the application. (7-6-94)

05. Excessive Funds. In the event a project can be completed for less than the grant amount, the difference between actual project costs and the grant amount shall be reserved by the Department for standby projects, or added to the total of the next fiscal year allocation for distribution. The Department shall amend the grant contract to reflect the reduced costs. In extraordinary circumstances the excess funds may be used for an eligible activity which further enhances the project as described in the Application. Before the Department decides to allow the additional activity, the grantee must demonstrate the activity will provide an equal or greater benefit than the original project; it will increase the benefits to low and moderate income persons, it will be completed within the original time frame, and the additional activity will be completed with the excess funds. The grantee must also show completion of the original project, its objectives and benefits. (7-6-94)

06. Amendment of Project. A funded project as described in the Application shall not be changed without prior approval from the Department Director. Any amendment of the project shall be reviewed to determine if the project will retain its competitive ranking in the Application review and ranking system. Any amendment shall provide equal or greater benefits than the original project. In unusual circumstances, the Department Director may approve a grant amendment increasing the grant amount, provided unobligated funds are available. In unusual circumstances the Department Director may waive the ten percent (10%) limitation on administrative costs when, in the opinion of the Department, the complexity of the project warrants an increase. (7-6-94)

07. Allowable Costs. Once an applicant has been invited to submit an Addendum and prior to the effective date of a grant contract an applicant submitting an Addendum may obligate and spend out of local funds for the purpose below. If awarded a grant and after the effective date of the grant contract, the grantee may be reimbursed for these costs provided such locally funded activities are undertaken in compliance with the program requirements (including but not limited to procurement, financial, acquisition, environmental and the ten percent (10%) limitation on administrative costs). Other project costs shall not be incurred until the Special Terms and Conditions of the contract are completed by the grantee and the funds released by the Department. (See Section 080.) (7-6-94)

a. Planning, Design and Administration. Procure and proceed with administrative and architectural or engineering services, adopting the Fair Housing Resolution and the Anti-Displacement Plan, and having public hearings. (7-6-94)

b. Project Costs, such as: preliminary and final Engineering Design, preliminary and final Architectural Design, conducting the Environmental Assessment, and completing procedural requirements for acquisition, but not the cost of the property. (7-6-94)

08. Audit Requirements. All ICDBG projects shall be audited annually or biannually in accordance with Sections 50-1010 and 31-1701, Idaho Code, the Single Audit Act of 1984, the implementing regulations in OMB Circular A-12833, and all applicable federal audit standards, and other applicable state laws. Audits shall include any management letters associated with the audit. The audit shall be submitted to the Legislative Auditors Office within thirty (30) days of completion. Grantees shall require sub-grantees to provide audits conducted according to applicable federal and state laws, regulations and standards. The grantee shall have these audits reviewed as part of the grantee's audit. This review shall be commented and noted in the audit report. This review shall opine that sub-grantees are in compliance with the applicable program laws, regulations, contracts, and standards. (7-6-94)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**161. PROFESSIONAL SERVICES.**

01. ~~Costs Below One hundred Thousand Dollars (\$100,000). Small Purchase Procurement.~~ If the cost of the grant management, ~~engineering, architectural or other professional services~~ does not exceed one-hundred thousand dollars (\$100,000), ~~or twenty-five thousand dollars (\$25,000) for engineering or architectural services,~~ then a "small purchase" method or informal method of procurement can be used. The grantee should write or call two (2) or more potentially qualified professionals and request written qualifications. Verbal requests for qualifications must

be clearly documented in the grantee's file. This documentation shall, at a minimum, be date, person's name, company name, services discussed, dollar amounts or basis of rates quoted. Once qualifications have been reviewed, the grantee shall inform the proposers of the selection and provide the reasons the professional was selected or rejected.

(3-20-97)( )

02. ~~Costs in Excess of One Hundred Thousand Dollars (\$100,000):~~ Competitive Negotiation Procurement. If the amount of grant management, ~~engineering, architectural or other professional services~~ exceeds one-hundred thousand dollars (\$100,000) or twenty-five thousand (\$25,000) for engineering or architectural services, then a formal competitive negotiation method of procurement shall be utilized. The appropriate procedures for the competitive negotiation procurement method are as follows:

(3-20-97)( )

a. Prepare request for proposals (RFP). RFP must include all factors that will be used to evaluate submissions. Evaluation factors must be outlined and the weight of each factor must be identified. (7-6-94)

b. Publish the RFP in local newspaper of general circulation. The RFP must be published at least once. The proposal due date must be at least two (2) weeks after the publishing date. The RFP must also be sent to the Disadvantaged Resource Center. It is advisable to send a copy of the Request to local and area firms that may be qualified to respond. (7-6-94)

c. Establish a selection committee. This may be the governing body, a citizen review committee, or a combination of members of both. (7-6-94)

d. Evaluate all submitted RFPs for completeness and appropriateness. Review and rank the proposals according to the review criteria. All grant managers selected must be certified by the Department. Check with the Department for certification before awarding grant management contracts. Notify, in writing, all proposers about the decision and the reasons for the committee's selection or rejection. (7-6-94)

e. Draft a services contract and send the draft, a copy of the RFP, the minutes of the selection committee decision, and a sample of the ranking document to the Department for approval. Do not execute the contract until Department approval is received. All contracts for professional services must be submitted to the Department for review and approval thirty (30) days before the intended effective date. (7-6-94)



# Subject Index

- A**
- ACCESSIBILITY TAG-ON FOR PERSONS WITH DISABILITIES FUNDING 221
  - ACCOUNTANT'S LETTER OF QUALIFICATION 42
  - ACQUISITION OF CONTROL - STATEMENT FILING 20
  - ADDITIONAL CONDITIONS APPLICABLE TO REINSURANCE AGREEMENTS 48
  - ADEQUACY OF SURPLUS 23
  - ADMINISTRATION OF CONSCIOUS SEDATION (LIGHT) WITH PARENTERAL DRUGS (Rule 60) 72
  - ADMINISTRATIVE APPEALS 18, 53, 139
  - ADMINISTRATIVE APPEALS (RULE 3) 168
  - ALTERNATIVE AND CONSOLIDATED REGISTRATIONS 21
  - AMENDMENTS TO FORM B 20
  - APPLICANT OBLIGATIONS 145
  - APPLICATION 81, 215
  - APPLICATION - CONTENT - PROCESS 54
  - APPLICATION FOR LICENSURE 78
  - APPLICATION PROCEDURE 142
  - APPLICATIONS 86
  - APPLICATIONS (Rule 11) 64
  - APPROVED EQUIPMENT AND MATERIALS 36
  - AUTHORITY FOR FUNDING APPROVAL 144
  - Abandonment Of Patients 68
  - Acceptance of Fees 195
  - Accomplished Transfer 168
  - Accountant and Independent Certified Public Accountant 40
  - Accounting For Project Costs 145
  - Accredited Reinsurers 45
  - Acknowledgment of Funding Assistance 145
  - Acquisition of Ownership Interest 61
  - Active Practice 66
  - Actual Transmittal 152
  - Additional 66
  - Additional Activity 221
  - Additional Information From Applicant 208
  - Additional Training 94
  - Additions 156
  - Adequate Space 94
  - Adequate Title and Public Access 147
  - Adjustment of Renewal Fees 183
  - Advances 144
  - Advertising and Practice 70
  - Advisory Board 33
  - Advisory Council Points 221
  - Affiliated Person 53
  - Aiding or Abetting 186
  - Alien Insurer 22
  - All Certificates Expire December 31 109
  - Allowable Costs 223
  - Allowance for Experts 60
  - Altering Records 68
  - Alternative Methods 174
  - Alternative PFD Requirement 136
  - Amendment 27
  - Amendment of Project 223
  - Amendment to Form B 20
  - Amount of Supervisory Contact 121
  - Animal Health Care Tasks - Assistants 191
  - Animal Health Care Tasks - Veterinary Technicians 188
  - Annual License Fees For Hygienists 65
  - Annual License Fees for Dentists 65
  - Annual License Renewal 26
  - Annual Renewal 75
  - Annual Renewal Fee 117, 124
  - Annual Review of Curriculum and Catalog 95
  - Annual Statement Filing 26
  - Any Other Form Of Security Acceptable To The Director 46
  - Applicant 33, 140
  - Application 69, 86, 179
  - Application Addendum 216
  - Application Before Opening and Operating a School 94
  - Application Fee 118, 124
  - Application Fees for Dental Hygienists 65
  - Application Fees for Dentists 64
  - Application For Apprentice 102
  - Application Must Be Accompanied By Endorsement Fee and Original License Fee 90
  - Application Must Be Accompanied By Proof Of Meeting Educational Requirements 102
  - Application Must Be Accompanied By Proof of Meeting Educational Requirements 89
  - Application by Insurer Not Otherwise Exempt 22
  - Application for Certification - Contents - Examinations 184
  - Application for Certification - Fee - Deadline - Validity 185
  - Application for Stock Offering 58
  - Applications Shall be Reviewed, Assigned Points and Ranked 216
  - Appointment Renewal 30
  - Appraisal Review 147
  - Appraisals 147
  - Apprentice License 102
  - Approval Required for Distribution to Policyholders 58
  - Approval of Merger or Acquisition Required 57
  - Approval of a Conversion 146
  - Approval or Denial of Application 57
  - Approved Courses 183, 186
  - Area Benefit Activity 202
  - Articles of Incorporation 27
  - Assessments 219
  - Assignments And Length Of Time Permit Will Be Issued 132
  - Assistants, Inspectors and Other Employees 33
  - Association 77
  - Assurances 207
  - Audit Requirements 223
  - Audited Financial Report 40
  - Authorized Uses 170
  - Availability 64
  - Avoidance of Provisions of Chapter 61
- B**
- BENEFICIARY 46
  - BENEFIT TO LOW AND MODERATE INCOME PERSONS 202
  - Background and Experience 43
  - Balance Sheet 40
  - Before Resuming Training 103
  - Benefit to Low and Moderate Income (LMI) 210
  - Bids Shall Bear License Number 34
  - Block Grants 145
  - Board 77, 88, 140

Board Approval 96, 98  
Boat Safety Account 140, 142  
Boat Safety Program 140  
Boating Law Administrator 140  
Bonding 34  
Borrowing Funds 61  
Bureau 88  
Bylaws Amendment 27

**C**

CERTIFICATION OF VETERINARY  
TECHNICIANS 184  
CERTIFIED EUTHANASIA TECHNI-  
CIAN 196  
CERTIFIED GENERAL REAL ES-  
TATE APPRAISER CLASSIFI-  
CATION APPRAISER  
QUALIFICATION CRITERIA  
131  
CERTIFIED RESIDENTIAL REAL  
ESTATE APPRAISER CLASSI-  
FICATION APPRAISER QUALI-  
FICATION CRITERIA 130  
CITATION 140  
CODE OF ETHICS 124  
COMMISSION MEDIATION 160  
CONDITIONAL COUNSELING LI-  
CENSE 123  
CONTENTS OF ANNUAL AUDITED  
FINANCIAL REPORT 40  
CONTINUING EDUCATION 132  
CONTINUING EDUCATION FOR  
DENTAL HYGIENISTS (Rule 51  
70  
CONTINUING EDUCATION FOR  
DENTISTS (Rule 50) 70  
CONTROLLED SUBSTANCE IN-  
VENTORY 155  
COSMETOLOGY - ELECTROLOGY,  
ESTHETICS, AND NAIL TECH-  
NOLOGY APPRENTICE  
TRAINING 102  
COSMETOLOGY REQUIREMENTS  
FOR LICENSURE BY EXAMI-  
NATION 91  
COSMETOLOGY, ELECTROLOGY  
INSTRUCTOR RULES 100  
COSTS AND FEES IN DISCIPLIN-  
ARY PROCEEDING 83  
CREDIT FOR REINSURANCE - AC-  
CREDITED REINSURERS 45  
CRITERIA FOR ENFORCEMENT OF  
NATURE OF USE (RULE 38)

173  
Calendar Year 1994 166  
Calendar Year 1995 166  
Calendar Year 1996 166  
Calendar Year 1997 166  
Calendar Year 1998 166  
Calendar Year 1999 166  
Capacity to Render Report for Consecu-  
tive Years 41  
Cardiopulmonary Resuscitation 65  
Cash 45  
Causes for Revocation, Suspension, or  
Refusal to Renew License 35  
Certificate of Graduation 89  
Certification Requirements 186  
Certification of Licensure 89  
Certified Copy 27  
Certified Euthanasia Agency License  
Fee 182  
Certified Euthanasia Technician Li-  
cense Fee 182  
Certified Gem Communities 215  
Changes to Ground Water Rights 173  
Changes to Water Rights 170  
Chief 88  
Civil 113  
Civil Fine 110, 111, 115, 116, 118,  
122, 126, 133, 134  
Civil Fine. 125  
Claim 168  
Classification of Shops and Schools  
104  
Competitive Negotiation Procure-  
ment 224  
Compliance with Insurance Holding  
Company Law Required 57  
Compliance with Provisions of Insur-  
ance Holding Company Law 61  
Compliance with Rule 43  
Compliance with Section 014 43  
Concurrent Filing with SEC Allowed  
60  
Conditions for Use of Service Extenders  
119  
Conformance With Ethical and Profes-  
sional Standards 41  
Conformance to Standards 36  
Conjunctive Management 169, 170  
Conscious Sedation 71  
Consent 69  
Consent to Requirements of Section 020  
43

Consolidated Registration State-  
ments 21  
Contingency Fund 145  
Continuing Education 30  
Controlled Substances 68  
Conversion Requests 146  
Conviction of a Crime 186  
Conviction(s) 195  
Corrected Plans 37  
Cosmetology Apprentices 102  
Cost Analysis (forty (40) points) 214  
Costs and Fees 110, 111, 113, 115,  
116, 118, 122, 125, 126, 133, 134  
Costs and Fees in Disciplinary Proceed-  
ing 85, 105  
County Waterways Committee 140  
Course Approval 67  
Cover 205  
Cover Letter 206  
Credit For Experience 92  
Credit For Training 91  
Credit Given For Training 92  
Credit for Appraisal Educational Pro-  
cesses and Programs 132  
Credit for Attendance 184, 186  
Critical Ground Water Area 169  
Cross-Country Skiing Recreation Ac-  
count 140, 142  
Cross-Country Skiing Recreation Pro-  
gram 140  
Current Certification 195  
Current License 89  
Current Licensure 66

**D**

DEFINITION, AVAILABILITY AND  
MAINTENANCE OF CPA  
WORK PAPERS 43  
DEFINITIONS 19, 32, 40, 53, 76, 88,  
140, 158  
DEFINITIONS (RULE 10) 168  
DEFINITIONS (Rule 4) 62  
DENIAL OR REFUSAL TO RENEW,  
SUSPENSION OR REVOCATION  
OF LICENSE 79  
DENTAL ASSISTANTS - PRACTICE  
(Rule 35). 66  
DENTAL HYGIENE LICENSURE BY  
CREDENTIALS (Rule 20) 65  
DENTAL HYGIENISTS - PRACTICE  
(Rule 30) 66  
DESIGN REQUIREMENTS 36  
DISBURSEMENT OF FUNDS 144

DISCIPLINARY PROCEDURES 125  
 DISCIPLINE 84, 105, 110, 111, 113, 115, 116, 118, 122, 126, 132, 134  
 DISCLAIMERS AND TERMINATION OF REGISTRATION 22  
 DISQUALIFICATION OF VETERINARY TECHNICIAN APPLICANTS 185  
 DUTIES OF THE DIRECTOR 57  
 Dates and Places 93  
 Deadline 143, 215  
 Deadline Exception 215  
 Default 109  
 Definition 114, 202  
 Delegating Duties 69  
 Delivery 16  
 Denial of Accreditation 45  
 Department 53, 140, 169  
 Designated Areas of Limited Supply 171  
 Designation of Application as Limited or Standard 54  
 Detail 37  
 Director 53, 140, 169  
 Director Shall Retain Jurisdiction 57  
 Director's Prior Approval Required 58  
 Disciplinary Authority 79  
 Disciplinary Procedures 125  
 Discipline in Other States 68  
 Disclosure 69  
 Discontinuance of A Course 103  
 Discontinuance of Establishment Training Apprentices 103  
 Discontinuance of School 96  
 Dispensers 104  
 Diversion Rate and Volume 172  
 Diversions Subject to Measurement and Reporting 174  
 Dividing Fees 68  
 Documentation 70, 144, 205  
 Documents 64  
 Domestic 169  
 Domestic Mutual Insurance Company 53  
 Duplicate License 30, 34, 38  
 Duplicate License and Certificate Fee 183  
 Duration and Setting of Supervised Practice 120  
 Duties 199

**E**

EFFECTIVE DATE 160  
 ELECTROLOGY EXAMINATION 93  
 ELECTROLOGY REQUIREMENTS FOR LICENSURE BY EXAMINATION 92  
 ELIGIBILITY AND PRIORITY RATING OF PROJECTS 143  
 ELIGIBLE APPLICANTS 142  
 ENFORCEMENT IN CASE OF UNAUTHORIZED USE (RULE 30) 171  
 ENFORCEMENT METHODS (RULE 40) 173  
 ENFORCEMENT OF DIVERSION RATE AND VOLUME (RULE 33) 172  
 ENFORCEMENT OF PERIOD OF USE (RULE 37) 172  
 ENFORCEMENT OF PLACE OF USE (RULE 36) 172  
 ENFORCEMENT OF POINT OF DIVERSION (RULE 35) 172  
 ENFORCEMENT OF PRIORITY (RULE 34) 172  
 ENFORCEMENT OF THE USE OF WATER RIGHTS FROM SURFACE WATER SOURCES PRIOR TO USING WATER FROM GROUND WATER SOURCES (RULE 39) 173  
 ESTHETICS REQUIREMENTS FOR LICENSURE BY EXAMINATION 92  
 EXAMINATIONS - GENERAL 93  
 EXAMINATIONS (Rule 10) 64  
 EXCHANGE ACCESS QUALITY STANDARDS 159  
 EXEMPTION FOR NEVER OCCUPIED RESIDENTIAL IMPROVEMENTS 162, 164  
 EXEMPTION FOR VIRTUAL COLLOCATION 160  
 EXEMPTIONS 21  
 EXPIRATION OF VETERINARY TECHNICIAN CERTIFICATION - NOTICE - RENEWAL 194  
 EXTRAORDINARY DIVIDENDS AND OTHER DISTRIBUTIONS 22

Eastern Snake Plain Aquifer (ESPA) 169  
 Education 129, 131  
 Education Requirements 183, 186  
 Electrologist Instructor/Student Ratio 97  
 Electrology Apprentices 102  
 Eligibility To Be Licensed 115  
 Eligibility for Reexamination 93  
 Eligibility to Reapply After Revocation 36  
 Eligible Activity Priority Ranking 209  
 Emergency 154  
 Endorsement Certification 89  
 Endorsement May Be Required 90  
 Enforcement 170  
 Enlargement 169  
 Establishment 89  
 Esthetics Apprentices 102  
 Evaluation and Accreditation of Supervised Practice 121  
 Evaluation of Patient/Client Before Task Assignment 80  
 Evidence 66  
 Evidence to be Presented at Hearing 55  
 Examination 37, 69, 128, 179  
 Examination Dates and Places 100  
 Examination Fee 118  
 Examination Fees 29, 108  
 Examination, Reexamination or Reciprocity Fee In Addition to Application Fee 118  
 Examinations 33  
 Excessive Funds 223  
 Exchange 171  
 Executive Officer 20  
 Exemption 37  
 Exemptions 136, 184, 187  
 Existing Agreements 50  
 Existing Uses Exempted 173  
 Expanded Functions 66  
 Expanded Functions Qualifications 67  
 Expenditure of Grant Funds 144  
 Experience 130, 131  
 Expert Opinion 20  
 Expiration and Renewal 194  
 Expiration of Approval of Stock Offering 61  
 Expired Certification Fees 195

- Exploiting Patients 69
- F**
- FACSIMILE PRESCRIPTION TRANSMISSION 152
- FEE SCHEDULE 25
- FEES 108, 117, 124, 182
- FINANCIAL RESPONSIBILITY 34
- FITTERS 37
- FORM AR-1 - CERTIFICATE OF AS-SUMING INSURER - 18.01.75 51
- FORM E 24
- FORMS - ADDITIONAL INFORMATION AND EXHIBITS 19
- FORMS - GENERAL REQUIREMENTS 18
- FORMS - INCORPORATION BY REFERENCE, SUMMARIES AND OMISSIONS 18
- Facilities-based Competitor 158
- Facility Requirements 71, 72
- Facsimile Prescription 153
- Facsimile Prescriptions of Schedules III, IV, and V 153
- Failing A Section of Exam 112
- Failure To Pass Examination 93
- Failure to Comply 146
- Failure to Identify Beneficiary. 50
- Failure to Renew or Reinstate Certification 195
- False Statements 186
- Fees 33, 37
- Fees Shall Not Be Prorated Or Returnable 109
- Fees and Donations 145
- Fees are Non-refundable 124
- Filing Application 89, 102
- Filing of Audited Financial Report, Report on Significant Deficiencies in Internal Qualifications, and Accountant's Letter of Qualification 40
- Filing of Notification of Adverse Financial Condition Report 40
- Filing of Record of Instruction 91, 92
- Filing of SEC Forms with Department 61
- Filing on Behalf of Affiliated Insurers 21
- Filings of Statement 18
- Financial Reporting 50
- Fine in Addition to Other Discipline 85, 105
- Fingerprint Processing 29
- Fire Protection Sprinkler Contractor 32
- Fire Protection Sprinkler System 32
- Firefighting 169
- First-Aid Kit 89
- Fitters 32
- Floors, Walls and Ceilings 104
- Follow the Ethical Standards of a Licensed Professional Counselor 124
- Forfeiture or Abandonment 171
- Form 156
- Form B Format 21
- Form of Financial Statements 41
- Format 18
- Forms 143
- Forms Intended to Be Guides 18
- Forms and Fees 34
- Fraud 68
- Fraud, Misrepresentation, or Deception 195
- Funding 205
- Funding Allocations 222
- G**
- GENERAL ANESTHESIA AND DEEP SEDATION (Rule 55) 71
- GENERAL PROVISIONS OF THE RECREATIONAL PROGRAMS 142
- GENERAL STATEMENTS OF MANAGEMENT POLICY (RULE 20) 170
- GRANT APPLICATION PROCESS 204
- GRANT AWARD 222
- GRANTOR 46
- GUIDELINES FOR USE OF SERVICE EXTENDERS TO LICENSED PSYCHOLOGISTS 118
- Gender 88
- General Anesthesia 66
- General Project Description 207
- General Provisions for Licensed Psychologists Extending Their Services Through Others 118
- General Requirements 71, 72
- Graduate Occupational Therapist 77
- Graduate Occupational Therapy Assistant 77
- Graduation 65
- Grandfather Clause 72
- Grant 140
- Grant Application 204
- Grant Cycle 144
- Grant Management 218
- Grant Modification 145
- Grantor's Rights 48
- Ground Water 169, 170
- Ground Water District 169
- Ground Water Management Area 169
- Ground Water Management District 169
- Grounds 185
- Grounds for Discipline 79, 199
- Grounds for Not Recognizing as Qualified 41
- H**
- Harassment 68
- Hearings 42
- Hospital Grade 89
- Hours Credit Toward Licensure 91
- Hours Required 132
- Housing Activity 203
- Housing Need and Impact 211
- Hydrographer 169
- I**
- ICDBG Application Information Form 206
- ICDBG Budget Form Fully Completed by the Applicant 207
- ICDBG Dollars Per Person 209
- INCIDENT REPORTING 73
- INCORPORATION BY REFERENCE (Rule 6) 63
- INSPECTION AND SANITARY RULES 103
- INTERCONNECTION STANDARDS 159
- INTEREST ON AMOUNTS OF TAX ACCRUING OR UNPAID 165
- Implementation 219
- Improper Supervision 195
- In Good Standing 41
- Incorporation by Reference 18
- Incumbent Telephone Corporation 158
- Independence 43
- Information Required 22
- Information to be Contained in Application 54
- Information to be Included 215

Inspections 33  
Institutional Practitioner 154  
Instructor Reexamination 101  
Instrument Cleaning 104  
Instrument Sanitation 104  
Insurance 35  
Insurance Company Subsidiary Investment Requirements for Mutual Holding Company 58  
Insurer 40  
Insurer Requirements 15  
Interested Person 53  
Interference with Diversion 171  
Intermediate Holding Company 54  
Interruption in Training 115  
Interview 65  
Introduction 219  
Inventory 156

**J**

Job Creation or Retention Activity 203  
July 1, 1981, Through December 31, 1993 166

**K**

Kit 97, 99

**L**

LEGAL AUTHORITY 52, 139, 158, 177  
LEGAL AUTHORITY (RULE 0) 168  
LICENSE 179  
LICENSE AND APPLICATION FEES (Rule 12) 64  
LICENSE RENEWAL 180  
LICENSE, DISPLAY, RENEWALS, DUPLICATES, APPLICATIONS 34  
LICENSURE OF DENTAL SPECIALISTS (Rule 45) 69  
Late Renewal 181  
Legal Compliance 69  
Length of Suspension 36  
Letters of Credit 45  
License Cancellation 75  
License Renewal 29, 199  
Licensed Professional Counselor and Licensed Pastoral Counselor Examination or Reexamination Fee 124  
Licenses and Certificates 104

Licensing 198  
Licensing Procedures 33  
Licensing and Certification Standards 196  
Licensure Board 77  
Licensure Fee 74  
Licensure by Endorsement 78  
Licensure by Examination 78, 81  
Limitations on Use 147  
Limited Application 54, 55  
Limited Clientele Activity 202  
Limited Permit 79  
Limited, Suspended, or Revoked Certification of License 195  
List 156  
Local Anesthesia 65  
Local Matching Funds Per Person 209  
Location 156  
Location and Condition 136  
Losses Paid But Not Recovered 46

**M**

MANAGEMENT OF WATER USES IN CRITICAL GROUND WATER AREAS AND GROUND WATER MANAGEMENT AREAS (RULE 100) 175  
MANDATORY CONTINUING VETERINARY EDUCATION 183  
MARKET AND MARKET SHARE 24  
MEASUREMENT AND REPORTING OF GROUND WATER LEVELS (RULE 60) 175  
MEASUREMENT AND REPORTING OF WATER DIVERSION AND USE (RULE 50) 174  
MERGERS OF MUTUAL INSURANCE HOLDING COMPANIES 58  
MODELS FOR THE ELECTROLOGY EXAMINATION 94  
MORTICIAN RESIDENT TRAINEE 114  
Maintained 156  
Maintenance and Operation 145  
Major Cost Increases 144  
Management 140  
Management Plan 175  
Measurement Accuracy 172  
Measurement and Reporting Procedures 174, 175  
Measurement at Point of Diversion

172  
Measurement by Districts 175  
Measurements by Right Holder 175  
Member of the Immediate Family 54  
Mental Or Physical Illness 68  
Merger or Acquisition of Control 30  
Methods of Anxiety and Pain Control 63  
Minimum Criteria 216  
Minimum Passing Score 112  
Minimum Requirements 36  
Minimum Square Footage 96  
Minimum Two Hundred (200) Hours of Instruction 95  
Minor Cost Increases 144  
Minor Purchases 147  
Miscellaneous 27  
Misrepresentation 69  
More Than One Class of Stock Allowed 60  
Motorbike Recreation (MBR) Fund 140  
Mutual Holding Company Annual Financial Statement Filing 58  
Mutual Insurance Holding Company 54

**N**

NAME AND ADDRESS 24  
NAME AND ADDRESSES OF AFFILIATED COMPANIES 24  
NATIONAL OBJECTIVES 210  
NATURE AND PURPOSE OF THE PROPOSED MERGER OR ACQUISITION 24  
NATURE OF BUSINESS 24  
NOTICE OF HEARING 55  
NOTIFICATION OF ADVERSE FINANCIAL CONDITION 42  
Nail Technology Apprentices 102  
National Board Examination 65  
Nature of Use 173  
Negotiated Price 147  
Network Element 158  
Non-Qualifying Improvements 162, 164  
Non-incumbent Telephone Corporation 158  
Notes to Financial Statements 41  
Notice and Form for Renewal 195  
Notice of Hearing 55  
Notice of Intent 215  
Notice of Management Plan 175

Notice of Registration Requirements 146  
 Notice to Director 22

**O**

OBLIGATIONS 46  
 OCCUPATIONAL THERAPY AIDE 79  
 OTHER AUTHORITIES REMAIN APPLICABLE (RULE 4) 168  
 Occupational Therapist 77  
 Occupational Therapists Practicing in Idaho on Effective Date of These Rules 79  
 Occupational Therapy 77  
 Occupational Therapy Aide 77  
 Occupational Therapy Assistant 77  
 Off-Road Motor Vehicle (ORMV) Account 140  
 Off-Road Motor Vehicle (ORMV) Account Advisory Committee 141  
 Off-Road Motor Vehicle (ORMV) Program 141  
 Off-Road Motor Vehicle Account 142  
 Office Conditions 68  
 Oral Test 93  
 Order or Designation 171  
 Organization 219  
 Original Appointment 29  
 Original Authorization 25  
 Original License Application 28  
 Original License Fee 124  
 Original Registrations, Licenses, and Annual Renewals 108  
 Other Credentials 67  
 Other Dividends 23  
 Other Provisions Applicable 46  
 Other Provisions of Reinsurance Agreement 49  
 Out Of State Applicants 96  
 Out of State Apprenticeship 103  
 Out-of-Priority Use 171  
 Outside School Activities 96  
 Outside of Water Districts 174  
 Overpayments 30

**P**

PARTIAL FILLING OF PRESCRIPTIONS 155  
 PERMITTED CONDITIONS 48  
 PERSONAL FLOTATION DEVICES (PFD's) 135  
 PETITION FOR EXEMPTION FROM

RULES 402-410 160  
 PETITION FOR SUSPENSION OF RULES 402-410 160  
 PHYSICAL COLLOCATION STANDARDS 159  
 PLAN OF REORGANIZATION 55  
 POWERS AND DUTIES OF THE STATE FIRE MARSHAL 32  
 PRE-ACQUISITION NOTIFICATION 20  
 PREREQUISITES FOR REGISTRATION 154  
 PROFESSIONAL SERVICES 223  
 PROHIBITED PRACTICES 61  
 PROJECT CATEGORIES 213  
 PROJECT CONVERSIONS 146  
 PROJECT TIME PERIOD 144  
 PROPOSED FINES 84, 105  
 PROVISIONAL LICENSURE (Rule 25) 66  
 PUBLIC FACILITIES AND HOUSING GRANTS 208  
 PUBLIC RECORDS 140  
 Parent or Affiliated Insurer 16  
 Partial Payments 145  
 Partial Quantities 155  
 Partially Grant Funded 147  
 Participation Manual 141  
 Passing Score 180  
 Patient Management 69  
 Payment of Commissions 61  
 Percentage of ICDBG Dollars in Total Project 208  
 Percentage of Local Matching Funds 208  
 Period of Time 37  
 Permit Renewal 72, 73  
 Permits 146  
 Person 169  
 Personal Flotation Devices Required 135  
 Personal Interview 79  
 Personnel 71, 72  
 Persons Affected 32  
 Pharmacist 154  
 Physical or Mental Condition 195  
 Place of Use 172  
 Plan of Reorganization 54, 57  
 Planning 213  
 Possess a Bachelor's Degree 124  
 Posting of License 34  
 Power Consumption Coefficient (PCC)

169  
 Practitioner 154  
 Pre-Application Activities 143  
 Pre-acquisition Notification - Non-domiciliary Insurer 20  
 Pre-acquisition Notification - Domestic Insurer 20  
 Premises 104  
 Presentation 215  
 Prevention of Injury 170  
 Prevention or Elimination of Slum and Blight 212  
 Previous Actions 213  
 Prior Approval of Plans 37  
 Prior to Beginning Training 102  
 Priority Rating Criteria 143  
 Professional Supervision of An Occupational Therapy Aide is Defined As 80  
 Prohibit Invasion of Trust Corpus 47  
 Prohibited Duties 66  
 Project 141, 205  
 Project Completion 145  
 Project Liability 146  
 Project Management 145  
 Project Manager 141  
 Properly Licensed 43  
 Provide Proof of Current Certification or Licensure 132  
 Provisional License 65, 66  
 Provisions of Trust Agreement 47  
 Public Comment 143  
 Public Entity 141  
 Public Hearing 60  
 Public Use/Nondiscrimination 145  
 Publications 30  
 Purchase and Bidding Requirements 146  
 Purpose 32  
 Purpose of Continuing Education 132  
 Purposes for Applying Amounts Drawn Upon Trust Account 47

**Q**

QUALIFICATION OF APPLICANTS 202  
 QUALIFICATIONS FOR CONTRACTORS LICENSE 33  
 QUALIFICATIONS OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT 41  
 QUALIFICATIONS OF INSURANCE COMPANIES TO ISSUE VARI-

ABLE CONTRACTS 15  
Qualifications 69, 86, 179  
Qualifications for Service Extenders 119  
Qualifications of Supervisors 121  
Qualifying Residential Improvements 162, 164  
Quantity 155  
Quarterly Filings 28

**R**

REAL PROPERTY 147  
RECIPROCITY/LIMITED EXAMINATION 113  
REDUCTION FROM LIABILITY FOR REINSURANCE CEDED TO AN UNAUTHORIZED ASSUMING INSURER 45  
REFUSAL TO NEGOTIATE 160  
REGISTRATION OF INSURERS - STATEMENT FILING 20  
REGULATION - COMPLIANCE 57  
REGULATION OF HOLDING COMPANY SYSTEM 61  
REORGANIZATION OF DOMESTIC MUTUAL INSURER WITH MUTUAL INSURANCE HOLDING COMPANY 58  
REORGANIZATION OF FOREIGN MUTUAL INSURER WITH MUTUAL INSURANCE HOLDING COMPANY 58  
REPORT ON SIGNIFICANT DEFICIENCIES IN INTERNAL CONTROLS 42  
REPORTING OF STOCK OWNERSHIP AND TRANSACTIONS 61  
REQUIRED CONDITIONS 46  
REQUIREMENT OF PRESCRIPTION - SCHEDULE II 154  
REQUIREMENTS FOR DENTAL LICENSURE (Rule 16) 65  
REQUIREMENTS FOR LICENSURE BY ENDORSEMENT 89  
REQUIREMENTS FOR LICENSURE/CERTIFICATION 128  
REQUIREMENTS FOR SUPERVISED PRACTICE 120  
RESALE STANDARDS 159  
RESPONSIBILITY FOR EQUIPMENT 146  
REVIEW AND RANKING NARRATIVE FOR BUSINESS EXPANSION PROJECTS 216  
REVIEW AND RANKING OF DOWNTOWN REVITALIZATION 219  
REVOCATION OR SUSPENSION - GROUNDS FOR DISCIPLINE OF VETERINARY TECHNICIANS 195  
REVOCATION, SUSPENSION, AND NON-RENEWAL OF LICENSE 35  
RULES FOR COSMETOLOGY SCHOOLS APPROVED TO TEACH ELECTROLOGY 96  
RULES FOR COSMETOLOGY SCHOOLS TEACHING ESTHETICS 98  
RULES OF SCHOOLS OF COSMETOLOGY 94  
Ranking Criteria 216  
Rates and Forms 30  
Rating Organization 27  
Readily Retrievable 155  
Reciprocity Fee 118  
Record Of Training 97  
Record of Instruction 89  
Record of Training 95, 101, 103  
Records 33  
Records Required 95, 97, 98, 103  
Recovery of Water 171  
Recreational Program 141  
Recreational Program Managers 141  
Recreational Trails Fund 142  
Recreational Trails Fund (RTF) Advisory Committee 141  
Recreational Trails Fund (Recreational Trails Program) (RTF) 141  
Recreational Vehicle (RV) Account 141  
Recreational Vehicle (RV) Advisory Committee 141  
Recreational Vehicle (RV) Coordinator 141  
Recreational Vehicle (RV) Program 141  
Recreational Vehicle Account 142  
Reexamination Fee 118  
Refunds 30  
Registration in Domiciliary State 21  
Regulation of Diversions 170  
Reimbursement 144  
Reinstatement 27  
Reinstatement of Expired Licenses 181  
Reinstatement to Active License Status 180  
Reinsurance 26  
Reinsurance Agreement Provisions 48  
Reinsurance Agreement in Conjunction with Trust Agreement. 48  
Remainder 155  
Renewal 34, 38  
Report 187  
Report of Certified Public Accountant 40  
Representation of Director's Approval Not Allowed 61  
Request Deemed Granted 22  
Requests for Extension 144  
Required Equipment 97  
Required Forms 113  
Required Provisions 59  
Required of Trustee 47  
Requirement When a Certificate/License is Cancelled 132  
Requirements 70  
Requirements For Issuance 132  
Requirements for Instructor License 100  
Requirements for Student Instructor 101  
Reservation 27  
Reserves for Allocated Reinsured Loss Expenses and Unearned Premiums 46  
Reserves for Reinsured Losses Incurred but not Reported 46  
Reserves for Reinsured Losses Reported and Outstanding 46  
Resident Trainee Applicants to Qualify 115  
Resignation of Trustee 48  
Resolving a Conversion 146  
Responsibility 186  
Responsibility of Pharmacist 153  
Responsible Maintenance Employee 32  
Restorative Procedures 66  
Restrictions 215  
Review 143  
Review and Ranking Narrative 207  
Review of Application 28

Review of Examination 180  
Review of Miscellaneous Documents 28  
Revocation 186  
Rotation 171  
Routes of Administration 63  
Rules 89  
Rural Telephone Company 158

**S**

SECTIONS 205  
SERVICE EVIDENCE 36  
SEVERABILITY PROVISION 43  
STOCK OFFERINGS 58  
SUMMARY OF REGISTRATION - STATEMENT FILING 20  
SUPERVISING VETERINARIANS 187  
SUSPENSION, REVOCATION OR RESTRICTION OF ANESTHESIA PERMIT 73  
Safety 104  
Scale 36  
Schedule 214  
Schedule II Facsimile Prescriptions 153  
Schedules I and II 155  
Schedules III, IV, V 155  
Scheduling of Hearing 55  
School 89  
School of Electrology/Esthetics 89  
Scope 17, 44, 52, 139, 168, 179  
Scope and Requirement of Examination for License 101  
Scope of Practice 69  
Securities 45  
Separate Description and Cost Estimate 221  
Sexual Misconduct 69  
Shifting of Funds 222  
Six Month Allowance For Credit 92  
Slum and Blight 220  
Small Employer Health Program 30  
Small Purchase Procurement 223  
Sole Benefit of Beneficiary 47  
Solicitation Permit 27  
Sponsoring Mortician 115  
Sprinklers 36  
Staff 141  
Standard Application 54, 56  
Standard of Care 195  
Standby Applications 222  
State Trust for Outdoor Recreation En-

hancement (STORE) 141  
State Trust for Outdoor Recreation Enhancement Fund 142  
Statement of Cash Flows 40  
Statement of Changes in Capital and Surplus 41  
Statement of Operations 40  
Statement of Purpose 183, 186, 187  
Statement that Filing Insurer is the Principal Insurer 21  
Stock 54  
Stock Offering 54  
Stockwater 169  
Storage 173  
Storage of Equipment 104  
Student Registration 96, 101  
Subject to Laws of State in Which Trust is Established 47  
Submission of Plans 36  
Submit Proof Of Birth 102  
Submit Proof of Birth 89  
Subsequent Offerings of Publicly Traded Stock 60  
Summaries or Outlines 19  
Supervision 69  
Supplies 93  
Supplying Facsimile Equipment 153  
Surface Water 170  
Surface Water First 172, 173  
Surface Water Unavailable 173  
Surface Water Use First 171  
Suspension or Revocation of License 33

**T**

TEMPORARY CERTIFICATION 186  
TEMPORARY PRACTICE 132  
THRESHOLD 216  
TITLE AND SCOPE 17, 32, 39, 44, 52, 139, 177, 179  
TITLE AND SCOPE (RULE 1) 168  
TRANSACTIONS SUBJECT TO PRIOR NOTICE - NOTICE FILING 22  
TRUST AGREEMENTS QUALIFIED UNDER SECTION 061 46  
Table of Contents 206  
Telephone Corporation 159  
Temporary License 29  
Temporary Permits 115  
Term of Certification 194  
Termination 93, 100

Termination of Project Selection for Funding 222  
Termination of Trust Account 48  
Terms Defined in Holding Company Act 20  
Tests 36  
The ICDBG Project 220  
The Practical Examination 93  
Threshold Factors 206  
Time 156  
Time Period 34  
Timeline For Passing Exam 113  
Title 17, 44, 52, 139, 168, 179  
Title 41, Chapter 3, Idaho Code, Requirements 16  
Toilet Facilities 104  
Totally Grant Funded 146  
Towels 104  
Trails Program 142  
Trails Program Supervisor 142  
Training and Examinations 196  
Transfer of Assets 48  
Trust Account 46  
Trustee Shall Be Liable 47  
Trustee's Authority to Invest 48

**U**

UNBUNDLED ACCESS STANDARDS 159  
UNPROFESSIONAL CONDUCT (Rule 40) 67  
USE OF OTHER ANESTHESIA PERSONNEL 73  
Ultimate Controlling Person 20  
Unacceptable Supervision 121  
Unauthorized Diversion 170  
Unauthorized Insurer 21  
Unauthorized Treatment 69  
Unauthorized Use 170  
Unbundled Element 159  
Uniforms 104  
Unlawful Practice 68, 195  
Unlicensed Practice 68  
Unserved Area 159  
Use Not In Compliance with Water Right 171  
Use Of Intoxicants 68  
Use Without Water Right 171  
Use of Facsimile Machine by Pharmacy 153

**V**

VOLUNTARY NEGOTIATION 160



Vending Machines 29  
Veterinary Technician Certification Fee  
182  
Violation of Law, Rules or Order 195  
Violations of Insurance Code 61  
Voice Verification 153  
Voluntary Compliance 171

**W**

WRITTEN INTERPRETATIONS  
18, 53, 139  
WRITTEN INTERPRETATIONS  
(RULE 2) 168  
Waste 172  
Water Districts 173  
Water Measurement District 170  
Water Measurement Guideline 170  
Water Right 170  
Water Supply 104  
Waters of the State or Public Water  
170  
Waterways Improvement Fund 142  
Waterways Improvement Fund (WIF)  
142  
Waterways Improvement Fund Grant  
Advisory Committee 142  
Waterways Improvement Fund Grant  
Limit 144  
Wavier of Compliance not Allowed  
57  
What Aids Cannot Do 80  
Who Shall Enter the Agreement 46  
Who Shall Hold Assests in Trust Ac-  
count 46  
Written Examination 93  
Written Notification of Termination  
47  
Written Orders 66