

IDAHO ADMINISTRATIVE BULLETIN

Table of Contents

September 6, 2000 -- Volume 00-9

TABLE OF CONTENTS	1
PREFACE	6
<u>IDAPA 01 - IDAHO BOARD OF ACCOUNTANCY</u>	
01.01.01 - IDAHO ACCOUNTANCY RULES	
Docket No. 01-0101-0001	
Notice Of Pending Rule.....	15
<u>IDAPA 07 - DIVISION OF BUILDING SAFETY, ELECTRICAL BUREAU</u>	
07.01.06 - RULES GOVERNING THE USE OF NATIONAL ELECTRICAL CODE	
Docket No. 07-0106-0001	
Notice Of Temporary And Proposed Rule	16
07.01.11 - RULES GOVERNING CIVIL PENALTIES	
Docket No. 07-0111-0001	
Notice Of Temporary And Proposed Rule	18
07.03.11 - RULES GOVERNING MANUFACTURED/MOBILE HOME LICENSING	
Docket No. 07-0311-0001	
Notice Of Proposed Rule.....	21
<u>IDAPA 09 - IDAHO DEPARTMENT OF LABOR</u>	
09.01.30 - RULES OF THE BENEFITS BUREAU	
Docket No. 09-0130-0001	
Notice Of Temporary And Proposed Rule	23
09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU	
Docket No. 09-0135-0001	
Notice Of Proposed Rule.....	29
09.01.50 - RULES OF THE WAGE AND HOUR SECTION	
Docket No. 09-0150-0001	
Notice Of Proposed Rule.....	35
<u>IDAPA 10 - IDAHO BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS</u>	
10.01.01 - RULES OF PROCEDURE	
Docket No. 10-0101-0001	
Notice Of Proposed Rule.....	37

10.01.02 - RULES OF PROFESSIONAL RESPONSIBILITY Docket No. 10-0102-0001 Notice Of Proposed Rule.....	43
10.01.03 - RULES FOR CORNER PERPETUATION AND FILING Docket No. 10-0103-0001 Notice Of Proposed Rule.....	45
10.01.04 - RULES OF CONTINUING PROFESSIONAL DEVELOPMENT Docket No. 10-0104-0001 Notice Of Proposed Rule.....	47
<u>IDAPA 11 - IDAHO STATE POLICE</u>	
11.02.01 - RULES OF THE IDAHO STATE BRAND BOARD Docket No. 11-0201-0001 (Fee Rule) Notice Of Proposed And Temporary Rule	50
11.05.01 - RULES GOVERNING ALCOHOL BEVERAGE CONTROL Docket No. 11-0501-0001 Notice Of Proposed And Temporary Rule	61
11.10.01 - RULES GOVERNING THE ILETS SYSTEM - IDAHO CRIMINAL JUSTICE INFORMATION SYSTEM Docket No. 11-1001-0001 (Repeal) Notice Of Pending Rule.....	64
11.10.01 - RULES GOVERNING THE ILETS SYSTEM - IDAHO LAW ENFORCEMENT TELETYPEWRITER SYSTEM Docket No. 11-1001-0002 (Rewrite) Notice Of Pending Fee Rule.....	65
Docket No. 11-1001-0003 (Fee Rule) Notice Of Temporary And Proposed Rule	66
<u>IDAPA 12 - DEPARTMENT OF finance</u>	
12.01.08 - RULES PURSUANT TO THE IDAHO SECURITIES ACT Docket No. 12-0108-0001 Notice Of Pending Rule.....	68
<u>IDAPA 15 - OFFICE OF THE GOVERNOR IDAHO COMMISSION ON AGING</u>	
15.01.03 - RULES GOVERNING OMBUDSMAN FOR THE ELDERLY PROGRAM Docket No. 15-0103-0001 Notice Of Temporary And Proposed Rule	69
<u>IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE</u>	
16.02.08 - VITAL STATISTICS RULES Docket No. 16-0208-0001 Notice Of Proposed Rule.....	71

16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO	
Docket No. 16-0304-0001	
Notice Of Temporary And Proposed Rule	74
16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM IN IDAHO	
Docket No. 16-0309-9913	
Notice Of Vacation Of Rulemaking	84
Docket No. 16-0309-0001	
Notice Of Pending Rule.....	85
Docket No. 16-0309-0003	
Notice Of Pending Rule.....	86
Docket No. 16-0309-0004	
Notice Of Pending Rule.....	87
Docket No. 16-0309-0006	
Notice Of Temporary And Proposed Rule	88
Docket No. 16-0309-0007	
Notice Of Temporary And Proposed Rule	90
16.04.12 - RULES GOVERNING THE INDIVIDUAL AND FAMILY GRANT PROGRAM	
Docket No. 16-0412-0001	
Notice Of Corrective Action And Temporary And Proposed Rule	94
16.06.02 - RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING	
Docket No. 16-0602-0001 (Rewrite)	
Notice Of Proposed Rule.....	99
Docket No. 16-0602-0002 (Repeal)	
Notice Of Proposed Rule.....	164
<u>IDAPA 18 - DEPARTMENT OF INSURANCE</u>	
18.01.26 - RULE TO IMPLEMENT THE MANAGED CARE REFORM ACT	
Docket No. 18-0126-9901	
Notice Of Vacation Of Rulemaking	165
18.01.47 - VALUATION OF LIFE INSURANCE POLICIES INCLUDING THE INTRODUCTION AND USE OF NEW SELECT MORTALITY FACTORS	
Docket No. 18-0147-9901	
Notice Of Pending Rule.....	166
<u>IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD</u>	
25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD	
Docket No. 25-0101-0001 (Fee Rule)	
Notice Of Proposed Rule.....	167

IDAPA 31 - PUBLIC UTILITIES COMMISSION**31.71.03 - RAILROAD SAFETY/SANITATION RULES**Docket No. **31-7103-0001**

Notice Of Proposed Rule.....185

IDAPA 35 - STATE TAX COMMISSION**35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES**Docket No. **35-0103-0001**

Notice Of Temporary And Proposed Rule.....187

Docket No. **35-0103-0002**

Notice Of Temporary And Proposed Rule.....190

Docket No. **35-0103-0003**

Notice Of Proposed Rule.....193

35.01.04 - IDAHO ESTATE AND TRANSFER TAX ADMINISTRATIVE RULESDocket No. **35-0104-0001**

Notice Of Proposed Rule.....198

IDAPA 36 - IDAHO BOARD OF TAX APPEALS**36.01.01 - IDAHO BOARD OF TAX APPEALS RULES**Docket No. **36-0101-0001**

Notice Of Proposed Rule.....199

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**39.02.02 - RULES GOVERNING VEHICLE AND VESSEL DEALER LICENSE
REQUIREMENTS - MOTOR VEHICLES**Docket No. **39-0202-0001**

Notice Of Temporary And Proposed Rule.....201

**39.02.71 - RULES GOVERNING DRIVERS LICENSE VIOLATION
POINT COUNT SYSTEM**Docket No. **39-0271-0001**

Notice Of Temporary And Proposed Rule.....203

IDAPA 50 - COMMISSION OF PARDONS AND PAROLE**50.01.01 - RULES OF THE COMMISSION OF PARDONS AND PAROLE**Docket No. **50-0101-9903**

Notice Of Pending Rule.....207

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO**Docket No. **58-0101-9902** (Originally **16-0101-9902**)

Notice Of Extension Of Comment Period.....208

Docket No. **58-0101-9905** (Originally **16-0101-9905**)

Notice Of Negotiated Rulemaking (Second Notice).....210

58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS Docket No. 58-0102-0002 Notice Of Proposed Rule.....	212
58.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE Docket No. 58-0105-0001 Notice Of Proposed Rule.....	252
58.01.12 - RULES FOR ADMINISTRATION OF WASTEWATER TREATMENT FACILITY LOANS Docket No. 58-0112-0001 (Originally 16-0112-0001) Notice Of Proposed Rule.....	258
58.01.22 - RULES FOR ADMINISTRATION OF PLANNING GRANTS FOR PUBLIC DRINKING WATER FACILITIES Docket No. 58-0122-0001 (Originally 16-0122-0001) Notice Of Temporary And Proposed Rule.....	273
SUBJECTS AFFECTED INDEX	284
BULLETIN SUMMARY OF PROPOSED RULEMAKINGS	296
ABRIDGED CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES	301
SUBJECT INDEX	310

Preface

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

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

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is cited by year and issue number. For example, Bulletin 99-1 refers to the first Bulletin issued in calendar year 1999, Bulletin 00-1 refers to the first Bulletin issued in calendar year 2000, etc. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 1 refers to January; Volume No. 2 refers to February; and so forth. Example: The Bulletin published in January of 1999 is cited as Volume 99-1, the December 1998 Bulletin is cited as Volume 98-12. The March 2000 Bulletin is cited as Volume 00-3.

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

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

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

TYPES OF RULES PUBLISHED IN THE ADMINISTRATIVE BULLETIN

The state of Idaho administrative rulemaking process comprises five distinct activities; Proposed, Negotiated, Temporary, Pending, and Final rulemaking. In the majority of cases, the process begins with proposed rulemaking and ends with final rulemaking. The following is a brief explanation of each type of administrative rule.

NEGOTIATED RULE

Negotiated rulemaking is a process in which all interested parties and the agency seek a consensus on the content of the rule. Agencies are encouraged to proceed through this informal rulemaking whenever it is feasible to do so. Publication of the text in the Administrative Bulletin by the agency is optional. This process should lead the

rulemaking to the temporary and/or proposed rule stage.

PROPOSED RULE

A proposed rulemaking is an action by an agency in which the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a notice of proposed rulemaking in the Bulletin. The notice of proposed rulemaking must include:

- a) the specific statutory authority for the rulemaking including a citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking;*
- b) a statement in nontechnical language of the substance of the proposed rule, including a specific description of any fee or charge imposed or increased;*
- c) the text of the proposed rule prepared in legislative format;*
- d) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;*
- e) the manner in which persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent;*
- f) the manner in which persons may request an opportunity for an oral presentation; and*
- g) the deadline for public (written) comments on the proposed rule.*

As stated, the text of the proposed rule must be published in the Bulletin. After meeting the statutory rulemaking criteria for a proposed rule, the agency may proceed to the pending rule stage. A proposed rule does not have an assigned effective date unless published in conjunction with a temporary rule docket. An agency may vacate a proposed rulemaking if it decides not to proceed further with the promulgation process.

TEMPORARY RULE

Temporary rules may be adopted only when the governor finds that it is necessary for:

- a) the protection of the public health, safety, or welfare; or*
- b) compliance with deadlines in amendments to governing law or federal programs; or*
- c) conferring a benefit.*

If a rulemaking meets any one or all of the above requirements, a rule may become effective before it has been submitted to the legislature for review and the agency may proceed and adopt a temporary rule.

A temporary rule expires at the conclusion of the next succeeding regular session of the legislature unless the rule is approved, amended, or modified by concurrent resolution or when the rule has been replaced by a final rule.

In cases where the text of the temporary rule is the same as that of the proposed rule, the rulemaking can be done concurrently as a temporary/proposed rule. State law requires that the text of a proposed or temporary rule be published in the Administrative Bulletin. Combining the rulemaking allows for a single publication of the text.

An agency may rescind a temporary rule that has been adopted and is in effect if the rule is being replaced by a new temporary rule or has been published concurrently with a proposed rulemaking that is being vacated.

PENDING RULE

A pending rule is a rule that has been adopted by an agency under the regular rulemaking process and remains subject to legislative review before it becomes a final, enforceable rule.

When a pending rule is published in the Bulletin, the agency is required to include certain information in the Notice of Pending Rule. This includes:

- a) the reasons for adopting the rule;*
- b) a statement of any change between the text of the proposed rule and the pending rule with an explanation of the reasons for any changes;*
- c) the date the pending rule will become final and effective; and*
- d) an identification of any portion of the rule imposing or increasing a fee or charge.*

Agencies are required to republish the text of the rule when substantive changes have been made to the proposed rule. An agency may adopt a pending rule that varies in content from that which was originally proposed if the subject matter of the rule remains the same, the pending rule is a logical outgrowth of the proposed rule, and the original notice was written so as to assure that members of the public were reasonably notified of the subject. It is not always necessary to republish all the text of the pending rule. With the permission of the Rules Coordinator, only the Section(s) that have changed from the proposed text are republished. If no changes have been made to the previously published text, it is not required to republish the text again and only the Notice of Pending Rule is published.

FINAL RULE

A final rule is a rule that has been adopted by an agency under the regular rulemaking process and is in effect.

No pending rule adopted by an agency will become final and effective until it has been submitted to the legislature for review. Where the legislature finds that the agency has violated the legislative intent of the statute under which the rule was made, a concurrent resolution will be adopted rejecting, amending, or modifying the rule or any part thereof. A Notice of Final Rule must be published in the Idaho Administrative Bulletin for any rule that is rejected, amended, or modified by the legislature showing the changes made. A rule that has been reviewed by the legislature and has not been rejected, amended, or modified will become final with no further legislative action. No rule shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review. However, a rule which is final and effective may be applied retroactively, as provided in the rule.

AVAILABILITY OF THE ADMINISTRATIVE CODE AND BULLETIN

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

SUBSCRIPTIONS AND DISTRIBUTION

For subscription information and costs of publications, please contact the Department of Administration, Office of the Administrative Rules Coordinator, 650 W. State Street, Room 100, Boise, Idaho 83720-0306, telephone (208) 332-1820.

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

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

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

Internet Access - The Administrative Code and Administrative Bulletin, as well as individual chapters and dockets, are available on the Internet at the following address:

<http://www.state.id.us/> - from Idaho Home Page select "Legal" then "Administrative Rules" link.

EDITOR'S NOTE: All rules are subject to frequent change. Users should reference all current issues of the Administrative Bulletin for negotiated, temporary, proposed, pending, and final changes to all rules, or call the Office of the Administrative Rules at (208) 332-1820.

HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

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

IDAPA 38.05.01.060.02.c.ii.

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

"IDAPA 38." refers to the Idaho Department of Administration.

"05." refers to Title 05 which is the Department of Administration's Division of Purchasing.

"01." refers to Chapter 01 of Title 05, "Rules of the Division of Purchasing".

"060." refers to Major Section 060, "Content of the Invitation to Bid".

"02." refers to Subsection 060.02.

"c." refers to Subsection 060.02.c.

"ii." refers to Subsection 060.02.c.ii.

DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rulemaking actions (documents) are assigned a "DOCKET NUMBER". The "Docket Number" is a series of numbers separated by a hyphen "-", (38-0501-9901). The docket numbers are published sequentially by IDAPA designation (e.g. the two-digit agency code). The following example is a breakdown of a typical rule docket:

"DOCKET NO. 38-0501-9901"

"38-" denotes the agency's IDAPA number; in this case the Department of Administration.

"0501-" refers to the TITLE AND CHAPTER numbers of the agency rule being promulgated; in this case the Division of Purchasing (TITLE 05), "Rules of the Division of Purchasing" (Chapter 01).

"9901" denotes the year and sequential order of the docket submitted and published during the year; in this case the first rulemaking action of the chapter published in calendar year 1999.

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

"(BREAK IN CONTINUITY OF SECTIONS)"

INTERNAL AND EXTERNAL CITATIONS TO ADMINISTRATIVE RULES IN THE CODE AND BULLETIN

When making a citation to another Section or Subsection that is part of the same rule, a typical internal citation may appear as follows:

"...as found in Section 201 of this rule." OR "...in accordance with Subsection 201.06.c. of this rule."

It may also be cited to include the IDAPA, Title, and Chapter number also, as follows:

"...in accordance with IDAPA 38.05.01.201."

"38" denotes the IDAPA number of the agency.

"05" denotes the TITLE number of the agency rule.

"01" denotes the Chapter number of the agency rule.

"201" references the main Section number of the rule that is being cited.

Citations made within a rule to a different rule chapter (external citation) should also include the name of the Department and the name of the rule chapter being referenced, as well as the IDAPA, Title, and Chapter numbers. The following is a typical example of an external citation to another rule chapter:

"...as outlined in the Rules of the Department of Administration, IDAPA 38.04.04, 'Rules Governing Capitol Mall Parking.'"

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2000

Volume No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date
00-1	January, 2000	*November 17, 1999	January 5, 2000
00-2	February, 2000	December 22, 1999	February 2, 2000
00-3	March, 2000	January 19, 2000	March 1, 2000
00-4	April, 2000	February 23, 2000	April 5, 2000
00-5	May, 2000	March 22, 2000	May 3, 2000
00-6	June, 2000	April 19, 2000	June 7, 2000
00-7	July, 2000	May 24, 2000	July 5, 2000
00-8	August, 2000	June 21, 2000	August 2, 2000
00-9	September, 2000	July 19, 2000	September 6, 2000
00-10	October, 2000	**August 22, 2000	October 4, 2000
00-11	November, 2000	September 20, 2000	November 1, 2000
00-12	December, 2000	October 25, 2000	December 6, 2000

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2001

Volume No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date
01-1	January, 2001	*November 15, 2000	January 3, 2001
01-2	February, 2001	December 20, 2000	February 7, 2001
01-3	March, 2001	January 24, 2001	March 7, 2001
01-4	April, 2001	February 21, 2001	April 4, 2001
01-5	May, 2001	March 21, 2001	May 2, 2001
01-6	June, 2001	April 18, 2001	June 6, 2001
01-7	July, 2001	May 23, 2001	July 4, 2001
01-8	August, 2001	June 20, 2001	August 1, 2001
01-9	September, 2001	July 18, 2001	September 5, 2001
01-10	October, 2001	**August 22, 2001	October 3, 2001
01-11	November, 2001	September 19, 2001	November 7, 2001
01-12	December, 2001	October 24, 2001	December 5, 2001

**Last day to submit proposed rulemaking before moratorium begins and last day to submit pending rules to be reviewed by the legislature.*

***Last day to submit proposed rules in order to complete rulemaking for review by legislature.*

INDEX OF STATE AGENCY IDAPA NUMBERS AND ADMINISTRATIVE CODE VOLUME NUMBERS		
IDAPA 01	ACCOUNTANCY , Board of	VOLUME 1
IDAPA 38	ADMINISTRATION , Department of	VOLUME 8
IDAPA 44	ADMINISTRATIVE RULES COORDINATOR , Office of the	VOLUME 8
IDAPA 02	AGRICULTURE , Idaho Department of	VOLUME 1
IDAPA 40	ARTS , Idaho Commission on the	VOLUME 8
IDAPA 03	ATHLETIC COMMISSION	VOLUME 1
IDAPA 04	ATTORNEY GENERAL , Office of the	VOLUME 1
IDAPA 53	BARLEY COMMISSION , Idaho	VOLUME 9
IDAPA 51	BEEF COUNCIL , Idaho	VOLUME 9
IDAPA 07	BUILDING SAFETY , Division of Electrical Board Plumbing Board Building Code Advisory Board Public Works Contractors License Board	VOLUME 1
IDAPA 43	CANOLA AND RAPESEED COMMISSION , Idaho	VOLUME 8
IDAPA 48	COMMERCE , Idaho Department of	VOLUME 8
IDAPA 06	CORRECTION , Board of	VOLUME 1
IDAPA 19	DENTISTRY , Board of	VOLUME 6
IDAPA 08	EDUCATION , Board of	VOLUME 2
IDAPA 10	ENGINEERS AND LAND SURVEYORS , Board of Professional	VOLUME 2
IDAPA 58	ENVIRONMENTAL QUALITY , Department of	VOLUME 9
IDAPA 12	FINANCE , Department of	VOLUME 2
IDAPA 13	FISH AND GAME , Department of	VOLUME 2
IDAPA 14	GEOLOGISTS , Board of Registration of Professional	VOLUME 2
IDAPA 15	GOVERNOR , Office of the Idaho Commission on Aging Idaho Commission for the Blind Idaho Forest Products Commission Division of Human Resources and Personnel Commission Idaho Liquor Dispensary Emergency Response Commission	VOLUME 3

INDEX OF STATE AGENCY IDAPA NUMBERS AND ADMINISTRATIVE CODE VOLUME NUMBERS		
IDAPA 16	HEALTH AND WELFARE , Department of	VOLUMES 3, 4, & 5
IDAPA 45	HUMAN RIGHTS COMMISSION	VOLUME 8
IDAPA 30	IDAHO STATE LIBRARY	VOLUME 7
IDAPA 11	IDAHO STATE POLICE (Law Enforcement)	VOLUME 2
IDAPA 17	INDUSTRIAL COMMISSION	VOLUME 5
IDAPA 18	INSURANCE , Department of	VOLUME 5
IDAPA 05	JUVENILE CORRECTIONS , Department of	VOLUME 1
IDAPA 09	LABOR , Idaho Department of	VOLUME 2
IDAPA 20	LANDS , Department of	VOLUME 6
IDAPA 52	LOTTERY COMMISSION , Idaho State	VOLUME 9
IDAPA 22	MEDICINE , Board of	VOLUME 6
IDAPA 23	NURSING , Board of	VOLUME 6
IDAPA 24	OCCUPATIONAL LICENSES , Board of Board of Architectural Examiners Board of Barber Examiners Board of Chiropractic Physicians Board of Cosmetology Board of Environmental Health Specialist Examiners Board of Hearing Aid Dealers and Fitters Board of Landscape Architects Board of Morticians Board of Examiners of Nursing Home Administrators Board of Optometry Board of Podiatry Board of Psychologist Examiners Board of Social Work Examiners Idaho Counselor Board Board of Dentistry Board of Acupuncture Real Estate Appraiser Board Board of Residential Care Facility Administrators	VOLUME 6
IDAPA 25	OUTFITTERS AND GUIDES LICENSING BOARD	VOLUME 6
IDAPA 50	PARDONS AND PAROLE , Commission for	VOLUME 9
IDAPA 26	PARKS AND RECREATION , Department of	VOLUME 6
IDAPA 59	PUBLIC EMPLOYEES RETIREMENT SYSTEM OF IDAHO - PERSI	VOLUME 9
IDAPA 27	PHARMACY , Board of	VOLUME 6

INDEX OF STATE AGENCY IDAPA NUMBERS AND ADMINISTRATIVE CODE VOLUME NUMBERS		
IDAPA 29	POTATO COMMISSION, Idaho	VOLUME 7
IDAPA 31	PUBLIC UTILITIES COMMISSION	VOLUME 7
IDAPA 41	PUBLIC HEALTH DISTRICTS	VOLUME 8
IDAPA 33	REAL ESTATE COMMISSION	VOLUME 7
IDAPA 34	SECRETARY OF STATE, Office of the	VOLUME 7
IDAPA 49	SHORTHAND REPORTERS, Board of Certified	VOLUME 8
IDAPA 36	TAX APPEALS, Idaho Board of	VOLUME 7
IDAPA 35	TAX COMMISSION, State	VOLUME 7
IDAPA 39	TRANSPORTATION, Department of	VOLUME 8
IDAPA 54	TREASURER, Office of the State	VOLUME 9
IDAPA 21	VETERANS SERVICES, Division of	
IDAPA 46	VETERINARY MEDICAL EXAMINERS, Board of	VOLUME 8
IDAPA 55	VOCATIONAL AND TECHNICAL EDUCATION, Division of	VOLUME 9
IDAPA 47	VOCATIONAL REHABILITATION, Division of	VOLUME 8
IDAPA 37	WATER RESOURCES, Department of	VOLUME 8
IDAPA 42	WHEAT COMMISSION, Idaho	VOLUME 8

IDAPA 01 - IDAHO BOARD OF ACCOUNTANCY

01.01.01 - IDAHO ACCOUNTANCY RULES

DOCKET NO. 01-0101-0001

NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2001 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-204(1), Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, [June 7, 2000, Volume 00-6, pages 12 and 13.](#)

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Barbara R. Porter, Executive Director, at 208-334-2490.

DATED this 13th day of July, 2000.

Barbara R. Porter, Executive Director
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**IDAPA 01
TITLE 01
Chapter 01**

IDAHO ACCOUNTANCY RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 00-6, June 7, 2000, pages 12 and 13.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and adoption by the 2001 Idaho State Legislature as a final rule.

IDAPA 07 - DIVISION OF BUILDING SAFETY, ELECTRICAL BUREAU
07.01.06 - RULES GOVERNING THE USE OF NATIONAL ELECTRICAL CODE

DOCKET NO. 07-0106-0001

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2000.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-1006, 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 September 20, 2000.

The hearings 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:

To prohibit the installation of electrical service equipment on manufactured homes, which were manufactured prior to January 1, 1992.

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 protect the public health, safety or welfare.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to proceed with a temporary rule to ensure compliance with the National Electrical Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Gary Malmen, Bureau Chief, (208) 334-2183.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2000.

DATED this 28th day of June, 2000.

Gary Malmen
Bureau Chief
Division of Building Safety, Electrical Bureau
277 N. 6th St.
P. O. Box 83720
Boise, ID 83720
Telephone: (208) 334-2183
Facsimile: (208) 334-4891

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0106-0001

011. NATIONAL ELECTRICAL CODE, 1999 EDITION.

01. Documents. Under the provisions of Section 54-1001, Idaho Code, the National Electrical Code, 1999 Edition, is hereby adopted for the state of Idaho and shall be in full force and effect on and after June 1, 1999, except the following: (7-1-00)T

a. eCompliance with Article 675-8(b) will include the additional requirement that a disconnecting means always be provided at the point of service from the utility no matter where the disconnecting means for the machine is located. ~~(4-5-00)~~(7-1-00)T

b. Compliance with Article 550-23(b)(2) shall limit installation of a service on a manufactured home to those homes manufactured after January 1, 1992. (7-1-00)T

02. Availability. This document is available at the office of the Division of Building Safety, Electrical Bureau at 277 N. 6th Street, Boise, Idaho. ~~(4-5-00)~~(7-1-00)T

IDAPA 07 - DIVISION OF BUILDING SAFETY. ELECTRICAL BUREAU

07.01.11 - RULES GOVERNING CIVIL PENALTIES

DOCKET NO. 07-0111-0001

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2000.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-1006, 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 September 20, 2000.

The hearings 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:

To provide rules for the imposition of civil penalties and for the hearing of appeals regarding civil penalties by the Electrical Board.

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 provision of the law passed by the 2000 Legislature under Senate Bill No. 1345, as amended.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to proceed with a temporary rule to implement the statute.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Gary Malmen, Bureau Chief, (208) 334-2183.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2000.

DATED this 28th day of June, 2000.

Gary Malmen
Bureau Chief
Division of Building Safety, Electrical Bureau
277 N. 6th St.
P. O. Box 83720
Boise, ID 83720
Telephone: (208) 334-2183
Facsimile: (208) 334-4891

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0111-0001

IDAPA 07
TITLE 01
Chapter 11

07.01.11 - RULES GOVERNING CIVIL PENALTIES

000. LEGAL AUTHORITY.

The Idaho electrical board is authorized under Section 54-1006(5), Idaho Code, to establish by administrative rule the civil penalty to be paid for citations issued. (7-1-00)T

001. TITLE AND SCOPE.

These rules shall be cited as IDAPA 07.01.11, "Rules Governing Civil Penalties," Division of Building Safety. These rules establish the criteria and amount of civil penalties to be levied for violations of Title 54, Chapter 10, Idaho Code and IDAPA 07.01.03, "Rules of Electrical Licensing and Registration". (7-1-00)T

002. WRITTEN INTERPRETATIONS.

This agency has no written interpretations of this chapter. (7-1-00)T

003. ADMINISTRATIVE APPEALS.

Upon notice of a civil penalty, the notified party shall within ten (10) days comply with the penalty or file a written request for a hearing for appeal with the Idaho state electrical board. Bond in the amount of the penalty shall accompany the request for hearing. (7-1-00)T

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into this rule. (7-1-00)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The principal place of business of the Division of Building Safety, Electrical Bureau is in Boise, Idaho. The office is located at 277 N. 6th Street, Boise, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: Division of Building Safety, Electrical Bureau, P.O. Box 83720, Boise, Idaho 83720. (7-1-00)T

006. -- 010. (RESERVED).

011. CIVIL PENALTIES.

The following acts shall subject the violator to penalties based on the following schedule. (7-1-00)T

01. Electrical Contractor. Except as provided by Section 54-1016, Idaho Code, any person who acts, or purports to act as an electrical contractor, as defined by Section 54-1003A, Idaho Code, without a valid Idaho state electrical contractor's license shall be subject to a civil penalty of not more than five hundred dollars (\$500) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (7-1-00)T

02. Employees. Any person, who knowingly employs a person who does not hold a valid Idaho state electrical license or registration as required by Section 54-1010, Idaho Code and IDAPA 07.01.03, "Rules of Electrical Licensing and Registration" to perform electrical installations, shall be subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (7-1-00)T

03. License Or Registration. Except as provided by Section 54-1016, Idaho Code, any person performing electrical work as a journeyman electrician as defined by Section 54-1003A(2), Idaho Code, specialty electrician as defined by Section 54-1003A(6), Idaho Code, apprentice electrician as defined by Section 54-1003A(3), Idaho Code, or a specialty electrical trainee as defined by Section 54-1003A(8), Idaho Code, without a valid license or registration shall be subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (7-1-00)T

04. Journeyman To Apprentice Ratio. Any electrical contractor or industrial account employing electricians in violation of the journeyman to apprentice ratio established by the board shall be subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (7-1-00)T

05. Supervision. Any contractor failing to provide constant on-the-job supervision to apprentice electricians by a qualified journeyman electrician shall be subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (7-1-00)T

06. Performance Outside Scope Of License. Any specialty electrical contractor or specialty electrical journeyman performing electrical installations, alterations or maintenance outside the scope of the specialty electrical license shall be subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (7-1-00)T

07. Fees And Permits. Any person failing to pay applicable fees or properly post an electrical permit shall be subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (7-1-00)T

08. Corrections. Any person who fails to make corrections in the time allotted in the notice on any electrical installation as set forth in Section 54-1004, Idaho Code, shall be subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (7-1-00)T

09. Gross Violation. In the case of continued, repeated or gross violation of Title 54, Chapter 10, Idaho Code, or IDAPA 07.01.03, a license revocation shall be initiated for licensees under this chapter and nonlicensees shall be subject to prosecution by the appropriate jurisdiction under Idaho law. (7-1-00)T

10. Judicial Review. Any party aggrieved by the final action of the board shall be entitled to a judicial review thereof in accordance with the provisions of Title 67, Chapter 52, Idaho Code. (7-1-00)T

012. -- 999. (RESERVED).

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.03.11 - RULES GOVERNING MANUFACTURED/MOBILE HOME LICENSING
DOCKET NO. 07-0311-0001
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 44-2102, 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 September 20, 2000.

The hearings 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:

Removes the homebuyer's disclosure form itself from the rule so that the form can be revised as needed.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this is a non-technical, housekeeping matter.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jack Rayne, Building Programs Manager, at (208) 334-3896.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2000.

DATED this 22nd day of August 2000.

Jack Rayne
Building Programs Manager
Division of Building Safety, Building Bureau
277 N. 6th, Ste. 100
P. O. Box 83720
Boise, ID 83720-0048
Telephone: (208) 334-3896
Facsimile: (208) 334-2683

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0311-001

030. MANUFACTURED HOME BUYER'S INFORMATION AND DISCLOSURE FORM.

~~01-~~ **Required Disclosure:** The ~~new~~ Manufactured Home Buyer's Information and Disclosure Form shall be presented by manufactured home dealers to each purchaser of a new manufactured home, and shall be executed by the dealer and purchaser at the time the initial purchase order is signed for the sale of a new manufactured home. The

form is available at the Division office.

(4-5-00)()

02. ~~New Manufactured Home Buyer's Information And Disclosure Form.~~

~~IDAHO DIVISION OF BUILDING SAFETY
MANUFACTURED HOUSING SECTION
277 N 6TH ST, SUITE 100
BOISE, ID 83720-6001~~

~~NEW MANUFACTURED HOME BUYER'S
INFORMATION AND DISCLOSURE FORM~~

~~FINANCING TERMS AND CONDITIONS:~~

~~Several different financing options are available to buyers of manufactured homes. These may be through the dealer, local banks, savings and loan associations, credit unions, finance companies or other financial institutions. Those financing options and financing costs are dependent upon whether the home is financed with real estate or is considered personal property. The type of financing that the buyer secures will dictate the financing costs that the buyer will incur. Depending on which financing institution is chosen, and the type of financing needed, these are some of the financing costs that may be associated with the purchase of a manufactured home. This list is not inclusive and other financing costs may be required.~~

- ~~* Loan Origination Fee~~
- ~~* Appraisal Fee~~
- ~~* Mortgage Insurance~~
- ~~* Discount Points~~
- ~~* Title Insurance~~
- ~~* Records and/or Filing Fees~~
- ~~* Construction Loan Costs~~
- ~~* Hazard Insurance~~
- ~~* Flood Insurance if required~~
- ~~* Inspection Fees~~
- ~~* Interest for Credit~~
- ~~* Credit Report~~
- ~~* Escrow's for Taxes and Insurance~~

~~The financial institution that will be extending the financing for the buyer's manufactured home will provide the buyer with an estimate of financing costs for loans with real estate.~~

~~ADDITIONAL COSTS:~~

~~There may be additional costs associated with the purchase of a manufactured home that the buyer will want to review with the dealer, which could include the following:~~

- ~~* Land Purchase~~
- ~~* Realtor Fees/Commissions~~
- ~~* Site Rent or Lease~~
- ~~* Land or Site Development~~
- ~~* Foundation Expense~~
- ~~* Set-up Costs~~
- ~~* Well and Septic Installation~~
- ~~* Garage, Carport, Decks, Etc.~~
- ~~* Landscaping, Driveway, or Roads~~
- ~~* Permits and Impact Fees~~
- ~~* Electrical, Gas and Plumbing~~
- ~~* Connections~~

~~There may be other expenses and fees associated with the purchase of a manufactured home. Buyers should consult with their manufactured housing dealer and local city or county building departments for information about their specific situation, and refer to appropriate consumer guide publications.~~

~~BUYER'S STATEMENT:~~ ~~I acknowledge that I have read and understand all aspects of the above disclosure prior to purchase.~~

Dealer's Name _____ Idaho Dealer License No. _____
 Dealer's Address _____
 Buyer's Name(s) (Please Print) _____
 Buyer's Signature(s) _____ Date _____

~~MHDF-2~~
~~6/99~~

~~Original - Dealer~~

~~Pink Copy - New Home Buyer~~

(4-5-00)

IDAPA 09 - IDAHO DEPARTMENT OF LABOR
09.01.30 - RULES OF THE BENEFITS BUREAU
DOCKET NO. 09-0130-0001
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective July 1, 2000.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 72-1333(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 September 20, 2000.

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:

Section 425 is being amended to add new methods for filing benefit claims. The rule will provide that, in addition to the current filing methods, claims may be filed electronically and interstate claims may be filed by telephone. Claims that are filed electronically will be effective as of the Sunday preceding the date the claim is initiated in the system. Claims that are filed by telephone will be effective as of the Sunday preceding the date a Department claims taker receives the call.

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:

With new technology available, the Department wishes to adopt additional, more convenient methods for unemployment insurance benefit claimants to use when filing claims with the Department. These additional methods of filing will confer a benefit to unemployment insurance benefit claimants.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted as the agency determined it was not feasible due to the simple nature of the proposed rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Roger Holmes at 208/334-6317.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2000.

DATED this 19th day of July, 2000.

Roger Holmes
UI Benefits Chief
Department of Labor
317 W. Main Street
Boise, ID 83735
208/334-6317
Fax: 208/334-6301

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0130-0001

425. NEW CLAIMS/ADDITIONAL CLAIMS.

Ref. Sec. 72-1308, Idaho Code.

(3-19-99)

01. Claims For Benefits, Delayed Filing. When any claims taking office has reason to believe there will be more claimants than can be served on any given day, an appointment slip must be used to adjust the claims load for the filing of ~~new~~ initial claims. Appointment slips shall be issued to potential claimants who cannot be served on the date they first make contact with the office. A claimant who receives an appointment slip does not forfeit any benefit rights provided, however, that he subsequently files his claim on the day assigned. When any claims taking office has determined that a claimant's attempt to file an initial claim was delayed due to problems with the Department's telephone or electronic filing system, the claim may be backdated if the claimant reported the access problem to a local office within seven (7) days of the date the problem occurred. When a claim is backdated, the continued claim report for the period of time involved will be considered timely if filed during the same week or the next week after the claim is filed. ~~(3-19-99)(7-1-00)T~~

02. Effective Date —~~New~~ Of Backdated Claims. ~~A new~~ When the filing of an initial claim for benefits is effective on the Sunday of the week in which it is filed unless it is backdated due to local office scheduling problems or ~~filed on an itinerant basis~~ a Department system malfunction, the effective date shall be the Sunday of the week in which the claimant first reported to the local office to file the claim or attempted to access the telephone or electronic claim filing system and there were problems with the system. ~~(3-19-99)(7-1-00)T~~

03. Effective Date Of Mail Claims/Itinerant Filing Of New Claims. ~~A claim for benefits filed at an itinerant point on the first regular itinerant visit after the claimant's separation will be effective as of the Sunday preceding the first business day of the period of unemployment. If filed at a date later than the first regular itinerant visit, the claim shall be effective as of the Sunday preceding the date the claim is actually filed. If a claimant has been granted permission to file his initial claim by mail, and he completes and returns the claim form within seven (7) days of the date the form was mailed to him from the local office, the effective date of the claim shall be the Sunday preceding the date of his original request to file the claim. If the claimant fails to mail the claim form within the seven (7) day period, and mail facilities would have permitted such mailing within the period, the effective date of the claim shall be the Sunday preceding the date he mails the claim form. Ref. Sec. 72-1308, Idaho Code. New intrastate and interstate claims may be filed electronically, in person at a local office or at an itinerant location, or by mail if permitted by a claims examiner. New interstate claims may also be filed by telephone.~~ ~~(3-19-99)(7-1-00)T~~

a. ~~Taking New Claims by Mail. A claims examiner may allow a claimant to file an initial claim by mail when in person filing would cause undue hardship.~~ Electronically Filed Claims. Claimants may file claims electronically by accessing Idaho's Internet claim system through the Internet or, if filing through an Idaho Works location, by accessing the Department's Intranet claim system. Electronically filed claims will be date and time stamped at the time the claimant begins the application process. The claim will not be completed until the claimant has finished the process and has electronically submitted the claim to the Department. A claim filed via the Internet or an Idaho Works location shall be effective as of the Sunday of the week of the date shown on the date/time stamp. A claim filed electronically will automatically be assigned to the local office that services the zip code for the mailing address provided by the claimant. ~~(3-19-99)(7-1-00)T~~

b. In-person Filing. A claimant may file a claim in person at the local Job Service office serving the claimant's area of residence. Job Service offices are open Monday through Friday, 8 a.m. until 5 p.m., except on state holidays. When a claimant reports to a local office to file a claim during regular business hours, the claim shall be effective as of the Sunday of that week. ~~(7-1-00)T~~

~~b.c.~~ Interstate ~~Claimant Mail~~ Claims. Any claim filed ~~by mail~~ by an interstate claimant shall be accepted in the same manner and under the same conditions for which ~~mail~~ claims are accepted from intrastate claimants. ~~Ref. Sec. 72-1368(1), Idaho Code.~~ Interstate claimants may also file claims by calling the Department's interstate claims unit. A claim filed via telephone shall be effective as of the Sunday of the week in which the claimant first calls the interstate claims unit to initiate the claim. ~~(3-19-99)(7-1-00)T~~

d. Itinerant Locations. Claims may be filed at itinerant points established by the Department for the taking of claims. A claim filed at an itinerant point on the first regular itinerant visit after the claimant's separation will be effective as of the Sunday preceding the first business day of the period of unemployment. If the claimant has filed the claim on a date later than the first regular itinerant visit, the claim shall be effective as of the Sunday preceding the date the claim is actually filed. (7-1-00)T

e. Mailed Claims. A claims examiner may allow a claimant to file a claim by mail when in-person filing or other methods of filing would cause undue hardship. If a claimant who has been granted permission to file a claim by mail completes and returns the claim form to the local office within seven (7) days of the date the form was mailed to the claimant by the Department, the claim will be effective as of the Sunday preceding the date the claimant requested permission to file the claim by mail. If the claimant fails to return the claim form within the seven (7) day period, and mail facilities were available for such mailing within the period, the claim will be effective as of the Sunday preceding the date the claimant mails the claim form, as determined by the postmark. (7-1-00)T

04. Itinerant Claims. Itinerant points for the taking of unemployment insurance claims may be established, changed, or discontinued at administrative discretion. Where itinerant service is being inaugurated, changed, or discontinued for a particular community, public notice of such inauguration, change, or discontinuance shall be conspicuously posted and public notification placed in a daily or weekly newspaper of general distribution for the affected community two (2) weeks prior to such inauguration, change or discontinuance. Ref. Sec. 72-1368(1), Idaho Code. (3-19-99)

05. Registration For Work. All claimants who cannot demonstrate a firm attachment to an employer, industry, or union will be required to register for employment. Unless otherwise requested by the claimant, such registration should apply only to the days or parts of the days that the claimant is in fact unemployed and available for employment. The work history of each claimant shall be recorded, and a work application completed and filed. Ref. Sec. 72-1366(2), Idaho Code. (3-19-99)

06. Registration/Reporting Requirements – Interstate Claimants. Interstate claimants shall be required to register for work in the same manner and to comply with the same reporting requirements prescribed for regular Idaho intrastate claimants ~~at either a local office or an itinerant point.~~ Ref. Sec. 72-1366(1), (2), Idaho Code. ~~(3-19-99)~~(7-1-00)T

07. Requirement To Provide Information. Any individual ~~wishing to claim benefits shall file~~ing a claim ~~through the local office serving his area of residence and~~ for benefits shall provide the ~~local office~~ Department with: ~~(3-19-99)~~(7-1-00)T

a. ~~h~~His legal name; ~~(3-19-99)~~(7-1-00)T

b. ~~h~~His address where mail is delivered to him; ~~(3-19-99)~~(7-1-00)T

c. ~~h~~His place of last employment; ~~(3-19-99)~~(7-1-00)T

d. ~~h~~The employer's name and correct mailing address; ~~a list of all other employment in the past eighteen (18) months;~~ ~~(3-19-99)~~(7-1-00)T

e. ~~h~~His Social Security Number; ~~(3-19-99)~~(7-1-00)T

f. ~~h~~The reason for separation from all applicable employers; ~~and~~ ~~(3-19-99)~~(7-1-00)T

g. ~~h~~His plans for finding other employment at the earliest possible time; ~~and~~ ~~(3-19-99)~~(7-1-00)T

h. If requested by the Department, a list of all other employment in the past eighteen (18) months. (7-1-00)T

i. Failure to provide this information may result in ineligibility for benefits until the information is provided. Ref. Sec. 72-1366(1), Idaho Code. ~~(3-19-99)~~(7-1-00)T

08. Right To Claim Benefits. In no instance, under any circumstances or conditions, shall an individual be denied the right to file a claim and to receive in writing a decision regarding his eligibility. Ref. Sec. 72-1366(1), Idaho Code. (3-19-99)

09. Separation Information. Unless separation information has been provided by other means, such as a mass layoff list, a notice of the filing of a claim and a request for separation information must be completed and mailed to the claimant's last employer and each next preceding employer until the wages received by the claimant equal or exceed twelve (12) times his weekly benefit amount. For all such employers, the claimant must provide the Department with the employer's name and correct mailing address, the claimant's dates of employment, the type of employment performed, and the claimant's gross earnings from each employment. Ref. Sec. 72-1366 (1), (5) and (14), Idaho Code. (3-19-99)

10. Separation Notice. (3-19-99)

a. Request for Separation Information. Every employer (including employers not subject to Title 72, Chapter 13, Idaho Code), after receiving a request for separation information from the Department because an individual has filed a claim for benefits, shall submit to the Department a report of the reasons for the separation whenever such claimant: (4-5-00)

- i. Left his employment voluntarily; (3-19-99)
- ii. Was discharged from his employment due to misconduct; (3-19-99)
- iii. Is unemployed due to a strike, lockout, or other labor dispute; or (3-19-99)
- iv. Was separated for any other reason except lack of available work. (3-19-99)

b. Employer Response. The employer's response shall be completed in accordance with instructions printed on the Department's request for separation information and shall be completed by the employer or on the employer's behalf by someone having personal knowledge of the facts therein stated. The completed statement must be filed with the Department within ten (10) days from the date the request for separation information was mailed to the employer or by the extended due date, if any, granted by the Department. If the due date is a Saturday, Sunday, or holiday, the time for filing the employer's statement shall be extended to include the following working day. The employer's statement may be filed by one (1) of the following methods with the office listed on the request for separation information: (4-5-00)

i. Personal delivery. The employer's statement may be personally delivered to the office by handing it to a Department employee at the office. The date of personal delivery shall be noted on the statement by the Department employee and shall be deemed the date of filing. The statement must be delivered to a Department employee by 5 p.m. on a business day to be deemed filed on that date. (3-19-99)

ii. Faxing or e-mailing. The employer's statement may be faxed or e-mailed to the office if sent to the fax number or e-mail address listed on the request for separation information. A faxed or e-mailed statement that is received by 5 p.m. (as of the time zone of the office receiving the fax or e-mail) on a business day shall be deemed filed on that date. A faxed or e-mailed statement that is received on a weekend or holiday or after 5 p.m. on a business day shall be deemed filed on the next business day. (4-5-00)

iii. Mailing. The employer's statement may be mailed to the office. A mailed statement shall be deemed filed on the date of mailing as determined by the postmark on the envelope containing the statement. Ref. Sec. 72-1337 and 72-1368, Idaho Code. (3-19-99)

iv. Telephone. The employer's statement may be provided to the office by telephone if: (4-5-00)

(1) The employer calls the office telephone number listed on the request for separation information between 8 a.m. and 5 p.m. (as of the time zone of the office receiving the call) on a business day and asks to provide the separation statement to a Department representative; or (4-5-00)

- (2) A Department representative calls the employer to obtain the separation information. (4-5-00)
- v. The employer must provide the separation information to a Department representative on or before the employer's due date for providing the information, in order for the statement to be deemed timely filed. (4-5-00)
- c. Date of Mailing of Request by the Department. The date indicated by the Department on the request for separation information as "Date of Mailing" shall be presumed to be the date the request was deposited in the United States mail, unless shown otherwise by a preponderance of competent evidence. (3-19-99)
- d. Extending Due Date. To obtain an extension of the due date for the separation statement, an employer must contact the local office and request the extension by the date the separation statement is otherwise due. (3-19-99)
- e. Appealing Ruling of Untimeliness. If, in the initial determination on the claim, it is determined that an employer has failed to file the completed separation statement within the time provided in this rule, the employer may assert that there was good cause for such failure or that the requested information was provided by the due date by filing an appeal of that determination in accordance with IDAPA 09.01.06, "Rules of the Appeals Bureau," Section 012, within fourteen (14) days of the date the determination was mailed. (3-19-99)

11. Taking Filing Of An Additional Claim Or Reopening A Claim. A claim series may be reestablished, ~~subsequent to the filing of a new claim, in person, by mail, or by telephone. Ref. Sec. 72-1368(1), Idaho Code~~ electronically, in person at a local office or at an itinerant location, by telephone, or by mail. The additional or reopened claim (AC/RO) must be filed during a week in which the claimant becomes unemployed and/or wants to reestablish the claim. (3-19-99)(7-1-00)T

a. ~~Effective Date of AC/RO. An additional or reopened claim shall be effective on the Sunday of the first week in which the claimant contacts a local office to reestablish the claim. Ref. Sec. 72-1368(1), Idaho Code. In-~~ person Filing. When a claimant reports to a local office to file an AC/RO during regular business hours, the claim shall be effective as of the Sunday of that week. (3-19-99)(7-1-00)T

i. ~~AC/RO filing. If a claimant chooses to use a reopen/additional claim form rather than file by telephone, the form may be mailed or personally delivered to a local office. The claim must be filed during a week in which the claimant becomes unemployed and/or wants to reestablish the claim. The postmark of a mailed reopen/additional claim form establishes the date of filing.~~ (3-19-99)

ii. ~~Backdated claim. When a claim is backdated, the continued claim report for the period of time involved will be considered timely if filed during the same week or the next week after the reopen/additional claim is filed.~~ (3-19-99)

b. Mailing. A claimant may file an AC/RO by mailing the completed AC/RO documents to a local office. The claim shall be effective as of the Sunday preceding the date the claimant mails the documents, as determined by the postmark. (7-1-00)T

c. Electronic Filing. A claimant may file an AC/RO electronically by accessing Idaho's Internet claim system through the Internet or, if filing through an Idaho Works location, by accessing the Department's Intranet claim system. Electronically filed claims will be date and time stamped at the time the claimant begins the AC/RO process. The claim will not be completed until the claimant has finished the process and has electronically submitted the claim to the Department. A claim filed via the Internet or an Idaho Works location shall be effective as of the Sunday of the week of the date shown on the date/time stamp. (7-1-00)T

d. Telephone Filing. A claimant may file an AC/RO by telephone by calling a local office. A claim filed via telephone shall be effective as of the Sunday of the week in which the claimant first calls the local office to initiate the claim. (7-1-00)T

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

(3-19-99)

i. If the break in the claim series is two (2) weeks or longer, the claim must be reestablished by filing a reopen or additional claim; or (3-19-99)

ii. If the claimant is reporting excessive earnings for no more than two (2) consecutive weeks, the claim may be automatically reestablished if the claimant notifies the local office at the time of or prior to filing the report for the second week that he has become unemployed. Otherwise, the claim must be reestablished by filing a reopen/additional claim. (3-19-99)

12. Use Of Wage Credits. All unemployment insurance wage credits from any source which are assignable to the state of Idaho shall be used in establishing a claim and determining the claimant's monetary eligibility. Ref. Sec. 72-1367(1), Idaho Code. (3-19-99)

13. Valid Claim. To be a valid claim for benefits, a claim must be filed during a week of no work, a week of less than full-time work in which the total wages payable to the claimant for work performed in such week amount to less than one and one-half (1-1/2) times the claimant's weekly benefit amount, or a week in which the claimant is separated from employment. Ref. Sec. 72-1327A, Idaho Code. (3-19-99)

IDAPA 09 - IDAHO DEPARTMENT OF LABOR
09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU
DOCKET NO. 09-0135-0001
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1) and 67-5226, Idaho Code, notice is hereby given that this agency proposed rulemaking. The action is authorized pursuant to Section(s) 72-1333 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 September 20, 2000.

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:

Section 011 changes the special redetermination language to determination and explains the process for appealing this determination. Changes also clarify how these determinations are to be made and the provisions for appeal to be included in the determination. The purpose of the change to Section 166 is to clarify the method for selecting employers for audit and the records that will be examined, to clarify the statute of limitations for audit and collection actions, and to rearrange, renumber, and add paragraphs to make the clarifications easier to follow. The changes to Section 241 will specify that value will be based on the reasonable or fair market value of the item and delete an out-of-date table reflecting minimum lodging and board rates. The Section 262 change is to clarify that there are three different tests to use in determining which quarter to attribute wages to an employee. The rule will also provide that one of the tests applies when events are beyond the control of the "employer or the employee" instead of the employer and/or the employee.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because federal law prohibits negotiated rules that would impact either employers or employees unduly. These rules affect employers but are primarily directed to the Department's internal processes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mark Whitworth, Chief, Employer Accounts Bureau, 208/334-6385.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2000.

DATED this 26th day of July, 2000.

Mark Whitworth
Chief, Employer Accounts Bureau
Idaho Department of Labor
317 W. Main Street
Boise, ID 83735
Telephone: (208)334-6385
Fax: (208)334-6301

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0135-0001

011. GENERAL PROVISIONS.

The following Rules for Employer Contributions are adopted pursuant to Section 72-1333(2), Idaho Code. (3-19-99)

01. Quarterly Reporting. Subject employers shall report all wages paid for services in covered employment each calendar quarter. Ref. Sec. 72-1337, Idaho Code. (3-19-99)

02. Contribution Due Date. Contributions are due on or before the last day of the month following the calendar quarter except if the last day of the month falls on a weekend or holiday, in which case the next workday is the due date. Ref. Sec. 72-1349, Idaho Code. (3-19-99)

03. Penalties And Interest On Bankruptcy. Penalty and/or interest shall not be assessed on amounts covered in the Department's Proof of Claim with the Bankruptcy Court for the period after the filing date of the Bankruptcy Petition and ending with the conclusion of bankruptcy proceedings and distribution of assets. Post petition penalty and interest shall be compromised, provided the amount due is paid in full by a date established after the termination of the bankruptcy proceedings. Ref. Sec. 72-1356, Idaho Code. (3-19-99)

04. Late Penalty. Penalty shall be calculated on the unpaid balance for any amount not secured by a lien. Ref. Sec. 72-1354, Idaho Code. (3-19-99)

05. Lien Interest. Lien interest on a delinquent account shall be assessed against the remaining unpaid balance computed from the day following the recording of a tax lien, at a rate established by law. (See Section 056). Ref. Sec. 72-1360, Idaho Code. (3-19-99)

06. Penalty And Interest During Controversy. Penalty and/or interest shall be compromised for periods when a valid controversy exists if amounts determined to be due are paid in full by a date established at the conclusion of the issue. Ref. Sec. 72-1354 and 72-1360, Idaho Code. (3-19-99)

07. Confidential Information. Information obtained from an employer shall be held as confidential and shall not be released without the consent of the employer except as provided in IDAPA 09.01.08, "Rules on Disclosure of Information," Section 011 or when disclosure is necessary for collection of any amount due under the employment security law, or as otherwise provided by law or these rules. Ref. Sec. 9-340 and 72-1342, Idaho Code. (3-19-99)

08. Filing Of An Employer ~~Protest Or~~ Appeal. *A protest or appeal may be filed by an employer or his authorized representative.* ()

a. An appeal shall be in writing, signed by an interested party or representative, and shall contain words that, by fair interpretation, request the appeal process for a specific determination or redetermination of the Department. The appeal may be filed by delivering it, or faxing it, to any Job Service office or to the Employer Accounts Bureau of the Idaho Department of Labor, 317 W. Main Street, Boise, Idaho 83735. The date of personal delivery shall be noted on the appeal and shall be deemed the date of filing. A faxed appeal that is received by a Job Service office or the Employer Accounts Bureau by 5 p.m. (as of the time zone of the office receiving the appeal) on a business day shall be deemed filed on that date. A faxed appeal that is received by a Job Service office or the Employer Accounts Bureau on a weekend or holiday or after 5 p.m. on a business day shall be deemed filed on the next business day. An appeal may also be filed by mailing it to any Job Service office or to the Employer Accounts Bureau, Idaho Department of Labor, 317 W. Main Street, Boise, Idaho 83735. If mailed, the appeal shall be deemed to be filed on the date of mailing as determined by the postmark on the request. Ref. Sec. 72-1361, Idaho Code. (3-19-99)()

b. An appeal should be accompanied by a specific statement, information or evidence which provides an explanation as to why the original determination is erroneous. ()

c. In cases where a determination of amounts due is made by the Department pursuant to Section 72-

1385, Idaho Code, the reports shall replace the determination and will be used to establish the employer's liability if (i) the employer files reports for the periods covered by the determination before the determination becomes final, and (ii) the Department determines that the reports are accurate and complete. If the Department determines the reports are not accurate or complete, the reports shall be treated as an appeal of the determination. ()

09. ~~Request For Special Red~~Determinations. ~~A request for a special redetermination shall be in writing, signed by an interested party or representative. It must include an explanation as to why the protesting party disagrees with the original determination. The request may be delivered in person or mailed to the Department of Labor. A request for redetermination delivered in person shall be considered filed when received by a representative of the Department of Labor. A request for redetermination that is mailed shall be considered filed as of the date of the postmark on the envelope. A denial of a request for a special redetermination may not be appealed. Ref. Sec. 72-1368, Idaho Code.~~ Determinations shall be in writing, signed by an authorized representative of the director, and shall contain provisions which advise the interested parties of their right to appeal the determination within fourteen (14) days from the date of mailing of the determination in accordance with Section 72-1361, Idaho Code. ~~(3-19-99)~~()

10. Determination Of Payment Date. Each amount shall be deemed to have been paid on the date that the Department receives payment thereof in cash or by check or other order for the payment of money honored by the drawer on presentment; provided, that if sent through the mail, it shall be deemed to have been paid as of the date mailed as determined by the postmark on the envelope containing same, or the date of the check in lieu of a postmark. Provided further, that in the case of payments received by means of garnishment, execution, or levy, the amount received shall be deemed to have been paid as of the date that the order of garnishment, execution, or levy is served. Ref. Sec. 72-1349, Idaho Code. (3-19-99)

11. Release Of Lien Upon Payment In Full. An amount secured by a lien shall be deemed to be satisfied when payment in full is received by the Department in the form of cash, money order, or other certified funds, or proof presented that a check or other negotiable instrument has been honored by its drawer upon presentment. Ref. Sec. 45-1908, Idaho Code. (3-19-99)

12. Contribution Reports. Each contribution shall be accompanied by an employer's contribution report in a form or medium prescribed and furnished or approved for such purpose, giving such information as may be required, including number of individuals employed and wages paid or payable to each, which must be signed or furnished by the covered employer or, on his behalf by someone having personal knowledge of the facts therein stated, and who has been authorized by the covered employer to submit the information. Ref. Sec. 72-1349, Idaho Code. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

166. FIELD OPERATIONS CONTROL.

When circumstances dictate, and as a result of nonpayment of liabilities, the employer shall be notified by mail to his last known address of lien proceedings against his interests, with an explanation of the amounts due, and the accrual of interest at the proper rate until the lien is satisfied. Ref. Sec. 72-1360, Idaho Code. (3-19-99)

01. ~~Execution Against Assets.~~ ~~The Department of Labor, when the situation warrants, shall levy upon or execute against any real or personal property, both tangible and intangible, in which an indebted person has an interest, including any offsets, as allowed by Section 67-1026, Idaho Code. Ref. Sec. 72-1360, Idaho Code.~~ **Statute Of Limitations For Audits And Inspections Of Employer Records.** In the absence of fraudulent practices, the Department shall not audit an employer's records for a period greater than three (3) years for purposes of establishing a tax liability. The three (3) year period shall be determined by, and extend three (3) years back from, the date that the employer is notified, orally or in writing by any representative of the Department, of an intent to perform an audit of the records, and shall be deemed to include every quarter which, in whole or in part, falls within the three (3) year period. This statute of limitations shall not apply in any case in which an employer has engaged in fraudulent practices. ~~(3-19-99)~~()

02. Frequency Of Audits. *The frequency of audits of an employer's payroll records shall be determined*

~~by the size and scope of the employer's operation and the number of errors discovered in previous audits. Ref. Sec. 72-1337, Idaho Code.~~ **Tolling Of Statute Of Limitations.** The three (3) year statute of limitations is tolled for any period in which the employer does not reside within the state. (3-19-99)()

03. Notification Of Audits. Employers shall be notified as soon as practicable of an impending payroll records audit for tax liability purposes. This shall allow time in which to agree as to a convenient time and place for audit. Ref. Sec. 72-1337, Idaho Code. (3-19-99)

04. Statute Of Limitations. ~~In the absence of fraudulent practices, the department shall not audit an employer's records for a period greater than three (3) years for purposes of establishing a tax liability. The three (3) year period shall be determined by, and extend three (3) years back from, the date that the employer is notified, orally or in writing by any representative of the department, of an intent to perform an audit of the records, and shall be deemed to include every quarter which, in whole or in part, falls within the three (3) year period. This statute of limitations shall not apply in any case in which an employer has engaged in fraudulent practice.~~ **Frequency Of Audits.** The frequency of audits or inspections of an employer's records to ensure compliance with the law and Department rules shall be based on the following criteria: (3-19-99)()

a. ~~The three (3) year statute of limitations is tolled for any period in which the employer does not reside within the state.~~ On the basis of random selection and other selection criteria in accordance with federal requirements: (3-19-99)()

b. ~~If the employer or his representative acknowledges the indebtedness or makes a partial payment thereon, the statute of limitations shall be extended an additional three (3) years from the date of such payment or acknowledgment.~~ As a result of information received from any source, provided that the information received is of such a nature that it would be reasonable to conduct an audit or inspection of records as a result of that information; or (3-19-99)()

c. ~~Administrative proceedings for collection of taxes from subject employers shall be instituted within five (5) years from the date that a subject employer receives notice that he owes any amount to the department.~~ As a result of a previous audit, if the business practices or records of the employer are of such a nature that it would be reasonable for a Department employee to re-inspect or re-audit the records to ensure future compliance with the law. Ref. Sec. 72-1337, Idaho Code. (3-19-99)()

d. ~~The time limits contained in Subsection 166.04.e. shall not apply once a tax liability is recorded as a lien against the property of an employer.~~

05. Relief Of Indebtedness. ~~Neither the full running of the statute of limitations nor the writing off of the account as uncollectible relieves an employer of tax indebtedness. Ref. Sec. 72-1364, Idaho Code.~~ **Statute Of Limitations For Collections Of Contributions, Penalty And Interest.** Administrative proceedings for collection of taxes from subject employers shall be instituted within five (5) years from the date of a final determination, decision or order establishing the employer's liability. (3-19-99)()

a. The time limits contained in Subsection 166.05 shall not apply once a tax liability is recorded as a lien against the property of an employer. ()

b. If the employer or his representative acknowledges the indebtedness or makes a partial payment thereon, the statute of limitations for collection shall be extended an additional three (3) years from the date of such payment or acknowledgement. ()

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

07. Relief Of Indebtedness. Neither the full running of the statute of limitations nor the writing off of the account as uncollectible relieves an employer of tax indebtedness. Ref. Sec. 72-1364, Idaho Code. ()

(BREAK IN CONTINUITY OF SECTIONS)

241. BOARD, LODGING, MEALS.

When board, lodging, meals, or any other payment in kind considered as payment for services performed by an employee constitute a part of wages or wholly comprise an employee's wages, the value of such board, lodging, or other payment shall be determined as follows: (3-19-99)

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

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

~~(3-19-99)~~()

02. Meals And Lodging Not Included In Gross Wages. The value of meals and lodging furnished by an employer to his employee will not be included in the employee's gross income if it meets the following tests: (3-19-99)

- a. The meals or lodging are furnished on the employer's business premises; (3-19-99)
- b. The meals or lodging are furnished for the employer's convenience; and (3-19-99)

c. In the case of lodging (but not meals), the employees must be required to accept the lodging as a condition of their employment. This means that they must accept the lodging to allow them to properly perform their duties. In addition, in order to exclude the value of lodging from an employee's gross wages, the employer must show that the wages paid to the employee for services performed meets the prevailing wage for those services. If the employer's records do not show or establish that the employee received the prevailing wage for services performed, then the reasonable or fair market value of the lodging will be included in the employee's gross income as wages. Ref. Sec. 72-1328, Idaho Code. (3-19-99)

03. Meals Or Lodging For Employer Convenience. Meals or lodging furnished will be considered for the employer's convenience if the employer has a substantial business reason other than providing additional pay to the worker. A statement that the meals or lodging are not intended as pay is not enough to prove that either meals or lodging are furnished for the employer's convenience. Ref. Sec. 72-1328, Idaho Code. (3-19-99)

04. Subsistence Remuneration. In the case of employees who receive remuneration in the form of subsistence, such as groceries, staples, and fundamental shelter, the fair value of such subsistence will be determined by the Director. Ref. Sec. 72-1328, Idaho Code. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

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

01. Wage Assignment To Proper Calendar Quarter. Wages shall be assigned to the calendar quarter in which the wages were: (3-19-99)

a. Actually paid to the employee in accordance with the employer's usual and customary payday as established by law or past practice; or (~~3-19-99~~)()

b. Due the employee in accordance with the employer's usual and customary payday as established by law or past practice but not actually paid on such date because of circumstances beyond the control of the employer ~~and/or~~ the employee; ~~and~~ or (~~3-19-99~~)()

c. Not paid on the usual or customary payday as established by law or past practice but set apart on the employer's books as an amount due and payable or otherwise recognized as a specific and ascertainable amount due and payable to the worker in accordance with an agreement or contract of hire under which services were rendered. Ref. Sec. 72-1367, Idaho Code. (3-19-99)

02. Draws And Advances On Wages. Payments to employees made prior to regular or established paydays will be assignable and reportable during the quarter in which they would have been paid unless a practice is established whereby all employees or a class of employees are given an opportunity to take a "draw" by which such action, another "regular" payday appears to have been created. (3-19-99)

03. Judgments Of Wages. Amounts received as a result of labor relations awards or judgments for back pay, or for disputed wages, constitute wages and will be assigned to the quarter or quarters in which the employer would have reported such wages or as stipulated in the award or judgment. Ref. Sec. 72-1328, Idaho Code. (3-19-99)

04. Awarded Damages Against Employers. Amounts awarded to the claimant as a penalty or damages against the employer, other than for lost wages, do not constitute wages. Ref. Sec. 72-1328, Idaho Code. (3-19-99)

IDAPA 09 - IDAHO DEPARTMENT OF LABOR
09.01.50 - RULES OF THE WAGE AND HOUR SECTION
DOCKET NO. 09-0150-0001
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rulemaking. The action is authorized pursuant to Section(s) 72-1333 and 45-616, 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 September 20, 2000.

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

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

This rule is proposed to allow the Department to dismiss wage claims for lack of prosecution by the claimant. Some claimants filing wage claims with the Department fail to respond to requests from the Department for additional information or to otherwise prosecute their wage claims. This causes the Department to spend time and resources on wage claims where the parties have either informally settled the claim and then fail to notify the Department of their settlement, or where the claimant, for whatever reason, no longer wishes to prosecute his wage claim.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the simple nature of the proposed rule.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2000.

DATED this 19th day of July, 2000.

Craig G. Bledsoe
Deputy Attorney General
Idaho Department of Labor
317 W. Main Street
Boise, Idaho 83735
208/334-6256
Fax 208/334-6125

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0150-0001

IDAPA 09
TITLE 01
Chapter 50

09.01.50 - RULES OF THE WAGE AND HOUR SECTION

000. LEGAL AUTHORITY.

These rules are promulgated under the legal authority of Sections 72-1333 and 45-616, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 09.01.50, "Rules of the Wage and Hour Section". ()

02. Scope. These rules govern Department procedures for wage claim adjudication by Department Compliance or Hearing Officers pursuant to Section 45-617(4), Idaho Code. Procedural rules for wage claim appeals to the Department's Appeals Bureau are governed by IDAPA 09.01.06, "Rules of the Appeals Bureau". ()

002. WRITTEN INTERPRETATIONS.

The Department has no written interpretations of these rules. ()

003. ADMINISTRATIVE APPEALS.

Appeals shall be governed by the provisions of Section 45-617, Idaho Code and IDAPA 09.01.06, "Rules of the Appeals Bureau". ()

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into this rule. ()

005. -- 020. (RESERVED).

021. DISMISSAL OF WAGE CLAIM FOR LACK OF PROSECUTION.

Wage claimants have an affirmative duty to seek prompt adjudication of their claims. The Department may dismiss without prejudice the wage claim of claimants who fail to respond within thirty (30) days to written notice from the Department that additional action is required on their part to prosecute their claim. The thirty (30) day period for a response begins to run on the date the notice is mailed to the wage claimant's last known address. Mailed responses will be deemed received on the date they are postmarked. A wage claim that has been dismissed for lack of prosecution may be refiled with the Department subject to the limitations of Sections 45-614 and 45-617(1), Idaho Code. ()

022. -- 999. (RESERVED).

**IDAPA 10 - IDAHO BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS**

10.01.01 - RULES OF PROCEDURE

DOCKET NO. 10-0101-0001

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-1208, 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 September 20, 2000.

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:

Change the Order of Business for conduct of the Board meetings; eliminate references to temporary permits and publication of the roster; change nomenclature to reference biennial renewals rather than annual as now provided by statute; extend the application deadline for the Spring examinations from January 1 to January 10 and allow for the extension of application deadlines for students at Universities; eliminate a reference to references that is adequately covered in Idaho Code and needs not be duplicated in Rule; eliminate the reference to a fee for rescheduling that was not considered as a fee-imposing Rule by the 2000 session of the Legislature; allow for examination review at locations other than at the Board office; and allow disposal of used examination material one year after the examination.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule changes are housekeeping in nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact David L. Curtis at (208) 334-3860.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2000.

DATED this 14th day of July, 2000.

David L. Curtis, Executive Director
Board of Registration of Professional Engineers and Professional Land Surveyors
600 S. Orchard, Suite A
Boise, Idaho 83705-1242
Telephone (208) 334-3860
Fax (208) 334-2008

THE FOLLOWING IS THE TEXT OF DOCKET NO. 10-0101-0001

009. ORDER OF BUSINESS.

- 01. Agenda Titles And Sequence.** Order of Business shall be as follows: (7-1-93)
- a. Reading of minutes. (7-1-93)
 - b. ~~Reports of officers~~ Review and approval of consent agenda. (~~7-1-93~~)(____)
 - c. ~~Reports of committees.~~ (~~7-1-93~~)
 - d. ~~Reading of communications.~~ (~~7-1-93~~)
 - e. Unfinished business. (7-1-93)
 - f. New business. (7-1-93)
 - g. Consideration of applications ~~and fees.~~ (~~7-1-93~~)(____)
 - h. Consideration of ~~charges, suspensions and revocations~~ disciplinary matters. (~~7-1-93~~)(____)
 - i. ~~Election of officers for the ensuing year.~~ (~~7-1-93~~)
 - j. ~~Examinations.~~ (~~7-1-93~~)
 - k. Adjournment. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

011. FEES.

- 01. Applications And Renewals.** All fees shall be set by the Board in the following categories and shall in no event be more than the amount specified in Sections 54-1213, 54-1214, 54-1216, 54-1219 and 54-1223, Idaho Code. Fees are not refundable. (4-5-00)
- a. Registration as a professional engineer or professional land surveyor by examination. (7-1-93)
 - b. Certification as an engineer-in-training or land surveyor-in-training by examination. (7-1-93)
 - c. Certification for a corporation applying for a certificate of authorization to practice or offer to practice engineering or land surveying. (7-1-93)
 - d. Applications for reexamination in professional engineering, professional land surveying, engineer-in-training or land surveyor-in-training. (7-1-93)
 - e. Renewals for professional engineers, professional land surveyors, engineers-in-training, land surveyors-in-training and corporations. (7-1-93)
 - f. Registration for professional engineers or professional land surveyors by comity registration. (7-1-93)
 - g. ~~Temporary permits to practice engineering.~~ (~~7-1-93~~)
 - h. ~~Listing in the Retired section of the biennial roster.~~ (~~7-1-93~~)

02. Late Or Denied Renewals. Failure on the part of any registrant or corporation to renew their fees prior to their expiration shall not deprive such persons or corporation of the right of renewal, but the fees to be paid for renewal after their expiration shall be increased as prescribed in Section 54-1216, Idaho Code. ~~Registrants whose renewal fees are received at the Board's office after October 31 of any year will not be listed in the biennial roster for that biennium. The Board, on review of a registrant's activity, may deny renewal for cause.~~ (7-1-93)(____)

03. Reexaminations. Separate fees will be assessed for each examination and such fees shall accompany all applications for examination for professional engineers, professional land surveyors, engineers-in-training, and land surveyors-in-training. (7-1-93)

04. Schedule Of Fees. The schedule of fees as determined by the Board shall be furnished to applicants with application forms. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

013. PUBLICATIONS.

01. Annual Report. An annual report shall be submitted to the governor, the contents of which shall comply with the provisions of Section 54-1210, Idaho Code. (7-1-93)

02. Roster. A roster of professional engineers, professional land surveyors, engineers-in-training, land surveyors-in-training, and engineering and land surveying corporations in good standing and registrants and certificate holders in the retired status as provided in these rules shall be ~~published biennially. A copy shall be mailed to each person or corporation registered or certified; and, when requested, furnished to the public as provided in Section 54-1211, Idaho Code~~ maintained in an electronic format available to the public. (7-1-93)(____)

~~**03. Rules Of Procedure.** Compilations of the roster and the various rules of the Board shall be made available to officials of the state of Idaho and to state, district and county law libraries free of charge, according to the provisions of Section 67-5205, Idaho Code. As provided in said Section 67-5205, Idaho Code, the Board may furnish copies to other persons at cost of printing and mailing.~~ (7-1-93)

~~**04. Contents Of Booklet.** The Annual Report, Roster, Rules of Procedure, Chapter 12, Title 54 of the Idaho Code, and other pertinent information may be published in one (1) booklet for distribution as herein otherwise provided.~~ (7-1-93)

053. Retired Status. Those registrants who have reached the age of sixty-five (65) (or are totally and permanently disabled) and are retiring from practice may be listed in the retired section of the Roster, upon application to the Board. The ~~annual biennial~~ fee for being thus listed shall be established by the Board. Such listing does not permit a registrant to engage in the practice of engineering or land surveying. The fee for reinstatement to active practice shall be as required for delayed renewals in Section 54-1216, Idaho Code. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

016. APPLICATION FOR REGISTRATION OR CERTIFICATION.

01. Forms. Application forms for registration as a professional engineer, or professional land surveyor, certification as an engineer-in-training, land surveyor-in-training or certificates of authorization to practice or offer to practice engineering or land surveying by a corporation may be obtained from the office of the Executive Director of the Board of Professional Engineers and Professional Land Surveyors. (4-5-00)

02. Completion Of Application. Applications shall be made on such forms as may be prescribed by

the Board. An application which is not fully completed by the applicant need not be considered or acted upon by the Board. The application by a corporation for a certificate of authorization to practice or offer to practice engineering or land surveying must set forth their address, and name and address of the individual, or individuals, duly registered to practice engineering or land surveying in this state, who will be in responsible charge of engineering or land surveying services offered or rendered by the corporation in this state. (4-5-00)

03. Dates Of Submittal. Applications for the Spring and Fall examination, respectively, must be received by the Executive Director or postmarked by January 10 or August 1 of any year. In order for the Board to be able to verify experience, only experience up to the date of submittal of the application will be considered as valid. Experience anticipated between the date of the application submittal and the date of the examination or issuance of registration will not be considered. For students, the application filing date for the Fundamentals of Engineering examination ~~shall conform to the administrative rules of the University of Idaho, Boise State University, and Idaho State University~~ may be extended at the discretion of the Board. Except for military personnel stationed in Idaho, only Idaho residents and students at Idaho universities will be assigned to examinations, unless otherwise approved by the Board. (4-5-00)()

04. Confidentiality Of References. All information received from references named by the applicant shall be held in confidence by the Board. Neither members of the Board nor relatives of the applicant by blood or marriage shall be named or accepted as references. (7-1-93)

05. Minimum Standards - References. An applicant may not be admitted to the examination until satisfactory replies have been received from a minimum of five (5) of his references for professional engineers or land surveyors and three (3) references for engineers-in-training and land surveyors-in-training. ~~A majority of the references should be professional engineers or professional land surveyors as applicable.~~ It shall be the responsibility of each applicant to furnish their references with the forms prescribed by the Board. (7-1-93)()

017. EXAMINATIONS.

01. Semiannually Or Annually; Special Or Oral Examination. Examinations for professional engineer, professional land surveyor, engineer-in-training and land surveyor-in-training will be held annually or semi-annually, the exact time and place to be determined by the Board. Special oral or written examinations during the year may be given by the Board. (7-1-93)

02. Eligibility For Examinations; Educational Requirements. The application for registration for professional engineer, professional land surveyor or certification of engineer-in-training or land surveyor-in-training, together with the written examination, shall be considered in the determination of the applicant's eligibility. Each applicant must meet the minimum requirements as set forth in Section 54-1212, Idaho Code, before admittance to any examination. (7-1-93)

a. In regard to educational requirements, the Board will consider as unconditionally approved only those engineering curricula which are accredited by the Engineering Accreditation Commission (EAC) of the Accreditation Board for Engineering and Technology (ABET). Non-ABET accredited engineering curricula will be considered by the Board on their specific merits. The Board may continue consideration of an application for valid reasons for a period of one (1) year, without forfeiture of the application fee. An approved four-year (4) Bachelor of Technology (B.T.) engineering curriculum is not considered equal to an approved Bachelor of Science engineering curriculum. The Board will require additional experience for applicants with B.T. degrees. (7-1-93)

b. An applicant who has completed a four (4) year bachelor degree program in a major other than engineering must have completed a minimum of twelve (12) semester credits of Engineering Science at a Junior and Senior level, 6 semester credits of Engineering Design related courses at a Senior level, six (6) semester credits of Mathematics through Differential Equations, six (6) semester credits of calculus-based Physics and two (2) semester credits of Engineering Economics before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(3)(b), Idaho Code, for assignment to the examination for certification as an Engineer-in-Training. (4-5-00)

i. Standard, regularly scheduled courses from accredited university programs, (on campus, correspondence, video, etc.) are normally acceptable without further justification other than transcript listing. The

Board may require detailed course descriptions for seminar, directed study, special problem and similar courses to insure that the above requirements are met. (7-1-93)

ii. Graduate level engineering courses, i.e. courses which are available only to graduate students, are normally not acceptable since the Board believes graduate engineering courses may not provide the proper fundamental foundation to meet the broad requirements of professional engineering. (7-1-93)

c. In addition to the minimum requirements set forth in Section 54-1212, Idaho Code, a person who desires to be qualified by examination in the field of structural engineering shall meet the following requirements: (4-22-94)

i. Be a registered professional engineer in Idaho. (7-1-93)

ii. Have two (2) years of work experience in the field of structural engineering after being registered as a professional engineer. The Principles and Practice of Engineering examination for Structural Engineering will cover the practice of structural engineering to test the applicant's fitness to assume responsibility for engineering work affecting the public health, safety and welfare. The examination shall be sixteen (16) hours. (7-1-93)

d. The Board may require an independent evaluation of the engineering education of an applicant who was educated outside the United States. Such evaluation shall be done through an organization approved by the Board and shall be done at the expense of the applicant. Such evaluation shall not be required if the applicant has received a master's degree from an U.S. institution which has a bachelor degree program accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology in the discipline of the applicant's master's degree, and, in addition, has completed the coursework requirements of Subsection 017.02.b. The Board may table action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee shall be forfeited. (4-5-00)

03. Notification To Applicant By Board. Notification of assignment or non-assignment to the examination will be furnished to the applicant at least thirty (30) days prior to the date of the examination. (4-5-00)

04. Notification To Board By Applicant. The applicant shall, at least fifteen (15) days before an examination, notify the Executive Director of the Board whether or not he will appear for the examination. Examinations will be given only to those who have so notified the Board. (4-5-00)

05. Excused Non-Attendance At Exam. In the event that an applicant cannot attend an examination, he shall immediately notify the Board to that effect and shall state the reason for non-attendance. Normally, no more than one (1) valid excuse and reassignment shall be granted to an applicant ~~and there may be a fee for rescheduling an examination~~. If an applicant fails to appear for two (2) administrations of an examination their application may be terminated and they may be required to submit a new application and pay a new application fee in order to be reconsidered. ~~(4-5-00)~~(____)

06. Two (2) Examinations For Engineering Registration. The complete examining procedure for registration as a professional engineer consists of two (2) separate written examinations. The first is the Fundamentals of Engineering examination for engineer-in-training certification, and the second is the Principles and Practice of Engineering for professional engineer registration. Each examination shall be eight (8) hours in length. Normally, applicants are eligible to take the Fundamentals of Engineering examination during the last or second-to-last semester of or after graduation from an accredited bachelor of science engineering curriculum. A certificate as an Engineer-in-Training will be issued only to those student applicants who earn a passing grade on the examination and who receive a degree. Having passed the Fundamentals of Engineering examination, applicants will be required to take the Principles and Practice of Engineering examination at a later date when qualified by experience. (4-22-94)

07. Fundamentals Of Engineering. The Fundamentals of Engineering examination will cover such subjects as are ordinarily given in engineering college curricula and which are common to all fields of practice. The examination may also cover subject matters that are specific to the engineering discipline of the applicants education. (4-5-00)

08. Principles And Practice of Engineering - Disciplines. The Principles and Practice of Engineering examination will cover the practice of engineering to test the applicant's fitness to assume responsibility for engineering works affecting the public health, safety and welfare. Separate examinations will be given to test the applicant's fitness in any discipline for which there is an examination which, in the opinion of the Board, meets the requirements of duration and difficulty necessary to adequately test the applicant's fitness to practice in that particular discipline. The Board may use examinations prepared by the National Council of Examiners for Engineering and Surveying (NCEES) or it may prepare or commission the preparation of examinations in disciplines other than those for which examinations may be available from NCEES. (4-22-94)

09. Two Examinations For Land Surveying Registration. The complete examining procedure for registration as a professional land surveyor consists of two (2) separate written examinations. The first is the Fundamentals of Land Surveying examination for land surveyors-in-training certification, and the second is the Principles and Practice of Land Surveying registration. Each examination will be a total of eight (8) hours in length. Having passed the Fundamentals of Land Surveying examination, applicants will be required to take the Principles and Practice of Land Surveying examination at a later date when qualified by experience. The examination shall cover the theory and principles of surveying, the practice of land surveying and the requirements of legal enactments. The Principles and Practice of Land Surveying examination may consist of separate modules, each of which must be passed. (4-5-00)

10. Oral Or Unassembled Examinations. An oral examination or unassembled written examination, in addition to the prescribed written examination, may be required for professional engineer and professional land surveyor applicants. (7-1-93)

11. Special Examinations. A special examination, written or oral or both, may be required in certain instances where the applicant is seeking registration through comity with another state or political entity having required written examinations that are not wholly comparable in length, nature or scope. This examination supplements the certified qualifying record of the applicant and establishes a more common basis for judging the application and awarding a certificate of qualification or registration in this state. The length of these special examinations shall be determined by the Board, but shall in no case exceed the lengths specified for the regular examination. Special examinations may be given at any date and need not conform with regular examination dates. (7-1-93)

12. Grading. Each land surveyor-in-training, engineer-in-training and professional engineer applicant must normally attain a scaled score of seventy (70) or above on the entire eight (8) hour examination before being awarded certification or registration. Examinees on the Principles and Practice of Land Surveying examination must normally attain a scaled score of seventy (70) or above on each section of the examination. (4-5-00)

13. Use Of NCEES Examinations. Examinations prepared and graded by the National Council of Examiners for Engineering and Surveying (NCEES) for professional engineer, engineers-in-training, professional land surveyors, and land surveyors-in-training may be used by the Board. The examination for the field of structural engineering shall be the sixteen (16) hour examination as determined by the Board. (7-1-93)

14. Review Of Examination By Examinee. Examinees who fail an examination shall be allowed to review their examination ~~at the Board office~~. Examinees will only be allowed to review those questions attempted during the examinee's last taking of the examination. Examinees shall be allowed a review time equal to one-half (1/2) the time originally allowed to take the examination. The review shall be monitored by a Board member or Board representative. Paper will be provided by the Board and may not be taken away from the review site. A hand-held calculator not having word processing capabilities may be used by the applicant during the review. Examinees in the Principles and Practice of Engineering examination may submit a rescoring request on the "free-response" or "essay" type problems attempted. Examinees who submit a rescoring request may use their own reference materials to complete the rescoring request. (4-22-94)(____)

15. Disposal Of Used Examination Pamphlets And Answer Sheets. The Executive Director of the Board is authorized by the Board to dispose of used examination solution pamphlets and answer sheets ~~on~~ after the ~~third year~~ first anniversary date after the examination was given. (4-5-00)(____)

**IDAPA 10 - IDAHO BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS**

10.01.02 - RULES OF PROFESSIONAL RESPONSIBILITY

DOCKET NO. 10-0102-0001

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-1208, 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 September 20, 2000.

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:

Amends the rule to clarify the responsibilities of the discoverer and the alleged maker of an error, material discrepancy or omission.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule changes are housekeeping in nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact David L. Curtis at (208) 334-3860.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2000.

DATED this 14th day of July, 2000.

David L. Curtis, Executive Secretary
Board of Registration of Professional Engineers and Professional Land Surveyors
600 S. Orchard, Suite A
Boise, Idaho 83705-1242
Telephone (208) 334-3860
Fax (208) 334-2008

THE FOLLOWING IS THE TEXT OF DOCKET NO. 10-0102-0001

005. RESPONSIBILITY TO THE PUBLIC.

01. Primary Obligation. All Registrants and Certificate Holders shall at all times recognize their primary obligation is to protect the safety, health and welfare of the public in the performance of their professional duties. (7-1-93)

02. Standard Of Care. Each Registrant and Certificate Holder shall perform in accordance with the standard of care for the profession and is under duty to the party for whom the service is to be performed to exercise such care, skill and diligence as others in that profession ordinarily exercise under like circumstances. (7-1-93)

03. Professional Judgement. If any Registrant's or Certificate Holder's professional judgement is overruled under circumstances where the safety, health and welfare of the public are endangered, the Registrant or Certificate Holder shall inform the employer or client of the possible consequences and, where appropriate, notify the Board or such other authority of the situation. (7-1-93)

04. Obligation To Communicate Discovery Of Discrepancy. If a Registrant or Certificate Holder, during the course of his work, discovers a material discrepancy, error, or omission in the work of another Registrant or Certificate Holder, which may impact the health, property and welfare of the public, the discoverer shall make a reasonable effort to inform, in writing, ~~and obtain a response from~~ the Registrant or Certificate Holder, whose work is believed to contain the discrepancy, error or omission. Such communication shall reference specific codes, standards or physical laws which are believed to be violated and identification of documents which are believed to contain the discrepancies. The Registrant or Certificate Holder whose work is believed to contain the discrepancy shall respond in writing within sixty (60) calendar days to any question about his work raised by another Registrant or Certificate Holder. Failure to respond ~~shall be considered misconduct~~ on the part of the Registrant or Certificate Holder whose work is believed to contain the discrepancy shall be considered a violation of these rules and may subject the Registrant or Certificate Holder to disciplinary action by the Board. The discoverer shall notify the Board in the event a ~~satisfactory~~ response satisfactory to the discoverer is not obtained within sixty (60) days. (~~7-1-98~~)()

05. Obligation To Comply With Rules Of Continuing Professional Development. All Registrants licensed to practice professional land surveying shall comply with the requirements contained in IDAPA 10.01.04, "Rules of Continuing Professional Development". (7-1-99)

**IDAPA 10 - IDAHO BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS**

10.01.03 - RULES FOR CORNER PERPETUATION AND FILING

DOCKET NO. 10-0103-0001

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-1208, 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 September 20, 2000.

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:

Amend the existing rule to allow the provision of a clear space to place recording information on the form.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule changes are housekeeping in nature

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact David L. Curtis at (208) 334-3860.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2000.

DATED this 14th day of July, 2000.

David L. Curtis, Executive Director
Board of Registration of Professional Engineers and Professional Land Surveyors
600 S. Orchard, Suite A
Boise, Idaho 83705-1242
Telephone (208) 334-3860
Fax (208) 334-2008

THE FOLLOWING IS THE TEXT OF DOCKET NO. 10-0103-0001

~~002: (RESERVED):~~

995002. ADMINISTRATIVE APPEALS.

Persons desiring to contest the actions taken in accordance with these rules shall seek administrative relief under the Attorney General's Rules, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General".

(4-22-94)

(BREAK IN CONTINUITY OF SECTIONS)

005. FORM.

The form to be used in filing corner perpetuations in the state of Idaho shall be substantially the same as that form available from the Idaho Board of Registration of Professional Engineers and Professional Land Surveyors, 600 S. Orchard, Suite A, Boise, Idaho 83705-1242. Clear spaces on the form may be provided as requested and required by County Recorders in order to place recording information in an unobstructed area. The form is not available in quantity from the Board, but one (1) copy will be furnished, upon request, and it may be duplicated or reproduced.

(7-1-93)(_____)

(BREAK IN CONTINUITY OF SECTIONS)

~~997~~015. PUBLIC RECORDS ACT COMPLIANCE.

The records associated with the Board are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 1, Idaho Code. (7-1-93)

~~995.~~ SECTION 995 HAS BEEN RENUMBERED TO SECTION 002.

~~996. (RESERVED).~~

~~997.~~ SECTION 997 HAS BEEN RENUMBERED TO SECTION 015.

~~998. INCLUSIVE GENDER.~~

~~For the purpose of this chapter, words used in the masculine gender include the feminine, or vice versa, where appropriate.~~ (7-1-93)

~~999. SEVERABILITY.~~

~~The rules governing this chapter are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion of this chapter.~~ (7-1-93)

~~0156. -- 9949. (RESERVED).~~

**IDAPA 10 - IDAHO BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS**

10.01.04 - RULES OF CONTINUING PROFESSIONAL DEVELOPMENT

DOCKET NO. 10-0104-0001

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-1208, 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 September 20, 2000.

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:

Changes the Rules so that the certification of completion of required Continuing Professional Development for Professional Land Surveyors is consistent with biennial renewals which were approved by the 2000 session of the Idaho Legislature.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule changes simply coordinate the rules with the statutory change from annual to biennial renewal of licenses approved by the 2000 session of the Idaho Legislature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact David L. Curtis at (208) 334-3860.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2000.

DATED this 14th day of July, 2000.

David L. Curtis, Executive Director
Board of Registration of Professional Engineers and Professional Land Surveyors
600 S. Orchard, Suite A
Boise, Idaho 83705-1242
Telephone (208) 334-3860
Fax (208) 334-2008

THE FOLLOWING IS THE TEXT OF DOCKET NO. 10-0104-0001

005. REQUIREMENTS.

Every Licensee is required to obtain ~~fifteen~~ thirty (~~15~~30) PDH units during the renewal period ~~year~~ biennium (beginning on the first day of the month following the month in which the Licensee was born). If a Licensee exceeds

the ~~annual~~ biennial requirement in any renewal period, a maximum of ~~fifteen~~ thirty (~~15~~30) PDH units may be carried forward into the subsequent renewal period. PDH units may be earned in the following activities, however, PDH units must come from two (2) or more activities. ~~(7-1-99)~~(____)

- 01. Successful Completion Of College Credits.** (7-1-99)
- 02. Successful Completion Of Continuing Education Units.** (7-1-99)
- 03. Successful Completion Of Other Courses.** Correspondence, televised, videotaped, and other short courses/tutorials for which college credits or CEU's are awarded. (7-1-99)
- 04. Attending Qualifying Seminars.** Attending qualifying seminars, in-house courses, workshops, or technical or professional presentations made at meetings, conventions, or conferences. (7-1-99)
- 05. Teaching Or Instructing.** Teaching or instructing in Subsections 005.01 through 005.04 above, above and beyond routine job assignments. (7-1-99)
- 06. Authoring Published Papers, Articles, Or Books.** (7-1-99)
- 07. Membership In Technical Or Professional Organizations.** (7-1-99)
- 08. Active Participation In Technical Or Professional Organizations.** (7-1-99)
- 09. Patents.** (7-1-99)
- 10. Presentations To Technical, Professional Or Civic Organizations.** (7-1-99)
- 11. Self Study.** (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

007. DETERMINATION OF CREDIT.

The Board will not pre-approve activities as qualifying for continuing professional development, but has final authority to judge the PDH value for all activities submitted to fulfil CPD requirements. ~~(7-1-99)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

009. EXEMPTIONS.

A Licensee may be exempt from the continuing professional development requirements for one (1) of the following reasons: (7-1-99)

~~**01. One Year Following Adoption Of These Rules.** All Licensees shall be exempt during the first year following adoption of this chapter of rules. (7-1-99)~~

021. First Renewal Period. New Licensees by way of examination or comity shall be exempt for their first renewal period. (7-1-99)

032. Active Duty In The Armed Forces. A Licensee serving on temporary active duty in the armed forces of the United States for a period of time exceeding one hundred twenty (120) consecutive days in a ~~year~~ renewal period shall be exempt from obtaining the professional development hours required during that renewal ~~year~~ period. ~~(7-1-99)~~(____)

043. Extenuating Circumstances. A Licensee experiencing physical disability, serious illness, or other extenuating circumstances accepted by the board. (7-1-99)

054. Retired And Receiving No Remuneration. A Licensee who has chosen and qualified for the "Retired" status and who further certifies that they are no longer receiving any remuneration from providing professional land surveying services shall be exempt from the professional development hours required. In the event such a person elects to return to active practice of professional land surveying, professional development hours must be earned before returning to active practice for each ~~year~~ biennium exempted not to exceed the ~~annual~~ requirement for two (2) ~~years~~ bienniums. (7-1-99)(____)

065. Expired License. A Licensee who has chosen to allow his license to expire shall be exempt from the professional development hours required. In the event such a person elects to reactivate the license, professional development hours must be earned before reinstating the license or certificate for each ~~year~~ biennium exempted not to exceed the ~~annual~~ requirement for two (2) ~~years~~ bienniums. (7-1-99)(____)

IDAPA 11 - IDAHO STATE POLICE
11.02.01 - RULES OF THE IDAHO STATE BRAND BOARD
DOCKET NO. 11-0201-0001 (FEE RULE)
NOTICE OF PROPOSED AND TEMPORARY RULE

EFFECTIVE DATE: The temporary rule is effective July 1, 2000.

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 has proposed rulemaking. The action is authorized pursuant to Title 25, Chapter 11, Idaho Code.

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

Public hearings concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2000.

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

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

The proposed rules are made in conjunction with legislation passed by the 2000 legislative session. They include provisions relating to the issuance of brand certificates, brand fees, prorating of fees in the staggered brand renewal system, recording of DOT brands and exemption of Idaho approved feedlots from the minimum fee.

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 collection of use fees is necessary for the continued operation of the Idaho State Brand Board.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: Pursuant to Section 25-1160(5), Idaho Code, authorizes the State Brand Inspector to collect fees. The fees to be changed in this rulemaking are: \$10 per year renewal fee on the staggered brand renewal system; a decrease in the transfer brand fee from \$50 to \$25; an increase in the minimum field brand inspection fee from \$3 to \$10; and the fee collected by the State Brand Inspector for the Idaho Horse Board will increase from \$1 to \$3.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the simple nature of the proposed rule change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Larry Hayhurst, Idaho State Brand Board.

Anyone may submit written comments regarding this proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered by September 27, 2000.

DATED this 24th day of July, 2000.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0208-0001

001. —~~003.~~ (RESERVED) TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 11.02.01, “Rules of the Idaho State Brand Board”. (7-1-00)T

02. Scope. The rules relate to the governance and operation of the Idaho State Brand Board. (7-1-00)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (7-1-00)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General”. (7-1-00)T

004. MAILING ADDRESS AND OFFICE HOURS.

The mailing address of the Idaho State Brand Board is P.O. Box 1177, Meridian, Idaho 83680-1177. Office hours are Monday through Friday, 8 a.m. to 5 p.m. Any or all forms used by the Idaho State Brand Board are available for inspection during office hours at 700 S. Stratford, Meridian, Idaho 83642. (7-1-00)T

0045. DEFINITIONS.

The definitions found in Section 25-1101, Idaho Code, shall also apply to these rules. Additionally, as used in rules 000 through 052, the following terms shall have the following definitions: (7-1-93)

01. Auction Brand Inspection Certificate. A brand inspection certificate issued to the new owner only from organized auction market sales. In addition to the information required of a brand inspection certificate by Section 25-1101, Idaho Code, the auction brand certificate shall contain: (7-1-93)

- a. The names and addresses of the buyer and/or new owner; (7-1-93)
- b. The destination of the livestock for the new owner; (7-1-93)
- c. The auction market name and location and the date of the sale; (7-1-93)
- d. The number of livestock inspected in each category of animals as designated on the auction brand inspection certificate. (7-1-93)
- e. The signature of either an Idaho brand inspector or a clerk. (7-1-93)

02. Auction Brand Inspection. A brand inspection made at an Idaho Auction market with a record made of such inspection on a tally sheet. (7-1-93)

03. Bar Brand. A horizontal elongation of a line placed either above, between or below the main part of a brand, causing the name of the brand to be read to include the bar. (7-1-93)

04. Bill Of Sale. The formal instrument for transfer of title to livestock. A bill of sale must include the date of the sale, a description of the livestock sold, the name of the purchaser, and the signature of the seller. (7-1-93)

05. Board. The Idaho State Brand Board. (7-1-93)

06. Brand Card. A wallet size card issued by the State Brand Inspector in a specific color for each brand renewal period, showing a drawing of the brand, the location of the brand, the name and address of each owner of the recorded brand. (7-1-93)

- 07. Brand Inspection.** The physical examination of livestock by a brand inspector to determine ownership of the livestock. A brand inspection includes examination of proofs of ownership, including the visual examination of brands and marks. (7-1-93)
- 08. Consignee.** Any person who has possession of livestock for feed, care or sale, but who is not deemed to be the owner of the livestock unless a later proper transfer of title to the livestock is completed. (7-1-93)
- 09. Courtesy Brand Inspection.** An inventory of livestock requested by a financial institution or owner or a regulatory agency, shown on a tally sheet. (7-1-93)
- 10. Dash Brand.** A horizontal elongation of a line placed either ahead of, between or behind the main part of a brand causing the name of the brand to be read to include the dash. (7-1-93)
- 11. Destination.** The place where the livestock are to be transported. (7-1-93)
- 12. DOT Brands.** A brand that is a spot or blotch brand that is unreadable. (7-1-00)T
- 123. Field Brand Inspection Certificate.** A brand inspection certificate issued following a field brand inspection. In addition to the information required of a brand inspection certificate by Section 25-1101, Idaho Code, the field brand certificate shall contain: (7-1-93)
- a. Names and address of the owner, seller, buyer and new owner; (7-1-93)
 - b. The location where the brand inspection was made; (7-1-93)
 - c. The date of the inspection; (7-1-93)
 - d. The destination of the livestock designated by the new owner; (7-1-93)
 - e. The number of livestock inspected in each of the categories of animals listed on the field brand inspection certificate which is incorporated hereto by reference (see Appendix B); (7-1-93)
 - f. The brand inspection fees paid by the owner/seller; and, (7-1-93)
 - g. The signature of the owner/seller or his agent and an Idaho brand inspector. (7-1-93)
- 134. Field Brand Inspection.** A brand inspection made for livestock other than those sold at an auction market. (7-1-93)
- 145. Hold Order.** A written order issued by an Idaho Brand Inspector, requiring an auction market, slaughter plant or feed lot to retain either livestock or the proceeds from the sale of livestock until a release order is filed by a brand inspector. (7-1-93)
- 156. Idaho Livestock Owner.** A livestock owner who owns real property in the state of Idaho, and uses such property to feed, pasture or otherwise hold livestock for at least four (4) consecutive months each year. (7-1-93)
- 167. Lifetime Certificate.** An ownership and transportation certificate. (7-1-93)
- 178. Livestock Dealer.** Any person who buys, receives or assembles livestock for his own account for resale within twenty (20) calendar days from the date of purchase, or for the account of another person. This term also includes both a person who pays and a person who does not pay the producer or auction market the full purchase price at the time of taking possession of the livestock. (7-1-93)
- 189. Order Buyer.** A livestock dealer. (7-1-93)
- 1920. Ownership And Transportation Certificate.** A certificate issued pursuant to Section 25-1122,

Idaho Code, that permits a horse owner to transport horses in Idaho or nationwide, for any purpose except for sale or trade. (7-1-93)

201. Release Order. A written order issued by an Idaho Brand inspector that clears a release on a hold order of livestock or the proceeds from a sale of livestock. (7-1-93)

242. Tally Sheet. A document containing a list of all livestock inspected at an auction market or courtesy brand inspection which shall include a listing of all livestock inspected. The tally sheet shall indicate the name of the owner, the brands or brand inspection certificates on the animals, and the number of livestock inspected. The name of the owner shall be either the name under which the brand is recorded or the name of the new owner as shown on the brand inspection certificate. (7-1-93)

0056. -- 010. (RESERVED).

011. RECORDING, USE AND PLACEMENT OF BRANDS.

01. Recording And Use Of Brands. (7-1-93)

- Code.
- a. All brands shall be recorded with the State Brand Inspector, as required by Section 25-1144, Idaho Code. (7-1-93)
 - b. No person shall brand livestock with an unrecorded brand. (7-1-93)
 - c. No person shall use any brand registered to any other person. (7-1-93)
 - d. No person shall lease a brand to any other person. (7-1-93)

02. Recording Procedures. (7-1-93)

a. Any person desiring to record a brand in the state of Idaho shall submit an application and fee with the State Brand Inspector, at the main office as provided by Section 25-1144, Idaho Code. If the State Brand Inspector finds that the proposed brand does not conflict with any presently recorded brand, the State Brand inspector shall record the proposed brand. (7-1-93)

b. Upon recording of the brand, the State Brand Inspector shall issue a certificate of recorded brand and a brand card to each owner of the brand. The brand card shall be recognized by all brand inspectors as proof that the brand indicated thereon has been properly registered. (7-1-93)

c. A brand may be recorded in more than one name, subject to space limitations on the brand card. (7-1-93)

d. Section 25-1144, Idaho Code, authorizes the Idaho State Brand Board to prorate the brand renewal fee to facilitate entry into the staggered brand renewal schedule. The staggered brand renewal system records a new brand on a five (5) year cycle determined by first initial of the applicant's last name. This is a continually staggered five (5) year renewal cycle and can be reviewed at any time at the Idaho State Brand Board Main Office in Meridian, Idaho. The alphabetical categories are A-C, D-H, I-M, N-S and T-Z and are renewed as follows: (7-1-00)T

i. Categories A-C renew in the year 2000 and must renew at the end of each consecutive five (5) year period. (7-1-00)T

ii. Categories D-H renew in the year 2004 and must renew at the end of each consecutive five (5) year period. (7-1-00)T

iii. Categories I-M renew in the year 2003 and must renew at the end of each consecutive five (5) year period. (7-1-00)T

iv. Categories N-S renew in the year 2002 and must renew at the end of each consecutive five (5) year

period. (7-1-00)T

vi. Categories T-Z renew in the year 2001 and must renew at the end of each consecutive five (5) year period. (7-1-00)T

03. Brands Acceptable For Recording. (7-1-93)

a. Dash brands and bar brands must be at least two (2) inches long and slashes at least four (4) inches long. Slashes must be placed diagonally between numerals or letters. (10-1-93)

b. Recorded brands appearing on the neck, horns, hooves or jaw of livestock, or on any other location not expressly included within the definition of "brand" found in Section 25-1101, Idaho Code, shall not be recorded and shall not be relevant for identification. (7-1-93)

c. Markings made on the necks of equine animals made pursuant to the "International Horse Identification System," otherwise know as the "Angle Numerical System," U.S. Patent Number 3633584 shall not be recorded as brands, but may be recognized for identification purposes. (7-1-93)

d. A vertical arrangement of numbers in groups of two (2) or more made by freeze or hot iron branding for the purpose of individual identification of cattle shall be preceded with the oval cipher "o" and shall be placed on the shoulder, rib or hip. Such numbers shall not be recorded as brands, but may be recognized for identification purposes. Said animals are also to be branded with an Idaho recorded ownership brand. (7-1-93)(7-1-00)T

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

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

g. No new DOT brands will be recorded. Existing DOT brands will be grandfathered in to the official brand records. (7-1-00)T

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

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

b. Recorded brands shall be renewed as provided in Idaho Code Sections 25-1145 and 1145A. (3-20-97)

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

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

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

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

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

(7-1-93)

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

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

(BREAK IN CONTINUITY OF SECTIONS)

015. BRAND ALTERNATIVES.

01. Identification. Identification marks, devices or documents issued by the state brand inspector as an alternative to permanent marks may be used for each animal. Documents acceptable as an alternative to a permanent brand are: (7-1-93)

a. Ownership and Transportation certificate (lifetime certificates) for horses, mules and asses. (7-1-93)

~~b. Annual Ownership and Transportation certificate for horses, mules, asses and cattle.~~ Such certificate must show pictures of ~~a two~~ side views, ~~front view~~ including registration numbers ~~if any~~ where appropriate. The form to be approved by the State Brand Board. (7-1-93)(7-1-00)T

~~eb.~~ Purebred registration papers for cattle used for breeding or show purposes. Such registration papers ~~must can~~ be shown to the brand inspector at time of inspection of each animal. (7-1-93)(7-1-00)T

~~dc.~~ Any other form of positive identification requested to be used by a livestock owner, will be subject to review and approval by the brand board. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

019. BRAND INSPECTIONS.

01. Owners. Owners of livestock shall obtain a brand inspection in any of the following situations: (7-1-93)

a. When ownership of livestock changes in any manner; (7-1-93)

b. When livestock are to be moved out of the state within ninety-six (96) hours, unless the transportation of the livestock is covered by an ownership and transportation certificate or an annual inspection certificate; (7-1-93)

c. When livestock are to be slaughtered within ninety-six (96) hours; (7-1-93)

d. When a recorded brand is sold or transferred to a new owner, except that no brand inspection shall be required if no livestock carry the brand that is to be transferred; or the transfer involves the addition or deletion of owners to the recorded brand as provided in Subsection 011.05.b.; or when brand owners incorporate as provided in Subsection 011.05.b. (7-1-93)

02. General Procedures. (7-1-93)

a. Brand inspectors shall be available upon request to inspect livestock during the normal daylight working hours. At least twenty-four (24) hours notice should be given to the brand inspector when a brand inspection is required. Brand inspections should be performed at the point of origin of the livestock, unless otherwise approved by the State Brand Inspector or District Brand Supervisor. Requested brand inspections may be made in the nighttime by artificial light only with the expressed consent of the State Brand Inspector or the district brand supervisor.

~~(7-1-93)~~(7-1-00)T

b. The livestock to be inspected should be gathered and ready for inspection prior to the arrival of the Brand Inspector. Brand inspectors are not responsible for gathering livestock to be inspected. (7-1-93)

c. The brand inspector shall notify any owner of stray livestock found during the brand inspection process. If the owner of the stray animals cannot be found, the strays shall be sold pursuant to the estray statutes, Title 25, Chapter 23, Idaho Code. (7-1-93)

d. Upon change of ownership of livestock, the brand inspection certificate shall be surrendered to the brand inspector. (7-1-00)T

03. Proof Of Ownership. (7-1-93)

a. The livestock owner shall maintain proof of ownership of this livestock by branding them and/or by keeping brand inspection certificates. (7-1-93)

b. Proof of ownership of livestock may be established either by the animal's being branded with its owner's recorded brand or by a brand inspection certificate. (7-1-93)

c. Proof of ownership of livestock may be established by an ownership and transportation certificate, or by an ownership and transportation certificate issued by another state (applies only to horses, mules or asses). (7-1-93)

d. Proof of ownership of livestock may be established by a brand inspection certificate issued by another state. (7-1-93)

e. Proof of ownership of livestock may be established by a bill of sale, providing that the brand inspection takes place within ten (10) days of the purchase and the brand inspector can be reasonably assured that the bill of sale is valid. Bills of sale may be issued in livestock transactions but do not replace a brand inspection certificate. (7-1-93)

f. Fresh brands on livestock bearing older brands, ~~shall~~ may or may not be accepted by at the discretion of the State Brand Inspector or District Brand Supervisor as proof of ownership unless accompanied by a brand inspection certificate or a bill of sale covering the older brands as provided for in Subsection 019.03.e. above. The State Brand Inspector may inquire into the ownership of all livestock bearing two (2) or more brands.

~~(7-1-93)~~(7-1-00)T

g. If the inspector finds that the livestock brands are not owned by the person claiming the same, the such person shall be required to produce a bill of sale or other satisfactory evidence of ownership. (7-1-00)T

04. Fees. (7-1-93)

a. Except as provided in Subsection 019.04.b. of this rule, the fees for any brand inspection shall be as provided in Subsection 034.01. (7-1-93)

b. Livestock owned by an Idaho livestock owner, bearing an Idaho recorded brand, leaving the state of Idaho for grazing purposes only and which will return to the state at a later date, shall be inspected at a rate of one-half (1/2) of the regular per head inspection fee. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

021. ANNUAL BRAND INSPECTION CERTIFICATE.

01. Certificates. Annual brand inspection certificates for livestock may be used to transport livestock or for any purpose other than for the purpose of slaughter, sale or trade. (7-1-93)

02. Annual Brand Inspection Form Also Known As "Seasonal". Annual brand inspection certificates shall be issued on either a transportation "T" form or a field brand inspection certificate form and shall expire zero (0) to twelve (12) months from the date of issue and shall contain ~~the expiration date of December 31 of the current year,~~ the breed, color, sex, markings, brands and location thereof, breed registry number if appropriate, and any other information that distinguishes the animal or animals for which the certificate is issued. ~~Across the face of the certificate shall be written "Annual Brand Inspection".~~ If a field brand inspection form is used, it shall include written on its face: "For transportation only," "Not for sale or trade," and the expiration date. (7-1-93)(7-1-00)T

03. Annual Inspection. Subsection 030.01 which requires that livestock be transported out of the state within ninety-six (96) hours of the brand inspection of the livestock, does not apply to annual inspections. (7-1-93)

04. Agreements. The State Brand Inspector shall have the authority to enter into reciprocal agreements with brand authorities in adjacent states to allow livestock to move between the two states using the annual brand inspection issued in the home state. An annual inspection for livestock allows transportation of livestock within Idaho and into the states of Nevada, Oregon, Utah, Washington and Wyoming. (7-1-93)

05. Fee. The fee for an annual brand inspection certificate is provided in Subsection 034.01. (7-1-93)

022. CERTIFICATES OF OWNERSHIP AND TRANSPORTATION.

01. Owner. Any owner of a horse, mule or ass may request an ownership and transportation certificate (also known as a "lifetime certificate") by contacting a brand inspector and advising him of the owner's name and address. (7-1-93)

~~**02. Application.** The brand inspector shall thereafter inspect the animal and shall complete the application form for the ownership and transportation certificate including the name and address of the owner and any further information that will adequately describe the animal for which the certificate is to be issued. (7-1-93)~~

~~**03. Temporary Permit.** The deputy brand inspector will give one (1) copy of the application form to the owner-applicant as a temporary permit to show ownership of the animal and to allow the owner to transport the animal pending issuance of the ownership and transportation certificate by the State Brand Inspector. (7-1-93)~~

042. Detain. In the event that a brand inspector or other law enforcement officer finds a person who is not the owner of an animal in possession of both the animal and the ownership and transportation certificate, the brand inspector or other law enforcement officer may detain the animal for a sufficient period of time to determine the validity of the non-owner's possession of such animal. Any expenses caused by the detention shall be paid by the person in possession of the animal and certificate, or by the actual owner of the animal. (7-1-93)

053. Nationwide. Ownership and transportation certificates issued under Section 25-1122, Idaho Code, may be used nationwide for transportation of horses, mules and assess. (7-1-93)

064. Validity. Ownership and transportation certificates for any horse, mule or ass shall be valid so long as the animal remains within the ownership of the person to whom the certificate was issued. The ownership and transportation certificate is not transferable. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

030. TRANSPORTATION OF LIVESTOCK.

01. Out-Of-State. Any person transporting livestock out of the state of Idaho must obtain a brand inspection before the animals leave the state, as provided by Section 25-1121, Idaho Code. The brand inspection must be obtained no more than ninety-six (96) hours prior to the transport of the livestock out of the state. Provided, however, that a brand inspection is not required if the livestock are accompanied by either of the following documents: (7-1-93)

a. The Idaho ownership and transportation certificate described in Section 022, which may be used by the owner to transport horses, mules or asses nationwide; and (7-1-93)

b. The annual inspection certificate described in Section 021, which may be used to transport livestock ~~within Idaho and into the states of Nevada, Oregon, Utah, Washington and Wyoming~~ out of the state of Idaho. (7-1-93)(7-1-00)T

02. In-State. Livestock may be transported intrastate as follows: (7-1-93)

a. Persons in possession of their brand cards may transport their livestock marked with the brand shown on the card any place within the state of Idaho without obtaining a brand inspection. (7-1-93)

b. The blue copy of a field brand inspection certificate or an auction brand inspection certificate may be used to prove ownership of livestock in transit. In those instances where the livestock have been purchased, and such livestock does not carry a brand or if the livestock carry the brand of the previous owner, the blue copy of the brand inspection certificate issued to the present owner may be used to transport the livestock within Idaho. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

034. SCHEDULE OF FEES FOR THE IDAHO STATE BRAND BOARD.

01. Fees. Fees authorized by the State Brand Board and to be collected by the State Brand Inspector are as follows:

SCHEDULE OF FEES		
Recording of a brand	\$5 10.00 per year prorated staggered renewal fee	
Transfer of a recorded brand	\$50 25.00	
Renewal of a recorded brand (Every five years)	\$50.00	
Duplicate brand registration certificate	\$ 1.50	
Ownership and transportation certificate	\$25.00	
Duplicate ownership and transportation certificate	\$ 5.00	
Annual inspection (Expires 12/31) equine or bovine	\$ 5.00	
	CATTLE	HORSES
Brand inspection (per head)	\$.75	\$ 1.50
Idaho livestock to pasture (per head)	\$.38	\$.75
Minimum auction fee	\$50.00	\$50.00
Minimum field brand inspection fee	\$ 10 10.00	\$ 10 10.00

SCHEDULE OF FEES		
Courtesy brand inspection	\$.75	\$ 1.50

Fees To Be Collected By The State Brand Inspector For Other State Agencies:	
Idaho Beef Council (per head)	\$1.00
Idaho Horse Board (per head)	\$3.00
Idaho Department of Agriculture:	
Animal health (per head)	\$.22
Predator control (per head)	\$.04

~~(3-10-00)~~(7-1-00)T

02. Due And Payable. Pursuant to Section 25-1160(5), Idaho Code, all brand inspection fees, and all other fees required to be collected by the Brand Inspector are due and payable at the time of inspection, except that livestock owners may make arrangements with a deputy brand inspector to pay for all accumulated brand inspection fees within each seven (7) day period. Failure to comply with this rule will cancel the previously approved schedule and shall make all fees immediately due and payable. Feedlots, currently approved by the Idaho Department of Agriculture, and slaughter plants are exempt from the minimum brand inspection fee. Other minimum brand inspection fees may be waived at the discretion of the State Brand Inspector or District Brand Supervisor.

~~(3-10-00)~~(7-1-00)T

(BREAK IN CONTINUITY OF SECTIONS)

040. CLAIMS FOR FUNDS OR LIVESTOCK SUBJECT TO A HOLD ORDER.

01. Claim. Any person claiming to be the owner of any animal sold under Section 25-1174, Idaho Code, may claim the proceeds of the sale by filing a written and verified claim for such proceeds together with any supporting documents with the State Brand Inspector, ~~2118 Airport Way, Boise, Idaho 83705~~ 700 S. Stratford, Meridian, Idaho 83642. The claim shall contain the following information: ~~(7-1-93)~~(7-1-00)T

- a. The name and address of the claimant; (7-1-93)
- b. A short, plain statement of the matters asserted in the claim, including but not limited to: facts as to ownership, a description of the animal including brands and marks, the location of the animals when they were last in the possession of the claimant, and any other pertinent facts tending to establish the claim; (7-1-93)
- c. A claim for the proceeds, or portion of the proceeds, of the sale; (7-1-93)
- d. Names and addresses, if known, of any other potential claimants to the funds; and (7-1-93)
- e. A request for a hearing, if desired. (7-1-93)

02. More Than One Claimant. Where there is more than one (1) claimant, each claimant shall serve a complete copy of his claims upon the other claimants to the funds. (7-1-93)

03. Investigation. The State Brand Inspector will then investigate the matter and will determine

whether the claimants can stipulate to the disposition of the funds. If a stipulation is reached the State Brand Inspector or Deputy Brand Inspector shall issue a release order on the livestock or the funds in accordance with the stipulation.
(7-1-93)(7-1-00)T

04. Hearing. In the event that a stipulation is not possible, or where a claimant has requested in writing that a hearing be held, a hearing will be held by the State Brand Inspector, after giving thirty (30) days notice to all claimants. (7-1-93)

~~041. HEARINGS BEFORE THE STATE BRAND BOARD.~~

~~Any hearing or any other proceeding required to be held by the State Brand Inspector or the Board shall be governed by the Idaho Administrative Procedure Act (Section 67-5201, Idaho Code, et seq.), and the Rules of Practice and Procedure of the Department of Law Enforcement, IDAPA 11.01.01.000, et seq.~~ (7-1-93)

0421. -- 049. (RESERVED).

050. LOCATIONS OF THE OFFICES OF THE IDAHO STATE BRAND BOARD.

01. Main Office. ~~2118 Airport Way, Boise, Idaho 83705~~ 700 S. Stratford, Meridian, Idaho 83642.
(7-1-93)(7-1-00)T

02. District Brand Offices. (7-1-93)

a. Lewiston, 2780 North & South Highway, Lewiston, Idaho 83501. (7-1-93)

b. Caldwell, ~~21st and Railroad~~ 1900 E. Chicago, Caldwell, Idaho 83605. (7-1-93)(7-1-00)T

c. Twin Falls, 630 Railroad Avenue, Twin Falls, Idaho 83301. (7-1-93)

d. Idaho Falls, 701 Northgate Mile, Idaho Falls, Idaho 83401. (7-1-93)

IDAPA 11 - IDAHO STATE POLICE
11.05.01 - RULES GOVERNING ALCOHOL BEVERAGE CONTROL
DOCKET NO. 11-0501-0001
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule is effective July 1, 2000.

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 has proposed rulemaking. The action is authorized pursuant to Title 67, Chapter 30, Idaho Code.

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

Public hearings concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2000.

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

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

The definition of a restaurant as defined in Section 23-942(c), Idaho Code, is overly broad, which makes enforcement of Title 23 provisions extremely difficult. The new definition gives smaller establishments greater flexibility to provide food but excludes bars with crock pots which could, under the current definition, be considered a restaurant and allow entry to minors.

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

It is reasonably necessary to protect the public health, safety, or welfare.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the simple nature of the proposed rule change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Lonnie Gray, Alcohol Beverage Control.

Anyone may submit written comments regarding this proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered by September 27, 2000.

DATED this 24th day of June, 2000.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0501-0001

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 11.05.01, "Rules Governing Alcohol Beverage Control". (7-1-00)T

02. Scope. The rules relate to the governance and operation of Alcohol Beverage Control. Unless a specific reference herein limits application of a rule to a particular kind of alcoholic beverage, these rules apply to and implement Idaho Code Sections for liquor (Title 23, Chapter 9, Idaho Code), beer (Title 23, Chapter 10, Idaho Code), and wine (Title 23, Chapter 13, Idaho Code). (7-1-93)(7-1-00)T

002. ~~003.~~ (RESERVED) WRITTEN INTERPRETATIONS.
There are no written interpretations of these rules. (7-1-00)T

003. ADMINISTRATIVE APPEALS.
Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the Attorney General, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". (7-1-00)T

004. MAILING ADDRESS AND OFFICE HOURS.
The mailing address is Idaho State Police, Bureau of Alcohol Beverage Control, P.O. Box 700, Meridian, ID 83680-0700. Office hours are Monday through Friday, 8 a.m. to 5 p.m. (7-1-00)T

005. ~~010.~~ (RESERVED) PUBLIC RECORDS AVAILABILITY.
Public Records are available during normal working hours for inspection and copying at the Idaho State Police, Bureau of Alcohol Beverage Control, 700 South Stratford Drive, Meridian, ID 83680-0700. (7-1-00)T

006. -- 009. (RESERVED).

010. DEFINITIONS.

01. Licensee. Any person who has received a license from the Director under any of the provisions of Title 23, Chapters 9, 10 or 13, Idaho Code. (7-1-93)

02. Licensed Premises. Any premises for which a license has been issued under any of the provisions of Title 23, Chapters 9, 10 or 13, Idaho Code. All areas included on the floor plan submitted to the Director with the licensee's application for a license shall constitute the licensed premises. (7-1-93)

03. New Licenses. For purposes of Section 23-908(4), Idaho Code, a "new license" is one that has become available as an additional license within a city's limits under the quota system after July 1, 1980. The requirement of Section 23-908(4), Idaho Code, that a new license be placed into actual use by the licensee and remain in use for at least six (6) consecutive months shall be satisfied if the licensee makes actual sales of liquor by the drink during at least eight (8) hours per day, no fewer than six (6) days per week. (1-1-94)

04. Restaurant. ~~The term Restaurant, as defined by Section 23-942(c), Idaho Code, is further defined as an establishment maintained, advertised and held out to the public, where individually priced meals are prepared and regularly served to the public, primarily for on-premise consumption. The establishment must also have a dining room or rooms, and the number, and type of employees normally used in the preparing, cooking and serving of meals. The establishment must be able to demonstrate to the satisfaction of the Director, through recordkeeping, that no more than fifty percent (50%) of the gross revenues from the sale of food and beverages is derived from the sale of alcoholic beverages.~~ For the purposes of Section 23-942(c), Idaho Code, a restaurant means any establishment which holds itself out to the public as an establishment which serves food to members of the public for consumption on the premises and which premises has kitchen and cooking facilities for the preparation of food, including hot meals, for service to the public. (4-5-00)(7-1-00)T

- a. Requirements. The kitchen and cooking facilities must: (7-1-00)T
- i. Be located in a place within the licensed premises that is primarily devoted to food preparation by establishment employees; and (7-1-00)T
- ii. Contain stoves, ovens, refrigeration equipment or such other equipment usually and normally found in establishments that primarily engage in the business of preparing and serving meals to the public for compensation. (7-1-00)T
- b. A licensee requesting a restaurant designation for the licensed premises shall have the burden of showing to the satisfaction of the Director that the licensee is conducting, or will conduct a bona fide restaurant business on the licensed premises in addition to, or as a part of, the business of selling beer, wine, or liquor-by-the-drink upon the licensed premises. A licensee that demonstrates to the satisfaction of the Director, through appropriate business records, that no less than forty percent (40%) of the gross revenues of the establishment are derived from the sales of food, shall be entitled to a restaurant designation providing that all other provisions of this chapter are met. (7-1-00)T

05. Stock Transfer. For the purposes of Section 23-908(4), Idaho Code, the sale or exchange of stock in a closely held corporation holding a license shall be deemed a transfer of the license. However, the sale or exchange of shares in a family corporation among family members, shall not be deemed a transfer. ~~(4-5-00)~~(7-1-00)T

IDAPA 11 - IDAHO STATE POLICE
11.10.01 - RULES GOVERNING THE ILETS SYSTEM - IDAHO CRIMINAL
JUSTICE INFORMATION SYSTEM

DOCKET NO. 11-1001-0001 (REPEAL)

NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2001 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that his agency has adopted a pending rule. The action is authorized pursuant to Title 19, Chapter 52, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, [June 7, 2000, Volume 00-6, page 14](#). This chapter is being repealed in its entirety.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Robert Taylor at (208) 884-7132.

DATED this 7th day of July, 2000.

Margaret P. White
Deputy Attorney General
Idaho State Police
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7050 / (208) 884-7090 (FAX)

IDAPA 11
TITLE 10
Chapter 01

RULES GOVERNING THE ILETS SYSTEM - IDAHO CRIMINAL
JUSTICE INFORMATION SYSTEM

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative
Bulletin, [Volume 00-6, June 7, 2000, page 14](#).

This rule has been adopted as a pending rule by the Agency and is now pending
review and adoption by the 2001 Idaho State Legislature as a final rule.

IDAPA 11 - IDAHO STATE POLICE
11.10.01 - RULES GOVERNING THE ILETS SYSTEM - IDAHO LAW
ENFORCEMENT TELETYPEWRITER SYSTEM

DOCKET NO. 11-1001-0002 (REWRITE)

NOTICE OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2001 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that his agency has adopted a pending rule. The action is authorized pursuant to Title 19, Chapter 52, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rule was published in the Administrative Bulletin, [June 7, 2000, Volume 00-6, pages 15 through 25](#).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 19-5202, Idaho Code. The law enforcement teletypewriter system (ILETS) is supported partially by a use fee paid by subscribers, as authorized by Section 19-5202, Idaho Code. The temporary rule continues the fee schedule previously adopted by the ILETS Board. The collection of use fees is necessary for the continued operation of the criminal justice information system.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Robert Taylor at (208) 884-7132.

DATED this 6th day of July, 2000.

Margaret P. White, Deputy Attorney General
Idaho State Police
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7050 / (208) 884-7090 (FAX)

IDAPA 11
TITLE 10
Chapter 01

RULES GOVERNING THE ILETS SYSTEM - IDAHO LAW
ENFORCEMENT TELETYPEWRITER SYSTEM

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 00-6, June 7, 2000, pages 15 through 25](#).

This rule has been adopted as a pending rule by the Agency and is now pending review and adoption by the 2001 Idaho State Legislature as a final rule.

IDAPA 11 - IDAHO STATE POLICE
11.10.01 - RULES GOVERNING THE ILETS SYSTEM - IDAHO LAW
ENFORCEMENT TELETYPEWRITER SYSTEM

DOCKET NO. 11-1001-0003 (FEE RULE)

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule is effective October 1, 2000.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Title 67, Chapter 30, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2000.

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

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

This rulemaking proposed by the ILETS Board increases the previously adopted fee schedule. The collection of use fees is necessary for the continued operation of the criminal justice information system.

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:

Revenue and cost projections indicate that the ILETS fund will have a deficit cash balance by September 2001 unless a fee increase is implemented.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 19-5202, Idaho Code.

The ILETS system user access fees for the use of an ILETS communication interface, an ILETS terminal, and an ILETS printer are increasing by \$25 for each component for each month of service.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the simple nature of the proposed rule change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Robert Taylor, Bureau of Criminal Identification.

Anyone may submit written comments regarding this proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered by September 27, 2000.

DATED this 24th day of July, 2000.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1001-0003

018. USER ACCESS FEES.

01. Fee Schedule. The access fees approved by the board and to be collected by the department are as follows: (5-1-00)T

a. The fee for a communication interface is ~~one~~ two hundred ~~and seventy-five~~ dollars (~~\$175~~200) for each month of service. (~~5-1-00~~)F(10-1-00)T

b. The fee for an ILETS terminal is ~~fifty~~ seventy-five dollars (~~\$50~~75) for each month of service. (~~5-1-00~~)F(10-1-00)T

c. The fee for an ILETS printer is ~~fifty~~ seventy-five dollars (~~\$50~~75) for each month of service. (~~5-1-00~~)F(10-1-00)T

02. Billing And Payment. The department shall mail statements quarterly to all user agencies, and payment of the fee is due by the first day of the month of each quarter (October 1, January 1, April 1, and July 1), unless it is a Saturday, a Sunday, or a legal holiday, in which event the payment is due on the first successive business day. (5-1-00)T

03. Delinquent Unpaid Fees. A user agency will be delinquent in payment if its quarterly fee assessment has not been received by the department by the last day of the fee period. (5-1-00)T

04. Sanctions For Delinquency. Any user agency delinquent in payment of assessed fees shall be subject to sanctions under Section 028. (5-1-00)T

IDAPA 12 - DEPARTMENT OF FINANCE
12.01.08 - RULES PURSUANT TO THE IDAHO SECURITIES ACT
DOCKET NO. 12-0108-0001
NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2001 Idaho State Legislature for final adoption. The pending rule became final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 30-1448, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, [January 5, 2000, Volume 00-1, pages 66 through 68](#).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this pending rule, contact Marilyn T. Chastain, Bureau Chief, (208) 332-8070.

DATED this 6th day of July, 2000.

Marilyn T. Chastain
Bureau Chief
Department of Finance
Securities Bureau
700 W. State, 2nd Floor
P. O. Box 83720
Boise, Idaho 83720-0031
Phone: (208) 332-8070
Fax: (208) 332-8099

IDAPA 12
TITLE 01
Chapter 08

RULES PURSUANT TO THE IDAHO SECURITIES ACT

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 00-1, January 5, 2000, pages 66 through 68](#).

This rule has been adopted as a pending rule by the Agency and is now pending review and adoption by the 2001 Idaho State Legislature as a final rule.

**IDAPA 15 - OFFICE OF THE GOVERNOR
IDAHO COMMISSION ON AGING**

15.01.03 - RULES GOVERNING OMBUDSMAN FOR THE ELDERLY PROGRAM

DOCKET NO. 15-0103-0001

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule is effective July 1, 2000.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-5003, 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 September 20, 2000.

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

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

This rule change eliminates the requirement for a social work license for sub-state ombudsman and replaces it with a Bachelor's degree or equivalent. It will expand the field of candidates suitable for the Ombudsman position.

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:

For the protection of the public health safety or welfare.

FEE SUMMERY: The following is a specific description of the fee or charge imposed or increased: N/A.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the current rule requiring a social work license exceeds the qualifications and salary level for local ombudsman positions. ICOA's Area Agencies recommended this change because they were have difficulty filling the positions under the current rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Cathy Hart, Ombudsman, (208) 334-3833.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2000.

DATED this 23rd day of July, 2000.

Lupe Wissel, Director
Idaho Commission on Aging
3380 Americana Terrace, Suite 120
PO Box 83720
Boise, ID 83720-0007
Phone: (208) 334-3833
Fax: (208) 334-3033

THE FOLLOWING IS THE TEXT OF DOCKET NO. 15-0103-0001

021. STAFFING.

Pursuant to the OAA, Section 712, in order to meet minimum requirements established for the position of substate ombudsman, each AAA shall seek applicants having the following qualifications. (7-1-98)

01. Minimum Qualifications. Any person hired to fill the position of substate ombudsman on or after July 1, 1998, shall have: (7-1-99)

- a. ~~A current Idaho social work license~~ Bachelor's degree or equivalent; (~~7-1-98~~)(7-1-00)T
- b. Minimum of one (1) year's experience working with the elderly; (7-1-98)
- c. Ability to effectively communicate verbally and in writing; (7-1-98)
- d. Knowledge of long-term care issues and resources; (7-1-98)
- e. Demonstrated ability to interpret and apply relevant local, state and federal laws, rules, regulations, and guidelines; (7-1-98)
- f. Demonstrated ability to work independently; (7-1-98)
- g. Demonstrated skill in interviewing techniques; and (7-1-98)
- h. Demonstrated ability to collect data, conduct interviews and to form conclusions. (7-1-98)

02. Hiring. The Office shall be included in the process of interviewing and selecting applicants for the substate ombudsman position. The AAA shall make the final selection from the top three (3) applicants. (7-1-98)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.08 - VITAL STATISTICS RULES

DOCKET NO. 16-0208-0001

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Title 39, Chapter 2, Vital Statistics Act, Section 253, 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 September 20, 2000.

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

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

Because the Vital Statistics unit no longer issues' copies of the birth registration card, any mention of the birth registration card is being removed. Subsection 251.05.i. needs to be deleted because it does not agree with Section 16-1513, Idaho Code.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or decreased. The fee or charge is being decreased for the following reasons:

Because the Vital Statistics unit no longer issues copies of the birth registration card, any mention of the birth registration card is being removed. Section 251 of these rules states: "The fee shall be ten dollars (\$10) per copy for the issuance of a certified copy of a vital record or birth registration card."

In Idaho Code, Section 16-1513 (09) states: "To cover the cost of implementing and maintaining such registry, the vital statistics unit of the Department of Health and Welfare shall charge a registration fee of ten dollars (\$10) at the time the putative father registers his intent to exercise his parental rights. It is the intent of the legislature that the fee shall cover all direct and indirect costs incurred pursuant to this section. The Board of Health and Welfare shall annually review the fees and expenses incurred pursuant to administering the provisions of this section." This fee has been increased through rule promulgation over the years as per a legal interpretation regarding the legislature's intent to recover costs associated with administering the registry. IDAPA 16.02.08.251.05.i. now states: "The fee shall be sixteen dollars (\$16) for registering with the Putative Father Registry." The most recent review indicates that actual current expenses are closer to twenty dollars (\$20). However, the present legal interpretation is that we should only be charging the original ten dollars (\$10) as stipulated in Idaho Code. Subsequently, the rule will be deleted and the ten dollar (\$10) fee in statute will be applied. This reduction in the fee will be neutral because the present legal interpretation provides that we should additionally charge the search fee of ten dollars (\$10) as stated in IDAPA 16.02.08.251.02.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rulemaking is to comply with governing law.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Jane S. Smith at (208) 334-5976.

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before September 27, 2000.

DATED this 7th day of July, 2000.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Legal Services Division
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 332-7347 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0208-0001

251. FEES FOR COPIES, SEARCHES, AND OTHER SERVICES.

01. Certified Copies. The fee shall be ten dollars (\$10) per copy for the issuance of a certified copy of a vital record ~~or birth registration card.~~ (7-1-97)(____)

02. Searches. The fee shall be ten dollars (\$10) for each search of the files when no record is found or no copy is made. (7-1-97)

03. Verifications. Except for Idaho state executive agencies and public health districts, there shall be a fee of six dollars (\$6) for verification of data from certificates. (12-31-91)

04. Statistical, Research, Or Public Health Services. The State Registrar shall assess the fee for statistical, research or public health services. The costs shall be calculated based upon the costs of retrieving the data and the costs of compiling, organizing, and printing the data. Cost may be reduced on a pro-rated basis to reflect the number of expected requests for the same information or service. (12-26-83)

05. Other Services. (12-31-91)

a. The fee shall be ten dollars (\$10) for establishing a new birth certificate pursuant to a report of adoption. (7-1-97)

b. The fee shall be ten dollars (\$10) for establishing a delayed certificate of any event. (7-1-97)

c. The fee shall be ten dollars (\$10) for establishing a new or amended birth certificate pursuant to a court order, a paternity affidavit or rescission, or a subsequent marriage affidavit. (7-1-97)

d. A service fee of three dollars (\$3), in addition to the ten dollar (\$10) fee for a certified copy, shall be paid to the local registrar for securing each expedited certified copy of a vital record. (7-1-97)

e. The fee shall be ten dollars (\$10) for filing a copy of "Request and Consent for Artificial Insemination", as required by Section 39-5403, Idaho Code. (12-31-91)

f. The fee shall be ten dollars (\$10) for copies of certificates provided upon written request to local, states other than Idaho, or federal government agencies in accordance with Section 39-270(b), Idaho Code. (7-1-97)

g. When a funeral director must correct an error on a certificate of death or stillbirth for which certified copies have been issued, the correction fee shall be ten dollars (\$10) and shall include issuance of one (1) certified copy of the corrected death or stillbirth record. The fee shall be two dollars (\$2) for additional (replacement) copies issued at the time of correction. (7-1-97)

h. A service fee of five dollars (\$5) will be added for priority mailing or special handling, including additional document requests. This fee will be in addition to the current fee(s) for the requested certified copy(ies) and/or search(es). (7-1-97)

~~i. The fee shall be sixteen dollars (\$16) for registering with Putative Father Registry. The fee must be submitted with the registration form. (7-1-93)~~

06. Waiver Of Fee Requirement. Fees may be waived for Idaho state executive agency and public health district requests. Statistical information prepared for public health planning purposes may be published and distributed without charge whenever the Director determines that the publication and distribution is in the public interest. (12-26-83)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO

DOCKET NO. 16-0304-0001

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective July 1, 2000.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(b) and 56-1004, Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2000.

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:

Changes to this chapter will be: 1) Food Stamp benefits will be available to a person who has been convicted of a felony involving a controlled substance, if the person complies with the terms of a withheld judgement, probation or parole; and 2) condominium fees for maintenance of the structure and grounds are allowable shelter costs for Food Stamps.

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 rules is appropriate for the following reasons: to comply with deadlines in amendments to governing law or federal programs; and to confer a benefit.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rulemaking was initiated to comply with deadlines in amendments to governing law.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at (208) 334-5818.

Anyone can submit written comments regarding this proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before September 27, 2000.

DATED this 6th day of July, 2000.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone
(208) 332-7347 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0304-0001

002. DEFINITIONS.

For the Food Stamp Program, the following definitions apply: (6-1-94)

01. Administrative Error Claim. A claim resulting from an overissuance caused by the Department's action or failure to act. (6-1-94)

02. Applicant. A person applying for Food Stamps. (6-1-94)

03. Application For Participation. The application form filed by the head of the household or authorized representative. (6-1-94)

04. Authorized Representative. A person designated by the household to act on behalf of the household to apply for or get and use Food Stamps. Authorized representatives include private nonprofit organizations or institutions conducting a drug addiction or alcoholic treatment and rehabilitation center acting for center residents. Authorized representatives include group living arrangement centers acting for center residents. Authorized representatives include battered women's and children's shelters acting for the shelters' residents. Homeless meal providers may not be authorized representatives for homeless Food Stamp recipients. (6-1-94)

05. Battered Women And Children's Shelter. A shelter for battered women and children which is a public or private nonprofit residential facility. If the facility serves others, a portion of the facility must be set aside on a long-term basis to serve only battered women and children. (6-1-94)

06. Boarder. Any person or group to whom a household, other than a commercial boarding house, furnishes meals and lodging in exchange for an amount equal to or greater than the thrifty food plan. Children, parents and spouses in a household must not be treated as boarders. (6-1-94)

07. Boarding House. A licensed commercial enterprise offering meals and lodging for payment to make a profit. (6-1-94)

08. Categorical Eligibility. If all household members are authorized to get TAFI, AABD and/or SSI, the household is categorically eligible. Categorically eligible households are exempt from resource, gross and net income eligibility standards. (7-1-98)

09. Certification Determination. Actions necessary to determine household eligibility including interviews, verification, approval, denial, field investigation, analysis and corrective action necessary to insure prompt, efficient and correct certifications. (6-1-94)

10. Claim Determination. The action taken by the Department establishing the household's liability for repayment when an overissuance of Food Stamps occurs. (6-1-94)

11. Client. A person entitled to or receiving Food Stamps. (6-1-94)

12. Coupon. Any coupon, stamp, access device, or certificate issued pursuant to the Food Stamp Program for the purchase of food. (7-1-98)

13. Coupon Allotment. The total dollar amount of Food Stamps allowed the household during the full or prorated month. (6-1-94)

14. Department. The Idaho Department of Health and Welfare. (6-1-94)

15. Disqualified Household Members. Individuals required to be excluded from participation in the Food Stamp program are Disqualified Household Members. These include: (6-1-94)

- a. Ineligible legal non-citizen who do not meet the citizenship or eligible legal non-citizen requirements. (7-1-98)
- b. Individuals awaiting proof of citizenship when citizenship is questionable. (6-1-94)
- c. Individuals disqualified for failure or refusal to provide a Social Security Number (SSN). (6-1-94)
- d. Individuals disqualified for Intentional Program Violation (IPV). (6-1-94)
- e. Individuals disqualified for receiving three (3) months of Food Stamps in a three (3) year period in which they did not meet the work requirement for able-bodied adults without dependent children. (7-1-98)
- f. Individuals disqualified as a fugitive felon or probation or parole violator. (7-1-98)
- g. Individuals disqualified for a voluntary quit or reduction of hours of work to less than thirty (30) hours per week. (7-1-98)
- h. Individuals disqualified for failure to cooperate in establishing paternity and obtaining support for a child under eighteen (18). (7-1-98)
- i. Individuals ~~disqualified for a conviction of a felony which has as an element, convicted under federal or state law of any offense classified as a felony involving the use, possession, use, or distribution of a controlled substance when they do not comply with the terms of a withheld judgment, probation, or parole. The felony must have occurred after August 22, 1996.~~ (7-1-98)(7-1-00)T

16. Documentation. The method used to record information establishing eligibility. The information must sufficiently explain the action taken and the proof and how it was used. (6-1-94)

17. Drug Addiction Or Alcoholic Treatment Program. Any drug addiction or alcoholic treatment rehabilitation program conducted by a private nonprofit organization or institution or a publicly operated community mental health center under Part B of Title XXIX of the Public Health Service Act (42 USC 300 et seq.). Indian reservation based centers may qualify if FCS requirements are met and the program is funded by the National Institute on Alcohol Abuse under Public Law 91-616 or was transferred to Indian Health Service funding. (7-1-98)

18. EBT Handbook. Idaho Department of Health and Welfare Rules, IDAPA 16.03.20, "Rules Governing Electronic Benefit Transfer (EBT) of Public Assistance, Food Stamps, and Child Support". (7-1-98)

19. Electronic Benefit Transfer. A method of issuing Food Stamps to an eligible household. (7-1-98)

20. Eligible Foods. Any food or food product for human consumption excluding alcohol, tobacco, and hot foods and hot food products ready for immediate consumption. Eligible foods include: (6-1-94)

- a. Garden seeds and plants to grow food for human consumption. (6-1-94)
- b. Meals prepared for the elderly at a communal dining facility. (6-1-94)
- c. Meals prepared and delivered by an authorized meal delivery service. (6-1-94)
- d. Meals served to a narcotics addict or alcoholic who participate and reside in a rehabilitation center program. (6-1-94)
- e. Meals prepared and served by an authorized group living center to blind or disabled residents who receive benefits under Titles I, II or X, XIV, XVI of the Social Security Act. (6-1-94)
- f. Meals prepared and served at a shelter for battered women and children to eligible residents. (6-1-94)

g. Meals prepared and served by an authorized public or private nonprofit establishment to homeless Food Stamp participants. (6-1-94)

21. Eligible Household. A household living in a project area and meeting the eligibility criteria in these rules. (6-1-94)

22. Emancipated Minor. A person, age fourteen (14) but under age eighteen (18), who has been married or whose circumstances show the parent and child relationship has been renounced such as a child in the military service. (6-1-94)

23. Enumeration. The requirement that each household member provide the Department either their Social Security Number (SSN) or proof that they have applied. (6-1-94)

24. Exempt. A household member who is not required to register for or participate in the JSAP program is exempt. A household member who is not required to register for work is exempt. (6-1-94)

24. Federal Fiscal Year. The federal fiscal year (FFY) is from October 1 to September 30. (6-1-94)

25. Food Assistance. The Department's Food Stamp Program or Food Distribution Program. (6-1-94)

27. General Assistance. Cash or other aid, excluding in-kind assistance, financed by federal, state or local government and provided to cover living expenses or other basic needs. This cash or other aid is intended to promote the health and well-being of recipients. (6-1-94)

28. Group Living Arrangement. A public or private nonprofit residential setting serving no more than sixteen (16) residents. The residents are blind or disabled and receiving benefits under Title II or XVI of the Social Security Act, certified by the Department under regulations issued under Section 1616(e) of the Social Security Act, or under standards determined by the Secretary of USDA to be comparable to Section 1616(e) of the Social Security Act. (6-1-94)

29. Homeless Person. A person: (6-1-94)

a. Who has no fixed or regular nighttime residence. (6-1-94)

b. Whose primary nighttime residence is a temporary accommodation for not more than ninety (90) days in the home of another individual or household. (7-1-98)

c. Whose primary nighttime residence is a temporary residence in a supervised public or private shelter providing temporary residence for homeless persons. (6-1-94)

d. Whose primary nighttime residence is a temporary residence in an institution which provides temporary residence for people who are being transferred to another institution. (6-1-94)

e. Whose primary nighttime residence is a temporary residence in a public or private place which is not designed or customarily used as sleeping quarters for people. (6-1-94)

30. Homeless Meal Provider. A public or private nonprofit establishment or a profit making restaurant which provides meals to homeless people. The establishment or restaurant must be approved by the Department and authorized as a retail food store by FCS. (7-1-98)

31. Identification Card. The card identifying the bearer as eligible to get and use Food Stamps. (6-1-94)

32. Inadvertent Household Error Claim (IHE). A claim resulting from an overissuance, caused by the household's misunderstanding or unintended error. A household error claim pending an intentional program violation decision. (6-1-94)

- 33. Income and Eligibility Verification System (IEVS).** A system of information acquisition and exchange for income and eligibility verification which meets Section 1137 of the Social Security Act requirements. (6-1-94)
- 34. Indian General Assistance.** The general assistance program administered by the Bureau of Indian Affairs. (6-1-94)
- 35. Institution Of Higher Education.** Any institution which normally requires a high school diploma or equivalency certificate for enrollment. These institutions include colleges, universities, and business, vocational, technical, or trade schools at the post-high school level. (7-1-97)
- 36. Institution Of Post Secondary.** Educational institutions normally requiring a high school diploma or equivalency certificate for enrollment, or admits persons beyond the age of compulsory school attendance. The institution must be legally authorized by the state and provide a program of training to prepare students for gainful employment. (6-1-94)
- 37. Nonexempt.** A household member who must register for and participate in the JSAP program. A household member who must register for work. (6-1-94)
- 38. Nonprofit Meal Delivery Service.** A political subdivision or a private nonprofit organization, which prepares and delivers meals, authorized to accept Food Stamps. (6-1-94)
- 39. Overissuance.** The amount Food Stamps issued exceeds the Food Stamps a household was eligible to receive. (6-1-94)
- 40. Parental Control.** Parental control means that an adult household member has a minor in the household. The minor is dependent financially or otherwise on the adult. Minors, emancipated through marriage, are not under parental control. Minors living with children of their own are not under parental control. (7-1-98)
- 41. Participation.** Participation means a person or household was certified for the Food Stamp Program and is getting Food Stamps. (6-1-94)
- 42. Program.** The Food Stamp Program created under the Food Stamp Act and administered in Idaho by the Department. (6-1-94)
- 43. Project Area.** The state of Idaho has been approved as one project area by the Department of Agriculture. (6-1-94)
- 44. Public Assistance.** Public assistance means Old-Age Assistance (OAA), Temporary Assistance for Families in Idaho (TAFI), Aid to the Blind (AB) and Aid to the Disabled (AD). (7-1-98)
- 45. Retail Food Store.** A retail food store, for Food Stamp purposes means: (6-1-94)
- a. An establishment, or recognized department of an establishment, or a house-to-house food trade route, whose food sales volume is more than fifty percent (50%) staple food items for home preparation and consumption. (6-1-94)
 - b. Public or private communal dining facilities and meal delivery services. (6-1-94)
 - c. Private nonprofit drug addict or alcohol treatment and rehabilitation programs. (6-1-94)
 - d. Public or private nonprofit group living arrangements. (6-1-94)
 - e. Public or private nonprofit shelters for battered women and children. (6-1-94)
 - f. Private nonprofit cooperative food purchasing ventures, including those whose members pay for

- food prior to the receipt of the food. (6-1-94)
- g. A farmers' market. (6-1-94)
- h. An approved public or private nonprofit establishment which feeds homeless persons. The establishment must be approved by FCS. (7-1-98)
- 46. Spouse.** Persons who are: (6-1-94)
- a. Ceremonially married under applicable state law; or (6-1-94)
- b. Living together, free to marry and holding themselves out as man and wife. (6-1-94)
- 47. State.** Any of the fifty (50) States, the District of Columbia, Puerto Rico, Guam, the Northern Mariana Islands and the Virgin Islands of the United States. (6-1-94)
- 48. State Agency.** The Idaho Department of Health and Welfare. (6-1-94)
- 49. Student.** An individual between the ages of eighteen (18) and fifty (50), physically and mentally fit, and enrolled at least half-time in an institution of higher education. (6-1-94)
- 50. Supplemental Security Income (SSI).** Monthly cash payments under Title XVI of the Social Security Act. Payments include state or federally administered supplements, such as AABD payments in Idaho. (6-1-94)
- 51. Verification.** The proof obtained to establish the accuracy of information and the household's eligibility. (6-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

218. PERSONS DISQUALIFIED AS FOOD STAMP HOUSEHOLD MEMBERS.

Persons disqualified as Food Stamp household members must not participate in the Food Stamp program. Disqualified household members are not counted in the household size. Disqualified household members' income and resources are counted. Disqualified household members are listed below: (6-1-94)

- 01. Ineligible Legal Non-Citizen.** Ineligible legal non-citizens not meeting citizenship or eligible legal non-citizen requirements. (7-1-98)
- 02. Persons With Citizenship Questionable.** Persons refusing to sign a declaration attesting to citizenship or legal non-citizen status. (7-1-98)
- 03. Person Refusing SSN.** Persons disqualified for failure or refusal to provide a Social Security Number. (6-1-94)
- 04. JSAP Or Work Registration Noncompliance.** Persons disqualified for failure to comply with JSAP or work registration requirements. (4-5-00)
- 05. Persons With IPV.** Persons disqualified for an Intentional Program Violation (IPV). (6-1-94)
- 06. Voluntary Quit Or Reduction Of Hours Of Work.** Persons disqualified for a voluntary quit or reduction in hours of work. (4-5-00)
- 07. ABAWD Not Meeting Work Requirement.** Persons who have received three (3) months of Food Stamp benefits in a three (3) year period without meeting the ABAWD work requirement. (7-1-98)

08. Fugitive Felon. Persons who are determined to be a fugitive felon or probation or parole violator. (7-1-98)

09. Drug Convicted Felon. ~~Persons who have been~~ Individuals convicted of a felony offense which has ~~as an element~~ under federal or state law of any offense classified as a felony involving the possession, use or distribution of a controlled substance when they do not comply with the terms of a withheld judgment, probation or parole. The felony must have occurred after August 22, 1996. ~~(7-1-98)~~(7-1-00)T

10. Failure To Cooperate In Paternity Establishment Or Obtaining Support. Persons disqualified for failure to cooperate in establishing paternity and obtaining support for a child under eighteen (18). (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

287. INELIGIBILITY FOR A FELONY CONVICTION FOR POSSESSION, USE, OR DISTRIBUTION OF A CONTROLLED SUBSTANCE.

~~A person~~ Individuals convicted under ~~F~~federal or ~~S~~state law of any ~~felony~~ offense ~~which has as an element~~ classified as a felony involving the possession, use, or distribution of a controlled substance ~~is not eligible for Food Stamps~~ can receive Food Stamps when they comply with the terms of a withheld judgment, probation, or parole. The felony must have occurred after August 22, 1996. Controlled substance felons not complying with the terms of a withheld judgment, probation, or parole are not eligible for Food Stamps. Count the income and resources of the disqualified individual in full. ~~(4-5-00)~~(7-1-00)T

(BREAK IN CONTINUITY OF SECTIONS)

321. RESOURCES OF DISQUALIFIED HOUSEHOLD MEMBERS.

The household must report the resources of members disqualified for Food Stamps. The household must verify any questionable information. The resources of the disqualified person are included in determining the resource limit. Disqualified household members with resources counted toward the household limit are listed below: (6-1-94)

01. Member Disqualified For IPV. Resources of a household member disqualified for an intentional program violation are counted. (6-1-94)

02. Member Disqualified For Failure To Comply. Resources of a household member disqualified for failing to comply with a work requirement are counted. (6-1-94)

03. Member Ineligible Due To SSN. Resources of a household member ineligible for refusing to get an SSN are counted. (6-1-94)

04. Ineligible Legal Non-Citizen. Resources of an ineligible legal non-citizen household member are counted. (7-1-98)

05. Member Disqualified For Failure To Meet The ABAWD Work Requirement. Resources of a household member disqualified for failure to meet the ABAWD work requirement are counted. (7-1-98)

06. Member Disqualified For A Voluntary Quit Or Reduction In Hours Of Work. Resources of a member disqualified for a voluntary quit or reduction of work are counted. (4-5-00)

07. Member Disqualified As A Fugitive Felon Or Probation Or Parole Violator. Resources of a member disqualified as a fugitive felon or probation or parole violator are counted. (7-1-98)

08. Member Disqualified For Failure To Cooperate In Establishing Paternity And Obtaining Support. Resources of a member disqualified for failure to cooperate in establishing paternity and obtaining support are counted. (7-1-98)

09. Member Disqualified For Conviction Of A Controlled Substance Felony. Resources of ~~a member disqualified for conviction of a felony which has as an element~~ individuals convicted under federal or state law of any offense classified as a felony involving the possession, distribution, or use of a controlled substance ~~are counted~~ when they do not comply with the terms of a withheld judgment, probation, or parole are counted. The felony must have occurred after August 22, 1996. ~~(7-1-98)~~(7-1-00)T

(BREAK IN CONTINUITY OF SECTIONS)

542. COSTS ALLOWED FOR SHELTER DEDUCTION.

Shelter costs are current charges for the shelter occupied by the household. Shelter costs include costs for the home temporarily not occupied because of employment or training away from home or illness. The costs allowed for the shelter deduction are listed below: (6-1-94)

- 01. House Payments.** Mortgages, second mortgages, mortgage fees and land payments. (6-1-94)
- 02. Rent.** Rent and space rent. (6-1-94)
- 03. Condominium Fees.** The entire condominium fee, including fees for maintenance of the structure and the grounds. (7-1-00)T
- 034. Loan Payments.** Loan repayments for the purchase of a mobile or motor home, including interest. (6-1-94)
- 045. Taxes And Insurance.** Property taxes, state, and local assessments and insurance on the structure. (6-1-94)
- 056. Utilities.** Costs of heating, cooling, cooking fuel, electricity, the basic service fee for one telephone, water, sewer, garbage and trash collection, and fees for initial utility installation. (6-1-94)
- 067. Vehicle Payments.** Payments for vehicles used as the primary residence for the household. (6-1-94)
- 078. Costs For Home Repairs.** Nonreimbursable costs to repair a home damaged or destroyed by a natural disaster such as a fire or flood or earthquake. (6-1-94)
- 089. Home Temporarily Not Occupied.** Shelter costs for the home temporarily not occupied because of employment or training away from home or illness. This shelter cost may be in addition to the shelter cost for the home the household currently occupies. Shelter costs for the home temporarily not occupied because of abandonment caused by a natural disaster or casualty loss. This shelter cost may be in addition to the shelter cost for the home the household currently occupies. For shelter deduction for a vacated home: (6-1-94)
 - a. The household must intend to return. (6-1-94)
 - b. Current occupants must not be claiming Food Stamp shelter costs. (6-1-94)
 - c. The home must not be leased or rented. (6-1-94)
 - d. The SUA is not allowed for a temporarily unoccupied home. (6-1-94)
 - e. The household must claim actual costs for both the unoccupied home and its current residence.

(6-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

774. EXCLUDED HOUSEHOLD MEMBERS.

Household members excluded from participation in the Food Stamp program are listed in Subsections 774.01 through 774.07. (7-1-00)T

01. Intentional Program Violation (IPV). Persons may be excluded from Food Stamps for an IPV. (7-1-00)T

02. Work Requirements. Persons may be excluded from Food Stamps for failure to comply with JSAP requirements, a voluntary quit or reduction of work hours, ~~or~~. (7-1-00)T

03. Social Security Number. Persons may be excluded from Food Stamps for failure or refusal to provide a ~~SSN~~ Social Security Number. (7-1-00)T

04. Citizenship. Persons may be excluded from Food Stamps for failure to sign a citizenship or legal non-citizen status declaration or because the member is an ineligible legal non-citizen or an ineligible sponsored legal non-citizen. (7-1-00)T

05. ABAWD Requirements. A person who has received Food Stamps for three (3) months in a three (3) year period in which he did not meet the ABAWD work requirement is excluded from Food Stamps. (7-1-00)T

06. Fugitive Felons and Parole Violators. Fugitive felons and, probation or parole violators are excluded from Food Stamps. ~~A person convicted of a felony committed after August 22, 1996, which has as an element the possession, use, or distribution of a controlled substance is excluded from Food Stamps.~~ (4-5-00)(7-1-00)T

07. Felony Conviction Involving Controlled Substance. Individuals convicted under federal or state law of any offense, classified as a felony, involving the possession, use, or distribution of a controlled substance are excluded from Food Stamps when they do not comply with the terms of a withheld judgment, probation, or parole. The felony must have occurred after August 22, 1996. (7-1-00)T

775. FOOD STAMPS FOR HOUSEHOLDS WITH IPV MEMBERS, INELIGIBLE FUGITIVE FELON, PROBATION/PAROLE VIOLATOR, OR A MEMBER CONVICTED OF A CONTROLLED SUBSTANCE-RELATED FELONY.

Food Stamp eligibility and benefit level for households containing members disqualified for an IPV, ineligible fugitive felon, probation/parole violator, or a member ~~convicted~~ ineligible because of a controlled substance-related felony must be computed using steps in Subsections 775.01 through 775.08. The household's Food Stamps must not increase because a household member is disqualified for IPV. (7-1-98)(7-1-00)T

01. Step 1. Count all resources of the disqualified IPV, ineligible fugitive felon, probation/parole violator, or ineligible controlled substance felon members as resources to the household. (7-1-98)(7-1-00)T

02. Step 2. Do not count the IPV, ineligible fugitive felon, probation/parole violator, or ineligible controlled substance convicted felon member as part of the household to compute the resource limit. (7-1-98)(7-1-00)T

03. Step 3. Count all income of the IPV, ineligible fugitive felon, probation/parole violator, or ineligible controlled substance convicted felon members as income to the household. (7-1-98)(7-1-00)T

04. Step 4. Do not count the IPV, ineligible fugitive felon, probation/parole violator, or ineligible controlled substance convicted felon member when computing household size for the gross and net income limit

tests.

~~(7-1-98)~~(7-1-00)T

05. Step 5. The entire household's allowable earned income, standard, medical, dependent care, child support, and excess shelter deductions apply to the remaining household members. (7-1-98)

06. Step 6. Count the IPV, ineligible fugitive felon, probation/parole violator, or ineligible controlled substance convicted felon member to compute medical deduction. ~~(7-1-98)~~(7-1-00)T

07. Step 7. Count the IPV, ineligible fugitive felon, probation/parole violator, or ineligible controlled substance convicted felon member to compute uncapped shelter deduction. ~~(7-1-98)~~(7-1-00)T

08. Step 8. Do not count the IPV, ineligible fugitive felon, probation/parole violator, or ineligible controlled substance convicted felon member to compute household size for Food Stamp issuance. ~~(7-1-98)~~(7-1-00)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM IN IDAHO
DOCKET NO. 16-0309-9913
NOTICE OF VACATION OF RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the rulemaking previously initiated under this docket. The action is authorized pursuant to Section(s) 56-202(b) and 56-203(g), Idaho Code.

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

Because of legislative intent language, the whole issue contained in this docket has been re-evaluated.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of rulemaking, contact Mary Lou Forbes at (208) 364-1844.

DATED this 19th day of July, 2000.

Sherri Kovach
Administrative Procedures Coordinator
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IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM IN IDAHO

DOCKET NO. 16-0309-0001

NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2001 Idaho State Legislature for final adoption. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224(5)(a) and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

DESCRIPTIVE SUMMARY: The pending rule is being adopted as proposed. This rule was published as a temporary rule in the Administrative Bulletin, [March 1, 2000, Volume 00-3, pages 21 and 22](#). The original text of the proposed rule was published in the Administrative Bulletin, [June 7, 2000, Volume 00-6, pages 28 through 30](#).

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Colleen Osborn at (208) 364-1923.

DATED this 11th day of July, 2000.

Sherri Kovach
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IDAPA 16
TITLE 03
Chapter 09

RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM IN IDAHO

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 00-6, June 7, 2000, pages 28 through 30](#).

This rule has been adopted as a pending rule by the Agency and is now pending review and adoption by the 2001 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM IN IDAHO

DOCKET NO. 16-0309-0003

NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2001 Idaho State Legislature for final adoption. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224(5)(a) and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

DESCRIPTIVE SUMMARY: The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Administrative Bulletin, [June 7, 2000, Volume 00-6, pages 48 through 53](#).

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Jean Christensen at (208) 364-1828.

DATED this 10th day of July, 2000.

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IDAPA 16
TITLE 03
Chapter 09

RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM IN IDAHO

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 00-6, June 7, 2000, pages 48 through 53](#).

This rule has been adopted as a pending rule by the Agency and is now pending review and adoption by the 2001 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM IN IDAHO

DOCKET NO. 16-0309-0004

NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2001 Idaho State Legislature for final adoption. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224(5)(a) and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

DESCRIPTIVE SUMMARY: The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Administrative Bulletin, [June 7, 2000, Volume 00-6, pages 54 through 58](#).

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Lloyd Forbes at (208) 364-1831.

DATED this 11th day of July, 2000.

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IDAPA 16
TITLE 03
Chapter 09

RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM IN IDAHO

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 00-6, June 7, 2000, pages 54 through 58](#).

This rule has been adopted as a pending rule by the Agency and is now pending review and adoption by the 2001 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM IN IDAHO
DOCKET NO. 16-0309-0006
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective September 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(b) and 56-203(g), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2000.

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:

Rulemaking will put back into rule the EPSDT coverage for nutrition, drugs and oxygen. These were inadvertently deleted when the EPSDT rules were changed September 1, 1999.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to confer a benefit.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes are to confer a benefit and correct the deletion of text.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact DeeAnne Moore at (208) 364-1840.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before September 27, 2000.

DATED this 6th day of July, 2000.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036
(208) 334-5564 phone / (208) 332-7347 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-0006

541.—~~543.~~ ~~(RESERVED)~~ **NUTRITIONAL SERVICES.**

01. Nutritional Services. Nutritional services include intensive nutritional education, counseling, and monitoring by a registered dietician or an individual who has a baccalaureate degree granted by a U.S. regionally accredited college or university and has met the academic/professional requirements in dietetics as approved by the American Dietetic Association to assure the patient's proper nutrition. Nutrition services: (9-1-99)T

- a. Must be discovered by the screening services and ordered by the physician; and (9-1-99)T
- b. Must be medically necessary; and (9-1-99)T
- c. Must not be due to obesity; and (9-1-99)T
- d. If over two (2) visits per year are needed, must be authorized by the Department or its designee prior to the delivery of additional visits. (9-1-99)T

02. Payment. Payment is made at a rate established in accordance with Subsection 106.06. (9-1-99)T

542. DRUGS.

Drugs not covered by the Idaho Medicaid Program may be covered under the EPSDT program under the following conditions: (9-1-99)T

- 01. Medically Necessary.** Must be discovered as being medically necessary by the screening services;
and (9-1-99)T
- 02. Attending Physician.** Must be ordered by the attending physician; and (9-1-99)T
- 03. Authorized By Medicaid Program.** Must be authorized by the Medicaid Program prior to the purchase of the drug. (9-1-99)T
- 04. Experimental Drug.** May not be an experimental drug in the treatment of the child's condition. (9-1-99)T

543. OXYGEN AND RELATED EQUIPMENT.

Oxygen and related equipment are subject to Subsections 107.01.a., 107.01.b., 107.01.d., 107.04 and 107.05, except when discovered during screening services, are physician ordered and meet the following requirements: (9-1-99)T

- 01. Oxygen Services.** Oxygen services, PRN or as ordered on less than a continual basis, or when the lab requirements in Subsections 107.01.a., 107.01.b., 107.01.d., 107.04, and 107.05 are not met, will be authorized for six (6) months following receipt of medical documentation from the attending physician as to an acute or chronic medical condition which requires oxygen support to maintain respiratory status. Medical documentation will include: (9-1-99)T
 - a. A diagnosis; (9-1-99)T
 - b. Oxygen flow rate and concentration; and (9-1-99)T
 - c. An estimate of the frequency and duration of use. (9-1-99)T
- 02. Portable Oxygen Systems.** Portable oxygen systems may be covered to complement a stationary system if the recipient is respirator dependent, or the physician documents the need for a portable oxygen system for use in transportation. (9-1-99)T
- 03. Laboratory Evidence.** Laboratory evidence of hypoxemia is not required. (9-1-99)T
- 04. Authorized.** Must be authorized prior to the delivery of service. (9-1-99)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM IN IDAHO
DOCKET NO. 16-0309-0007
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective September 1, 2000.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(b), 56-203(g) and 56-209h, Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2000.

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:

Section 201 will be modified to add a definition of the term "conviction" used in Section 56-209h, Idaho Code. This definition will be consistent with federal law. Section 203 will be modified to clarify the Department's authority to utilize cost effective, and generally accepted statistical extrapolation methodology in completing audits. Section 206 and 207 will be modified to be consistent with the language in Section 56-209h(4), Idaho Code, by changing the word "shall" to "may". Section 215 will be modified to be consistent with the language in Section 56-209h(7), Idaho Code.

TEMPORARY RULE JUSTIFICATION: A temporary rule has been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to protect public health and safety.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rulemaking is being conducted in order to comply with Idaho Code and to be consistent with federal law.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Sandra Meikle Carter, Deputy Attorney General at (208) 334-5537.

Anyone can submit written comments regarding this proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before September 27, 2000.

DATED this 19th day of July, 2000.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone
(208) 332-7347 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-0007

201. DEFINITIONS.

For purposes of Sections 200 through 233, unless the context clearly requires otherwise, the following words and terms shall have the following meanings: (4-5-00)

01. Abuse Or Abusive. Provider practices that are inconsistent with sound fiscal, business, or medical practices, and result in an unnecessary cost to the Medicaid program, in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care, or in physical harm, pain or mental anguish to a medical assistance recipient. It also includes recipient practices that result in unnecessary cost to the Medicaid program, or recipient utilization practices which may endanger their personal health or safety. (4-5-00)

02. Claim. Any request or demand for payment of items or services under the state's medical assistance program, whether under a contract or otherwise. (4-5-00)

03. Conviction. An individual or entity is considered to have been convicted of a criminal offense: (9-1-00)T

a. When a judgment of conviction has been entered against the individual or entity by a federal, state, or local court, regardless of whether there is an appeal pending or whether the judgment of conviction or other record relating to criminal conduct has been expunged; (9-1-00)T

b. When there has been a finding of guilt against the individual or entity by a federal, state, or local court; (9-1-00)T

c. When a plea of guilty or nolo contendere by the individual or entity has been accepted by a federal, state, or local court; or (9-1-00)T

d. When the individual or entity has entered into participation in a first offender, deferred adjudication, or other arrangement or program where judgment of conviction has been withheld. (9-1-00)T

034. Exclusion. A specific person or provider will be precluded from directly or indirectly providing services and receiving reimbursement under Medicaid. (4-5-00)

045. Fraud Or Fraudulent. An intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. (4-5-00)

056. Knowingly, Known, Or With Knowledge. A person, with respect to information or an action, who: has actual knowledge of the information or an action; acts in deliberate ignorance of the truth or falsity of the information or the correctness or incorrectness of the action; or acts in reckless disregard of the truth or falsity of the information or the correctness or incorrectness of the action. (4-5-00)

067. Managing Employee. A general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operation of an institution, organization, or agency. (4-5-00)

078. Medical Assistance. Shall mean payments for part or all of the cost of such care and services allowable within the scope of Title XIX and XXI of the federal Social Security Act as amended as may be designated by Department rules. (4-5-00)

089. Ownership Or Control Interest. A person or entity that: has an ownership interest totaling twenty-five percent (25%) or more in an entity; is an officer or director of an entity that is organized as a corporation; is a partner in an entity that is organized as a partnership; or is a managing member in an entity that is organized as a

limited liability company. (4-5-00)

~~09~~**10. Person.** An individual, trust or estate, partnership, corporation, professional association or corporation, or other entity, public or private. (4-5-00)

101. PRO. Any peer review organization. (4-5-00)

~~17~~**2. Program.** The Medicaid Program or any part thereof, including Idaho's state plan. (4-5-00)

123. Recoup And Recoupment. That payment of provider claims will be withheld for the purpose of recovering funds which have been paid for items or services the Department has subsequently determined should not have been paid. (4-5-00)

134. Sanction. Any abatement or corrective action taken by the Department which is appealable under Section 224 of these rules. (4-5-00)

145. State Plan. The Medicaid Program as it exists in Idaho. (4-5-00)

156. Provider Suspension. The temporary barring of a person from participation in the Medicaid program pending further investigation or additional action. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

203. INVESTIGATION.

01. Investigation Methods. Pursuant to Section 56-227(e), Idaho Code, the Department shall investigate and identify potential instances of fraud, abuse, or other misconduct by any person related to involvement in the program. Methods may include, but are not limited to, review of computerized reports, referrals to or from other agencies, health care providers or persons, or conducting audits and interviews, probability sampling and extrapolation, and issuing subpoenas to compel testimony or the production of records. Reviews may occur on either pre-payment or post-payment basis. ~~(4-5-00)~~(9-1-00)T

02. Probability Sampling. Probability sampling shall be done in conformance with generally accepted statistical standards and procedures. "Probability sampling" means the standard statistical methodology in which a sample is selected based on the theory of probability (a mathematical theory used to study the occurrence of random events). (9-1-00)T

03. Extrapolation. Whenever the results of a probability sample are used to extrapolate the amount to be recovered, the demand for recovery shall be accompanied by a clear description of the universe from which the sample was drawn, the sample size and method used to select the sample, the formulas and calculation procedures used to determine the amount to be recovered, and the confidence level used to calculate the precision of the extrapolated overpayment. "Extrapolation" means the methodology whereby an unknown value can be estimated by projecting the results of a probability sample to the universe from which the sample was drawn with a calculated precision (margin of error). (9-1-00)T

(BREAK IN CONTINUITY OF SECTIONS)

206. DENIAL OF PAYMENT.

The Department ~~shall~~ may refuse to pay any and all claims it determines are for items or services: ~~(4-5-00)~~(9-1-00)T

01. Not Provided Or Not Medically Necessary. Not provided or not found by the Department to be medically necessary. (4-5-00)

- 02. Documentation.** Not documented to be provided or medically necessary. (4-5-00)
- 03. Recognized Standards.** Not provided in accordance with professionally recognized standards of health care. (4-5-00)
- 04. Prohibited Physician Referral.** Provided as a result of a prohibited physician referral under 42 CFR Part 411, Subpart J. (4-5-00)
- 05. Rules Or Provider Agreement.** Provided contrary to these rules, IDAPA 16.03.10, "Rules Governing Medicaid Provider Reimbursement in Idaho," or the provider agreement. (4-5-00)

207. RECOUPMENT.

The Department ~~shall~~ may recoup the amount paid for items or services listed in Section 206 of these rules. If recoupment is impracticable, the Department may pursue any available legal remedies it may have. Interest shall accrue on overpayments at the statutory rate set forth in Section 28-22-104, Idaho Code, from the date of the final determination of the amount owed for items or services until the date of recovery. ~~(4-5-00)~~(9-1-00)T

(BREAK IN CONTINUITY OF SECTIONS)

215. PERMISSIVE EXCLUSIONS.

The Department may exclude any person or entity for a period of not less than one (1) year: (4-5-00)

- 01. Endangerment Of Health Or Safety Of A Patient.** Where there has been a finding by the Department or peer review group or organization of endangering the health or safety of a patient. (4-5-00)
- 02. Failure To Disclose Or Make Available Records.** That has failed or refused to disclose or make available to the Department, or its authorized agent, or any licensing board, any records maintained by the provider or required of the provider to be maintained, which the Department deems relevant to determining the appropriateness of payment. (4-5-00)
- 03. Other Exclusions.** For any reason for which the Secretary of Health and Human Services, or his designee, could exclude ~~under 42 CFR Parts 1001 or 1003, unless otherwise provided in State Law~~ an individual or entity. ~~(4-5-00)~~(9-1-00)T

**IDAHO DEPARTMENT OF ADMINISTRATION
OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR
AND THE IDAHO DEPARTMENT OF HEALTH AND WELFARE**

16.04.12 - RULES GOVERNING THE INDIVIDUAL AND FAMILY GRANT PROGRAM

DOCKET NO. 16-0412-0001

NOTICE OF CORRECTIVE ACTION AND TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective April 5, 2000.

AUTHORITY: In compliance with Sections 67-5204, 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 56-1004, Idaho Code and is being done in conjunction with the Office of the Administrative Rules Coordinator.

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 September 20, 2000.

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 corrective action and the proposed rulemaking:

This chapter, IDAPA 16.04.12, was inadvertently omitted from the printed edition of the Idaho Administrative Code, July 1, 2000. Chapter 67, Title 52, Idaho Code requires that the rule be re-codified as a result of this omission. There are no substantive changes being made to the rule in this docket and the rule is being re promulgated as previously adopted in accordance with Idaho Code.

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 adoption of this temporary rule is necessary for the protection of the health, safety, and welfare of the public.

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

There are no fees being imposed or charged as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rulemaking is being done to correct an error.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Sherri Kovach at 334-5552 or Dennis Stevenson at 332-1820.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2000.

DATED this 1st day of August, 2000.

Rick Thompson
Administrative Rules Coordinator

Department of Administration
Office of Administrative Rules
P.O. Box 83720
Boise, ID 83720-0306
(208) 332-1820 / (208) 334-2395 Fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0412-0001

IDAPA 16
TITLE 04
Chapter 12

16.04.12 - RULES GOVERNING THE INDIVIDUAL AND FAMILY GRANT PROGRAM

000. LEGAL AUTHORITY.

The Idaho Department of Health and Welfare is authorized to adopt rules for the administration of the Individual and Family Grant program by Section 56-202, Idaho Code. (4-5-00)T

001. TITLE AND SCOPE.

These rules of the Idaho Department of Health and Welfare are known and will be cited as IDAPA 16.04.13, "Rules Governing the Individual and Family Grant Program". These rules provide for administration of the Individual and Family Grant Program. (4-5-00)T

002. WRITTEN INTERPRETATIONS.

The Director or agency has no written interpretations pertinent to these rules. (4-5-00)T

003. ADMINISTRATIVE APPEAL.

The administrative appeal process is set forth in IDAPA 16.05.03 and Section 423(a) of Public Law 100-107, the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Any decision regarding eligibility for form, or amount of assistance may be appealed within sixty (60) days after the date the individual or family is notified of the award or denial of assistance. (4-5-00)T

004. RULE AVAILABILITY.

Copies of these rules are available from the Administrative Procedures Section, 10th Floor, Towers Building - 450 West State Street, P.O. Box 83720, Boise, Idaho 83720-0036. (4-5-00)T

005. DEFINITIONS.

01. Applicant. An individual who applies for the Individual and Family Grant Program. (4-5-00)T

02. Assistance From Other Means. Money or in-kind contributions from other government programs, insurance, voluntary or charitable organizations, or from any sources other than the individual or family. (4-5-00)T

03. Department. The Idaho Department of Health and Welfare. (4-5-00)T

04. Family. A social unit living together and comprised of a husband and wife or dependents, if any, or a household comprised of an unmarried person living with his dependent child, stepchild, or dependent descendant of his child. (4-5-00)T

- 05. Individual.** A person who is not a member of a family as defined in Subsection 005.04. (4-5-00)T
- 06. Major Disaster.** A natural disaster or other catastrophe which the President determines causes sufficient damage to warrant major disaster assistance under the Robert T. Stafford Disaster Relief Act of 1974, as amended. (4-5-00)T
- 07. Necessary Expense.** The cost of an item or service essential to an individual or family to prevent, mitigate or overcome a disaster-related hardship, injury or adverse condition. (4-5-00)T
- 08. Owner-Occupied.** A residence occupied by the legal owner, a person who does not hold formal title or pay rent but is responsible for taxes and maintenance, or a person who has lifetime occupancy rights in the residence with another having formal title. (4-5-00)T
- 09. Primary Residence.** A residence where the owner-occupant lives more than six (6) months in a year, or to which he has recently moved or acquired to move for the same purpose. Recreational, vacation or primarily income-producing property is not a primary residence. (4-5-00)T
- 10. Serious Need.** The requirement for an item or service essential to an individual or family to prevent, mitigate or overcome a disaster-related hardship, injury or adverse condition. (4-5-00)T
- 11. Welfare.** A state payment of Temporary Assistance to Families in Idaho (TAFI), Aid to the Aged, Blind and Disabled (AABD) and/or a federal payment of Supplemental Security Income (SSI). (4-5-00)T

006. ABBREVIATIONS.

- 01. FEMA.** Federal Emergency Management Agency. (4-5-00)T
- 02. GFIP.** Group Flood Insurance Program. (4-5-00)T
- 03. IFG.** Individual and Family Grant Program. (4-5-00)T
- 04. SBA.** Small Business Administration. (4-5-00)T
- 007. -- 199. (RESERVED).**

200. APPLICATIONS.

FEMA will take applications and provide the Department with the application information and documentation electronically. (4-5-00)T

01. Alienage And Residency. An alien must be lawfully present in the United States. Eligibility is determined without regard to residence in the major disaster area or in the state in which the major disaster is declared. (4-5-00)

02. Flood Insurance. Flood insurance must meet the requirements of 44 CFR Section 206.131. Individuals and families will be enrolled in the National Flood Insurance Program's Group Flood Insurance Policy (GFIP) if they live in a special flood hazard area and their IFG grant covers structure or contents. The cost of the flood insurance premium will be deducted from the grant. The individual or family must maintain flood insurance coverage at the maximum grant amount after the GFIP expires to be eligible for future IFG assistance. (4-5-00)T

201. -- 299. (RESERVED).

300. DUPLICATION OF BENEFITS.

Duplication of benefits is prohibited. Benefits must be delivered in the following sequence to avoid duplication. (4-5-00)T

- 01. Delivery Sequence.** The delivery sequence is as follows: (4-5-00)T

- a. Emergency assistance provided by voluntary agencies. (4-5-00)T
- b. Insurance proceeds. (4-5-00)T
- c. Home repair grants provided by the FEMA Disaster Housing Program. (4-5-00)T
- d. Loans provided by the Small Business Administration (SBA). Individuals and families with structure or contents loss must apply to SBA for a loan. (4-5-00)T
- e. The IFG program. (4-5-00)T
- f. Additional assistance provided by voluntary agencies. (4-5-00)T
- g. The Cora Brown fund. (4-5-00)T
- h. Additional State-funded assistance, where available. (4-5-00)T

02. Recovery Of Duplicate Benefits. An agency that awards benefits out of the delivery sequence must recover the funds from the applicant. (4-5-00)T

03. Welfare. Welfare is not duplicate benefits or assistance from other means. (4-5-00)T

301. -- 399. (RESERVED).

400. ELIGIBLE CATEGORIES.

Assistance may be available to meet necessary expenses or serious needs by providing essential items or services in Subsection 400.01. (4-5-00)T

01. Eligible Items And Services. Grants may be made for the following disaster-related costs: (4-5-00)T

- a. Medical and dental. (4-5-00)T
- b. Housing grants for owner-occupied primary residences, including mobile homes. (4-5-00)T
- c. Personal property, including clothing and household furnishings and appliances, tools and specialized or protective clothing required by an employer. (4-5-00)T
- d. Transportation grants to provide available public transportation. Transportation grants may also be made to repair or replace the primary vehicle owned by the individual or family when public transportation is inadequate or unavailable. The repair or replacement cost, less salvage value, must not exceed one-half (1/2) the maximum grant in Section 500. A vehicle is not eligible for replacement or repair unless the owner carries liability insurance. (4-5-00)T
- e. Moving and storage to prevent or reduce damage. (4-5-00)T
- f. Repairing, cleaning or sanitizing any eligible personal property item. (4-5-00)T
- g. Disaster-related funeral costs to include only the minimum costs for burial or cremation. (4-5-00)T
- h. Any necessary expense or serious need not identified as eligible if the IFG program determines the expense or need is necessary or serious. (4-5-00)T
- i. Cost of estimates required by IFG. (4-5-00)T

02. Ineligible Items And Services. Ineligible items and services are: (4-5-00)T

- a. Business losses, including farm business. (4-5-00)T
- b. Improvements or additions to real property. (4-5-00)T
- c. Landscaping. (4-5-00)T
- d. Recreational property. (4-5-00)T
- e. Debts incurred before the disaster. (4-5-00)T
- f. Any necessary expense or serious need for which assistance was available from other means but refused by the individual or family. (4-5-00)T

401. -- 499. (RESERVED).

500. GRANT PAYMENTS.

With respect to any one (1) major disaster, an individual or family must not receive a grant or grants exceeding the maximum established according to 44 CFR Section 206.131 for the year in which the disaster occurred. (4-5-00)T

501. MINIMUM GRANT PAYMENT.

An individual or family required to enroll in GFIP must not receive a grant for real or personal property loss that equals or is less than the GFIP premium in force for the major disaster. (4-5-00)T

502. -- 599. (RESERVED).

600. OVERPAYMENTS.

An overpayment is a debt due to the state of Idaho and FEMA in proportion to federal financial participation in the grant. Efforts must be made to recover overpayments. (4-5-00)T

601. -- 799. (RESERVED).

800. AVAILABILITY OF FUNDS.

Payment of IFG grants depends on the availability and receipt of appropriated funds or federal grant. (4-5-00)T

801. -- 899. (RESERVED).

900. CONFIDENTIALITY.

Any disclosure of information is subject to the restrictions in Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Rules Governing the Protection and Disclosure of Department Records," and the Privacy Act of 1974 (see 44 CFR, Part 6). (4-5-00)T

901. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.02 - RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING

DOCKET NO. 16-0602-0001

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 56-202(b), 56-203(b), 56-204A, 56-204(a), 56-1005, 39-1209, 39-1210, 39-1211, 39-1213, and 56-1005(8), Idaho Code.

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

**September 12, 2000, at 7:00 p.m., in the Coeur d'Alene Inn, Syringa Rm.
414 West Appleway Ave., Coeur d'Alene;**

September 19, 2000, at 7:00 p.m., in the Ameritel Inn, Pebble Creek Rm., 1500 Bench Rd., Pocatello;

**September 20, 2000, at 7:00 p.m., in the Ameritel Inn, Blue Lakes Rm.
1377 Blue Lakes Blvd., Twin Falls;**

September 21, 2000, at 7:00 p.m., in the Ameritel Inn, Tablerock Rm., 7965 W. Emerald, Boise

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

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

Family and Community Services undertook a large scale public participation/negotiated rulemaking process to rewrite the sections of IDAPA 16.06.02, "Rules Governing Standards for Childcare Licensing" pertaining to child placements and adoptions, licensure of agencies performing those functions, Foster Care, and Residential Care for Children. Section 300 "Day Care" remains completely unchanged and unaffected by changes made pertaining to Licensure of Organizations known as children's agencies and children's residential care facilities.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: The Day Care fees set forth in Section 300 are adopted in accordance with Section 39-1107, Idaho Code. The fees have not increased from those adopted and set forth in the chapter that is being repealed under Docket No. 16-0602-0002.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, [January 5, 2000, Volume 00-1, page\(s\) 270 and 271](#). In excess of thirty (30) public meetings beginning in May 1999, and concluding in May 2000, involving approximately thirty (30) stakeholder groups were held during the negotiated rulemaking process.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Terri Meyer at (208) 334-5533.

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before September 27, 2000.

DATED this 9th day of August, 2000.

Sherri Kovach
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0602-0001

IDAPA 16
TITLE 06
Chapter 02

16.06.02 - RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING

000. LEGAL AUTHORITY.

Pursuant to Sections 39-1111, 39-1209, 39-1210, 39-1211, 39-1213, 56-1004 and 56-1005(8), Idaho Code, the Idaho Legislature has granted authority to the Department and Board of Health and Welfare to adopt and enforce rules governing standards for licensure or certification of foster homes, children's agencies and children's residential care facilities. ()

001. TITLE AND SCOPE.

01. Title. The rules contained in this Chapter establish standards and procedures for the licensure or certification of foster homes, children's agencies, and children's residential care facilities, including non-accredited residential schools, children's camps providing child care for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period, alcohol-drug abuse treatment facilities and facilities specializing in maternity care to minors, day care centers and group day care facilities. Also included are standards and procedures for voluntary compliance for licensing of group day care facilities and family day care homes. ()

02. Scope. These rules are to be cited in full as the Idaho Department of Health and Welfare Rules, IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing". ()

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. ()

003. ADMINISTRATIVE APPEALS.

Appeals shall be governed by the Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings". ()

004. INCORPORATION BY REFERENCE.

01. Idaho Statutes. The following are the Idaho Statutes incorporated by reference in this chapter of rules; ()

a. Accreditation of Secondary Schools - Standards for elementary schools, Section 33-119, Idaho Code. ()

b. Adoption Statutes. Sections 16-1501 through 16-1512, Idaho Code. ()

c. Child Labor Laws. Sections 44-1301 through 44-1308, Idaho Code. ()

e. Termination of Parental Rights. Sections 16-2001 through 16-2015, Idaho Code. ()

f. Residential Schools. Section 39-1207, Idaho Code. ()

02. Uniform Fire Code. The Uniform Fire Code as outlined by Section 41-253, Idaho Code. The addition for the year prior to the issuance of the license shall be used. Published by Western Fire Chiefs Association and International Conference of Building Officials. A copy is available at any Idaho State Library. ()

03. Uniform Building Code. The Uniform Building Codes as outlined in Section 39-4109, Idaho Code. The addition for the year prior to the issuance of the license shall be used. Published by International Conference of Building Officials. A copy is available at any public library in Idaho. ()

04. Federal Regulations. ()

a. Immigration and Naturalization Service, Title 8 CFR 204.3.c INA 101.b F1994. ()

b. Indian Child Welfare Act, PL 95-608, 25 USC, 1901 - 1963. ()

05. Occupational Safety Health Act (OSHA). A copy of OSHA may be obtained at the Idaho Industrial Commission, 317 Main Street., P.O. Box 83720, Boise, Idaho, 83720-0041. ()

06. Crib Safety. Consumer Product Safety Commission, Crib Safety Tips can be found on the Internet at, <http://www.cpsc.gov/cpscpub/pubs/cribs.html>. ()

07. National Research Council. National Research Council, Internet address, www.nas.edu/nrc. National Academy of Sciences, 2101 Constitution Ave., N.W., Washington, DC 20418. ()

005. POLICY.

It is hereby declared to be the policy of this state to insure that children of this state shall receive adequate substitute parental care in the event of absence, temporary or permanent inability of parents to provide care and protection for their children or the parents are seeking alternative twenty-four (24) hour long-term care for their children. This policy is predicated upon the fact that children are vulnerable, not capable of protecting themselves, and when their parents for any reason have relinquished their care to others, there arises the possibility of certain risks to the children's lives, health and safety which the community as a whole must protect against. This requires the offsetting statutory protection of review and, in certain instances, licensing or registration. ()

006. DEFINITIONS.

For the purposes of the rules contained in this Chapter, the following terms are used as defined below: ()

01. Accredited Residential School. A residential school for any number of children subject to the jurisdiction of the Idaho Department of Education that has been certified as accredited according to the accrediting standards promulgated by the Idaho State Board of Education or a secular or religious accrediting association recognized by the Idaho Department of Education. ()

02. Alcohol-Drug Abuse Treatment Facility. A children's residential care facility specializing in providing programs of treatment for children whose primary problem is alcohol or drug abuse. ()

03. Board. The Idaho State Board of Health and Welfare. ()

04. Child. An individual less than eighteen (18) years of age, synonymous with juvenile or minor. ()

05. Child Care. The care, control, supervision or maintenance of children for twenty-four (24) hours a day which is provided as an alternative to parental care. ()

06. Children's Agency. A person who operates a business for the placement of children in foster homes, children's residential care facilities or for adoption in a permanent home and who does not provide child care as part of that business. A children's agency does not include a licensed attorney or physician assisting or providing natural and adoptive parents with legal services or medical services necessary to initiate and complete adoptive placements. ()

07. Children's Camp. A program of child care at a location away from the child's home, which is primarily recreational and includes the overnight accommodation of the child and is not intended to provide treatment, therapy or rehabilitation for the child. A children's camp which only provides child care for any one (1) child for less than nine (9) consecutive weeks in any one (1) year period shall be exempt from the licensure and disclosure provisions of this chapter. A children's camp which provides child care for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period shall constitute a children's residential care facility. ()

08. Children's Institution. A person defined herein, who operates a residential facility for unrelated children, for the purpose of providing child care. Children's institutions include foster homes, children's residential care facilities, maternity homes, or any residential facility providing treatment, therapy or rehabilitation for children. ()

09. Children's Residential Care Facility. A facility that provides residential child care, excluding foster homes, residential schools, juvenile detention centers and children's camps that: ()

a. Seeks, receives or enrolls children for treatment of special needs such as substance abuse, mental illness, emotional disturbance, developmental disability, mental retardation, or children who have been identified by the judicial system as requiring treatment, therapy, rehabilitation or supervision; ()

b. Receives payment, including payment from health insurance carriers, for identified treatment needs such as substance abuse, mental illness, emotional disturbance, developmental disability or mental retardation; or ()

c. Represents to the payor of the child care services provided by the children's facility that such payment may qualify for health insurance reimbursement by the payor's carrier or may qualify for tax benefits relating to medical services. ()

10. Continued Care. The ongoing placement of an individual in a foster home, children's residential care facility, or transitional living placement who reaches the age of eighteen (18) years but is less than twenty-one (21) years of age. ()

11. Contraband. Goods or merchandise, the possession of which is prohibited, such as weapons and drugs. ()

12. Day Care. The care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's or children's own home or homes. ()

13. Day Care Center. A place or facility providing day care for compensation for thirteen (13) or more children. ()

14. Department. The Idaho Department of Health and Welfare. ()

15. Direct Care Staff. An employee who has direct personal interaction with children in the provision of child care and is included as staff in meeting the minimum staff-child ratio requirements. ()

16. Director. Director of the Idaho Department of Health and Welfare or designee. ()

17. Family Day Care Home. A home, place, or facility providing day care for six (6) or fewer children during part of a twenty-four (24) hour day. ()

18. Foster Care. The twenty-four (24) hour substitute care of children, by persons who may or may not be related to a child, in lieu of parental care in a foster home. ()

19. Foster Home. The private home of an individual or family licensed or approved as meeting the standards for foster care and providing twenty-four (24) hour substitute care to six (6) or fewer children. ()

20. Foster Parent. A person or persons residing in a private home under their direct control to whom a foster care license or certification has been issued. ()

21. Group Day Care Facility. A home, place, or facility providing day care for seven (7) to twelve (12) children. ()

22. Inter-Country Adoption. The placement of a child from one (1) country to another for the purpose

- of adoption. ()
- 23. Mechanical Restraint.** Devices used to control the range and motion of an individual, including handcuffs, restraint boards, restraint chairs, and restraint jackets. ()
- 24. Medical Professionals.** Persons who have received a degree in nursing or medicine and registered nurse, nurse practitioner, physician's assistant and medical doctor. ()
- 25. Member Of The Household.** Any person, other than a foster child, who resides in, or on the property of, a foster home. ()
- 26. Nonaccredited Residential School.** A residential school for any number of children that is not certified or accredited pursuant to Section 39-1207, Idaho Code, or has lost accreditation and is subject to the jurisdiction of the Department as a children's residential care facility pursuant to Section 39-1210, Idaho Code, unless and until accreditation is certified by the Idaho Department of Education. ()
- 27. Non-Compliance.** Violation of, or inability to meet the requirements of, the act or a rule promulgated under the act, or terms of licensure. ()
- 28. Organization.** A children's agency or a children's residential care facility. ()
- 29. Person.** Any individual, group of individuals, associations, partnerships or corporations. ()
- 30. Physical Intervention.** Physical restraint utilized to control the range and motion of an individual. ()
- 31. Placement.** The activities and arrangements related to finding a suitable licensed home or facility in which a child will reside for purposes of care, treatment, adoption, or other services. ()
- 32. Plan Of Correction.** The detailed procedures and activities developed between the licensing authority and caregiver required to bring a foster family, facility, or children's agency into conformity with these licensing rules. ()
- 33. Relative.** Individuals related to a child by blood, marriage or adoption. ()
- 34. Representative.** An employee of the Department of Health and Welfare. ()
- 35. Residential School.** A residential facility for any number of children which: ()
- a. Provides a planned, scheduled, regular, academic or vocational program for students in the elementary, middle or secondary grades as defined in Section 33-1001, Idaho Code; and ()
 - b. Provides services substantially comparable to those provided in nonresidential public schools where the primary purpose is the education and academic pursuits of the students; and ()
 - c. Does not seek, receive or enroll students for treatment of such special needs as substance abuse, mental illness, emotional disturbance, developmental disability or mental retardation; and ()
 - d. Does not receive payment, including payment from health insurance carriers, for identified treatment needs such as substance abuse, mental illness, emotional disturbance, developmental disability, or mental retardation; and ()
 - e. Does not represent to the payor of childcare services provided that such payment may qualify for health insurance reimbursement by the payor's carrier or may qualify for tax benefits relating to medical services. ()
- 36. Restraint.** Interventions to control the range and motion of a child. ()

- 37. Seclusion.** A room within a facility designed to temporarily isolate an individual in order to gain emotional or physical control by means of structure and minimal stimulation. ()
- 38. Secure.** A physically restrictive setting, as in a locked or guarded residential facility. ()
- 39. Security Risk.** An individual who presents the possibility by actions, behavior or emotional reaction that may result in harm to self or others, or escape from physical control. ()
- 40. Shelter Care.** The temporary or emergency out-of-home care of children in a foster home or residential facility. ()
- 41. Soft Restraints.** Mechanical restraints made of leather, cloth or other combinations of fibers, utilized to control the range of motion of an individual. ()
- 42. Time-Out.** Separation of a child from group activity as a means of behavior management. ()
- 43. Training.** The preparation, instruction and education related to child care that increases the knowledge, skill and abilities of a foster parent, agency and residential care facility staff or volunteers. ()
- 44. Transitional Living.** Living arrangements and aftercare services for children, or as continued care, to gain experience living on their own in a supportive and supervised environment prior to emancipation. ()
- 45. Variance.** The means of complying with the intent and purpose of a child care licensing rule in a manner other than that specifically prescribed in the rule. ()
- 46. Waiver.** The non-application of a child care licensing rule, except those related to safety, extended to a relative foster home which serves to promote child health, well-being, and permanence while not compromising safety. ()
- 007. -- 099. (RESERVED).**

LICENSING AND CERTIFICATION
(Sections 100 Through 299)

100. LICENSING AND CERTIFICATION.

The purpose of licensing and certification is to ensure insofar as possible that persons providing substitute parental care to children are physically and emotionally suited to do so, that the care given protects the health, safety and well-being of the children and that the physical surroundings present no hazards to the proper care of children. ()

01. Local Option. If a city or county is enforcing day care center standards which are at least as stringent as those contained in Section 300 through Subsection 300.13, then the provisions of Sections 39-1101 through 39-1117, Idaho Code, shall not apply. ()

02. Exemptions From Licensing. Pursuant to Sections 39-1103 and 39-1211, Idaho Code, the occasional or irregular care of a neighbor's, relative's, or friend's child or children by a person not ordinarily engaged in child care is exempt from licensure requirements for day care and foster homes. Foster homes which have been certified by a licensed children's agency are exempt from licensure requirements, provided the standards for approval by such agency are no less restrictive than the rules and standards established by the Board and that such agency is maintained and operated in conformity with the rules and standards of the Board pursuant to Section 39-1213(b), Idaho Code. ()

03. Responsibilities Of The Foster Parent Or Operator. A foster parent or operator must conform to the terms of the license or certification. In addition: ()

a. The foster parent or operator is responsible for knowing the standards and rules applying to the type of foster home, children's residential care facility or children's agency covered by the license or certification, and for conforming to them at all times; and ()

b. The operators of child care facilities and agencies are responsible for ensuring that all staff members are familiar with the applicable rules governing the children's residential care facility or children's agency; and ()

c. The foster parent or operator must immediately return his license or certification to the Department under any of the following circumstances: ()

i. Changes of management or address; or ()

ii. Upon suspension or revocation of the license or certification by the Department; or ()

iii. Upon voluntary discontinuation of service. ()

101. APPLICATIONS FOR LICENSE OR CERTIFICATION.

Applications for a license or certification are to be submitted and action is to be initiated on all applications within thirty (30) days after receipt, that addresses each requirement for the particular type of home, facility or agency. Licensing and certification studies shall follow the format of these rules and shall contain a specific recommendation regarding the terms of the license or certification. All foster homes, children's agencies and children's residential care facilities shall also comply with applicable city and county ordinances. A copy of these rules are available from the Office of Administrative Rules, 650 W. State Street, Boise ID 83720, or on the state website, <http://www.state.id.us>. ()

01. Sanitation Inspection. The applicant shall request a sanitation inspection and written report from the District Health Department. ()

02. Fire Inspection. The applicant shall request a fire safety inspection and written report from the office of the State Fire Marshall. ()

03. Corrective Action And Fees. The applicant shall correct all deficiencies noted in the sanitation and fire reports, in order to provide documentation that the applicant has passed the inspections, and is responsible to pay any fees charged. ()

102. DISPOSITION OF APPLICATIONS.

Upon receipt of the application and study, the licensing agency will review the materials for conformity with these rules. ()

01. Approval Of Application. A license or certification shall be issued to any foster home, children's residential facility or children's agency found to be in conformity with these rules governing the home or facility. The license or certification shall be issued according to the terms specified in the licensing or certification study and will be mailed to the applicant. ()

a. Regular License. A regular license or certification will be issued to any day care or group day care, foster home, children's residential care facility or children's agency found to be in conformity with these rules governing the facility in accordance with this Chapter and will specify the terms of licensure or certification, such as: ()

i. Full time or day care; ()

ii. The number of children who may receive care at any one (1) time; and ()

iii. Age range and gender, if there are conditions in the foster home or children's residential care facility making such limitations necessary; ()

iv. The regular license or certification for foster homes, children's agencies and twenty-four (24) hour a day child care residential facilities will be in effect for one (1) year from the date of issuance unless suspended or revoked; ()

v. A regular license or certification for day care and group day care shall be in effect for two (2) years from the date of issuance unless suspended or revoked; and ()

vi. If the license for a foster home is for a specific child only, the name of that child will be shown on the foster home license. ()

b. Waiver. A regular license or certification may be issued to the foster home of a relative who has received a waiver of a licensing rule(s) provided: ()

i. The waiver is considered on an individual case basis; ()

ii. The waiver is approved only for a non-safety foster care rule(s); ()

iii. All other licensing or certification requirements have been met; ()

iv. The approval of a waiver of any foster home rule(s) requires the licensing agency to document a description of the reasons for issuing a waiver, the rule(s) being waived, and assurance that the waiver will not compromise the child's safety; and ()

v. The approved waiver shall be reviewed for continued need and approval at regular intervals not to exceed six (6) months. ()

c. Variance. A regular license or certification will be issued to a foster home, children's residential care facility or children's agency approved for a variance of a licensing rule(s) provided: ()

i. The variance is considered on an individual case basis; ()

ii. The variance is approved for a non-safety licensing rule(s); ()

iii. The approval of a variance shall have no adverse effect on the health, safety, and well-being of any child in care at the foster home or facility; ()

iv. The approval of a variance is documented by the licensing agency and includes a description of the reasons for issuing a variance and assurance(s) that the variance will not compromise any child's health, safety, and well-being; and ()

v. The approved variance shall be reviewed for continued need and approval at regular intervals not to exceed six (6) months. ()

d. Provisional License or Certification. A provisional license or certification may be issued when a licensing standard cannot be met but can be expected to be corrected within six (6) months, provided this does not affect the health, safety and well-being of any child in care at the home or facility. ()

i. A provisional license or certification will be in effect for not more than six (6) months. ()

ii. Only one (1) provisional license or certification will be issued to a foster home or children's residential care facility in any twelve (12) month period of time pursuant to Section 39-1216, Idaho Code, and for day care facilities defined in Section 39-1102, Idaho Code. ()

e. Limited License. A limited license for a foster home may be issued for the care of a specific child in a home which may not meet the requirements for a license, provided that: ()

i. The child is already in the home and has formed strong emotional ties with the foster parents; and

()

ii. It can be shown that the child's continued placement in the home would be more conducive to their welfare than would removal to another home. ()

02. Denial Of Application. In the event that an application is denied, a signed letter shall be sent directly to the applicant by registered or certified mail, advising the applicant of the denial and stating the basis for such denial. ()

103. RESTRICTIONS ON APPLICABILITY.

A child care license or certification applies only to the foster home, child care facility, children's residential care facility, children's agency, or person and premises designated. A license issued in the name of a foster home, child care facility or children's agency applies only to the services specified in the license or certification. Any change in management or address renders the license or certification null and void, and the foster parent or operator must immediately return the license or certification to the licensing agency. ()

104. MANDATORY VISITATIONS.

Pursuant to Section 39-1217, Idaho Code, the Department or other licensing authority shall visit each foster home, child care facility or children's agency as often as it is deemed necessary to assure conformity with the rules for child care licensing. The Department or other licensing authority shall visit, and must be given access to, the premises of each foster home, children's residential care facility and children's agency as often as deemed necessary or desirable by the Department but, in any event, at intervals not to exceed six (6) months. ()

105. REVISIT, RELICENSE AND RECERTIFICATION.

Revisit, re-license, and re-certification studies shall document how the foster home, children's residential care facility or children's agency continues to meet the standards for licensing. Consideration must be given to each point of the standards, including a review of the previous study and original application to determine what changes have occurred. ()

106. COMPLAINTS AGAINST FOSTER HOMES, CHILDREN'S RESIDENTIAL CARE FACILITIES AND CHILDREN'S AGENCIES.

The Department shall investigate complaints regarding foster homes, children's residential care facilities or children's agencies. The investigation may include further contact with the complainant, scheduled or unannounced visits to the children's residential care facility, foster home, or children's agency, collateral contacts including interviews with the victim, parents or guardian, children's residential care facility or children's agency administrator, staff, consultants, children in care, other persons who may have knowledge of the complaint, and inspections by fire or health officials. If an initial preliminary investigation indicates that a more complete investigation must be made, the foster parent(s), operator, children's residential care facility or children's agency shall be informed of the investigation, and any action to be taken, including referral for civil or criminal action. ()

107. SUSPENSION FOR CIRCUMSTANCES BEYOND CONTROL OF FOSTER PARENT OR OPERATOR.

When circumstances occur over which the foster parent or operator has no control including, but not limited to, illness, epidemics, fire, flood, or contamination, which temporarily place the operation of the foster home, child care facility, children's residential care facility or children's agency out of conformity with Idaho law or with these rules, the license or certification must be suspended until the nonconformity is remedied. ()

108. SUSPENSION OR REVOCATION FOR INFRACTIONS.

A license or certification may be suspended for infractions of these rules. Such suspension shall lead to revocation if the foster parent or operator fails to satisfy the Director that the infractions have been corrected sufficiently to assure conformity with the rules. ()

109. NON-RENEWAL, DENIAL, REVOCATION, OR SUSPENSION OF LICENSE OR CERTIFICATION.

If, upon investigation, it is found that an applicant, foster parent, or operator has failed or refused to comply with any of the provisions of the Basic Day Care License Law, Sections 39-1101 through 39-1117, Idaho Code, or the Child Care Licensing Reform Act, Sections 39-1208 through 39-1224, Idaho Code, or with these rules, or with any

provision of the license or certification, the Director may deny, suspend, revoke, or not renew a license or certification. The Department may also deny, suspend, revoke, or not renew a license or certification for any day care facility, child care facility, children's residential care facility, children's agency, or foster home if: ()

01. Criminal Record. Anyone providing direct care or working onsite under these rules, shall participate in a Criminal History Check as set forth in IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks". ()

02. Other Misconduct. The applicant, foster parent, or the person proposed as chief executive officer except for day care facilities: ()

a. Fails to furnish any data, statistics, records or information requested by the Department without good cause or provides false information; ()

b. Has been found guilty of or is under investigation for fraud, deceit, misrepresentation or dishonesty associated with the operation of a children's residential care facility or children's agency; ()

c. Has been found guilty of or is under investigation for the commission of any felony; ()

d. Has failed to exercise fiscal accountability toward a client or the Department regarding payment for services; or ()

e. Has knowingly permitted, aided or abetted the commission of any illegal act on the premises of the children's residential care facility or children's agency. ()

110. -- 299. (RESERVED).

STANDARDS FOR DAY CARE
(Sections 300 Through 399)

300. STANDARDS FOR DAY CARE.

01. Purpose. The stated legislative purpose of Sections 39-1101 through 39-1117, Idaho Code, enacted in 1987 and as amended in 1990, 1992 and 1994, is to provide for minimum statewide day care licensing for children less than twelve (12) years of age. The purpose is to provide a statement of policy, provide exemption, define terms, designate licensing authorities and authorize the promulgation of rules. Persons with certain criminal backgrounds are prohibited from working in day care centers. Responsibilities for regulatory authority are divided between the Board, the state fire marshal, and the district health departments. As stated in Section 39-1101, Idaho Code: "It is declared to be the policy of the state to establish a minimum statewide system for the protection of children in day care centers. This system is intended to establish minimum standards, while still leaving primary responsibility for evaluation and selection of day care services with parents. The minimum standards established by this chapter shall not be construed as preempting more stringent regulation by county or city ordinance." ()

02. Fee Charged. Fees shall be charged at the time of initial application for a basic day care license or certification. The fees will be used to cover the expenses for fire inspections, health inspections and criminal history checks. The initial application fees shall not be refundable. Basic day care licenses and certifications shall be valid for a period of two (2) years. ()

a. Fees shall also be charged at the time of application for renewal of a license or certification. An application for renewal must be filed every two (2) years prior to the expiration of a current basic day care license or certification in order for the current license or certification to remain valid, pending the completion of the appropriate inspections. Application fees for renewal shall not be refundable. ()

b. Fees for initial application and renewal of basic day care licenses and certifications shall be paid directly to the inspecting fire and health agencies, except for the criminal history checks that will be paid directly to

the Department. ()

c. The applicable license fee payable to the Department upon initial application or a renewal shall be reduced for any day care facility which provides evidence that at least fifty percent (50%) of its staff is certified in infant/child first aid and cardiopulmonary resuscitation. ()

i. To receive such refund of monies paid to the Department for licensure or renewal, the applicant or owner/operator of such day care facility shall submit to the Department day care licensing unit, at any time during the period of a valid license or certificate for day care, written documentation of the number of staff in the day care facility and that at least fifty percent (50%) of that staff is certified in infant/child first aid and cardiopulmonary resuscitation. ()

ii. Upon receipt of valid documentation that fifty percent (50%) of the staff of that day care facility is so certified, a payment equal to twenty-five percent (25%) of the licensing fee paid shall be made to the applicant or owner/operator of such licensed day care facility. ()

03. Initial Application Fees For Basic Day Care License. All unlicensed and previously licensed day care centers caring for thirteen (13) or more children are required to submit an initial application for a basic day care license. The maximum fees for both unlicensed and previously licensed centers shall not exceed one hundred dollars (\$100) for a state license. ()

a. The following fees will be included with the initial application for a basic day care license: ()

i. Criminal History Check - forty-five dollars (\$45) per person payable to the Department, when applicable; ()

ii. Health Inspection - thirty-five dollars (\$35) payable to the Health District; ()

iii. Fire Inspection - up to twenty dollars (\$20) payable to fire inspector or fire inspection agency; and ()

iv. The fee of forty-five dollars (\$45) for the criminal history check will be charged for each licensing applicant, owner, operator, employee and volunteer at the day care center requiring a criminal history check and shall be separate and apart from the application fees for health and fire inspections. The fees for criminal history checks shall be the responsibility of the individual or day care center with which they are associated. ()

b. Posting of license in a conspicuous place at the day care center is required. ()

c. The Department shall obtain a criminal history check on only those applicants, owners, operators, employees or volunteers who have direct contact with the children in care and on all other individuals twelve (12) years of age or older who have unsupervised direct contact with children in care. "Volunteers" when used in this chapter shall mean only those persons who have direct unsupervised contact with children in care for more than twelve (12) hours in any one (1) month. ()

04. Application Fees For Renewal Of Basic Day Care License. A basic day care license must be renewed every two (2) years. The application fee for renewal of a license shall not exceed sixty dollars (\$60). The following fees will be included with an application for renewal of a basic day care license: ()

a. Department - ten dollars (\$10) payable to the Department; ()

b. Health Inspection - thirty dollars (\$30) payable to the Health District; and ()

c. Fire Inspection - up to twenty dollars (\$20) payable to fire inspector or fire inspection agency. ()

d. It will be the responsibility of the applicant, owner, or operator of a day care center to ensure that a criminal history check is initiated within ten (10) days for staff having direct contact with children to include

employees and volunteers and all other individuals twelve (12) years of age or older who have unsupervised direct contact with children in care. ()

05. Initial Application Fees For Certification. All unlicensed and previously licensed group day care facilities caring for seven (7) to twelve (12) children shall not be required to be licensed but shall be certified by obtaining a fire inspection and criminal history check for staff. ()

a. The following fees shall be included with the initial application for a state certification: ()

i. Fire Inspection - up to twenty dollars (\$20) payable to fire inspector or fire inspection agency; ()

ii. Criminal History Check - forty-five dollars (\$45) per person payable to the Department, when applicable; and ()

iii. The fee of forty-five dollars (\$45) will be charged for each certification applicant, owner, operator, employee or volunteer at the group day care facility requiring a criminal history check and shall be separate and apart from the application fee for a fire inspection and shall be the responsibility of the individual or group day care facility. ()

b. The fire inspection certification and verification of the required criminal history check shall be available for inspection on the premises. ()

c. The Department shall obtain a criminal history check on only those applicants, owners, operators, employees, or volunteers and all other individuals twelve (12) years of age or older who have unsupervised direct contact with children in care. ()

06. Application Fee For Renewal Of Certification. A certification must be renewed every two (2) years. The application fee for renewal of a certification shall not exceed thirty dollars (\$30). The following fees will be included with the application for renewal of certification: ()

a. Department - ten dollars (\$10) payable to the Department; and ()

b. Fire Inspection - up to twenty dollars (\$20) payable to fire inspector or fire inspection agency. ()

c. It will be the responsibility of the applicant, owner or operator of a group day care facility to ensure that any employees and volunteers having direct contact with children have, upon employment or assignment, a criminal history check initiated within ten (10) days for staff. ()

07. Voluntary Compliance By Group Day Care Facilities For Basic Day Care License. A group day care facility may elect voluntarily to secure a basic day care license and must meet the same requirements as for day care centers. Group day care facilities wishing to apply for a basic day care license must comply in all cases with the requirements of a fire inspection, health inspection and criminal history check. Group day care facilities electing to secure a basic day care license shall be charged the same fees as for day care centers. ()

08. Family Day Care Homes. Family day care homes caring for six (6) or fewer children are not required to have a basic day care license or certification. A family day care home may, however, elect voluntarily to secure a basic day care license and must meet the same requirements as for day care centers. Family day care homes wishing to apply for a basic day care license must comply with the requirements of a fire inspection, health inspection and criminal history check, when required. Family day care homes electing to secure a basic day care license shall be charged the same fees as for day care centers. ()

09. Procedure For Criminal History Checks. The Department is hereby authorized to obtain and submit criminal history checks with fingerprints on applicants, owners, operators, employees and volunteers of day care centers, group day care facilities and family day care homes, when the home wishes to voluntarily comply with the requirements for a basic day care license. The criminal history check shall be conducted pursuant to Section 39-

1113, Idaho Code, and IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks". There shall be no additional fee charged for this criminal background check. Basic day care licenses, certifications and/or day care provider permits shall be used as a means of verifying that no record has been found pursuant to Sections 39-1113 and 39-1115(3), Idaho Code, on licensing and certification applicants, owners, operators, employees and volunteers requiring criminal history checks. ()

10. Temporary Basic Day Care Licenses, Certifications, And Day Care Provider Permits. ()

a. The Department may issue temporary basic day care license, temporary certifications and temporary day care provider permits to licensing or certification applicants pending the completion of the necessary day care inspections or criminal history checks. The Department may also issue temporary day care provider permits to day care providers who are owners, operators, employees and volunteers pending the completion of the criminal history check. All temporary basic day care licenses, temporary certifications and temporary day care provider permits shall be issued under the following conditions: ()

i. Shall be issued for a period not to exceed one hundred twenty (120) days, unless otherwise extended by the Department. ()

ii. Applicants, owners, operators, employees and volunteers requiring a criminal history check properly completing and signing a notarized self-declaration certifying that they have never been found guilty of or received a withheld judgement for any of the crimes enumerated in Sections 39-1113 and 39-1115(3), Idaho Code, pending the completion of the criminal history check. ()

iii. All temporary basic day care licenses and certifications are conditional upon satisfactory day care facility inspections and applicants' satisfactory criminal history checks. ()

iv. All temporary day care provider permits are conditional upon satisfactory criminal history checks. ()

b. If a criminal history check on an applicant for licensing or certification or a currently licensed or certified day care facility discloses an owner, operator, employee or volunteer with a guilty conviction or a withheld judgement pursuant to Sections 39-1113 and 39-1115(3), Idaho Code, the individual shall be suspended immediately from continued employment or volunteering. The day care facility and individual shall be in violation of these rules and subject to a misdemeanor if the individual is retained after receiving notice by certified mail from the Department that the individual has been found guilty of or received a withheld judgement for an offense pursuant to Sections 39-1113 and 39-1115(3), Idaho Code. ()

11. Responsibilities Of Applicants, Owners Or Operators. It will be the responsibility of the applicant, owner or operator of a day care facility to maintain a personnel record on each employee and volunteer at the day care facility having direct contact with children. The personnel record shall include date of initial employment or assignment, date of termination or extended leave from employment or assignment, a copy of the day care provider permit and any other information which may be necessary to establish day care facility and personnel compliance with Section 39-1105, Idaho Code. It shall also be the responsibility of the applicant, owner or operator of a day care facility to ensure new employees and volunteers having direct contact with children, and all other individuals twelve (12) years of age or older who have unsupervised direct contact with children, submit to the Department within ten (10) days from the date of initial employment or assigned self-declaration certifying they have not been found guilty of or received a withheld judgement for the crimes pursuant to Section 39-1115(3), Idaho Code. Two (2) fingerprint cards (FD-258) with fingerprints for personnel requiring criminal history checks shall also be completed within ten (10) days from the date of initial employment or assignment. ()

12. Immunizations Required. Pursuant to Section 39-1118, Idaho Code, the immunizations required and the manner and frequency of their administration are referenced in Idaho Department of Health and Welfare Rules, IDAPA 16.02.11, "Rules Governing Immunization Requirements For Children Attending Licensed Day Care Facilities in Idaho". ()

13. Employee Training. The owner operator of a day care center shall ensure through documentation that each employee receives four (4) hours of ongoing training every twelve (12) months after the employee's hire

date. ()

14. Preemption. These rules do not preempt more stringent local regulation or requirements. ()

301. -- 399. (RESERVED).

STANDARDS FOR FOSTER HOMES
(Sections 400 Through 499)

400. STANDARDS FOR FOSTER HOMES.

The standards for licensing foster homes are intended to insure that children of the state who must live away from their parents shall receive adequate substitute parental care to address their need for safety, health, and well being, that the persons providing this care are capable and suitable to meet the protection needs of children living in foster homes, and the physical environment in which these children reside is a safe setting. ()

401. LICENSING PROVISIONS RELATED TO THE INDIAN CHILD WELFARE ACT.

These rules do not supercede the licensing authority of Indian tribes pursuant to the Indian Child Welfare Act. ()

402. FOSTER PARENT QUALIFICATIONS AND SUITABILITY.

Foster parents must be physically and emotionally suited to care for children and to deal with the problems presented by children placed away from their own parents, family and homes. An applicant for licensure as a foster parent shall meet all of the following qualifications: ()

01. Minimum Age. Be twenty-one (21) years of age or older. ()

02. Character. Be of good character. ()

03. Personal Attributes And Experiences. Have the maturity, interpersonal qualities, temperament and life experiences that prepare the foster parent to provide foster care. ()

04. Availability For Child Placement. Express a willingness to provide care for the kind of children the children's agency has available for placement. ()

05. Knowledge And Skill. Demonstrate an understanding of the care that must be provided to the children served by the children's agency or express a willingness to learn how to provide that care. ()

06. Child Care And Supervision. Have adequate time to provide care and supervision for children. ()

07. Income And Resources. Have a defined and sufficient source of income and be capable of managing that income to meet the needs of the foster family without relying on the payment made for the care of a foster child. ()

08. Health. Have the physical, mental, and emotional health to assure appropriate care of children. ()

09. Harmonious Home Life. Establish and maintain a harmonious home life to give children the emotional stability they need. No marital or personal problems shall exist within the family that would result in undue emotional strain in the home or be harmful to the interest of children placed in the home. ()

10. Acceptance Of Foster Children. Express a willingness and demonstrate the ability to accept a child into the home as a member of the family. ()

11. Family Supports. Express a willingness, and demonstrate the ability, to work with a foster child's legal family, future family, or Indian tribe. ()

12. Compliance With Licensing Rules. Demonstrate a willingness and ability to comply with the licensing rules for foster homes. ()

403. MEMBER OF HOUSEHOLD QUALIFICATIONS AND SUITABILITY.

To assure the safety and well-being of children, a member of the household shall be in compliance with the requirements specified in these rules. ()

404. CRIMINAL HISTORY CHECKS.

All applicants for a foster care license and other adult members of the household shall comply with the following requirements: ()

01. Required Procedures. Each applicant for a foster home license, and any other adult member(s) of the household, shall participate in a criminal history background check as required by Section 39-1211, Idaho Code and in accordance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks". ()

02. Change In Household Membership. By the next working day after another adult begins residing in a licensed foster home, a foster parent shall notify the children's agency of the change in household membership and assure the new adult member of the household shall participate in a criminal history background checks as required by Section 39-1211, Idaho Code and in accordance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks". ()

405. INITIAL EVALUATION.

An applicant shall participate in the process and tasks to complete an initial evaluation for foster care licensure. ()

01. Applicant Participation. The applicant shall do all of the following: ()

a. Cooperate with and allow the children's agency to determine compliance with these rules to conduct an initial foster home study; ()

b. Inform the children's agency if the applicant is currently licensed or has been previously licensed as a foster parent or the applicant has been involved in the care and supervision of children or adults; ()

c. Provide a medical statement for each applicant, signed by a qualified medical professional, within the twelve (12) month period prior to initial licensure for family foster care, indicating the applicant is in such physical and mental health so as to not adversely affect either the health or quality of care for children placed in the home; ()

d. Provide the name of, and a signed release to obtain the following information about, each member of the household: ()

i. Admission to or release from a facility, hospital, or institution for the treatment of an emotional, mental, or substance abuse issue; ()

ii. Outpatient counseling, treatment, or therapy for an emotional, mental, or substance abuse issue; and ()

e. Provide three (3) satisfactory references, one (1) of which may be from a person related to the applicant(s). An applicant shall provide additional references upon the request of the children's agency. ()

02. Members Of The Household Physical And Mental Health. All members of the household shall be in such physical and mental health that the health, safety, or well-being of a foster child will not be adversely affected. A report of the member of the household's physical and mental health status may be required from a qualified medical professional if this appears advisable to the children's agency. ()

03. Disclosure Of Information. An applicant shall provide the children's agency with the following

information and any other information the children's agency deems necessary to complete the initial family home study: ()

- a. The names, including maiden or other names used, and ages of the applicant(s); ()
- b. Social security number; ()
- c. Education; ()
- d. Verification of marriages and divorces; ()
- e. Religious and cultural practices of the applicant including their willingness and ability to accommodate or provide care to a foster child of a different race, religion, or culture; ()
- f. A statement of income and financial resources and the family's management of these resources; ()
- g. Marital relationship, if applicable, including decision making, communication, and roles within the family; ()
- h. Individual and family functioning and inter-relationships with each member of the household; ()
- i. Any current family problems, including mental illness, drug and alcohol abuse, and medical conditions; ()
- j. Previous criminal convictions and valid incidents of child abuse and neglect; ()
- k. Family history, including childhood experiences and the applicant's parents' methods of discipline and problem solving; ()
- l. Child care and parenting skills; ()
- m. Current methods of discipline; ()
- n. The names, ages, and addresses of all biological and adopted children currently residing in or outside the home; ()
- o. Adjustment and special needs of the applicant's children; ()
- p. Interests and hobbies; ()
- q. Reasons for applying to be a foster parent; ()
- r. Understanding of the purpose and goals of foster care; ()
- s. Prior and current experiences with foster care; ()
- t. Emotional stability and maturity in dealing with the needs, challenges, and related issues associated with the placement of a child into applicant(s) home; ()
- u. The attitudes toward foster care by immediate and extended members of the family and other persons who reside in the home; ()
- v. The applicant's attitudes toward a foster child's family and the applicant's willingness to work with the child's family and tribe; ()

- w. Specifications of the children preferred by the family that include the number of children, age, gender, race, ethnic background, social, emotional and educational characteristics of children preferred; ()
- x. Adequacy of the applicant's house, property, and neighborhood for the purpose of providing foster care as determined by on-site observations; ()
- y. The parent's willingness to abide by the children's agency policies and procedures for discipline; ()
- z. Three (3) personal references, at least two (2) of which shall be from persons not related to the applicants, reflecting the applicants to be of good character and habits; ()
- aa. Training needs of the applicant(s); and ()
- bb. The capacity and willingness to transport a foster child in a motor vehicle. ()

406. SUBSEQUENT EVALUATIONS.

A foster parent shall comply with the following requirements for the subsequent evaluation required for a foster care license: ()

01. Reasonable Access. A foster parent shall allow the children's agency reasonable access to the foster home, including interviewing each foster parent, each foster child and any member of the household to determine continued compliance with licensing standards, for child supervision purposes, and to conduct a re-certification family study. ()

02. Update Information. Provide all changes to the information contained in the initial evaluation and subsequent evaluations. ()

03. Family Functioning. Provide information on any changes in family functioning and inter-relationships. ()

04. Other Circumstances. Provide the children's agency with any information regarding circumstances within the family that may adversely impact the foster child. ()

05. Written Plan Of Correction. Cooperate with the children's agency in developing and carrying out a written plan required to correct any rule non-compliance identified by any evaluation conducted by the children's agency. ()

407. FOSTER PARENT DUTIES.

A foster parent shall carry out the following functions: ()

01. Service Plan Implementation. Cooperate with, and assist the children's agency in, the implementation of the service plan for children and their families. ()

02. Reporting Progress And Problems. Promptly and fully disclose to the children's agency information concerning a child's progress and problems. ()

03. Termination Of Placement By The Foster Family. Provide notification to the children's agency of the need for a child to be moved from the foster home not less than fourteen (14) calendar days before the move, except when a delay would jeopardize the child's care or safety or the safety of members of the foster family. ()

04. Written Policies And Procedures For Foster Families. Maintain a copy of, be familiar with, and follow these rules and any other rules, policies, or procedures, which an agency may require for foster parents and foster care. ()

408. FOSTER PARENT TRAINING.

Each foster parent shall comply with the following training requirements: ()

01. Orientation. Each applicant for a foster home license shall receive an orientation of the children's agency foster care program and services. ()

02. Initial Training. Complete not less than ten (10) hours of training no later than one (1) year following the issuance of an initial license for foster care. ()

03. Annual Training. Complete not less than ten (10) hours of training on an annual basis following the initial training specified in these rules. ()

04. Individualized Training. Complete training identified by the children's agency as meeting the individual needs of the foster parents. ()

05. Required Training. Complete any additional training as required by the children's agency foster parent training plan. ()

409. -- 429. (RESERVED).

430. CHILD CARE AND SAFETY REQUIREMENTS.

The property, structure, premises, and furnishings of a foster home shall be constructed and maintained in good repair, in a clean condition, and free from safety hazards and dangerous machinery and equipment accessible to children. Areas that present a hazard to children in care shall be fenced. Fireplaces shall be protected by screens or other means. ()

431. INSTALLATION, MAINTENANCE AND INSPECTION OF FLAME AND HEAT PRODUCING EQUIPMENT.

A foster parent shall assure:

01. Installation And Maintenance Of Flame And Heat-Producing Equipment. A furnace, fireplace, wood-burning stove, water heater and other flame or heat-producing equipment shall be installed and maintained as recommended by the manufacturer. ()

02. Portable Heating Devices. Portable heating devices shall not be used during sleeping hours.()

03. Fire Inspections. An inspection by a certified fire inspector may be required at the discretion of the children's agency. ()

432. SMOKE AND CARBON MONOXIDE DETECTING DEVICES.

Each foster home and children's residential care facility shall meet the following standards: ()

01. Smoke Detecting Devices. There shall be at least one (1) single-station smoke detector that is approved by a nationally recognized testing laboratory which shall be installed and maintained as recommended by the manufacturer and as follows: ()

a. One (1) smoke detector on each floor of the home, including the basement; ()

b. One (1) smoke detector in each bedroom used by a foster child; and ()

c. One (1) smoke detector in areas of the home that contain flame or heat-producing equipment other than domestic stoves and clothes dryers. ()

02. Carbon Monoxide Detecting Devices. There shall be at least one (1) carbon monoxide detecting device that is approved by a nationally recognized testing laboratory which shall be installed and maintained as recommended by the manufacturer. A house that does not have equipment which produces carbon monoxide or does not have an attached garage is exempt from this requirement. ()

433. EXITS.

There shall be at least two (2) exits from each floor level used by a family member that are remote from each other, one (1) of which provides a direct safe means of unobstructed travel to the outside at street or ground level. A window may be used as a second exit if it is in compliance with these rules. ()

434. DANGEROUS AND HAZARDOUS MATERIALS.

Dangerous and hazardous materials, objects or equipment, including but not limited to poisonous, explosive or flammable substances that could present a risk to a child placed in a foster home, shall be stored securely and out of reach of a child, as appropriate for the age and functioning level of the child. ()

435. FIREARMS AND AMMUNITION.

Firearms at a foster home shall be stored:

- 01. Trigger Locks.** Unloaded and equipped with a trigger lock; or ()
- 02. Unassembled And Inoperable.** Unloaded, fully inoperable and incapable of being assembled and fired; or ()
- 03. Locked Cabinet Or Container.** Unloaded and locked in a cabinet or storage container that is inaccessible to children; or ()
- 04. Gun Safe.** Locked in a gun safe that is inaccessible to children. ()

436. PETS AND DOMESTIC ANIMALS.

Any pet or domestic animal that is suspected or known to be dangerous shall be kept in an area inaccessible to children. ()

437. ADEQUATE HEAT, LIGHT, AND VENTILATION.

A foster home shall have adequate heat, light, and ventilation. Window and doors shall be screened if used for ventilation. ()

438. BATHROOMS, WATER SUPPLY, AND SEWAGE DISPOSAL.

A foster home shall meet the following standards:

- 01. Toilet Facilities.** A foster home shall have a minimum of one (1) flush toilet, one (1) washbasin that has warm and cold running water, and one (1) bathtub or shower that has warm and cold running water, all of which shall be in good working order. ()
- 02. Water Supply.** The water supply shall meet one (1) of the following requirements: ()
 - a. Shall be from a source that is approved for a private home by the health authority according to IDAPA 58.01.08, "Rules for Public Drinking Water Systems," at the time of application and for annual renewal of such licenses; or ()
 - b. Water used for consumption shall be from an acceptable source, bottled water from an acceptable source, or boiled for a period specified by the local health authority according to IDAPA 58.01.08, "Rules for Public Drinking Water Systems". ()
- 03. Sewage Disposal.** Sewage shall be disposed of through a public system, or in the absence of a public system, in a manner approved by the local health authority, according to IDAPA 58.01.03 "Individual/ Subsurface Sewage Disposal Rules". ()

439. TRANSPORTATION.

A foster parent shall comply with the requirements related to child transportation that include: ()

- 01. Legal Requirements For Transporting Children.** A foster parent, or any person acting on behalf of a foster parent, that transports a child, shall possess a valid Idaho driver's license, be insured in accordance with

Idaho Law, and abide by all traffic laws including the requirement that all children are in proper safety restraints while being transported. ()

02. Reliable Transportation. A foster parent shall have or arrange for safe, reliable transportation of any foster child in their care to assure the child has access to school, community services, and the children's agency. ()

03. Prohibitions Of Foster Child Transportation. A foster parent shall not transport a foster child while impaired by any substance including alcohol, prescription medication, or any illegal substances. ()

440. TELEPHONE. Unless previously approved by the licensing agency, there shall be an operating telephone in a foster home. ()

441. WHEELCHAIR ACCESS. A foster home that provides care to a child who regularly requires the use of a wheelchair, shall be wheelchair accessible. ()

442. CHILD PLACEMENT REQUIREMENTS. A foster family shall accept the placement of children into the home within the terms of the foster home license or certification and the children's agency placement agreement. In determining placement of foster children, the following provisions shall be considered: ()

01. Determining Factors. The number and the age group of children placed in a foster home shall be determined by all of the following: ()

- a. The accommodations and the space in the home; ()
- b. The interest of the foster family; and ()
- c. The experience or skill of the foster family. ()

02. Maximum Number Of Children. Except as specified, the maximum number of children in care at any time, including the foster family's own children, shall be limited to not more than six (6) children. ()

03. Children Under Two Years Of Age. Except as specified in Subsection 442.04 of these rules, the maximum number of children under two (2) years of age, including those of the foster family, shall be limited to not more than two (2) children. ()

04. Special Circumstances Regarding Maximum Numbers Of Children. The maximum number of children in care at any time may be increased to not more than two (2) additional children, based on any of the following: ()

- a. The increased capacity would allow for siblings to remain together; or ()
- b. The increased capacity would allow a family to provide care to a child who has an established, meaningful relationship with the family; or ()
- c. The foster home offers unusual space, skill, and experience. ()

05. Continued Care. A foster child who reaches the age of eighteen (18) years may continue in foster care placement until the age of twenty-one (21) years if the safety, health and well-being of other foster children residing in the home is not jeopardized. Not more than two (2) such individuals receiving continued care may reside in the foster home at the same time. ()

443. INTERAGENCY PLACEMENT OF CHILDREN. A foster family shall only accept for placement children referred from the children's agency that licenses or certifies the foster home. A foster family may accept for placement a foster child from another children's agency only if that

children's agency and the foster family have received prior approval for the placement of a child from the children's agency that licensed or certified the home. ()

444. SUBSTITUTE CARE PLACEMENT AND CHILDREN'S AGENCY NOTIFICATION.
A foster parent shall: ()

01. Substitute Care. Place a child in substitute care only with the prior knowledge and consent of the children's agency. ()

02. Notification To Agency. Notify the children's agency before the beginning of any planned absence that requires substitute care of a child for a period of twenty-four (24) hours or more. ()

445. BEDROOMS.
A foster parent shall comply with the following rules: ()

01. Sleeping Arrangements. A bedroom occupied by a foster child shall: ()

a. Provide an adequate opportunity for both rest and privacy for each child; ()

b. Be readily accessible to adult supervision as appropriate for the age and functioning level of each child; ()

c. Have sufficient floor space to provide two (2) feet of space between beds; ()

d. Have sufficient space for the storage of clothing and personal belongings; ()

e. Have a finished ceiling, permanently affixed floor-to-ceiling walls, and finished flooring; ()

f. Have a latchable door that leads to an exit from the foster home; ()

g. Have at least one (1) outside window that complies with the following: ()

i. Is readily accessible to children and the foster parent; ()

ii. Is readily opened from the inside of the room; and ()

iii. Is of sufficient size and design to allow for the evacuation of children and caregivers. ()

h. Is free of all of the following: ()

i. Household heating equipment excluding baseboard heating systems; ()

ii. Water heater; and ()

iii. Clothes washer and dryer. ()

02. Non-Ambulatory Child. A child who is non-ambulatory and cannot readily be carried by one (1) member of the household shall sleep in a bedroom located at ground level. ()

03. Sharing Bedroom With A Non-Parent Adult. A child shall not share a bedroom with a non-parent adult unless the child and adult are of the same gender and there is not more than four (4) years difference in age between the adult and the youngest child in the bedroom. ()

04. Sharing A Bedroom With A Foster Parent. A child three (3) years of age or older shall not routinely share the bedroom with a foster parent unless the child has special health or emotional needs that require the attention of an adult during sleeping hours. ()

05. Maximum Number Of Children In A Bedroom. No more than four (4) children shall occupy a bedroom. The placement of more than any one (1) child in a bedroom shall be based on the age, behavior, functioning, individual needs of each child, and sufficient available space. ()

06. Children Of The Opposite Gender. Children of the opposite gender, any of whom are more than five (5) years of age, shall not share the same bedroom. ()

07. Number Of Children In A Bed. Each child shall have an individual bed, except that two (2) brothers or two (2) sisters of comparable age may share a bed if they have previously shared a bed or when there are no health, behavioral or other factors indicating this is undesirable. ()

08. Restrictions On Sleeping Arrangements. The following shall not be used for sleeping purposes: ()

- a. A room or area of the foster home that is primarily used for purposes other than sleeping; ()
- b. A room or space, including an attic, that is accessible only by a ladder, folding stairway, or through a trapdoor; or ()
- c. A detached building, except in the case of an older child preparing for emancipation when it can be documented that the child's needs can best be met by that arrangement. ()

09. Appropriate Bedding. A child shall have a bed that is appropriate for the age and development of the child. Beds shall be equipped with a clean and comfortable mattress, pillow, linens and blankets appropriate for the weather. ()

446. BEHAVIOR MANAGEMENT AND DISCIPLINE.

Methods of behavior management and discipline for children shall be positive and consistent. These methods shall be based on each child's needs, stage of development, and behavior. Discipline shall promote self-control, self-esteem, and independence. ()

01. Prohibitions. All of the following types of punishment of a child are prohibited: ()

- a. Physical force or any kind of punishment inflicted on the body, including spanking; ()
- b. Cruel and unusual physical exercise or forcing a child to take an uncomfortable position; ()
- c. Use of excessive physical labor with no benefit other than for punishment; ()
- d. Mechanical, medical, or chemical restraint; ()
- e. Locking a child in a room or area of the home; ()
- f. Denying necessary food, clothing, bedding, rest, toilet use, bathing facilities, or entrance to the foster home; ()
- g. Mental or emotional cruelty; ()
- h. Verbal abuse, ridicule, humiliation, profanity, threats or other forms of degradation directed at a child or a child's family; ()
- i. Threats of removal from the foster home; ()
- j. Denial of visits or communication with a child's family unless authorized by a children's agency in its service plan for the child and family; and ()
- k. Denial of necessary educational, medical, counseling, or social services. ()

02. Restraint. A foster parent who has received specific training in the use of child restraint may use reasonable restraint methods, approved by the children's agency, to prevent a child from harming himself, other persons or property, or to allow a child to gain control of himself. ()

03. Authority. The authority for the discipline of a foster child shall not be delegated by a foster parent to other members of the household. ()

04. Agency Consultation. A foster parent shall consult with the children's agency prior to using any behavior management or discipline technique that exceeds the scope of these rules. ()

447. MEDICAL AND DENTAL CARE.

01. Health Care Services. A foster parent shall follow and carry out the health or dental care plan for a child as directed by a qualified medical professional. ()

02. Child Injury. Follow the children's agency approved policies for medical care of a child who is injured or ill. ()

03. Dispensing Of Medications. Provide prescription medication as directed by a qualified medical professional. A foster parent shall not discontinue or in any way change the medication provided to a child unless directed to do so by a qualified medical professional. ()

04. Storage Of Medication. Store medications in an area that is inaccessible to a child. ()

448. PERSONAL CARE AND HYGIENE.

A foster parent shall instruct the child in personal care, hygiene and grooming. A foster parent shall provide the child with necessary personal care, hygiene and grooming products appropriate to the age, gender and needs of the child. The foster parent shall seek approval from the children's agency before altering a child's physical appearance including haircuts, body piercing and tattooing. ()

449. FOOD AND NUTRITION.

A foster parent shall provide a foster child with meals that are nutritious, well-balanced, and of sufficient quantity. The child shall be served the same meals as other members of the household unless a special diet has been prescribed by a medical professional, or unless otherwise dictated by differing needs based on a child's age, medical condition, or cultural or religious beliefs. A foster child shall eat with other members of the family, unless the child's medical condition dictates a different arrangement. Perishable foods shall be refrigerated. Milk provided to foster children shall be pasteurized, from a licensed dairy or come from an animal that is documented to be free from tuberculosis, brucellosis, or other conditions that could be injurious to a child's health. ()

450. NECESSARY CLOTHING.

A foster parent shall provide a child with sufficient, clean, properly fitting clothing appropriate for the child's age, gender, individual needs, and season. Clothing shall reflect cultural and community standards. ()

451. PERSONAL POSSESSIONS, ALLOWANCES, AND MONEY.

A foster parent shall follow the children's agency policy regarding a child's personal possessions, allowance, and money. When a child moves from a foster home, the foster parent shall provide the child or the children's agency with all of the child's possessions, including money. ()

452. CHILD TASKS.

A parent shall permit a child to perform only those routine tasks that are within the child's ability, are reasonable, and are similar to the routine tasks expected of other members of the household of similar age and ability. ()

453. EDUCATION.

A foster parent shall cooperate with the children's agency and applicable educational organizations to implement the education and training plan for each child. ()

454. RELIGIOUS AND CULTURAL PRACTICES.

A foster parent shall provide a child in care with opportunity for spiritual development and cultural practices in accordance with the wishes of the child and the child's parent. ()

455. RECREATION.

A foster parent shall provide or arrange access to a variety of indoor and outdoor recreational activities and shall encourage a child to participate in recreational activities that are appropriate for the child's age, interests and ability. ()

456. MAIL.

A foster parent shall permit a child to send and receive mail in accordance with the mail policy of the children's agency. ()

457. -- 469. (RESERVED).

470. RECORD MANAGEMENT AND REPORTING REQUIREMENTS.

A foster parent shall maintain a record for each child in the home that will include all written material provided to the foster home by the children's agency and additional information gathered by the foster parent. This shall include: ()

- 01. Personal Data.** The child's name, gender, date of birth, religion, race and tribe, if applicable; ()
- 02. History Of Abuse And Neglect.** Any known history of abuse or neglect of the child; ()
- 03. Emotional And Psychological Needs.** Any known emotional and psychological needs of the child; ()
- 04. Health.** Any information known about the child's health; and ()
- 05. Behavioral Problems.** Any known behavioral problems of the child; ()

471. REPORTING FOSTER HOME CHANGES.

A foster parent shall report to the children's agency any significant change in the foster home by the next working day from the time a foster parent becomes aware of a change, including the following: ()

- 01. Illness, Injury, Or Death.** Serious illness, injury, or death of a foster parent or a member of the household. ()
- 02. Arrests, Citations, Withheld Judgements Or Criminal Convictions.** Any arrests, citations, withheld judgements, or criminal convictions of a foster parent or member of the household. ()
- 03. Parole And Probation.** Initiation of court-ordered parole or probation of a foster parent or member of the household. ()
- 04. Admission Or Release From Facilities.** Admission to, or release from, a correctional facility, a hospital, or an institution for the treatment of an emotional, mental health, or substance abuse issue of a foster parent or member of the household. ()
- 05. Employment.** A change of employment status of a foster parent. ()
- 06. Counseling, Treatment Or Therapy.** Counseling or other methods of therapeutic treatment on an outpatient basis for an emotional, mental, or substance abuse issue of a foster parent or member of the household. ()
- 07. Change Of Residence.** A foster parent shall inform the children's agency of any planned change in residence and submit an application for licensure at the new address not less than two (2) weeks prior to a change in ()

residence. ()

08. Additional Licensing Application. A foster parent shall notify the children's agency within five (5) calendar days after filing an application for a certified family home, day care, or group day care license. ()

472. CONFIDENTIALITY.

A foster parent shall maintain the confidentiality of any information and records regarding a foster child and the child's parents and relatives. A foster parent shall release information about the foster child only to persons authorized by the children's agency responsible for the foster child. ()

473. UNUSUAL INCIDENT NOTIFICATION.

The foster parent shall immediately notify the responsible children's agency of any of the following incidents: ()

01. Death. Death of a child in care. ()

02. Suicide. Suicidal ideation, threats, or attempts to commit suicide by the foster child. ()

03. Missing. When a foster child is missing from a foster home. ()

04. Illness. Any illness or injury that requires hospitalization of a foster child. ()

05. Law Enforcement Authorities. A foster child's detainment, arrest, or other involvement with law enforcement authorities. ()

06. Removal Of child. Attempted removal or removal of a foster child from the foster home by any person who is not authorized by the children's agency. ()

474. -- 499. (RESERVED).

CHILDREN'S AGENCIES AND CHILDREN'S RESIDENTIAL CARE FACILITIES
(Sections 500 Through 599)

500. GENERAL STANDARDS FOR ORGANIZATIONS KNOWN AS CHILDREN'S AGENCIES AND CHILDREN'S RESIDENTIAL CARE FACILITIES. (Sections 500 Through 599)

501. ACCESS BY DEPARTMENT AUTHORIZED AGENTS.

Department authorized agents shall be provided access to the children's agency or residential care facility and its grounds, facilities, and records for determining compliance with applicable rules. ()

502. COMPLIANCE REQUIRED.

Before being licensed as an organization, the applicant shall comply with all applicable rules where compliance can be achieved prior to being licensed and shall demonstrate intent to comply with the applicable rules where compliance can only be achieved once the program has become fully operational. ()

503. NOTIFICATION TO THE LICENSING AUTHORITY.

An organization shall notify the Department as soon as possible but no later than thirty (30) days before a change in the name of the organization, type of service, type of children being served, an increase in licensed capacity of a childcare facility or children's residential care facility, or the facility closes, moves or changes ownership. ()

504. NOTIFICATION TO THE LICENSING AUTHORITY NO LATER THAN ONE DAY.

An organization shall notify the Department as soon as possible but no later than one (1) working day, if a fire in a structure housing residents requires the services of a fire company, injury to a child requires in-patient hospital treatment, or there is a change of a chief administrator. ()

505. UNAUTHORIZED ABSENCES.

Upon an unauthorized absence of a child in care, an organization shall immediately notify the parent, guardian or placing children's agency and law enforcement. Clothing and other personal belongings shall be secured immediately until the child returns or other arrangements are made, according to organization standards. ()

506. DEATH OF A CHILD IN CARE NOTIFICATION.

Upon the death of a child in care, an organization shall immediately notify the parent, guardian or placing children's agency and the Department. In the event of a sudden death, or if the death occurs as a result of a crime or accident, the appropriate law enforcement agency shall be contacted immediately by the organization. ()

507. -- 519. (RESERVED).

520. WRITTEN BYLAWS.

Except for an organization operated by a governmental entity, an organization shall have written bylaws defining the board structure, philosophy and program. ()

521. GOVERNING BODY REQUIRED.

An organization shall have an identifiable functioning governing body. The governing body shall designate a person to function as the chief administrator of the organization, who is competent to administer the organization and shall delegate to the chief administrator the overall day to day responsibility for the administration and operation of the organization. There shall be a written plan for the delegation of authority in the absence of the chief administrator. ()

522. DELINEATION OF JOB RESPONSIBILITIES.

An organization shall delineate, in writing, the job responsibilities and functions of the chief administrator. The chief administrator shall adopt and implement lines of responsibility that ensure the proper and effective supervision and monitoring of employees and volunteers. ()

523. ORGANIZATIONAL CHART, POLICIES AND PROCEDURES.

An organization shall have an organizational chart. The organization shall develop and follow written policies and procedures governing the requirements of these rules as to staffing, records, restraints, client grievances, suicide prevention, visitation, correspondence, religion and culture, personal possessions and money, and emergencies. In addition, children's agencies shall maintain and follow policies and procedures for the foster care service it provides, behavior management, substitute care, and unusual incidents. ()

524. INSURANCE COVERAGE.

An organization shall secure and maintain on file copies of current motor vehicle, fire, comprehensive general liability, and professional liability insurance. ()

525. QUALITY OF SERVICES ENVIRONMENT.

An organization shall carry out its licensed programs in an environment that is safe, accessible, and appropriate for the needs of those served and with due regard for the rights and protections of those persons receiving services. At least annually, the organization administration shall assess compliance with the applicable rules. For each item of non-compliance, the organization shall immediately develop a plan to correct each item within six (6) months. If the Department determines that a more expeditious correction of a specific rule is needed, the Department may require it. If immediate correction is required because of imminent risk to a child, the corrective action shall be completed within twenty-four (24) hours of discovery of the non-compliance. The organization shall also assess all disrupted placements and unplanned removals of children from foster homes, transitional living, adoptive homes, and children's residential care facilities and implement correction of the causes of disrupted and unplanned removals. ()

526. RESEARCH PROTECTIONS FOR PERSONS SERVED.

An organization shall have a mechanism for reviewing and recommending approval and denial of research proposals involving past or present persons served. When an organization or another acting on its behalf participates in research involving its clients, the organization shall maintain the privacy and right of refusal of any person to participate. ()

527. CONFIDENTIALITY AND PRIVACY PROTECTIONS OF PERSONS SERVED.

An organization shall have and follow written policies and procedures governing access to, use of, and release of information about a person served. The privacy of a child and his family shall be protected. The identity of a child used in any form of publicity shall be given only when written consent of the child's parent or guardian has been obtained prior to using or allowing to be used a child, picture of a child, or a child's name. Written consent is not required for publicity specifically used to locate an adoptive placement for a child. ()

528. DESCRIPTION OF SERVICES.

An organization shall have and follow a written description of the services and fees the organization provides including those provided by the licensee or arranged through other sources. This information shall be factual and available to the public. The description shall include policies governing eligibility for service, age, specific characteristics, and treatment needs of children served, accommodation of cultural sensitivity, and the geographic area served. ()

529. INTAKE POLICY.

An organization shall have and follow a written intake policy that sets forth the criteria for admitting children for care or services. The policy shall be in keeping with the organization's purpose and services provided. Except for an emergency placement, the intake policy shall include a requirement that sufficient information on each child admitted for care or services is obtained to determine that the child can be appropriately served by the organization. For an emergency placement the policy shall require that the information needed to determine the appropriateness of continuing the placement or services is obtained within seven (7) days of the child's admission or placement. ()

530. -- 534. (RESERVED).

535. SUFFICIENT FINANCIAL RESOURCES.

An organization shall have sufficient financial resources to implement and deliver its programs. It shall initially and annually develop and implement a plan of financing to carry out its programs, to ensure that children receive safe and appropriate care and needed services, and to ensure applicable licensing requirements are met. The plan of financing shall include realistic projected income and expenditures. ()

536. ANNUAL AUDIT.

An organization shall obtain an annual audit of the previous fiscal year's financial statements from an independent auditor and provide the Department or submit to the licensing authority a copy of the auditor's report along with the previous year's federal tax return and a copy of the current year's budget showing projected income and expenditures. ()

537. -- 544. (RESERVED).

545. HUMAN RESOURCES NEEDED.

An organization shall determine, organize and deploy the human resources needed to provide services subject to applicable rules and to promote optimum outcomes for persons served. An organization shall have an adequate number of qualified administrative, supervisory, social service, direct care staff and other staff to perform the prescribed functions required by applicable rules to provide for the needs, safety, protection and supervision of children served. ()

546. STAFF RECRUITMENT, HIRING, SUPERVISION, TRAINING, EVALUATION, PROMOTION AND DISCIPLINE.

An organization shall have and follow written policies and procedures governing recruitment, screening, hiring, supervision, training, evaluation, promotion, and discipline of employees and volunteers. An organization shall employ persons and use volunteers who have an understanding and respect for children and their needs, the child's family and culture; are physically and emotionally suited to provide, services to unrelated children and the problems they present; and are capable of performing activities related to their job. ()

01. Job Descriptions. An organization shall have and follow written job descriptions for every position identifying necessary qualifications, including education, experience, training, duties, and lines of authority. ()

02. Personnel Records. An organization shall have a personnel record for every employee and

- volunteer. The record shall contain the following: ()
- a. Employment application; ()
 - b. Name, date of birth, current address and home phone number; ()
 - c. Documents verifying education, certification, and license when the person fills a position requiring a minimum level of education, applicable certification or license; ()
 - d. Verification of work history; ()
 - e. Three (3) references from persons who are unrelated to the employee or volunteer. For a job applicant who has worked for an organization which provides care or services to children, one (1) of the references shall be from a prior child care provider for whom the employee or volunteer worked; ()
 - f. Verified documentation of a complete criminal history record check as required by Section 39-1211, Idaho Code; ()
 - g. Verification by the employee or volunteer of receipt of the organization's behavior management policy; ()
 - h. Copy of the current job description and verification that the employee has been provided a copy of his current job description; ()
 - i. The date the person was employed and the date he began his current job; ()
 - j. For staff and volunteers who transport children, a copy of a valid driver's license for the type of vehicle used while transporting children. If they use their own vehicle to transport children, the record shall include proof that the vehicle is properly insured. ()
 - k. A performance evaluation within a probationary period and annual performance evaluations thereafter; and ()
 - l. Documentation of any disciplinary actions. ()

547. PERSON FILLING MORE THAN ONE POSITION.
A person filling more than one (1) position shall meet the requirements for each position. ()

548. EMPLOYEE QUALIFICATIONS UNDER PREVIOUS RULES.
An employee who is qualified for a position prior to the effective date of these rules is deemed to be qualified for that position, except for an alcohol-drug counselor who shall meet the new requirements in these rules. A person who takes a position as of the effective date of these rules shall meet the qualifications for that position. ()

549. TUBERCULOSIS SCREENING.
Staff and volunteers who have contact with children for four (4) or more hours per week for two (2) or more consecutive weeks shall have documentation in their personnel file that they are free from communicable tuberculosis. The screening and documentation shall be done every three (3) years. ()

550. VOLUNTEER SUPERVISION.
A designated employee of the organization shall supervise a volunteer. ()

551. EMPLOYEE AND VOLUNTEER ORIENTATION.
An organization shall document that each new employee, contractor and volunteer participate in an orientation that includes: ()

- 01. Organization.** The purpose of the organization. ()

02. Job Function. The policies and procedures of the organization as they relate to his job function. ()

03. Job Responsibilities. The employee's, contractor's or volunteer's role and responsibilities; and ()

04. Child Abuse And Neglect Reporting. The requirement to report suspected incidents of child abuse and neglect. ()

552. EMPLOYEE AND VOLUNTEER TRAINING.

Except for a licensed professional under contract with the organization, an organization shall document that each new employee and volunteer, and current employee and volunteer whose job function significantly changes, and whose primary role requires interaction with children shall receive at least twenty-five (25) hours of planned training before working independently. Orientation shall not be counted toward the required training hours. The training shall include specific instruction in job responsibilities, policies and procedures, emergency procedures, child safety, child abuse and neglect, and the applicable licensing requirements. ()

553. -- 559. (RESERVED).

560. PERMANENT REGISTER.

Child agencies and child residential care facilities shall maintain a permanent register of all children admitted into care. The permanent register shall include each child's full name, gender, date and place of birth, parents or guardian, and address of the parent or guardian, who placed the child, the date of placement, date of discharge, and to whom the child was discharged. ()

561. CONTENT OF CHILD'S RECORD.

At the time of a child's placement, the person admitting the child shall document in the child's record the child's physical and emotional state at the time of placement. In addition, at the time of placement and if not available at the time of an emergency placement, then within seven (7) days, even if the placement was for less than seven (7) days, an organization shall document complete biographical and identifying information on each child admitted into care. ()

01. Minimum Information. The record shall contain at a minimum the following: ()

a. Child's full name; ()

b. Date and place of birth; ()

c. Gender; ()

d. Height, weight, hair color, eye color, race, and identifying marks; ()

e. Last known address and with whom the child lived; ()

f. Known previous out-of-home placements, including names, addresses, and dates of the placements; ()

g. Last school attended and grade placement; ()

h. Parents' full names, including mother's maiden name, marital status, and addresses and if known to be separated or divorced, proof of custody; ()

i. Guardian's name and address; ()

j. Date of admission; ()

k. Name of the person who placed the child in care; ()

- l. Known names, addresses, and ages of siblings; ()
- m. For children's residential care facilities which provide treatment, the child's primary diagnosis; ()
- n. The nature of the child's problems or the reason for being served; ()
- o. Documentation of authority to accept and care for the child; ()
- p. Child's and parent's religious preference; ()
- q. Where it has been determined that a child is of applicable Indian heritage, compliance with the Indian Child Welfare Act; ()
- r. Except for non-accredited schools which do not provide treatment, applicable service plans including the dates the plans were developed; ()
- s. Medical, psychological, vision, hearing test and dental records as required by applicable rules, including dates; ()
- t. Evaluation of the child's physical, social and emotional development and any special problems and needs he has, including medical, surgical and dental care needs; ()
- u. The child's medical provider's name, addresses and telephone number, if any; ()
- v. Reports of psychological tests and psychiatric examinations and follow-up treatment if obtained; ()
- w. School reports including grades and adjustment; ()
- x. Record of the child's contacts with his family; ()
- y. Projected discharge date; ()
- z. Discharge date and after care plan summary; and ()
- aa. The assigned social worker or service worker, where appropriate. ()

02. Child's Health Record. There shall be a health record for each child, available to appropriate staff for emergency use and to provide for the child's routine care. The record shall contain at a minimum the following: ()

- a. Medical and mental health authorizations; ()
- b. The child's health history and initial health screening, including known allergies; ()
- c. Child's Medications. A list of all medications the child is taking at the time of admission and any medication prescribed for the child while in care including the date prescribed and the prescribing physician; and ()
- d. A copy of the child's medical provider's name, addresses and telephone number if any. ()

562. AUTHORIZATIONS REQUIRED.

Written authorization shall be obtained from the parent, guardian or court of jurisdiction to obtain and provide routine medical care, emergency medical and surgical care, and mental health care for the child. ()

563. SERVICE PLANS.

Except for a child admitted into shelter care, a non-accredited residential school, or a child in care with its parents or adoptive parents, an organization shall develop and follow a written service plan for the child admitted into care. ()

01. Initial Service Plan. The initial service plan shall be developed and recorded within thirty (30) days after admission and shall: ()

- a. Assess the appropriateness of the current placement and project the length of stay in care; ()
- b. Assess the child's and family's strengths and needs in the applicable areas of permanency, education, mental health, socialization, health care, and dental care; ()
- c. Identify plans for parent and child visitation unless documented as contraindicated; ()
- d. Specify treatment goals, methods, and time frames for each treatment goal to meet the identified needs of the child and family; ()
- e. Specify the behavior management techniques to be used by the persons providing the child's care and supervision; ()
- f. Identify the barriers and the techniques to be used to overcome the barriers to the child's returning home, being placed with a relative, or another permanent placement and document why returning home or being placed with a relative is not a goal; ()
- g. Identify the persons responsible for coordinating and implementing the child's and family's treatment goals; and ()
- h. Specify the projected next placement. ()

02. Updated Service Plan. A service plan shall be updated within one hundred twenty (120) days after the admission and every ninety (90) days thereafter. Updated service plans shall assess the appropriateness of continuing the current placement, project length of stay in care, and update each element of the service plan. ()

564. SHELTER CARE ADMISSION AND PLANS.

The organization shall develop and follow a brief written plan within seven (7) days of admission to shelter care. The plan shall assess the child's immediate and specific needs and identify the specific services to be provided by the organization and other resources to meet the needs. ()

01. Shelter Care In Excess Of Thirty Days. The organization shall re-assess and update the written plan for each child remaining in shelter care for thirty (30) days and at forty-five (45) days. The plan shall include: ()

- a. The reason for continued care; ()
- b. Plans for other placement; and ()
- c. Barriers to other placement and the plans to eliminate the barriers. ()

02. Shelter Care More Than Sixty Days. The organization shall develop and follow service plans that comply with these rules, except the initial service plan shall be developed after sixty (60) days of admission. The service plan shall be updated every ninety (90) days thereafter. ()

565. MAINTENANCE OF RECORDS.

An organization shall have and follow written policies and procedures for the maintenance and security of records. The policy and procedures shall: ()

- 01. Record Storage.** Ensure that the records are stored in a secure manner. ()
- 02. Record Confidentiality.** Ensure confidentiality of and prevent unauthorized access to the records. ()
- 03. Organization Of Record.** Require that similar type records be maintained in a uniform and organized manner. ()
- 04. Record Access.** Specify who may have access to the records. ()
- 05. Record Storage For Closed Organizations.** Before an organization ceases operations, it must arrange with the Department for the storage of all child and adoptive family records required to be maintained by rules. ()

566. RECORD RETENTION.

Except for an adoptive record, records shall be maintained for at least seven (7) years after the child has been released from the organization's care or until the child reaches the age of twenty-five (25), which ever is longer. A record for an adopted child and adoptive parent shall be kept in perpetuity. The record for each applicant for a foster care license or certification or an application to adopt where there was no adoptive placement shall be maintained for at least seven (7) years after provision of services has ended. ()

567. -- 569. (RESERVED).

570. REPORTING OF CHILD ABUSE AND NEGLECT.

All suspected incidents of child abuse and neglect shall be reported immediately to the Department as required by Section 16-1619, Idaho Code. The chief administrator or designee of the children's agency or facility shall ensure the safety and protection of children when the allegation is against an organization's staff or volunteer and shall initiate a thorough investigation and administer appropriate disciplinary action, when indicated. ()

571. HEALTH SERVICES.

The organization shall provide a physical exam within the last year by a licensed physician when the child has been in continuous care. If a child has not been in continuous care, a physical shall be done within thirty (30) days of admission by a licensed physician. Annual physical exams shall be provided for a child two (2) years of age and older, and on a schedule determined by a pediatrician for a child under two (2) years of age. Documentation shall be maintained of current immunizations or provisions for immunizations as required by Section 39-4801, Idaho Code, within thirty (30) days of admission. The organization shall provide medical care for the treatment of illnesses, carrying out corrective measures and treatment, and for the administration of medication as ordered by the physician. ()

572. DENTAL SERVICES.

For children three (3) years of age and older, the organization shall ensure and document the child has had a dental exam within the last nine (9) months or a dental exam within three (3) months of admission, a yearly dental exam and necessary dental treatment, including prophylaxis, extraction, repair and restoration. The organization shall make provisions for appropriate dental care for a child under the age of three (3) when the child's dental needs indicate. Documentation of all medical treatment provided while the child is in care and documentation of applicable medical insurance provider, policy numbers and who holds the policy must be maintained. ()

573. NON-VIOLENT PHYSICAL INTERVENTION.

An organization shall have written policies and procedures governing the appropriate use of non-violent physical restraint intervention strategies. The policy and procedures shall be in accordance with a non-violent physical restraint intervention strategies of a nationally recognized program and: ()

- 01. Protection From Harm To Self Or Others.** Be used only when a child's behavior is out of control and could physically harm himself or others, or to prevent the destruction of property when the child fails to respond to non-physical behavior management interventions. ()
- 02. Intervention Time Guidelines.** Be used only until the child has regained control and shall not

exceed fifteen (15) consecutive minutes, include written documentation of attempts made to release the child from the restraint if more than fifteen (15) minutes is required. ()

03. Intervention Training Requirements. Be used only by employees or volunteers documented to have been specifically trained in its use and authorized to apply such strategies. ()

04. Conditions Limiting Restraint Use. Prohibit the application of a non-violent physical restraint intervention if a child has a documented physical condition that would contraindicate its use, unless a qualified medical professional has previously and specifically authorized its use in writing. Documentation shall be maintained in the child's record. ()

05. Intervention Documentation. Require documentation of the behavior which required the non-violent physical restraint intervention strategy, the specific attempts to de-escalate the situation before using physical restraint, the length of time of the non-violent physical restraint intervention strategy was applied which shall include documentation of the time started and completed, and the debriefing completed with the staff and child involved in the non-violent physical restraint intervention strategy. ()

06. Subsequent Review. Require that whenever the non-violent physical intervention policy and procedures have been used on a child more than two (2) times in one (1) week, there is a review by the chief administrator or his designee. Appropriate action shall be taken based on the findings of the review. ()

574. CLIENT GRIEVANCE POLICY.

An organization shall develop and follow a written grievance policy for clients that is written in simple and clear language, requires prompt investigation of the grievance by an objective person, and provides at least one (1) level of appeal. Clients shall be made aware of the grievance policy and this shall be documented. The policy shall be shared in a manner appropriate to the child's age and his ability to understand. The policy shall require monitoring to ensure there is no retaliation against the child or the person who files a grievance. ()

575. SUICIDE PREVENTION PLAN.

An organization shall develop and follow a written suicide prevention plan that addresses the needs of the population the organization serves. ()

576. CLOTHING.

An organization shall ensure that each child in care has sufficient clean, properly fitting clothing, appropriate for the child's age, gender, individual needs, program and season. ()

577. VISITATION POLICY.

An organization shall have and follow a written visitation policy. The policy shall encourage visits between a child in care and family members and others significant to the child except when visitation is contraindicated and is documented in the child's record or a court order. The policy shall require the maintenance of a log of visitation for each child in residential care which includes the name of the person visiting and the date and time of the visit. ()

578. CORRESPONDENCE POLICY.

An organization shall have and follow a written correspondence policy that specifies the conditions under which the organization restricts the receipt of correspondence to or from a child. The conditions shall require that the child and parent or guardian be informed of the restriction, the reason for the restriction, and that the restriction be documented in the child's record. The policy shall prohibit staff and foster parents from reading children's correspondence except where there is a legitimate documented reason to do so. When staff or foster parents read a child's correspondence, the child shall be present. Packages may be exempt from the prohibition against inspection. ()

579. RELIGIOUS AND CULTURE POLICY.

An organization shall have and follow a written policy on religious participation, religious training and cultural heritage of a child. The policy shall require reasonable attempts to accommodate the religious and cultural preferences of the child and parents. When it is required by the program that a child participate in religious practices, the provider's policy shall clearly state so and the parent, guardian and referral source shall be informed of the requirement, before placement of the child. ()

580. EDUCATION POLICY.

An organization shall have and follow an education policy. The policy shall require that as soon as possible but at least within five (5) school days after a child's placement, each child of school age, as defined by state law, be enrolled in an appropriate school program or document why the child was unable to enroll. ()

581. PERSONAL POSSESSIONS, ALLOWANCE, AND MONEY POLICY.

An organization shall have and follow a personal possessions, allowance and money policy. The policy shall include: ()

01. Financial Accounting. Payment of, and accounting for any allowance, social security benefits, and other financial benefits to a child in care. ()

02. Child's Personal Possessions. Documented accounting for a child's personal possessions, including clothing with which the child came into care and items which were obtained while he is in care and documented return of all inventoried items, to the child, parent, or guardian at discharge from care, except illegal contraband and contraband prohibited by the organization in its policy which may be exempt from return. ()

03. Signature Required. The organization shall obtain the signature of the parent, guardian or child over eight (8) years of age who is capable of understanding the purpose of the inventory at the time of inventory and when the items are returned. ()

582. EMERGENCY POLICIES.

01. Emergency Policy Provisions. An organization shall have and follow an emergency policy and procedures. The policy shall contain provisions for ensuring that a caregiver has and follows the organization's approved written procedures for the following emergencies: ()

- a. Fire; ()
- b. Natural disasters; ()
- c. Serious accident or injury; ()
- d. Medical; ()
- e. Missing Child; ()
- f. Power Outage; ()
- g. Bomb Threat; ()
- h. Severe Weather; ()
- i. Hostage Taking; and ()
- j. Any other dangers unique to the location of an organization. ()

583. -- 599. (RESERVED).

ADDITIONAL STANDARDS FOR CHILDREN'S AGENCIES
(Sections 600 Through 699)

600. ADDITIONAL STANDARDS FOR CHILDREN'S AGENCIES.
(Sections 600 through 699, see also Sections 500 through 599.)

601. CHIEF ADMINISTRATOR POSITION AND QUALIFICATIONS.

The children's agency shall employ or contract for a chief administrator who shall have at the time of appointment, at a minimum: ()

01. Master's Degree. A Master's degree from an accredited college or university in a field related to human behavioral science, two (2) years of experience working with families or children in a social services setting, and three (3) years of experience in staff supervision and administration; or ()

02. Bachelor's Degree. A Bachelor's degree from an accredited college or university in a field related to human behavioral science, five (5) years of experience working with families or children in a social services setting and three (3) years of experience in staff supervision and administration. ()

602. SERVICE WORKER SUPERVISOR POSITION.

The children's agency may employ a service worker supervisor who shall possess either: ()

01. Master's Degree Provision. A Service Worker Supervisor shall be a certified social worker or a person who possesses a Master's degree from an accredited college or university in a related field with appropriate licensure as required by state law, and have demonstrated experience of not less than five (5) years in adoptions or foster care; or ()

02. Bachelor's Degree Provision. A Bachelor's degree from an accredited college or university in a human behavioral science, or in another major where twenty-five percent (25%) of the course credits earned toward the degree are in human behavioral sciences, and five (5) years of experience working with families or children in a social service setting and three (3) years in staff supervision and administration. ()

603. SERVICE WORKER SUPERVISOR RESPONSIBILITIES.

A service worker supervisor shall be responsible for providing ongoing supervision to designated social workers and ensure that the delivery of services complies with licensing requirements for a children's agency. ()

604. SOCIAL WORKER POSITION AND QUALIFICATIONS.

A children's agency may employ or contract for a licensed social worker who shall possess at least a bachelor's degree from an accredited college or university with a major in a social work. ()

605. SERVICE WORKER POSITION AND QUALIFICATIONS.

A children's agency may employ or contract for a service worker who shall possess at least a bachelor's degree from an accredited college or university with a major in a human behavioral science. ()

606. SOCIAL WORKER OR SERVICE WORKER RESPONSIBILITIES.

A children's agency shall require that social workers or service workers are directly responsible for service plans, selecting foster home and adoptive placements, foster home certification and studies, preparing adoptive family studies and supervision and support services for children in foster care, adoptive placements, and transitional living. ()

607. SELF-SUPERVISION PROHIBITED.

Neither a service worker supervisor nor a social worker shall be allowed to supervise his own work. ()

608. STAFF WORKLOADS.

A children's agency shall have identified workload standards for each staff member: ()

01. Supervisor To Staff Ratio. Service Worker Supervisors shall not supervise more than eight (8) workers made up of the following: social workers, service workers, and social service aides. ()

02. Caseload Limitations. At the discretion of the supervisor, a social worker or service worker may be assigned a caseload of twenty (20) families with an adoption placement, active child foster care, or transitional living cases; or forty (40) adoptive families being studied or awaiting an adoptive placement or foster home certification cases, or a proportionate combination of these functions. ()

609. CERTIFICATION TRAINING.

A children's agency shall ensure that a social worker or service worker who performs foster home licensing or certification functions receives training appropriate to his level of functioning. ()

610. -- 614. (RESERVED).

615. ADDITIONAL PROVISIONS FOR FOSTER HOME CERTIFICATION.

A children's agency that licenses or certifies foster homes shall have policies to comply with foster care rules, Sections 400 through 499 of these rules and may require that additional foster care standards be met if the agency deems appropriate. ()

616. PROGRAM DESCRIPTION.

A children's agency providing foster care shall include information in their brochure and their licensing application of the types of foster care provided, the type and number of homes needed, and the type of support services provided to foster parents. ()

617. LICENSING AND CERTIFICATION AGENCY POLICIES AND PROCEDURES FOR FOSTER HOMES.

In addition to meeting the general requirements for policies in Sections 500 through 616, a children's agency which licenses or certifies foster homes shall have policies and procedures for Sections 618 through 649 of these rules. ()

618. APPLICATION REQUEST PROCESS.

A children's agency that licenses or certifies foster homes shall document that a person who has requested an application receives a copy of the foster care rules, Sections 400 through 499, is informed that a copy of these rules are available, and is provided a copy of the children's agency' foster parent training requirements. ()

619. APPLICATION SUBMISSION, WITHDRAWAL, AND DENIAL PROCESS.

Agency Application Action. A children's agency shall initiate and document action within thirty (30) days of receipt of a completed and signed application for a foster home license or certification. An application may be considered withdrawn if the applicants fail to cooperate with completion of the licensing or certification process for a period of sixty (60) days and has been provided written notice that failure to cooperate will result in the application being considered withdrawn. Notice that the application is withdrawn shall be provided per the requirements of Sections 100 through 149 of these rules. A children's agency shall deny an application if the applicant fails or refuses to comply with an applicable rule. If denying an application, the procedures required by these rules shall be followed. ()

620. INITIAL AND SUBSEQUENT FAMILY FOSTER HOME EVALUATION STUDY PROCESS AND CONTENTS.

The children's agency shall conduct the appropriate home study based on the foster care Sections 400 through 499 of these rules, and shall maintain a copy of the study on file. ()

621. TRAINING.

The children's agency shall have and follow a training policy that shall include meeting the orientation and ongoing training requirements of Sections 400 through 499 of these rules, and shall include additional information on the requirements unique to the particular program. All foster care training shall be documented in the foster parents case file record. ()

622. PLACEMENT AGREEMENT REQUIRED CONTENTS.

The children's agency shall use a placement agreement that shall be signed by the foster parents and the children's agency before placing a child in a foster home. The placement agreement shall identify the responsibilities of the children's agency including supervision and support services for the foster family and the responsibilities of the foster family. The foster family shall be informed and agree to follow the children's agency policies and procedures. A children's agency shall review the agreement with the foster family at least annually and, when needed, develop a new agreement. The children's agency shall give a foster family a copy of the signed current placement agreement and maintain a copy in the foster home record. ()

623. COMPLAINT INVESTIGATION, BASIS, TIME REQUIREMENTS, NOTIFYING FOSTER PARENTS, CONTENTS, AND PROCESS.

When a complaint is received that relates to possible noncompliance with any provisions in Sections 400 through 499 of these rules, a children's agency shall initiate a complaint investigation as soon as is indicated, based on seriousness of the allegation received, no later than seven (7) calendar days after receipt of the allegation. A children's agency shall inform a foster parent that a complaint has been received, provide a clear description of the allegations, and allow a representative of the foster parent in interviews regarding the complaint before they are questioned or interviewed. ()

01. Investigation Timeline And Extension. A children's agency shall complete a complaint investigation within forty-five (45) calendar days after receipt of the allegation. If additional time is required, the children's agency shall inform the foster parent, in writing, of the basis for the extension. ()

02. Summary Of Findings. Before completion of a written report, a children's agency shall provide a verbal summary of the preliminary findings with the foster parent. ()

03. Agency Written Report. Upon completion of the investigation, a children's agency shall prepare a written report that includes date and report source, identification of the source of the allegation, unless anonymous or confidential, as specified in the Child Protective Act, Title 16, Chapter 16, Idaho Code. The report shall also include: ()

- a. The specific allegations; ()
- b. Dates and places of contacts, names of persons interviewed, and names of the interviewers. If children are interviewed, their names shall be coded in the report; ()
- c. Findings of fact, based on the investigation; ()
- d. Conclusions regarding compliance or noncompliance with Sections 400 through 499 of these rules, based on the findings of the investigation summarized in the report; ()
- e. Any changes in the children's agency decision regarding placement specifications that are based on the findings of the investigation summarized in the report; and ()
- f. Recommendations regarding licensing or certification action and any required corrective action. ()

04. Conclusion Of Investigation. A children's agency shall provide a copy of the complaint investigation report, excluding the source of the allegation to the foster parent, within ten (10) calendar days of its completion. The foster parent shall be allowed to attach his written response to the report. The children's agency shall document any identified corrective action required of the foster family. ()

624. RECORDS MANAGEMENT, MAINTENANCE, AVAILABILITY TO FOSTER PARENT, AND CONTENTS.

A children's agency shall maintain a foster home record for each foster home and may make copies of a record available to the applicant or licensed or certified foster parent upon request except for medical documents specifically identified as confidential, pending complaint investigation reports and documents, records of privileged communications and criminal records, police reports, and child protective service information. Social security numbers from any source shall not be provided, except a social security number needed by a foster parent to provide needed services for a foster child. ()

01. Record Contents. The record shall contain all documents pertaining to licensing or certification of the home, any complaint investigation reports, and placement agreements between a foster parent and the children's agency. ()

02. Placement Record. A complete record identifying all children placed in the foster home and removed from the home, including: full name, age, gender, and race of the child; date of the placement; date and

reasons for a foster child's departure from the foster home; any written response from a foster parent to a complaint investigation or response to a cited rule compliance; and any corrective action plans. ()

625. -- 629. (RESERVED).

630. ADDITIONAL PLACEMENT CONSIDERATIONS.

A children's agency shall follow the provisions of Sections 400 through 499 of these rules and have a policy on the following placement considerations. ()

01. Child Placement Preparation. Before the placement of a child, the children's agency shall prepare the child for the placement consistent with the child's age, individual needs, the circumstances necessitating placement, and identified special problems presented. ()

02. Placement Emergency Change. If an emergency change in placement is necessary, within fourteen (14) days of placement change, documentation shall be included in the child's record. ()

03. Placement Service Termination. If a children's agency is no longer providing services to the child in a foster home, the following information shall be documented within fourteen (14) days of the service termination that will include a summary of the services provided and the needs that remain and provision for any continuing services with another children's agency. ()

631. EMERGENCY EVACUATION PLAN.

A children's agency shall have a policy to require and approve a written evacuation plan for a foster home. ()

632. UNUSUAL INCIDENT POLICY.

The children's agency shall have a policy to notify the state licensing authority within one (1) working day of the occurrence of an incident as outlined in Section 473 of these rules. The policy shall require the children's agency to notify the Department immediately, the foster child's parents, and the responsible children's agency of the death of a foster child. ()

633. SERVICE PLANS AND PARTICIPANTS.

A children's agency shall develop initial and updated service plans on behalf of the child through a team approach which includes the child, the child's parents or legal guardian, the foster parents, the referring children's agency, others identified in providing needed placement services and the assigned social worker or service worker, as appropriate. A service plan shall include behavioral management procedures with the placing agency if appropriate, and with the foster parents and maintain a copy in the child's file. ()

634. CHILDREN'S AGENCY SUPERVISION OF CHILD.

Supervisory Visits Plan. A children's agency shall develop a plan of supervisory visits with a child in foster care consistent with the child's service plan, as required by these rules. The child's record shall contain documentation that the assigned social worker or service worker personally visited the foster child at least once each month. A children's agency may reduce the number of social worker or service worker visits with a child to once every ninety (90) days if there is documentation and justification in the service plan that a child's placement in a foster home is a long-term planned placement. At least one-half (1/2) of the visits shall occur in the foster home. ()

635. -- 649. (RESERVED).

ADDITIONAL PROVISIONS FOR TRANSITIONAL LIVING SERVICES
(Sections 650 through 659)

650. ADDITIONAL PROVISIONS FOR TRANSITIONAL LIVING SERVICES.

(Sections 650 through 660.)

651. PROGRAM STATEMENT FOR TRANSITIONAL LIVING SERVICES.

A children's agency which provides transitional living services shall develop a program statement describing the

specific services it will provide to youth. Services are limited to those identified youth who are at least sixteen (16) years of age and for whom family reunification, placement with previous care givers or extended family, and adoption have been found and documented to be inappropriate. ()

652. POLICIES AND PROCEDURES FOR TRANSITIONAL LIVING SERVICES.

In addition to the requirements for policies in Sections 500 through 651 of these rules. The children's agency shall have policies and procedures for selecting youth for placement, orientation of youth before placement, approval and oversight of living arrangements, provision of support services or arranging for these services, and termination of services. ()

653. RECORD MANAGEMENT.

In addition to the general record requirements in Section 561 of these rules, an agency record shall be updated annually and include the youth's Social Security number, current address, telephone number, a photograph, and the names and addresses of known offspring. ()

654. SERVICE COMPONENTS.

An agency licensed to provide transitional living services shall provide or arrange for the following service components as appropriate to the youth's needs: ()

- 01. Planning.** Individualized, youth-centered placement planning. ()
- 02. Counseling.** Counseling and support groups as appropriate to individual needs. ()
- 03. Skills.** Life skills, self-care, daily living skills, money management, and housing. ()
- 04. Training.** Education, vocational or technical training. ()
- 05. Medical Care.** Health and medical care. ()
- 06. Legal.** Legal services. ()
- 07. Activities.** Socialization, cultural, religious and recreational activities. ()
- 08. Aftercare.** Aftercare following termination of transitional services. ()

655. TRANSITIONAL LIVING PLACEMENT.

Before a youth is placed in a transitional living program, a children's agency shall document in the youth's record: ()

- 01. Basis.** The basis for determining this is an appropriate program for the youth; ()
- 02. Self-Care.** That a youth exhibits self-care potential: ()
- 03. Youths Need For Supervision.** An evaluation of and a plan for a youth's need for supervision and support services; ()
- 04. Living Arrangements.** The assigned social worker or service worker has personally observed the living arrangement and determined it is safe and appropriate; and ()
- 05. Essential Services.** There are specific and essential services to provide for suitable social, physical, vocational and emotional needs of the youth as appropriate. ()

656. SUPERVISION AND SUPPORT.

A children's agency shall develop and follow a plan of supervision and support services for a youth in transitional living consistent with the youth's needs.

- 01. Plan Of Supervision.** The plan shall include: ()

a. Current documentation of financial support sufficient to meet the youth's housing, clothing, food, and miscellaneous expenses; and ()

b. The date, location, documented purpose, and a summary of the findings of each contact between social worker or service worker and the youth describing the youth's adjustment, relationship with family members and the children's agency efforts to resolve any conflicts. ()

02. Written Contract And Reviews. A children's agency shall have a mutually agreed upon contract between the youth and the children's agency that specifies the responsibilities of the children's agency and the youth, which is signed and dated by the youth and the assigned social worker. The contract shall be reviewed and updated at least once every ninety (90) calendar days. A copy of the contract and any amendments to the contract shall be maintained in the case record. ()

03. Monthly Contact. There shall be face to face contact at least monthly with the youth by the assigned social worker or service worker to assess that the youth is functioning at an acceptable level, is carrying out prescribed expectations, is managing his money, and is residing in a safe and acceptable environment. ()

04. Contact Documentation. At least once every two (2) months there shall be documentation of an on-site contact with the youth at his place of residence by the assigned social worker or service worker. ()

05. Twenty-Four Hour Agency Telephone Access. Youth shall have twenty-four (24) hour, seven (7) days-a-week telephone access to contact the children's agency. ()

657. TERMINATION OF TRANSITIONAL LIVING SERVICES.
When a children's agency terminates its transitional living services for a youth, the reason for the termination, the youth's new location, a summary of the needs that have been addressed and remain to be met, and identified referral services shall be documented in the youth's case record within thirty (30) days after the youth leaves the program. ()

658. REQUIRED INFORMATION FOR YOUTH AT SERVICE TERMINATION.
A children's agency shall document that each youth who ends transitional living services is provided with basic information on health care, housing, counseling services, and emergency resources. The youth shall be provided his birth certificate, Social Security card, funds, and personal property held by the children's agency. ()

659. (RESERVED).

ADDITIONAL PROVISIONS FOR ADOPTION SERVICES
(Sections 660 through 679)

660. ADDITIONAL PROVISIONS FOR ADOPTION SERVICES.
(Sections 660 through 679.)

661. ADOPTION SERVICES - NONPROFIT STATUS.
A children's agency which provides adoptions services shall provide documentation that it is incorporated as a non-profit corporation. ()

662. PROGRAM STATEMENT.
A children's agency that provides adoption services shall include in its program statement the following: ()

01. Description Of Services Available. A description of services provided directly by the children's agency or through another organization for a child, a birth parent, an adoptive applicant and an adoptive family. ()

02. Eligibility. The general criteria by which the children's agency determines eligibility for adoptive

parenthood. ()

03. Delineation Of Expenses. A clear delineation of fees, charges, and other consideration for adoption services. The delineation shall include: ()

a. Specific charges for expenses and services provided within the children's agency; ()

b. Chronological itemization of fees for expenses and services provided by other identified sources; ()

c. Identification of the charges that are refundable and the charges that are not refundable; and ()

d. The manner and timing of payments. ()

663. WRITTEN POLICIES AND PROCEDURES - ADOPTION.

A children's agency shall have and follow written policies and procedures for the adoption services it provides or facilitates. The policies and procedures shall cover services for children, birth parents, adoptive applicants and parents, post placement services, and post-finalization services. ()

664. SERVICES FOR CHILDREN SHALL BE THE PRIMARY CONSIDERATION.

A child in need of adoption shall be the primary consideration of adoption services provided by a children's agency. The choice of adoptive placement shall be in the best interest of the child and shall include consideration of previous caretakers. This shall include the foster parents where a child has established a bonded relationship. For children under the supervision of the children's agency and are awaiting adoptive placement, there shall be a review by the agency administrator, or their designee, every month for an infant one (1) year of age or younger, and every three (3) months for a child over one (1) year of age, to determine what needs to be done to locate an adoptive placement for the child. ()

665. SERVICES FOR CHILD'S BIRTH PARENTS.

A children's agency that accepts custody of a child from a birth parent or parents shall provide services for the parent or parents either directly or through cooperative arrangements. The children's agency shall ensure that the legal rights of the birth parents are protected throughout the decision-making about release, as required by statutes governing Termination of Parental Rights and Adoptions. The children's agency shall respect the expressed desires of either or both birth parents to provide for continuity of identity of the child's religious, cultural, racial, linguistic, and ethnic background, provided the desired request does not delay placement of the child for adoption and such considerations are legal. ()

666. SERVICES FOR ADOPTIVE APPLICANTS.

A children's agency shall provide the following services to its adoptive applicant clients: ()

01. Orientation. Orientation to adoption, its meaning, the children's agency adoption process and procedures, and the availability of children for adoption; ()

02. Suitability Criteria. Information about the specific criteria by which the children's agency determines suitability as adoptive parents and the areas the children's agency assesses to determine the ability of the adoptive applicants to meet the needs of an adopted child; ()

03. Termination Of Services. The children's agency procedures for termination of services for an applicant found to be unsuited for adoptive parenthood or for an applicant found suited to adopt but for whom a child cannot be found; ()

04. Selections And Services For A Specific Child. The children's agency procedures for selection of adoptive applicants to meet the needs of a specific child and, where indicated, assistance in obtaining resources and services to meet the continuing needs of the child; ()

05. Legal Assessment. The children's agency procedures for assuring that a child placed is legally free

for adoption or an explanation that the placement is a legal-risk placement of the child and what efforts are made to free the child; ()

06. Preparation For Placement. The children's agency procedures for preparing an applicant for parenting and placement of a child; and ()

07. Counseling. The children's agency may provide or arrange counseling for prospective adoptive parents including assistance in understanding a child's religion, culture, ethnic, or linguistic background and the impact of leaving familiar ties and surroundings, including attachment issues and living in an institution, as appropriate to the age of the child. ()

667. RECRUITMENT OF ADOPTIVE APPLICANTS.

A children's agency shall recruit adoptive applicants at a level that ensures the availability of a sufficient number and diversity of adoptive families to meet the needs of children available for adoption under the care of the children's agency. ()

668. PAYMENT LIMITATIONS IN ADOPTION.

A children's agency shall prohibit the actual or promised payment or other material consideration to any party directly or indirectly involved in the administration of an adoption service, whether acting as an employee or independent contractor, except for the performance of routine professional duties necessary to complete the adoption process. ()

669. PROHIBITION OF CONTRIBUTIONS IN ADOPTIONS.

A children's agency shall not accept contributions from adoptive applicants or from persons acting on the applicant's behalf during the period of application or before an adoption has been finalized, nor accept a commitment to make a contribution after an adoptive placement. ()

670. PROHIBITION OF STAFF ADOPTIONS.

A children's agency shall not do an adoption study or placement for its own staff, board member or person with whom the children's agency contracts to provide services for the agency. ()

671. FAMILY HOME STUDY, ADOPTION, APPLICATION PROCESS AND CONTENT.

A children's agency shall complete a written family home study application before approving the home for the placement of a child for purposes of adoption. ()

01. Background Information. An applicant for adoption shall provide the children's agency with the names of each adult member of the household, and signed releases to obtain any of the information required in Sections 400 through 499 of these rules for each member. ()

02. Required Information. The adoptive home study shall include applicable information required in Section 405 of these rules and shall include the following information: ()

- a. Any relevant findings from the criminal history checks; ()
- b. Each adoptive parent's reasons for applying to be an adoptive parent and prior efforts to adopt; ()
- c. Understanding of the purpose and permanence of adoption; ()
- d. How long the applicants have considered adoption; ()
- e. Which partner initiated the adoption; ()

The attitudes toward adoption by immediate and extended members of the family and other persons who reside in the home; ()

- g. Family's attitudes toward the adoptive child's family and willingness to allow them contact with the

- child after adoption; ()
- h. Prior and current experiences with out-of-home care for the applicant's children; ()
 - i. Applicant's experience with other helping agencies or resources in their communities; ()
 - j. Applicant's comfort level in seeking help from services outside the family; ()
 - k. Applicant's awareness of the potential for the child to have identity problems and loss regarding separation from birth parents; ()
 - l. Applicants understanding of and disclosure of the circumstances of the adoption to the child;()
 - m. Applicants understanding that the child will have questions about birth parents and other relatives; ()
 - n. Specifications of children preferred by the family that include the number of children, and the age, gender, race, ethnic background, social, emotional and educational characteristics of children preferred; ()
 - o. Information on the adoptive family's medical insurance coverage including insurance carrier, policy number, eligibility of new adoptive family member(s), limitations and exclusions; and ()
 - p. Any other information deemed necessary to complete the study. ()

672. SERVICES FOR ADOPTIVE PARENTS.

A children's agency shall provide or arrange for the following services to adoptive parents served by the children's agency: ()

01. Specific Training. The children's agency shall provide or arrange specific training related to the culture and race of the child who is of a different culture or race from the adoptive parents. ()

02. Disclosure Of Non-Identifying Child Information. Disclosure of all non-identifying information known to the children's agency about the child, the child's birth parents, and the circumstances leading to the decision to place for adoption. ()

03. Post-Placement Services. Post-placement services related to support to the family and supervision of the placement. ()

04. Provision Of Resources. Provision of resources or arranging for the provision of resources to effect a safe, stable and suitable placement for the child and the family, including information regarding the federal adoption assistance program. ()

05. Adoption Finalization Assistance. Help in finalizing the legal adoption of the child. ()

06. Post-Finalization Services. Upon request, the children's agency, either directly or by referral to a resource, shall assist the family with any identified problems associated with the adoption. ()

673. SELECTION OF AN ADOPTIVE PLACEMENT.

The factors listed are in random order and are not intended to reflect relative priority. A children's agency shall consider the following factors in selecting suitable adoptive parents for a child:

01. Child's Needs. The physical, emotional, medical, and educational needs of the child. ()

02. Continued Contact. The child's needs for continued contact with the birth parent(s), siblings, relatives, foster parents, and other persons significant to the child. ()

03 Racial, Ethnic, and Cultural Considerations. The child's racial, ethnic, cultural identity,

heritage, and background may only be considered if a written assessment of the child indicates that such consideration is in the best interest of the child. ()

04. Authorized Placement On Approved Recommendations. The children's agency shall require authorization by a Chief Administrator after the recommendations of approval are given by a service worker supervisor. The approval or denial shall be documented in the case record. ()

05. Placement. A children's agency shall place a child with children's agency-approved adoptive parents consistent with the recommendations specified in the adoptive family study and the needs of the child identified in these rules. ()

674. CONDITIONS FOR PLACEMENT IN AN ADOPTIVE HOME.

A children's agency may place a child in a home for the purposes of adoption if the adoptive parents have received orientation in accordance with the requirements of Sections 660 through 699 of these rules, an adoptive family study has been completed, supervisory approval of the placement has been obtained, and all applicable parties have signed the adoptive placement agreement. ()

675. ADOPTIVE PARENT INFORMATION.

A children's agency shall provide adoptive parents with the following information before the placement of a child: ()

01. Name. Child's name as permitted by law or disclosure agreement. ()

02. Date, Time And Location Of Birth. Date, time and place of birth, including hospital, city, state and country. ()

03. Racial, Ethnic, And Religious Considerations. Child's racial, ethnic and religious background. ()

04. Medical Records. Child's physical and mental health records and where applicable, special needs. ()

05. Family Of Origin. Description of the child's family of origin, including age and gender of each family member, their relationship to the child, and medical and mental health history, social, and education history of each member of the family. ()

06. Circumstances Of The Placement. Description of the circumstances necessitating placement of the child. ()

07. Preparation For Placement. Child's preparation for placement and, where applicable, attitude toward adoption. ()

08. Other Information. Any other information to enable the adoptive parent to provide a stable, safe, and healthy environment for the child. ()

676. SUPERVISION.

A children's agency social worker or service worker shall provide post placement supervision to the adoptive family at the family's home at least once every three (3) months after the placement of a child and before the final order of adoption. These supervisory contacts shall include: ()

01. Documentation Of Adjustment. Assessment and documentation of the child's and adoptive family's adjustment and, where indicated, plans to assist the child and adoptive family. ()

02. Results Of Assessment. Keeping the adoptive parents informed of the results of the children's agency's continuing assessment of the placement at the conclusion of each supervisory contact. ()

03. Special Needs Adoption. Supervision by the children's agency for at least six (6) month duration

and as frequently as needed before finalization for special needs adoptions. ()

677. -- 679. (RESERVED).

ADDITIONAL PROVISIONS FOR INTER-COUNTRY ADOPTION SERVICES
(Sections 680 through 699)

680. ADDITIONAL PROVISIONS FOR INTER-COUNTRY ADOPTION SERVICES.
(Sections 680 through 699.)

681. INTER-COUNTRY ADOPTION SERVICES.
A children's agency that provides inter-country adoption services shall include in its program statement a description of inter-country adoptive placement services it provides either directly or through collaboration with other agencies or individuals with proper credentials. ()

682. LEGAL REQUIREMENTS FOR INTER-COUNTRY ADOPTION SERVICES.
A children's agency that arranges or engages in inter-country adoption shall provide the following: ()

01. Legal Rights Protection. Provide protection of the legal rights for the child, the child's birth parents, adoptive applicants, and adoptive parents. ()

02. Licensing Standard Compliance Requirement. Collaborate with and accept adoptive family studies and post-placement services only from other providers who comply with applicable state licensing standards and the laws from the child's country of origin. ()

03. Children's Agency, Foreign Government Agreement Review. Maintain a file and provide for review to prospective adoptive families an English-translated copy of any agreement that exists between a foreign government and the children's agency. ()

04. Adoptive Home Standards. Conduct adoptive family studies in accordance with these rules and the minimum standards established for international adoption studies by the United States Immigration and Naturalization Service. ()

05. Citizenship. Inform families about how to obtain citizenship for a foreign born adopted child. ()

683. FINANCIAL.
A children's agency shall establish and follow a written schedule of fees, estimated or actual expenses of what a family will be charged for services, fees and costs in the child's country of origin. ()

684. INTER-COUNTRY ADOPTION SERVICES TO ADOPTIVE PARENTS.
A children's agency that provides or arranges for inter-country adoption services shall: ()

01. Inter-Country Adoption Orientation. Provide orientation to prospective adoptive families regarding inter-country adoption, its meaning, the adoption process, children's agency procedures, and the characteristics of children needing adoption. ()

02. Eligibility Criteria Disclosure. Disclose the general criteria by which the children's agency determines eligibility for applicants for inter-country adoption. ()

03. Determination Of Adoptive Applicant's Ability. Determine the ability of adoptive applicants to meet the needs of an internationally adopted child and prepare an adoptive family study report. ()

04. Documenting Child's Legal Status. Acquire documentation that, at placement, the child is legally free for inter-country adoption. ()

05. Procedures For United States Placement. Follow Immigration and Naturalization procedures to ensure that the child is or will be authorized to enter and reside permanently in the United States. ()

06. Information Disclosure. Fully disclose all information available to the children's agency, based on a diligent effort to obtain pertinent information regarding the child's medical and social history as part of the referral information. ()

07. Post-Placement Supervision. Provide post-placement supervision as required by the adoptive child's country of origin. ()

08. Adoption Finalization. Ensure that the adoption of the child is finalized. ()

685. COLLECTING AND EXCHANGING INFORMATION ABOUT A CHILD.

A children's agency shall collect and exchange information about the child's background with the prospective adoptive parents and ensure that information held by the children's agency regarding the child's origin, the identity of his birth parents, and medical history is retained. ()

686. POST-PLACEMENT AND POST-FINALIZATION ADOPTION SERVICES.

A children's agency shall provide or arrange for the following post-placement and post-finalization adoption services by persons with prior experience in post finalization services and who are knowledgeable about the legal, social, cultural, and emotional issues pertinent to adoption. ()

01. Post-Placement Reports. Provide post-placement and post-finalization reports on the progress of a child when requested by the country of origin when not in conflict with laws or public policies of the United States or Idaho. ()

02. Crisis Counseling. Counseling or referral for counseling for the adoptive parents and the adoptee, when a placement or an adoption is in crisis. ()

03. Adoption Disruption Re-Placement. Re-placement of the child if the adoptive placement is disrupted before finalization. ()

04. Child Origin Information Access. Procedures as permitted by law to ensure access by the child or his representative to information regarding the child's origins that is held by the children's agency. ()

05. Post-Finalization Counseling. Post-finalization counseling when requested by the family. ()

687. -- 699. (RESERVED).

ADDITIONAL STANDARDS FOR CHILDREN'S RESIDENTIAL CARE FACILITIES
(Sections 700 through 769)

700. ADDITIONAL STANDARDS FOR CHILDREN'S RESIDENTIAL CARE FACILITIES.
(Sections 700 through 769, see also Sections 500 through 599.)

701. -- 704. (RESERVED).

705. CHIEF ADMINISTRATOR QUALIFICATIONS.

A children's residential treatment care facility shall employ or contract for a full time chief administrator who shall at the time of appointment have, at a minimum, a Bachelor's degree in a relevant discipline, two (2) years of experience working with children and three (3) years experience in staff supervision and administration or have completed a career development program which includes work-related experience, training or college credits that provide a level of achievement equivalent to the Bachelor's degree. ()

706. SERVICE WORKER SUPERVISOR QUALIFICATIONS.

A service worker supervisor, at the time of appointment, shall be at least twenty-one (21) years of age and shall possess at least one (1) of the following:

01. Master's Degree. A Master's degree from an accredited college or university in a human behavioral science and one (1) year of experience as a service worker; or

02. Bachelor's Degree. Bachelor's degree from an accredited college or university in a human behavioral science, or another major where twenty-five percent (25%) of the course credits earned toward the degree are in human behavioral sciences, and four (4) years of experience working with children, two (2) years of which shall have been as a service worker. ()

707. DIRECT CARE STAFF SUPERVISOR QUALIFICATIONS.

A direct care staff supervisor, at the time of appointment, shall be at least twenty-one (21) years of age and shall possess at least one (1) of the following: ()

01. Bachelor's Degree. A Bachelor's degree from an accredited college and one (1) year of full-time experience in a children's residential care facility; or ()

02. Associate's Degree. An Associate's degree or a minimum of forty-eight (48) credit hours from an accredited college and two (2) years of full-time experience in a children's residential care facility; or ()

03. Experience. A high school diploma or equivalent and three (3) years of full-time experience in a children's residential care facility. ()

708. SERVICE WORKER QUALIFICATIONS.

A service worker, at the time of appointment, shall be at least twenty-one (21) years of age and possess at least a Bachelor's degree from an accredited college or university with a major in a human behavioral science, or another major where twenty-five percent (25%) of the course credits earned toward the degree are in human behavioral sciences. ()

709. DIRECT CARE STAFF QUALIFICATIONS.

Direct care staff shall be at least nineteen (19) years of age at the time of appointment and possess a high school diploma or equivalent. ()

710. REQUIRED STAFF RATIOS.

There shall be written staff ratios for direct care staff to children and service workers to children. Unless otherwise specified in these rules, staff ratios shall be: ()

01. Supervisor-Staff Ratio. At least one (1) staff supervisor for every twenty (20) direct care staff or fraction thereof. ()

02. Staff-Child Ratio-Daytime. At least one (1) direct care staff to every eight (8) children when children are awake and present, unless the presenting problems of the children in care are such that a ratio of one (1) to eight (8) is not sufficient to provide for the safety and treatment needs of the children. In that case, the ratio of direct care staff to children ratio shall be increased to ensure the safety and treatment needs of the children are met. ()

03. Staff-Child Ratio-Sleeping Hours. At least one (1) awake direct care staff to twenty (20) children during the children's normal sleeping hours in buildings housing children's sleeping quarters. If the presenting problems of the children in care are such that a ratio of one (1) to twenty (20) is not sufficient to provide for the safety and treatment needs of the children, then the ratio of direct care staff to children ratio shall be increased to ensure the safety and treatment needs of the children are met. ()

04. Medical Emergency. At least one (1) staff on duty in a children's residential care facility who is certified to provide cardiopulmonary resuscitation (CPR) and first aid for the age of the children in care. ()

05. Emergency Staff Access. When only one (1) direct care worker is on duty, an additional staff person shall be available within ten (10) minutes or if assistance from law enforcement is available within ten (10) minutes an additional staff person shall be available within thirty (30) minutes to assist with an emergency. ()

06. Service Worker Ratios. Except for non-accredited children's residential schools, at least one (1) service worker needs to be available for every twenty (20) children in care. ()

711. HOUSE PARENT RELIEF STAFF.

Where house parents are used to provide direct care staff functions, they shall be provided time off in accordance with the Idaho Department of Labor requirements in Section 44-1202, Idaho Code. ()

712. STAFF TRAINING.

Unless otherwise specified in these rules, an employee or volunteer whose primary job function requires interaction with children and who works twenty-four (24) or more hours a week shall receive at least twenty (20) hours of training annually. An employee or volunteer whose primary job function requires interaction with children and who works less than twenty-four (24) hours a week shall receive at least ten (10) hours of training annually. The training shall include cultural sensitivity and diversity, behavior management, and child development issues appropriate to the population served. Training shall also include instruction in administering cardiopulmonary resuscitation (CPR) and administering first aid appropriate to the age of the children in care within ninety (90) days after employment. ()

713. -- 714. (RESERVED).

715. COMPLIANCE WITH APPLICABLE LAWS.

Children's residential care facilities shall comply with the applicable state and local zoning, fire, health, construction laws, ordinances and regulations. ()

716. CHILDREN'S RESIDENTIAL CARE FACILITY BUILDING REQUIREMENTS.

A children's residential care facility building shall: ()

01. Access To Community Resources. Have access to school facilities, hospitals, churches, recreational and other community resource. ()

02. Occupancy Restrictions. House only the number of persons for which it is rated, given its type of construction and size. ()

03. Classification Plans. Be constructed or arranged so children can be grouped in accordance with a classification plan. ()

04. Location Restrictions. Not be located within three hundred (300) feet of an aboveground storage tank containing flammable liquids or gasses used in connection with a bulk plant, marine terminal, aircraft refueling or bottling plant of a liquefied gas installation, or similar hazard. ()

717. NATIONAL ELECTRICAL CODE COMPLIANCE.

A building used to house children shall comply with the National Electrical Code adopted by the Department of Building Safety in Section 54-1001, Idaho Code or authorized local jurisdiction. ()

718. FIRE SAFETY REQUIREMENTS.

A building which houses children shall be inspected by a state certified fire inspector before being occupied and on an annual basis thereafter for compliance with the applicable Uniform Fire Code. A copy shall be maintained at the facility: ()

01. Group R-3. Non-Secure Group R-3, Congregate children's residential facility building housing ten (10) or less persons shall conform to the current Uniform Building Code for a Group R-3 Congregate Residence; ()

02. Group R-1. Non-Secure Group R-1, Congregate children's residential facility building housing more than ten (10) persons shall conform to the current Uniform Building Code for a Group R-1 Congregate

Residence; and ()

03. Secure Groups. Secure Groups I-3, children’s residential care facility building housing any number of persons shall conform to Group I-3 of Type I or Type II, Fire Restrictive Construction, or a one (1) story building of either Type II one (1) hour, Type III one (1) hour, or Type V one (1) hour construction provided that the floor area does not exceed three thousand nine hundred (3,900) square feet between separation walls of two (2) hour fire resistant construction with openings protected by fire assemblies having one and one-half (1 1/2) hour fire protection rating. ()

04. Fire Extinguishers. Each building used to house children shall have a minimum of one (1) 2-A-10BC type per floor, and if there is a kitchen on the floor, fire extinguisher shall be in or immediately adjacent to the kitchen. Each extinguisher shall be inspected annually by a fire extinguisher service agency. ()

719. EMERGENCY PROCEDURES.

A children’s residential care facility shall have and follow written policies and procedures governing the handling of emergencies which include emergency evacuation plans, telephone numbers for contacting ambulances, emergency medical personnel, fire departments, hospitals, poison control centers, police, location and use of first aid kits, and roster and telephone numbers of staff to be contacted during an emergency, and other emergency services as appropriate. ()

720. EMERGENCY DRILLS.

Fire drills shall be held and recorded at least monthly with each staff shift conducting a drill at least once a quarter. Evacuation routes shall be posted in conspicuous places on each floor of a building housing children. Disaster drills shall be held and recorded at least annually. ()

721. DISTRICT HEALTH DEPARTMENT INSPECTION.

The facility shall provide documentation of an initial and annual inspection by the District Health Department addressing the following health and safety standards before issuing a license for a facility used to house children. A copy of the inspection shall be maintained at the children’s residential care facility. A children’s residential care facility shall comply with: ()

01. Food Sanitation Standards. Rules of the Idaho Department of Health and Welfare, IDAPA 16.02.19, “Rules Governing Food Safety and Sanitation Standards for Food Establishments” (UNICODE); ()

02. Sewage Disposal Systems. Rules of the Idaho Department of Environmental Quality, IDAPA 58.01.03, “Individual/Subsurface Sewage Disposal Rules”; ()

03. Drinking Water Systems. Rules of the Idaho Department of Environmental Quality, IDAPA 58.01.08, Idaho “Idaho Rules for Public Drinking Water Systems”; and ()

04. Garbage Disposal Requirements. Garbage disposal regulations of the local Public Health District, where the facility is located. ()

722. BUILDINGS, GROUNDS, FURNISHINGS AND EQUIPMENT.

Buildings used to house children shall be furnished with comfortable furniture, in good repair and appropriate to the age, size and capabilities of the children. ()

723. MAINTENANCE.

Buildings, grounds, furnishings and equipment shall be kept clean, free of clutter, and in good repair in a scheduled or routine manner. ()

724. EQUIPMENT STORAGE.

All facility cleaning equipment shall be stored separate from the kitchen and food preparation, and serving and storage areas. Kitchen and bathroom sinks shall not be used for cleaning mops, emptying mop buckets, or for any other purpose not connected with food preparation, or personal hygiene. ()

725. SERVICE SINK.

A building housing more than twelve (12) persons shall have a service sink which is used for general maintenance purposes such as floor mopping and not used for food preparation or dish washing. ()

726. LEAD PAINT.

No lead paint shall be used, or exist on the interior or exterior of a building used to house children, furniture, toys or other equipment used by children. When there is a question about the type of paint at a children's residential care facility, the paint shall be tested and removed if found to be lead based. Documentation shall be maintained at the facility confirming that the lead paint was removed or does not pose a threat to the children housed at the facility. ()

727. LIGHTING.

Kitchens, bedrooms, dining rooms, recreation rooms and classrooms used by children shall be appropriately lighted for safety and comfort, with a minimum of thirty (30) foot-candles of light. All other areas used by children shall have a minimum of ten (10) foot-candles of light. ()

728. HEATING.

The temperature in buildings used to house children shall be capable of being heated at least to sixty-eight (68) degrees Fahrenheit at a height of three (3) feet above floor level during the day and sixty (60) degrees Fahrenheit at night. Heating and ventilation equipment shall be properly installed, inspected annually, and kept in good repair. Portable fuel burning and wood burning heating appliances are prohibited. Portable electric heaters shall not be used in children's residential sleeping quarters. Local fire officials must approve portable heaters used in other areas. ()

729. BATHROOM FACILITIES.

A building used to house children shall have adequate, clean and easily accessible bathroom facilities. The number of toilets for a Group R shall be one (1) per eight (8) females and one (1) per ten (10) males, bathtubs or showers shall be one (1) for each ten (10) individuals; washstands shall be one (1) for every five (5) individuals according to the Uniform Building Code applicable for the type of building and its use. There shall be separate bathroom facilities for boys and girls over six (6) years of age and for the staff. ()

730. SLEEPING ROOMS.

Sleeping rooms in a building used to house children shall be: ()

01. Size. At least seventy (70) square feet, exclusive of closet space, in a single occupancy room. In a multiple occupancy room, there shall be at least forty-five (45) square feet per occupant, exclusive of closet space. Existing multiple occupancy sleeping rooms, may be approved relative to square feet per occupant until the room is remodeled or the building is extensively remodeled. At least three (3) feet between the sides of beds and two (2) feet at the end of beds. ()

02. Window Space. There shall be sufficient window space for adequate natural light and ventilation. Emergency egress or rescue windows shall comply with the State-adopted Uniform Building Code. ()

03. Restrictions. A child and an adult shall not share a sleeping room except that a child under one (1) year of age may sleep in a room with an adult. A sleeping room shall not be in a stairway, hallway, unfinished attic, or unfinished basement or in a separate building apart from staff supervision. There shall be separate rooms for male and female residents. Sleeping rooms shall be in close proximity to adult supervision. ()

731. BEDS.

Each child shall have his own bed which has substantial support, a comfortable non-neoprene mattress and seasonally appropriate non-neoprene bedding. The bed shall be equipped with railings when used for children under two (2) years of age. Over-and-under bunk beds shall not be used for children under eight (8) years of age. Cribs shall meet Consumer Product Safety Commission, Crib Safety Tips, recommendations. ()

732. STORAGE OF POISONOUS AND TOXIC MATERIALS.

Poisonous and toxic materials shall be stored under lock and key and distinctly labeled as poisonous, toxic and stored so as not to contaminate food and so as not to be a hazard to children. ()

733. FLAMMABLE LIQUIDS.

Flammable liquids, including gasoline, and kerosene shall be stored only in appropriate containers and only in a storage separate from any building housing children. ()

734. FIREARMS.

Firearms shall not be maintained in a children's residential care facility, except in a facility which uses house parents for the direct care of children. Where house parents have firearms, they shall be unloaded and equipped with trigger locks and stored under lock and key and inaccessible to children. Ammunition shall be stored under lock and key separate from the firearms and inaccessible to children. ()

735. SUFFICIENT RECREATIONAL SPACE.

Sufficient indoor and outdoor recreational space is needed so the number of children in care can participate in a wide range of physical and individual activities. ()

736. GENERAL SAFETY PROVISIONS.

01. Reasonable Precaution. Reasonable precautions shall be taken to prevent children from having unauthorized access to machinery, tools, irrigation ditches, and hazardous materials. ()

02. Balconies And Stairways. Balconies and stairways accessible to children shall have substantial railings as required by the State-adopted Uniform Building Code. ()

03. Stairway Protection. Where a children's residential care facility provides care to children under three (3) years of age, stairways shall be protected to prevent children from falling down the stairs. ()

04. Hazard Areas Restrictions. Based on the age and functioning level of children in care and the type of hazard, an outdoor hazard area shall be restricted to prevent easy access to the hazard. ()

737. DIAPERING AND SANITATION.

A diaper-changing area shall be separate from food preparation and serving areas and be easily accessible to a hand-washing sink. The area shall have non-absorbent and washable surfaces, and shall be disinfected between uses by different children or protected by a disposable covering discarded after each use. ()

738. -- 744. (RESERVED).

745. EDUCATION PROGRAM.

Each child of school age shall attend either an on-grounds or community-based education program that is approved by the Idaho Department of Education, excluding children in a non-accredited children's residential school. When the education program is provided directly by the children's residential care facility, the education program shall: ()

01. Teacher Ratio. At least one (1) teacher for every twenty (20) children or fraction thereof or as approved by the accreditation or certification standards. ()

02. Teacher Qualifications. Employ only teachers who are at least twenty-one (21) years of age and who meet accreditation or certification requirements. ()

03. Minimum Hours. Operate for at least as many school days and clock hours as are required by Section 33-512, Idaho Code. ()

04. Core Curriculum. Core curriculum appropriate to the population served. ()

05. Special Education. Provide special education services to a child in care who requires special education. ()

06. Written Transcripts And An Individual Education Plan (IEP). Maintain transcripts and IEP's

for each child as appropriate. ()

07. Grading System. Use a uniform grading system. ()

08. Release Of Records. Process for transfer and release of education records to and from other schools and children's residential care facilities. ()

746. WORK.

Children may be given a non-vocational work assignment as a constructive experience in compliance with child labor laws, which are age appropriate and within the child's capabilities. The primary purpose of work shall not be to substitute for paid labor. ()

747. RECREATION, PHYSICAL EXERCISE, AND LEISURE TIME ACTIVITIES.

Leisure time activities both on and off the premises shall include both individual and group activities, and a balanced mix of planned recreation, leisure time activities, and physical exercise, including one (1) hour of large muscle activity each day. Participation may be encouraged but not forced. Children shall be offered a reasonable choice of activities. A schedule of monthly planned recreation, physical exercise and leisure time activities shall be readily available for staff to reference. ()

748. SLEEP.

A children's residential care facility shall have and follow policies and procedures governing time to be set aside so that each child shall be given the opportunity for at least eight (8) hours of uninterrupted rest at night and more time if the service plan or health needs of the child require. ()

749. SWIMMING POOL, POND, OR OTHER BODY OF WATER.

An above-ground or in-ground swimming pool, pond, or other body of water on the premises of a children's residential care facility for use by children shall comply with Section 39-105(3)(d), Idaho Code, and applicable swimming pool construction, sanitation, water quality standards, water temperature, recreational bathing and life saving provisions of federal, state, county and municipal laws, regulations and ordinances. They shall be maintained in a clean and safe manner, safeguarded when not in use by children, have sufficiently clear water to allow easy visibility in all areas of the pool or body of water used by children, and maintain at least one (1) staff on duty at all times when children are in the water who has a valid lifesaving or lifeguard certificate issued by a nationally recognized organization. ()

750. WATER FRONT.

At a waterfront used for swimming, there shall be available a whistle, an assist pole or other appropriate reaching device, a rope attached to a ring buoy or other appropriate throwing assist device, a backboard that has appropriate rigid cervical collars and a minimum of six (6) straps, a first aid kit and a rescue tube. ()

751. SUPERVISION OF RECREATIONAL ACTIVITY.

Staff conducting or supervising a recreational activity shall have knowledge of and enforce appropriate safety techniques for the activity and: ()

01. Instruction. Instruct each participant in the appropriate safety procedures. ()

02. Safety Equipment. Ensure that each participant uses adequate and appropriate safety equipment for the activity and the child's ability. ()

03. Rescue Equipment. Ensure that there is proper rescue equipment available and easily accessible. ()

04. Cardiopulmonary Resuscitation (CPR) And First Aid. Ensure that at least one (1) staff has current cardiopulmonary resuscitation (CPR) and first aid certification appropriate to the age of the children in the facility. ()

05. Staff Coverage. Ensure that there are adequate members of staff for the activity and children involved. ()

752. MEDICATION STORAGE AND ADMINISTRATION.

A children's residential care facility shall have and follow policies and procedures on the storage and administration of prescription and non-prescription medication. The policy shall address: ()

01. Medication Storage And Administration. Require prescription and over-the-counter medication be stored under lock and key and the keys safe guarded from children. For medications taken on field outings, storage of medication shall be in the possession of a staff member qualified to administer medications. ()

02. Trained Staff. Require that staff who administer and assist with self-administration of medications be trained by a qualified medical professional. ()

03. Psychotropic Medication: ()

a. Prohibit the administration of psychotropic medication unless a qualified medical professional determines that the medication is clinically indicated; and ()

b. Prohibit the administration of psychotropic medications for disciplinary purposes, for the convenience of staff, or as a substitute for appropriate treatment services; ()

04. Documentation. Required documentation for all prescription medication issued by a qualified medical professional's valid order that includes the dosage to be given, and documentation of each dose given, including: ()

a. The child's name; ()

b. The date and time; ()

c. The amount of dosage given and whether the child did not take the medication; and ()

d. The person who administered or assisted in self-administration of the medication. ()

05. Medication Changes. Require that prescribed medication not be stopped or changed in dosage or administration without consulting with a qualified medical professional and documenting the consultation and the change. ()

06. Disposal Of Unused Medication. Require that all unused and expired medication be disposed of so they are not available to children. ()

753. UNIVERSAL PRECAUTIONS.

Universal precautions shall be taken for spills of body fluids such as blood, blood containing body fluids, eye discharge, feces, body tissue discharge, nasal discharge, saliva, urine, vomit, contaminated material and diapers, which shall be disposed of in a plastic bag that is secured with a tie. The disinfectant solution used to clean up body fluids shall be a commercially prepared spill kit or a disinfectant solution made from one-fourth (1/4) cup of household bleach to one (1) gallon of water. A person doing the cleaning and disinfecting shall wear non-porous disposable gloves, mops, and other cleaning devices and fluids used to clean up body fluid spills shall be disinfected, properly dried and stored. Syringes shall be disposed of in accordance with OSHA standards and not to be accessible to children. ()

754. FIRST AID KIT.

A first aid kit which is approved by a physician or nationally recognized accrediting body, shall be readily available at all times, containing materials to sufficiently meet the needs of the child's medical needs until other medical treatment is obtained, if needed. The contents, location and use of first aid kits shall be reviewed annually with all staff. The content of the kits shall be inventoried monthly and restocked as needed. ()

755. NUTRITION.

Children shall be provided three (3) nutritionally balanced meals in appropriate intervals and in amounts appropriate

to their size and age, and which are in accordance with the recommended dietary allowances of the National Research Council or its equivalent. A child shall be provided a qualified medical professional prescribed diet or special diet based on religious beliefs. A nutritional or dietician professionals shall approve menus annually. The current menu shall be readily available and any change or substitution shall be noted on the menu. Menus shall be maintained on file for at least six (6) months. ()

756. ANIMALS AND PETS.

Animals and household pets shall be free from disease and cared for in a safe and clean manner. All domestic animals and pets shall be vaccinated against rabies. Documentation of the vaccination against rabies shall be kept on file at the children's residential care facility. ()

757. USE OF TOBACCO PRODUCTS, ALCOHOL, AND ILLEGAL DRUGS PROHIBITED.

Tobacco products, alcohol and illegal drugs shall not be used by children, staff, volunteers, or visitors in any building used to house children or in the presence of children or in vehicles used to transport children. ()

758. TRANSPORTING CHILDREN.

01. Vehicle. Transportation of children in a children's residential care facility vehicle shall be in a vehicle that is: ()

- a. Properly registered; ()
- b. Covered by insurance for personal injury and liability; ()
- c. Driven by a person with a valid driver's license for the type of vehicle who complies with all applicable traffic laws while transporting children; ()
- d. Maintained in a clean and safe condition; ()
- e. Equipped with a red triangular reflector device for use in emergency; ()
- f. Equipped with a first aid kit; and ()
- g. Equipped with a fire extinguisher that is properly secured and not readily available to children. ()

02. Proper Seating Of Children And Adults: ()

- a. A child shall ride in an age appropriate vehicle restraint seat, properly secured, or if the child is large enough, in a vehicle manufactured seat, properly using the passenger restraint device; and ()
- b. Adults riding in the vehicle shall occupy a manufactured seat and shall use the passenger restraint device. ()

759. CONTRABAND.

A children's residential care facility shall define prohibited contraband in a written policy. Contraband found in the possession of children or staff shall be confiscated by staff and secured in a location inaccessible to children. Local law enforcement shall be notified in the event that illegal contraband is confiscated. It shall be the responsibility of the administrator or designee to dispose of all contraband not confiscated by law enforcement, in accordance with the children's residential care facility contraband policy. ()

760. SEARCHES.

If a children's residential care facility conducts searches of children, the children's residential care facility, staff or visitors, it shall have and follow written policies and procedures. Searches shall be completed in the least intrusive manner possible for the type of search being conducted. All contraband will be disposed of in accordance with these rules. The policies and procedures at a minimum shall require: ()

01. Pat Down Searches. Pat down searches of children may only be conducted when the children's residential care facility feels it is necessary to discourage the introduction of contraband into the children's residential care facility, or to promote the safety of staff and other children. Pat down searches are conducted as follows: ()

- a. By staff trained in proper search techniques; ()
- b. By a staff member of the same sex as the child being searched, and shall be in the presence of another staff member; ()
- c. The child is told he is about to be searched; ()
- d. The child should remove all outer clothing (gloves, coat, hat and shoes) and empty all pockets; ()
- e. The staff person shall then pat the clothing of the child using only enough contact to conduct an appropriate search; ()
- f. If the staff detects anything unusual the child shall be asked to identify the item and appropriate steps should be taken to remove the item for inspection; ()
- g. If the child refuses to comply, the administrator or designee will be notified immediately and be responsible to resolve the matter; and ()
- h. All searches shall be documented in writing. ()

02. Strip Searches. Strip searches may only be conducted after a pat down search, whenever there is reason to believe that contraband may be found through additional searches. Only the children's residential care facility administrator or his designee shall authorize strip searches. Strip searches are to be conducted as follows: ()

- a. By staff trained in proper search techniques that do not touch the child; ()
- b. By two (2) staff members of the same sex as the child who is searched; ()
- c. Performed in an area that ensures the privacy of the child; ()
- d. The child removes all clothing and moves away from the articles; ()
- e. Require the child to runs his hands through his hair; ()
- f. Staff search the clothing and return it to the child; and ()
- g. Body cavity searches are not to be conducted by children's residential care facility staff. ()

761. BEHAVIOR MANAGEMENT AND DISCIPLINE POLICY.

01. Behavior Management. A children's residential care facility shall have and follow a behavior management and discipline policy for children which identifies appropriate and specific methods of behavior management and discipline, and ensures that the methods of behavior management and discipline are positive and consistent. Individualized behavior management shall be based on an assessment of the child's needs, stage of development and behavior to promote self control, self direction, self esteem, and an acceptable pattern of social behavior appropriate to the age and development level of the child. The policy shall include the concept and application of least restrictive effective treatment and positive reinforcements and prohibit: ()

- a. Physical force, except as permitted under the restraint Sections 766 and 767 of these rules; ()
- b. Any kind of punishment inflicted on the body, including spanking, hitting, slapping, spitting,

kicking, shaking, pulling hair, pinching skin, twisting of an arm or leg in a way that would cause pain or injury to the child, kneeling and sitting on the chest of a child, placing a choke hold on a child, bending back a finger, and shoving or pushing a child into the wall, floor or other stationary object; ()

- c. Cruel and unusual physical exercise, including forcing the child to take an uncomfortable position; ()
- d. Verbal abuse, ridicule, humiliation, profanity and other forms of degradation directed at a child or a child's family; ()
- e. Locked confinement in an area except an area approved by the Department for confinement of a child as provided in these rules; ()
- f. Withholding of necessary food, clothing, bedding, rest, toilet use, bathing facilities, and entrance to a children's residential care facility housing a child; ()
- g. Denial of visits or communication with the child's family except as specified in the child's service plan or court order; ()
- h. Denial of necessary educational, medical, counseling, and social services; ()
- i. Disciplining a child or group of children for the actions of one (1) child, unless the organization's policies and procedures for group behavior management and discipline are based on a nationally recognized peer group treatment model and clearly prescribe the circumstances and safeguards under which disciplining the group is allowed and is supervised directly by staff; ()
- j. The placing of anything in or on a child's mouth; and ()
- k. A physical work assignment that produces unreasonable discomfort. ()

02. Documentation. An organization shall document that the policy has been provided to a resident capable of reading it or is explained to the resident appropriate to his age and level of understanding and is made available to parents, guardians, and referral sources. ()

762. TIME-OUT.

A children's residential care facility shall have and follow written policy and procedures governing the appropriate use of time-out, which shall require: ()

01. Use. Time-out is only used when a child's behavior is disruptive to the child's ability to learn, to participate appropriately, or to function appropriately with other children or the activity. ()

02. Children Under Six Years Of Age. For children under six (6) years of age, the period of time for time-out is not to exceed one (1) minute for each year of the child's age and is used as a supplement to, but not a substitute for other developmentally appropriate positive methods of behavior management. ()

03. Children Six Years Of Age Or Older. For children six (6) years of age and older the time duration shall not exceed sixty (60) consecutive minutes. ()

04. Documentation. A description in sufficient detail to provide a clear understanding of the incident which resulted in the child being placed in time-out, and the staff's attempts to help the child avoid time-out. ()

05. Review. If there are more than ten (10) time-outs for a child in a twenty-four (24) hour period, a review is conducted by the chief administrator or designee, to determine the suitability of the child remaining in the children's residential care facility, whether modifications to the child's service plan are warranted, or whether staff need additional training in alternative therapeutic behavior management techniques and appropriate action taken is based on the findings of the review. ()

06. Observations. A staff has been designated to be responsible for visually observing the child at random intervals not to exceed fifteen (15) minutes. ()

07. Prohibited Locations. The time-out is not in a closet, bathroom or unfinished basement or attic and is not in a locked area or box. ()

08. Re-Introduction To The Group. The child is re-introduced to the group in a sensitive and non-punitive manner as soon as control is regained. ()

763. SECLUSION.

If a children's residential care facility uses seclusion there shall be written policies and procedures, which at a minimum shall require: ()

01. Use Of Unlocked Seclusion. Unlocked seclusion shall not be used as punishment or to substitute for other developmentally appropriate positive methods of behavior management. Seclusion may only be used as a means of intervention when the child's behavior is so violent or disruptive that it presents a high risk of physical or emotional harm to self or others. ()

02. Time Needed. Seclusion shall be used only for the time needed to change the behavior compelling it. ()

03. Children Under Six Years Of Age. For children under six (6) years of age, the period of time is not to exceed one (1) minute for each year of the child's age and is used as a supplement to, not a substitute for, other developmentally appropriate positive methods of behavior management. For children six (6) years of age and older the time duration shall not exceed sixty (60) consecutive minutes. ()

04. Restrictions On Seclusion. The seclusion shall not be in a box, closet, bathroom, unfinished basement or attic. ()

05. Staff Supervision. A staff person is designated to be responsible for visually observing the child at random intervals, which are not to exceed fifteen (15) minutes throughout the period of seclusion, and shall be recorded in a log. ()

06. Supervisory Approval. Supervisory approval is required for a period of seclusion that exceeds three (3) hours in a twenty-four (24) hour period or more than four (4) separate seclusion incidents of one (1) child in a twenty-four (24) hour period. ()

07. Documentation. Each seclusion shall be documented in writing and include the child's name, reason for the seclusion, date and start and end time of the seclusion and the staff assigning the seclusion. ()

08. Re-Introduction. The child is re-introduced to the group in a sensitive and non-punitive manner as soon as he can participate appropriately. ()

09. Excessive Seclusion. If there are more than ten (10) seclusion's for a child in a twenty-four (24) hour period, there shall be a review by the chief administrator or his designee. The review shall determine whether modifications to the child's service plan are warranted and whether staff needs additional training in alternative therapeutic behavior management techniques or disciplinary action. Appropriate action shall be taken based on the findings of the review. ()

764. LOCKED SECLUSION.

Locked seclusion is used only when a child's behavior is so violent or disruptive that it presents a high risk of physical or emotional harm to the child or others and other less restrictive and less punitive interventions have been applied without success. Locked seclusion is prohibited for: non-violent and non-assaultive offenses and behaviors; practices designed to prevent children from running away; secluding a child who is ill; as a punishment; and facilitating supervision for the convenience of staff. No more than one (1) child shall be in a locked seclusion room at a time. Supervisory staff shall be notified at the time the locked seclusion begins. ()

01. Duration. Locked seclusion shall be used only for the time needed to change the behavior compelling its use. Locked seclusion shall not exceed two (2) consecutive hours or a total of four (4) non-consecutive hours within any twenty-four (24) hour period, unless approved by a qualified medical professional. ()

02. Potentially Harmful Objects. A child placed in locked seclusion shall not be in possession of belts, matches, weapons or any other potentially harmful objects or materials that could present a risk of harm to the child. ()

03. Observation. A child in locked seclusion shall be observed by staff at random intervals, not to exceed every fifteen (15) minutes to assure that the child is safe. ()

04. Locked Seclusion Log. A locked seclusion room log shall be maintained and at a minimum include: ()

a. The child's name; ()

b. The date and time of placement in locked seclusion; ()

c. The name of the staff who requested the child's locked seclusion; ()

d. The name of the supervisory staff notified and the time and date notified. ()

e. A description in sufficient details, to provide a clear understanding, of the incident which resulted in the child being placed in locked seclusion and the staff's attempts to help the child avoid locked seclusion; ()

f. A record of observations; and ()

g. The date and time of removal from locked seclusion. ()

05. Re-Introduction. The child shall be re-introduced to the group in a sensitive and non-punitive manner as soon as he has re-gained control. ()

06. Review. When a child is in locked seclusion for a total of two (2) cumulative hours or four (4) non-cumulative hours within a twenty-four (24) hour period, there be a review by the chief administrator or his designee within one (1) working day. The review shall determine whether modifications to the child's service plan is warranted, and whether staff need additional training in alternative therapeutic behavior management techniques or disciplinary action. Appropriate action shall be taken based on the findings of the review. ()

765. LOCKED SECLUSION ROOM REQUIREMENTS.

Rooms used for locked seclusion shall measure at least seventy-five (75) square feet with a ceiling height of at least seven (7) feet. They shall have either natural or mechanical ventilation and be equipped with a break resistant window, or a mirror or camera that allows for full observation of the room. Locked seclusion rooms shall have no hardware, equipment or furnishings that obstruct observing the child or that present a physical hazard or a suicide risk. Rooms used for locked seclusion shall be inspected and approved by a fire inspector and the Department. ()

766. MECHANICAL RESTRAINT.

If a children's residential care facility uses mechanical restraint, it shall have and follow written mechanical restraint policies and procedures. The policies shall at a minimum require that: ()

01. Mechanical Restraint Use As A Last Resort. Mechanical restraint shall only be used as a last resort when other therapeutic techniques have not worked and less restrictive interventions have been tried and have been found to be ineffective, and only after at least one (1) of the following has been determined: ()

a. The child is emotionally or physically uncontrollable and constitutes a serious and evident danger to self or others; ()

b. The child is causing serious property damage; or ()

- c. An attempted escape is imminent and the child is out of control and poses a danger to self or others. ()
- 02. Staff Training.** All staff who apply mechanical restraints shall be trained in the proper and safe use of the mechanical restraint device used and training must be current and documented. ()
- 03. Intervention.** Staff shall inform the child that if his behavior continues, staff will have to intervene by placing him in mechanical restraint to help him regain control. ()
- 04. Administrator Approval.** The administrator or designee shall approve the use of mechanical restraint for the specific child for the specific behavior before each application of mechanical restraint. ()
- 05. Restraint Type.** Restraints shall be of a soft type when used to restrain the child's wrists to his side, secure the child's ankles together, or both; or be in or on a mechanical restraint device specifically designed for restraint which is recognized as safe and is made by a nationally recognized restraint device manufacturer. A restraint device shall be used only in accordance with the manufacturer's written instructions for the device, except that handcuffs may not be used for more than five (5) minutes when it has been determined that the child may harm himself or others while the mechanical restraint is being applied. Handcuffs may only be used for the time needed to apply the mechanical restraints. ()
- 06. Used Only Until Child Has Regained Control.** A mechanical restraint shall be used only until the child has regained control. ()
- 07. Prohibitions On Mechanical Restraints.** Mechanical restraints are prohibited when there are specified medical reasons pursuant to a qualified medical professional's order. A child shall not be mechanically restrained to a fixed object except one that was specifically designed for the purpose, meets nationally recognized standards and has been approved by the Department. Mechanical restraints shall not be used for non-violent and non-assaultive offenses and behaviors as punishment to facilitate supervision for the convenience of staff or as a substitute for a treatment program. ()
- 08. Monitoring.** A staff assigned to monitor a child placed in mechanical restraint shall have no other immediate responsibility and shall be in visual and auditory contact with the child at all times to ensure that all personal needs of the child are met, including access to toilet facilities as needed. ()
- 09. Professional Opinion.** After one (1) hour has elapsed with the child in mechanical restraint, or if the child is released from mechanical restraint and has to be placed back in mechanical restraint, the supervisor shall obtain a qualified medical or mental health professional's opinion regarding continuation of the restraint. The professional giving the opinion shall be thoroughly familiar with the proper use of the mechanical restraint device being used. It shall be the qualified medical or mental health professional's responsibility to assess the problem requiring the use of restraint and amass any resources necessary to eliminate the problem. ()
- 10. Mechanical Restraint Log.** There shall be a mechanical restraint log documenting each use of mechanical restraint that shall include: ()
- a. The child's name; ()
 - b. The date and time of placement in mechanical restraint; ()
 - c. The name of the staff who requested the mechanical restraint of the child; ()
 - d. The name of the administrator or designee who approved the use of mechanical restraint of the child; ()
 - e. A description in sufficient details to provide a clear understanding of the incident which resulted in the child being placed in mechanical restraint and the staff's attempts to help the child avoid mechanical restraint; ()

f. Detailed observation notes by the person assigned to monitor the child while in mechanical restraint; ()

g. Documentation of the professional opinion required if a restraint lasts for more than one (1) hour or is returned to mechanical restraint; and ()

h. The date and time of removal from mechanical restraint. ()

11. Counsel. When the child has been released from mechanical restraint, staff shall counsel with the child about the behavior and problems experienced that resulted in the mechanical restraint. ()

12. Re-Introduction. The child shall be re-introduced to the group in a sensitive and non-punitive manner as soon as he has regained control. ()

13. Review. When the child is in mechanical restraint there shall be a review by the chief administrator or designee within twenty-four (24) hours. The review shall be to determine the suitability of the child remaining in the children's residential care facility, whether modifications to the child's service plan is warranted and if staff need further training or disciplinary action. Appropriate action shall be taken based on the findings of the review. The person doing the review shall be knowledgeable about the proper use of the mechanical restraint device and its impact on the child. ()

767. ALTERNATIVE FORMS OF RESTRAINT.

A children's residential facility shall have and follow written policies and procedures governing the appropriate use of alternative forms of restraint. Alternative forms of restraint may include, but are not limited to: pepper spray, tear gas, and medically administered sedatives. The policies and procedures shall be in accordance with the restraint intervention strategies of a nationally recognized program and approved by the Department. The policy shall at a minimum require that: ()

01. Restraint Use As A Last Resort. Restraint is only to be used as a last resort when other therapeutic techniques have not worked and less restrictive interventions have been tried and have been found not to be effective and only after one (1) of the following has been determined: ()

a. The child is emotionally or physically uncontrollable and constitutes a serious and evident danger to self or others; ()

b. The child is causing serious property damage; or ()

c. An attempted escape is imminent and poses a serious and evident danger to self or to the community. ()

02. Staff Training. All staff who apply restraints are trained in the proper and safe use of the restraint device used and the training is current and documented, including any special certification required to apply the restraint. ()

03. Intervention. Staff informs the child that if his behavior continues, staff will have to intervene by use of restraint to help him gain control. ()

04. Restraint Approval. Administrative or designee approves the restraint for the specific child for the specific behavior before each application of restraint. ()

05. Used Only Until The Child Has Regained Control. Restraint shall only be used until the child has regained control. ()

06. Restraint Is Prohibited: ()

a. When there are specific medical reasons pursuant to a medical professional's order; ()

- b. For non-violent and non-assaultive behaviors; ()
- c. As punishment; ()
- d. To facilitate supervision for the convenience of staff; and ()
- e. As a substitute for other more effective treatment methods. ()

07. Monitoring. A staff assigned to monitor a child in restraint shall have no other immediate responsibility and shall be in visual and auditory contact with the child at all times to ensure that all personal needs of the child are met, including access to toilet facilities as needed. ()

08. Restraint Log. A restraint log documenting each use of restraint which includes: ()

- a. The child's name; ()
- b. The time and date of initiation of the restraint; ()
- c. The name of the staff who requested the restraint of the child; ()
- d. The name of the administrator or designee who approved the use of the restraint of the child;()
- e. A description in sufficient details to provide a clear understanding of the incident which resulted in the child being restrained and the staff's attempts to help avoid the restraint; ()
- f. Detailed observation notes by the person assigned to monitor the child while in restraint; and()
- g. The time and date of termination of the restraint. ()

09. Counsel. When a child has been released from restraint, staff shall counsel with the child about behavior and problems experienced which resulted in the restraint use. ()

10. Re-Introduction. The child is re-introduced to the group in a sensitive and non-punitive manner as soon as he has regained control. ()

11. Review. When a child has been in restraint there will be within twenty-four (24) hours a review by the chief administrator or his designee. The review shall be to determine the suitability of the child remaining in the children's residential care facility and whether modifications to the child's service plan is warranted and if staff need further training or disciplinary action. Appropriate action shall be taken based on the findings of the review. The person doing the review shall be knowledgeable about the proper use of the restraint device and its impact on the child. ()

768. TRANSPORTATION OF CHILDREN IN RESTRAINTS.

When children who are security risks are transported they shall be accompanied by child care workers of the same gender. When rest stops and meals are provided to a child who is in mechanical restraints during transportation, the stops shall be made in areas with a minimum exposure to the public when possible. The childcare worker shall accompany the child during restroom stops. All vehicle doors shall be locked. Under no circumstances is a child to be restrained to a vehicle. ()

769. (RESERVED).

ADDITIONAL PROVISIONS FOR CHILDREN'S RESIDENTIAL MATERNITY CARE

(Sections 770 through 779)

770. ADDITIONAL PROVISIONS FOR CHILDREN'S RESIDENTIAL MATERNITY CARE.

(Sections 770 through 779, see also Sections 500 through 599 and 700 through 769.)

771. SERVICE WORKER AVAILABLE.

A service worker shall be available to each pregnant minor and minor mother to provide information on options open to her and to assist her in making decisions that are in her best interest and her child. The decision for final plans for the minor mothers child rests with the minor parent. A pregnant minor is prohibited from signing a statement committing to any definitive plan prior to the birth of her child and shall not be subject to coercion to release her child before or after the birth of her child. ()

772. PRENATAL AND POSTPARTUM CARE.

Prenatal and postpartum care for residents and newborns shall be performed only by a physician licensed to practice medicine in Idaho and shall include: ()

01. Obstetric History. The obtaining of an obstetric history; ()

02. Obstetrical Exam. Within ten (10) days of entering care, a complete obstetrical exam; ()

03. Ongoing Medical Care. Ongoing medical care with examinations as prescribed by the physician; ()

04. Infant Medical Care Plan. A planned program of medical and nursing care of all infants in care, approved by the physician; ()

05. Hospital Delivery Required. Infants shall only be delivered in a hospital licensed by the State of Idaho; and ()

06. Prenatal And Postnatal Education. A pregnant resident shall be provided educational information on prenatal and postnatal care as appropriate. ()

773. DISCHARGE PLANS.

Discharge plans shall be developed in a timely manner with the service worker and the new parent to ensure an infant does not remain in a children's residential maternity care facility apart from parental care and supervision. ()

774. -- 779. (RESERVED).

**ADDITIONAL PROVISIONS FOR CHILDREN'S ALCOHOL-DRUG
ABUSE RESIDENTIAL CARE FACILITIES
(Sections 780 through 789)**

780. ADDITIONAL PROVISIONS FOR CHILDREN'S ALCOHOL-DRUG ABUSE RESIDENTIAL CARE FACILITIES.

(Sections 780 through 789, see also Sections 500 through 599 and 700 through 769.)

781. DIAGNOSIS.

A children's alcohol-drug treatment facility shall only admit children with a primary diagnosis of substance abuse, alcohol or drug dependency. ()

782. TREATMENT FOCUS.

A children's alcohol-drug abuse residential care facility program shall focus primarily on alcohol-drug abuse diagnosed problems. A child who is likely to have a withdrawal reaction shall be admitted only after stabilization of withdrawal unless the children's residential care facility has a medically supervised program specifically designed for

dealing with withdrawal. A children's alcohol-drug abuse residential care facility shall provide individual and group counseling sessions, family treatment services, and alcohol-drug education sessions. Care shall include at least twenty-one (21) hours a week of treatment program hour's specific to alcohol-drug treatment by clinical staff, including planned and structured education, individual and group counseling, family counseling and motivational counseling. ()

783. CARE TO CHILDREN AND ADULT RESIDENTS.

An alcohol-drug treatment facility providing care to both children and adults shall ensure the separation of the two (2) populations, which includes not sharing the same wing, or the same floor for recreation, living, sleeping, and restroom facilities. Children and adult residents shall not dine together. Children and adult residents shall not share treatment groups, recreation, counseling sessions, educational programs, or treatment programs unless there is a documented therapeutic reason. ()

784. STAFF QUALIFICATIONS FOR CHILDREN'S ALCOHOL-DRUG ABUSE RESIDENTIAL FACILITY.

01. Chief Administrator. Qualifications of the chief administrator shall be verified through written documentation of work experience, education and classroom instruction. The chief administrator shall have at least: ()

a. A Master's degree from an accredited college or university in a relevant field and two (2) years of paid full-time experience with one (1) year in administration; or ()

b. A Bachelor's degree from an accredited college or university in a relevant field and three (3) years of paid full-time experience with one (1) year in administration; and ()

c. Knowledge and demonstrated competence in planning, budget development and other administrative duties. ()

02. Clinical Director Qualifications. A clinical director shall have at least: ()

a. A Master's Degree from an accredited college or university in a relevant field and five (5) years of paid full-time experience with three (3) years experience in direct alcohol-drug abuse treatment; ()

b. Knowledge and experience and demonstrated competence in treatment including client evaluation, counseling techniques, relapse prevention, case management and family systems; and ()

c. Working knowledge of the normal process of child and adolescent growth and development, the effects of alcohol and drugs on a child's growth and development. ()

03. Program Supervision Qualifications. A program supervisor, located at the children's residential care facility shall possess at least: ()

a. Five (5) years of full-time paid experience in alcohol-drug abuse treatment with at least two (2) years in direct treatment; or ()

b. A Master's degree from an accredited college or university and three (3) years of paid full-time experience with two (2) years in direct alcohol-drug treatment; or ()

c. A Bachelor's degree from an accredited college or university in a relevant field and four (4) years of paid full-time experience with two (2) years in direct alcohol-drug treatment; and ()

d. One (1) year of paid full-time experience in supervision; and ()

e. Knowledge and experience and demonstrated competence in alcohol-drug treatment, including client evaluation, counseling techniques, relapse prevention, case management and family systems; and ()

f. Working knowledge of the normal process of child and adolescent growth and development, the effects of alcohol-drugs on a child's growth, and development. ()

04. Counselor Qualifications. There shall be one (1) alcohol-drug counselor for every six (6) children in treatment or fraction thereof. An alcohol-drug counselor shall have: ()

a. Five (5) years of full-time paid experience in alcohol-drug abuse treatment with at least two (2) years in direct alcohol-drug treatment with children; or ()

b. A Bachelor's degree from an accredited college or university in a relevant field and two (2) years of paid full-time experience with one (1) year in direct alcohol-drug abuse treatment with children; and ()

c. Possess certification or licensure by a state or nationally recognized alcohol-drug addiction counselor credentialing or certifying organization which requires: ()

i. Knowledge and skill acquired through at least two-thousand (2000) hours of a combination of specialized training, education and experience with direct treatment of children; and ()

ii. Thirty (30) hours of classroom instruction in child development; and ()

iii. A working knowledge of family systems as documented through experience, course-work or training. ()

d. An alcohol-drug counselor hired prior to the effective date of these rules shall meet all requirements by June 30, 2004. A counselor hired after June 30, 2001 will have three (3) years from date of employment to meet these criteria. ()

05. Direct Care Staff Qualifications. Direct care staff shall have at least sixteen (16) hours of training in basic alcohol-drug abuse issues, addressing dependency, enabling, co-dependency and confidentiality within sixty (60) days of employment. ()

785. AFTER CARE PLAN.

A children's residential care facility that provides alcohol or drug treatment shall develop a written plan of aftercare services for each child that includes procedures for reintegrating the child into the family and community as appropriate, and outpatient and other continued care services recommended. ()

786. ALCOHOL-DRUG TESTING.

A children's alcohol-drug treatment facility shall establish and follow written policies and procedures for drug testing of children in care. ()

787. CONFIDENTIALITY.

All matters relating to confidentiality of records of children shall comply with 42 CFR Chapter 1, Sub-Chapter A, Part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records". ()

788. --789. (RESERVED).

ADDITIONAL PROVISIONS FOR NON-ACCREDITED CHILDREN'S RESIDENTIAL SCHOOLS
(Sections 790 Through 793)

790. ADDITIONAL PROVISIONS FOR NON-ACCREDITED CHILDREN'S RESIDENTIAL SCHOOLS.

(Sections 790 Through 793, see also Sections 500 through 599 and 700 through 769.)

791. APPLICATION PROCESS.

A non-accredited children's residential school shall file with the Division of Family and Community Services of the

Department, an affidavit addressing the following elements and the listed attachments: ()

01. Affidavit Statement. Affiant shall make this affidavit based upon their own personal knowledge and belief. ()

02. Affiant Administrative Employees. Affiants state that they are the administrative employees responsible for operation of the school and the head of the governing body of the named school. ()

03. School Administrative Description. The school is a non-accredited children’s residential school as defined in this Chapter and as demonstrated by the attached by-laws or an attached organizational statement of purpose detailing organizational structure, philosophy, program, intake and enrollment policy, services, geographic area served, and children served according to their legal status, physical, mental and behavioral characteristics.()

792. STAFF RATIOS REQUIRED.

Non-accredited children's residential schools shall have at least one (1) staff member on duty and one (1) on call and available within (10) minutes for each twenty-five (25) children or fraction thereof, when children are awake and present. During normal sleeping hours, children in each sleeping quarters shall be under close supervision and within easy call of a staff member, with one (1) on-call staff available within ten (10) minutes. The facility shall at all times have a staff coverage plan to ensure the safety and needs of the children that is approved by the Department. ()

793. CHILD’S RECORD.

The school shall maintain a record on each child. ()

01. Content. The child’s record shall contain the following information: ()

a. Child’s full name; ()

b. Birth date; ()

c. Gender; ()

d. Height, weight, hair color, eye color, race, and identifying marks; ()

e. Name, address and telephone number of responsible parent, guardian or legal custodian of the child; ()

f. Documentation of authority to accept and care for the child; ()

g. Medical care authorizations; ()

h. School reports including grades and adjustment; ()

i. Reason for referral or placement; and ()

j. Special problems and needs. ()

02. Record Entries. For record entries by professional and clinical staff, the entries shall be signed and dated by the person providing the service. ()

794. -- 996. (RESERVED).

997. CONFIDENTIALITY OF RECORDS.

All records obtained and used by the Department in connection with activities related to these rules must be held confidential in accordance with the IDAPA 16.05.01, “Rules Governing the Protection and Disclosure of Department Records”. ()

998. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.02 - RULES GOVERNING STANDARDS FOR CHILDCARE LICENSING
DOCKET NO. 16-0602-0002 (REPEAL)
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 56-202(b), 56-203(b), 56-204A, 56-204(a), 56-1004, 39-1209, 39-1210, 39-1211, 39-1213, and 56-1005(8), Idaho Code.

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

**September 12, 2000, at 7:00 p.m., in the Coeur d'Alene Inn, Syringa Rm.
414 West Appleway Ave., Coeur d'Alene;**

September 19, 2000, at 7:00 p.m., in the Ameritel Inn, Pebble Creek Rm., 1500 Bench Rd., Pocatello;

**September 20, 2000, at 7:00 p.m., in the Ameritel Inn, Blue Lakes Rm.
1377 Blue Lakes Blvd., Twin Falls;**

September 21, 2000, at 7:00 p.m., in the Ameritel Inn, Tablerock Rm., 7965 W. Emerald, Boise;

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

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

The entire chapter is being repealed and re-written in Docket No.16-0602-0001.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Terri Meyer at (208) 334-5533.

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before September 27, 2000.

DATED this 10th day of July, 2000.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Legal Services Division
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 332-7347 fax

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.26 - RULE TO IMPLEMENT THE MANAGED CARE REFORM ACT
DOCKET NO. 18-0126-9901
NOTICE OF VACATION OF RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the rulemaking previously initiated under this docket. The action is authorized under Section 41-211, Idaho Code.

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

The proposed amendments set forth the Department's interpretation of the "Any Willing Provider Law" (Sections 41-3904 and 41-3927, Idaho Code). This interpretation was subsequently the subject of an administrative contested case hearing. As a result of the administrative ruling arising out of that case, it has been determined the proposed amendments are no longer necessary.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation, contact Shad Priest, Administrator, at (208) 334-4250.

Dated this 26th day of July, 2000.

Mary L. Hartung, Director
Idaho Department of Insurance
700 West State Street - 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Telephone (208) 334-4250
Fax (208) 334-4298

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE
18.01.47 - VALUATION OF LIFE INSURANCE POLICIES INCLUDING THE INTRODUCTION
AND USE OF NEW SELECT MORTALITY FACTORS

DOCKET NO. 18-0147-9901

NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2001 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 41-211, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 99-12, December 1, 1999, pages 58 through 70](#).

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Robert Murphy at (208) 334-4250.

Dated this 26th day of July, 2000.

Mary L. Hartung, Director
Idaho Department of Insurance
700 West State Street - 3rd Floor
P.O. Box 83720, Boise, ID 83720-0043
Telephone No. (208) 334-4250
Fax: (208) 334-4398

IDAPA 18
TITLE 01
Chapter 47

VALUATION OF LIFE INSURANCE POLICIES INCLUDING THE INTRODUCTION
AND USE OF NEW SELECT MORTALITY FACTORS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 99-12, December 1, 1999, pages 58 through 70](#).

This rule has been adopted as a pending rule by the Agency and is now pending review and adoption by the 2001 Idaho State Legislature as a final rule.

IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD
25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 25-0101-0001

NOTICE OF PROPOSED RULE (FEE)

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 36-2107(b) and 36-2107(d), Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held on:

**Tuesday, August 22, 2000, in the Board meeting room,
1365 North Orchard, Suite 172, Boise, Idaho 83706.**

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

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

The changes in Section 000 provides for notice to the public of the location of the Board offices, the Board's normal working hours, telephone numbers and provides for electronic signatures. The changes in Subsection 002.21 clarifies the current Board interpretation that pre-season or in-season scouting fall within the definition of hunting. The change in Subsection 002.45 provides that failure to pay suppliers or failure to pay taxes is considered unethical or unprofessional conduct. The change in Subsection 002.46 is a typographical correction. The changes in Subsection 015.01 provide for annual renewal of licenses on an anniversary date rather than April 1. The change in Subsection 026.01 provides for the correct reference to the Administrative Procedure Act. The change in Subsection 034.02 provide for typographic corrections and provide for land based guides to either read and understand a map or operate a GPS or other computerized map system. Section 053 is a new rule which converts a current Board policy into a rule. The change in Section 059, Subsections SA6, SA7B, SA7C, and SS1 clarify where the exact put-in and takeout is on these river sections. Section 064 is a new rule which converts a current Board policy in a rule. Section 066 is redundant with the Administrative Procedure Act and is unnecessary. The change in Subsection 068.01 brings this rule into conformity with Section 36-2113(c), Idaho Code. The outfitting industry has requested some or all of these changes and strongly supports all of these changes.

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

A ten dollar (\$10) amendment fee would be charged by the Board to an outfitter wishing to conduct a controlled hunt outside his operating area after meeting all the necessary requirements.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted at the public meeting.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact: Dean Sangrey, Executive Director, (208) 327-7382 - FAX 327-7382

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2000.

DATED this 24th day of July, 2000.

Dean Sangrey, Executive Director
Outfitters and Guides Licensing Board
1365 North Orchard, Suite 172
Boise, Idaho 83706
(208) 327-7380 - FAX (208) 327-7382

THE FOLLOWING IS THE TEXT OF DOCKET NO. 25-0101-0001

000. LEGAL AUTHORITY.

Rules of the Idaho Outfitters and Guides Licensing Board have been promulgated in accordance with the Idaho Administrative Procedures Act and pursuant to authority granted in the Outfitters and Guides Act (Idaho Code, Title 36, Chapter 21). Pursuant to Section 36-2107, Idaho Code, the Board offices shall be located at 1365 N. Orchard, Suite 172, Boise, Idaho 83706. The Board's normal working hours are from 8 a.m. to 5 p.m. Mountain Time zone. The Board's telephone number is (208) 327-7380 and the FAX number is (208) 327-7382. The Board shall accept electronic signatures including facsimile signatures and other electronic signatures to the extent the Board's electronic equipment is able to receive and process such signatures. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

002. DEFINITIONS.

The Act defines certain terminology applicable to its interpretation and administration (Idaho Code 36-2102). Further definitions, for the purposes of these Rules are: (4-1-92)

01. Act. Shall mean Idaho Code, Title 36, Chapter 21, commonly known as the Outfitters and Guides Act, as amended. (4-1-92)

02. Authorized Person. An investigator or enforcement agent in the employ of the Board, a conservation officer of the Idaho Department of Fish and Game, or any local, state, or federal law enforcement officer. (4-1-92)

03. Board. The Idaho Outfitters and Guides Licensing Board. (4-1-92)

04. Board Meeting. The set schedule of meeting dates established for conduct of regular Board business on a calendar year basis. Additional meetings may be scheduled as necessary (See Section 071). (4-1-92)

05. Booking Agent. Any individual, firm, business, partnership, or corporation that makes arrangements for the use of the services of a licensed outfitter and receives compensation therefore. A booking agent does not supply personnel or facilities and services to outfitter clientele. (4-1-92)

06. Compensation. The receipt or taking of goods, services, or cash in exchange for outfitted or guided activities. A bona fide charging of out-of-pocket travel expenses by members of a recreational party shall not be deemed compensation. However, such out-of-pocket expenses may not include depreciation, amortization, wages, or other recompense. (4-1-92)

07. Completed Application. An application submitted for Board consideration which contains all of the material required to be submitted by the Board for that license category. (4-1-92)

08. Consideration. The receipt or taking of goods, services, or cash in exchange for the provision of facilities and services in the conduct of outfitted or guided activities. (4-1-92)

09. Desert. A region of scarce rainfall and vegetation in areas often having great differences between day, night and seasonal temperatures. A desert is a land surface ranging from level, plateau land, or undulating to sharply breaking hill-lands and sand dunes that, in addition, may be broken by poor to well-defined, deeply entrenched drainage systems, rims, cliffs, and escarpments. (4-1-92)

10. Designated Agent. An individual who meets all qualifications for an outfitter's license who is employed as an agent by any person, firm, partnership, corporation, or other organization or combination thereof that

is licensed by the Board to operate as an outfitter and who shall, together with the licensed outfitter, be responsible and accountable for the conduct of the licensed outfitter's operations. The name of each designated agent employed by an outfitter shall appear on the outfitter's bond. A designated agent may act as a guide if he possesses the qualifications of a guide as determined by the Board. (Previously referred to as Managing Agent). (4-1-92)

11. **Drift Boats.** Shall be substituted for and have the same meaning as "float boats" defined below. (4-1-92)
12. **Enforcement Agent.** An individual employed by the Board having the power of peace officers to enforce the provisions of the Idaho Outfitters and Guides Act (Idaho Code, Title 36, Chapter 21) and the Rules promulgated thereunder. (4-1-92)
13. **Facilities And Services.** The provision of personnel, lodging (tent, home, lodge, or hotel/motel), transportation (other than by commercial carrier), guiding, preparation and serving of food and equipment, or any other accommodation for the benefit of clientele in the conduct of outdoor recreational activities as designed in Section 36-2102(b), Idaho Code. (4-1-92)
14. **First Aid Card.** A valid card issued by the American Red Cross to denote the individual whose name and signature appear thereon has successfully completed an applicable Red Cross course and is qualified to render appropriate, minimal first aid as prescribed by the American Red Cross, or other valid evidence showing successful completion of an equivalent course conducted by an organization acceptable to the Board. (4-1-92)
15. **Fishing.** Fishing activities on those waters and for those species described in the rules of the Idaho Department of Fish and Game, IDAPA 13.01.11, "Rules Governing Fish," general fishing seasons and any anadromous fishing rules; for purposes of the "Act", fishing is defined as follows: (4-1-92)
 - a. Anadromous fishing means fishing for salmon or steelhead trout. (4-1-92)
 - b. Float boat fishing means the use of floatboats without motors for the conduct of fishing as a major activity on those waters open to commercial activities as set forth in Section 059. (4-1-92)
 - c. Fly fishing means a licensed activity restricted to the use of fly fishing equipment and procedures, as defined by Idaho Department of Fish and Game rules. (4-1-92)
 - d. Incidental fishing means fishing conducted as a minor activity. (4-1-92)
 - e. Power boat fishing means the use of power boats in conduct of fishing as a major activity on those Idaho waters open to commercial outfitting activities as set forth in Section 059. (4-1-92)
 - f. Walk and wade fishing means fishing conducted along or in a river, stream, lake or reservoir, and may include the use of personalized flotation equipment, but does not include the use of watercraft. (4-1-92)
16. **Float Boats.** Watercraft (inflatable watercraft, dories, drift boats, canoes, catarafts, kayaks, sport yaks, or other small watercraft) propelled by, and moving with the stream flow, maneuvered by oars, paddles, sweeps, pike poles or by motors for downstream steerage only. Downstream steerage does not include holding or upstream travel of a watercraft with a motor. Excluded as float boats are personal flotation devices, innertubes, air mattresses, or similar devices. (4-1-92)
17. **Guide.** An individual who meets the criteria as set forth in Idaho Code 36-2102(c), and has further met the required qualifications as prescribed in the Rules to provide professional guided services to clientele in the pursuit and conduct of licensed activities. (4-1-92)
18. **Guide License.** A license issued by the Board to an individual who is employed by a licensed outfitter to furnish personal services for the conduct of outdoor recreational activities as defined in Idaho Code 36-2102(c). (4-1-92)
19. **Hazardous Excursions.** Outfitted or guided activities conducted outside municipal limits in a

desert or mountainous environment which may constitute a potential danger to the health, safety, or welfare of participants involved. These activities shall include, but are not limited to: day or overnight trailrides, backpacking, technical mountaineering/rock climbing, cross-country skiing, backcountry alpine skiing, llama and goat packing, snowmobiling, survival courses, and motored and non-motored cycling. (3-19-99)

- 20. He/His/Him.** Shall mean either the male or female gender. (4-1-92)
- 21. Hunting.** The pursuit of any game animal or bird and all related activities including pre-season scouting or in-season scouting, packing of client camp equipment, supplies, game meat and clients to and from a hunting camp. (~~12-30-93~~)()
- 22. Incidental Activity.** Shall be and is the same as a minor activity. (4-1-92)
- 23. Incidental Amendment.** All outfitter license amendment requests that can be processed by the Board without requiring outside research or recommendation of a land managing agency or other agency before the Board takes final action on said amendment request. (4-1-92)
- 24. Investigator.** An individual employed by the Board to monitor compliance with the provisions of the Outfitters and Guides Act (Idaho Code, Title 36, Chapter 21) and Rules promulgated thereunder and issue warning tickets for violations thereof. An investigator shall not have arrest powers nor any other power of a peace officer. (4-1-92)
- 25. Major Activity.** A licensed activity, the nature of which requires a significant commitment of time and effort by an outfitter in its execution and is intended to provide a significant amount of income to an outfitter. (4-1-92)
- 26. Major Amendment.** All outfitter license amendment requests requiring Board research or recommendation of a land management agency or other agency before the Board takes final action on the amendment request. (4-1-92)
- 27. Minor Activity.** A licensed activity the nature of which may be carried out in conjunction with a major activity, but is not intended to provide a significant amount of income to an outfitter. (4-1-92)
- 28. Mountainous.** A region receiving limited to abundant annual precipitation with an associated vegetative cover of grass, weeds, shrubs, or trees. Cool summer temperatures and cold winter temperatures prevail. A mountainous area is a land surface ranging from level to gently rolling low hills to elevated lands that are often broken with poor to well-developed, deeply entrenched drainage systems, rims, cliffs, and escarpments to steep-sided land masses of impressive size and height. (4-1-92)
- 29. New Opportunity.** A proposed commercial outfitted activity to be conducted in an area where no similar commercial outfitted activity has been conducted in the past. (4-1-92)
- 30. Nonresident.** An individual, corporation, firm, or partnership who is not a resident of the state of Idaho. (See "Resident"). (4-1-92)
- 31. Nonuse.** Inactivity, such as incidental activity only, or an outfitter's making zero (0) use of major licensed activities for any two (2) of the three (3) preceding years. See Definitions, "Zero (0) use," and Subsection 024.01. (3-23-98)
- 32. Operating Area.** The area assigned by the Board to an outfitter for the conduct of outfitting activities. (4-1-92)
- 33. Operating Plan.** A detailed schedule or plan of operation which an outfitter proposes to follow in the utilization of licensed privileges, areas, or activities. (See Subsection 018.03). (4-1-92)
- 34. Outfitter.** An individual, corporation, firm, partnership, or other organization or combination thereof that meets the criteria as set forth in Idaho Code 36-2102(b), and has further met the required qualifications as

prescribed in the Rules to conduct an outfitting business in Idaho. (4-1-92)

35. Outfitter License. A license issued by the Board to an individual, partnership, corporation, or other duly constituted organization to conduct activities as defined in Idaho Code 36-2102(b). NOTE: The conduct of an outfitted operation on any private land(s) within an operating area approved by the Board is not authorized unless signed permission/lease is obtained from the private land owner(s), or their agent(s), and filed with the Board. (4-1-92)

36. Out-Of-Pocket Costs. The direct costs attributable to a recreational activity. Such direct costs shall not include: (4-1-92)

- a. Compensation for either sponsors or participants; (4-1-92)
- b. Amortization or depreciation of debt or equipment; or (4-1-92)
- c. Costs of non-expendable supplies. (4-1-92)

37. Power Boats. All motorized watercraft used on Idaho waters open to commercial outfitting activities as set forth in Subsections 059.01 and 059.02. Excluded as power boats are hovercraft, jetskis or similar devices, and float boats using motors for downstream steering. (4-1-92)

38. Relinquishment Of License Privileges. The failure to re-apply at the expiration of a license; the loss through nonuse, inactivity, revocation, or voluntary surrender of a license; or other loss of license. (See Subsection 030.03). (3-23-98)

39. Resident. An individual, corporation, firm, or partnership who has resided in the state of Idaho for a period of six (6) months next preceding the time of application for license. (4-1-92)

40. Rules. The Rules of the Board. (4-1-92)

41. Stay Of Board Action. An order, pursuant to Idaho Code 67-5215(c), stopping or delaying the enforcement of a Board decision, order or action. (4-1-92)

42. Third Party Agreement. The allowing of the conduct of an outfitted or guided activity by the outfitter licensed to conduct those activities by any persons not directly employed by said outfitter. (See Section 023). (4-1-92)

43. Trainee. A person not less than sixteen (16) years of age who does not possess the necessary experience or skill qualifications required to obtain a guide license, but who is working toward obtaining the necessary experience or skill qualifications. This required training shall be recorded on a form provided by the Board. A trainee may not provide any direct guiding services for clients, but may assist while under direct supervision. (5-1-95)

44. Under Supervision. The trainee must be in a boat operated by a licensed boatman, or one in which the operation is closely monitored by a licensed boatman. The licensed boatman need not be in the same boat during training as long as the trainee's activity is closely monitored. (4-1-92)

45. Unethical/Unprofessional Conduct. Any activity(ies) by an outfitter or guide which is inappropriate to the conduct of the outfitting or guiding profession. These activities include, but are not limited to: ()

- a. An outfitter employing an unlicensed guide; ()
- b. Providing false, fraudulent or misleading information to the Board; ()
- c. Failure to obey an order of the Board; ()

- d. Failure to provide services as advertised or contracted; ()
 - e. Harassment of the public in their use of Idaho's outdoor recreational opportunities; ()
 - f. Violation of state or federal fish and game laws; ()
 - g. Engaging in unlicensed activities or conducting outfitter/guide services outside the operating area for which the licensee is licensed; ~~or~~ ()
 - h. Disregard for the conservation, maintenance or enhancement of fish, game, land and water resources; ()
 - i. Failure to pay a supplier of goods or services to the outfitter business; ()
 - j. Failure to pay taxes owed to a governmental entity; or ()
 - k. Operating in a manner which endangers the health, safety, or welfare of the public. ~~(3-19-99)~~()
- 46. Validated Training Form.** An approved form bearing the "Great Seal of the State of Idaho" and the official stamp of the Board affixed thereon. (4-1-92)
- 47. Watercraft.** A boat or vessel propelled mechanically or manually, capable of operating on inland water surfaces. Excluded as watercraft are hovercraft, jetskis, personal flotation devices (PFD's), or similar devices. (4-1-92)
- 48. Zero Use.** No or negligible use by an outfitter of his licensed activity unless the lack of use is due to an act of nature or season or hunting or fishing restrictions by a state or federal agency that limit the ability of the outfitter to seek and accommodate clientele. (4-1-92)

(BREAK IN CONTINUITY OF SECTIONS)

015. FEES.

Prior to the issuance of a license, an applicant must submit the appropriate fee in the form of a certified check, cashier's check, money order, or outfitter's company check. The fee need not be submitted by a new applicant in order for the application to be considered complete but must accompany any renewal application. (4-1-92)

01. Late Fee. When a completed renewal application is filed with the Board after ~~March 31~~ the last day of the license year, the following penalty shall apply: ~~(3-19-99)~~()

a. A completed application received by the Board prior to ~~April 16~~ fifteen (15) days after the last day of the license year - no late fee shall apply. ~~(3-23-98)~~()

b. A completed application received by the Board ~~April 16~~ fifteen (15) days after the last day of the license year through ~~June 30~~ ninety (90) days after the last day of the license year - a fifty dollar (\$50) late fee shall be paid before the license is issued. ~~(3-23-98)~~()

c. A completed application received by the Board ~~on or after July 1~~ ninety (90) days after the last day of the license year will not be accepted for licensure. The license will have lapsed and therefore is void and vacated. If a completed application is not received by the Board by ~~June 30~~ ninety (90) days after the last day of the renewal license year, the license is relinquished. ~~(3-23-98)~~()

02. Refund Of Unused One Time Application Fees. All unused portions of one (1) time new outfitter, new designated agent, or new guide application fees shall be returned to the applicant. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

026. OPERATING AREA ADJUSTMENTS.

An outfitter's operating area may be adjusted for reasons of wildlife harvest, where territorial conflict exists, or for the safety of persons utilizing the services of outfitters. (10-15-88)

01. Hearing. If the Board determines that a hearing is necessary prior to the adjustment of a licensee's operating area, such hearing shall be conducted in accordance with the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code ~~67-5209 through 67-5214~~, and all affected parties shall be afforded an opportunity to participate. (~~10-15-88~~)()

02. Consideration. In determining whether to adjust an operating area for reasons of wildlife harvest, the Board or the hearing officer shall consider, among other things, the following: (10-15-88)

a. Any changes in wildlife harvest, including any increase or decrease in wildlife harvest attributable to the licensee's activity(ies). (10-15-88)

b. Any new limitation(s) imposed or recommendation(s) made regarding wildlife harvest in the operating area(s) by any governmental agency since the issuance of the license. (10-15-88)

c. Any environmental change(s) that have occurred in the operating area(s) that affect wildlife management. (10-15-88)

d. Any undesirable wildlife impact(s) that may be ameliorated by a territorial adjustment. (10-15-88)

e. Any new information discovered since the issuance of the license regarding wildlife management in the operating area(s). (10-15-88)

03. Consideration. In determining whether to adjust an operating area for reasons of territorial conflict, the Board or the hearing officer shall consider, among other things, the following: (10-15-88)

a. Any incident(s) of territorial conflict and how they might be ameliorated by a territorial adjustment. (10-15-88)

b. The extent of each licensee's legal use of the disputed area. (10-15-88)

c. Any public or client safety concerns that might be ameliorated by or might arise from the inclusion of the disputed area as part of a particular licensee's operation. (10-15-88)

d. Any environmental or operational factors that indicate which licensee will be able to make the best use of the disputed area in providing services to the public considering, among other things, each licensee's licensed activity(ies) and the relationship of that activity(ies) to the activity(ies) conducted in the disputed area, each licensee's total operating area, the financial stability of each licensee, and the accessibility of the disputed area from adjacent operating area(s). (10-15-88)

e. Any recommendation(s) submitted by any governmental agency that regulates or manages land or wildlife within the disputed area. (10-15-88)

04. Safety Adjustment. In determining whether to adjust an operating area for reasons of safety of persons using the services of an outfitter, the Board or hearing officer shall consider, among other things, the following: (10-15-88)

a. Any change(s) in the environmental condition(s) in the area that may pose a threat to the health and safety of persons using the operating area. (10-15-88)

- b. Any change(s) in the manner or amount of public use of the operating area since the issuance of the license that may pose a threat to the health and safety of persons using the operating area. (10-15-88)
- c. Any change(s) in a licensee's manner of operation within the operating area that may affect clientele safety considering, among other things, change(s) in the condition(s) of the licensee's capability or equipment. (10-15-88)
- d. Any safety-related incident(s) that have occurred in the operating area. (10-15-88)
- e. Any safety concern(s) expressed by any governmental agency that regulates or manages land or wildlife within the operating area. (10-15-88)
- f. Any new information discovered since the issuance of the license regarding safety. (10-15-88)

(BREAK IN CONTINUITY OF SECTIONS)

034. GUIDE APPLICATION REQUIREMENTS - GENERAL.

To be complete, an application for a guide license must: (4-1-92)

01. First Aid Card. Be accompanied by a copy (both sides) of a first aid card. The Board will revoke a current guides license if forged or altered documents are submitted. Applications submitted with forged or altered first aid cards will be rejected and no license will be issued for that year. (5-1-95)

02. Signatures. Have the signature of the applicant and of the licensed outfitter(s) who wishes to employ the applicant as a guide, who shall certify that the applicant: (4-1-92)

a. Is qualified to perform the type of guiding activity(ies) for which he seeks licensing; i.e., hunting, boating, skiing, or other as may be applicable. (4-1-92)

b. Has extensive, first-hand knowledge of the operating area(s) and water(s) in or on which he will be guiding. (4-1-92)

c. If the guide is land based, the guide is able to read and understand a map and compass or operate a global positioning system (GPS) or other computerized map system. (4-1-92)()

d. Is clean and well-mannered with a desire to please those whom he is called upon to serve. (4-1-92)

(BREAK IN CONTINUITY OF SECTIONS)

053. ~~(RESERVED)~~ CONTROLLED HUNTS OUTSIDE OUTFITTER'S OPERATING AREA.

01. Requirements To Conduct A Controlled Hunt Outside Operating Area. An outfitter wishing to conduct a controlled hunt outside his licensed area with a client with a controlled hunt permit must: ()

a. Obtain written permission from all outfitters whose licensed area(s) will be directly involved in the hunt; ()

b. Obtain written permission from all applicable landowners or land managers; ()

c. Obtain approval from the Outfitters and Guides Licensing Board to conduct the hunt by satisfying the following criteria: ()

- i. Must be licensed for the controlled hunt species; and ()
- ii. Send a written request to the Board for special one-time hunt approval, to include the hunter name and address, hunting license, tag and permit numbers, controlled hunt number, and dates of hunt. ()
- d. Submit a ten-dollar (\$10) amendment fee. ()

02. Authorization By Board. Upon approval the Board will issue a letter authorizing the one-time hunt. This notification will include the name and address of the hunter(s), controlled hunt number, hunter(s) license, tag and permit numbers. No compensation or remuneration shall be permitted between outfitters participating in the conduct of a controlled hunt on another outfitter's area, unless the outfitter supplies a service for that compensation. ()

(BREAK IN CONTINUITY OF SECTIONS)

059. RIVER, LAKE AND RESERVOIR POWER AND FLOAT OUTFITTER LIMITS.

01. Licensable Waters -- Table. The following rivers and streams or sections that lie totally or partially within the state of Idaho shall be open to commercial boating operations by outfitters and guides. All other rivers and streams or sections that lie totally or partially within the state of Idaho shall be closed to commercial boating by outfitters and guides.

River/Section	Maximum Number Power	Maximum Number Float
(BL1) Blackfoot River - Morgan Bridge to Trail Creek Bridge.	none	2
(BO1) Boise River, South Fork - Danskin Bridge to the Neal Bridge EXCEPT on weekends or holidays. (Each outfitter may use only one (1) boat for fishing only with a maximum of two (2) fisherman.) No overnight camping or walk-and-wade fishing allowed.	none	2
(BO2) Boise River - Downstream from the west side of the Garden City municipal limits to the east side of the Caldwell municipal limits. (Each outfitter may use at any time a maximum of four (4) boats for boating activities.) The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitters operating plan.	none	2
(CF1) Clark Fork River - Montana stateline to Lake Pend Oreille (boating closing date September 30).	4 outfitters for either power or float or combination thereof	

River/Section	Maximum Number Power	Maximum Number Float
(CL1) Clearwater River - Lowell to Kooskia (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan).	none	5
(CL2) Clearwater River - Kooskia to Orofino (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan).	6	10
(CL3) Clearwater River - Orofino to Lewiston (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitters operating plan).	10	10
* (NFCL) North Fork Clearwater River - Kelly Forks Bridge downstream to backwaters of Dworshak Reservoir.	none	4
(CD1) Coeur d'Alene River - Devil's Elbow to South Fork confluence (boating closing date June 30).	none	5
* (JB1) Jarbidge/Bruneau Rivers	none	4
(KO1) Kootenai River - Montana stateline to Canada boundary.	5	5
(LCL1) Little North Fork Clearwater River - Mouth of Canyon Creek to first bridge on the Little North Fork Clearwater River. Fishing only. (Each outfitter may use only two (2) boats per day with a maximum of two (2) fishermen per boat.)	none	2
* (LO1) Lochsa River	none	5
(MO1) Moyie River - Canada boundary to Bonners Ferry Municipal Dam (boating closing date July 20).	none	5
* (OW1) Owyhee River - Nevada stateline to Oregon stateline or South Fork to confluence with Owyhee River (and continuing on to a take-out point).	none	6

River/Section	Maximum Number Power	Maximum Number Float
(PN1) Payette River, North Fork - Payette Lakes Outlet to Hartsell Bridge. Restrictions: NO FISHING ALLOWED. Four (4) boat or ten (10) canoe limit per trip, and only two (2) trips per day per outfitter.	none	2
(PN1A) Payette River, North Fork - Cascade City Park, 1/4 mile south of Cascade on Highway 55 to Cabarton. Restrictions: Catch and release for TROUT ONLY, other species F & G rules apply. No stopping by commercial groups from 1/4 mile above to 1/4 mile below heron nesting trees. Four (4) boat or ten (10) canoe limit per trip, and only two (2) trips per day per outfitter.	none	2
(PN2) Payette River, North Fork - Cabarton to Smiths Ferry Bridge.	none	5
(PS1) Payette River, South Fork - Grandjean to Deadwood River.	none	5
* (PS2) Payette River, South Fork - Deadwood River to Banks.	none	5
(PA1) Payette River - Banks to Black Canyon Dam.	none	5
(PO1) Pend Oreille River	5	5
(PR1) Priest River - Dickensheet Campground to Priest River City.	none	5
* (MF1) Salmon River, Middle Fork - Boundary Creek to Indian Creek.	none	27
* (MF2) Salmon River, Middle Fork - Indian Creek to Cache Bar on the Salmon River.	none	27
(SA1) Salmon River - First bridge across Salmon River above Redfish Lake Creek to Torrey's Bar.	none	6
(SA2) Salmon River - Torrey's Bar to first Highway 93 bridge above Challis (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are a part of an outfitter's operating plan).	none	5

River/Section	Maximum Number Power	Maximum Number Float
(SA3) Salmon River - First Highway 93 bridge above Challis to Iron Creek (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are a part of an outfitter's operating plan).	none	6
(SA4A) Salmon River - Iron Creek to North Fork - License period from May 1 to September 30. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.)	5	11
(SA4B) Salmon River - Iron Creek to North Fork - License period from October 1 to April 30. (Each power boat outfitter may use at any one time a maximum of one (1) boat and each float boat outfitter may use at any one time a maximum of three (3) boats.)	2	8
(SA5) Salmon River - North Fork to Corn Creek.	3	9
* (SA6) Salmon River - Corn Creek to Spring Bar <u>Boat Ramp</u> .	14	31
* (SA7A) Salmon River - Vinegar Creek to Hammer Creek - License period from April 1 to September 30. (No power boating allowed from the Saturday before Memorial Day through Labor Day from 10:30 a.m./Mountain Time to 5:00 p.m./Mountain Time daily between the Riggins City Boat Dock and Lucile.)	10	26
* (SA7B) Salmon River - Vinegar Creek to Spring Bar <u>Boat Ramp</u> .	10	26
* (SA7C) Salmon River - Spring Bar <u>Boat Ramp</u> to Hammer Creek - Closed to all commercial boating from October 1 to March 31 (Three (3) designated outfitters may utilize float boats to fish from the Riggins City Boat Dock to Hammer Creek during the period October 1 to March 31).	none	3
* (SA8) Salmon River - Hammer Creek to Heller Bar or Lewiston on the Snake River.	15	35
* (SE1) Selway River - Paradise Campground to Selway Falls.	none	4

River/Section	Maximum Number Power	Maximum Number Float
(SE2) Selway River - Selway Falls to the mouth of the Selway River at Lowell. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments to these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.)	none	5
(SH1) Snake River, Henry's Fork - Henry's Lake Outlet to Hatchery Ford (Each outfitter may use at any one time a maximum of (a) eight (8) boats for fishing (No more than three (3) of these boats may be used at any one time on any of the following river reaches: Henry's Lake Outlet to Island Park Dam, Island Park Dam to Last Chance, Last Chance to Osborn Bridge, and Osborn Bridge to Hatchery Ford), and (b) five (5) boats for other boating activities. The Board may approve adjustments to these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan).	none	7
(SH2) Snake River, Henry's Fork - Mesa Falls to St. Anthony (Each outfitter may use at any one time a maximum of (a) eight (8) boats for fishing (No more than three (3) of these boats may be used at any one time on any one of the following river reaches: Mesa Falls to Warm River, Warm River to Ashton Dam, and Ashton Dam to St. Anthony), and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan).	none	8
(SH3) Snake River, Henry's Fork - St. Anthony to confluence with South Fork of Snake River (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan).	none	4
(SS1) Snake River - South Fork - Palisades Dam to confluence with Henry's Fork. No more than four (4) boats per section/per day may be used by an outfitter at any one time on any of the following river reaches: (a) Palisades Dam to Swan Valley Bridge; (b) Swan Valley Bridge to Black Canyon (Exception: Not more than eight (8) boats will be permitted in Section (b) on the same day, provided that no more than four (4) of said boats are in this Section after 11:00 a.m.); (c) Black Canyon to Poplar (Kelly Canyon); and (d) Poplar to the confluence with Henry's Fork. Restrictions: No outfitter may have more than twelve (12) boats on the SS1 in any one (1) day. Further, the lower boundary of Section (a) (Palisades Dam to Swan Valley Bridge) shall overlay Section (b) <u>to the Conant takeout</u> (Swan Valley Bridge to Black Canyon), and Section (b) shall overlay Section (c) to the Cottonwood access. Supply boats which do not carry clients are exempt from these restrictions.	5	6
(SN1) Snake River - Henry's Fork confluence downstream to Gem State Power Plant	3	3

River/Section	Maximum Number Power	Maximum Number Float
(SN2) Snake River - Gem State Power Plant downstream to headwaters of American Falls Reservoir.	3	3
(SN3) Snake River - American Falls Dam to Massacre Rocks State Park.	3	3
(SN4) Snake River - Massacre Rocks State Park to Milner Dam.	3	3
* (SN5) Snake River - Milner Dam to Star Falls.	none	3
* (SN6) Snake River - Star Falls to Twin Falls.	none	5
(SN7) Snake River - Twin Falls to Lower Salmon Falls Dam.	3	3
(SN8) Snake River - Lower Salmon Falls Dam to Bliss Dam.	3	5
(SN9) Snake River - Bliss Dam to headwaters of C.J. Strike Reservoir.	5	5
(SN10) Snake River - C.J. Strike Dam to Walter's Ferry.	5 outfitters for either power or float or combination thereof	
(SN11) Snake River - Walter's Ferry to headwaters of Brownlee Reservoir.	5	none
* (SN12) Snake River - Hells Canyon Dam to Pittsburg Landing.	18	15
* (SN13) Snake River - Hells Canyon Dam to Pittsburg Landing (Two (2) one-day float trips only).	none	2
(SN14) Snake River - Pittsburg Landing to Heller Bar or Lewiston.	19	15
(SN15) Snake River - Washington/Oregon stateline to Lewiston	Limitations pending. (This section is set aside for future rules of fishing only outfitters)	

River/Section	Maximum Number Power	Maximum Number Float
(SJ1) St. Joe River - Spruce Tree Campground to St Joe City Bridge. St. Joe City Bridge to Lake Coeur d'Alene	none 2	2 none
(SM1) St. Maries River	5	5
(TE1) Teton River - Upper put-in to Cache Bridge (motors not to exceed 10 hp).	5 outfitters for either power or float or combination thereof	
(TE2) Teton River - Cache Bridge to Harrop Bridge (motors not to exceed 10 hp).	6 outfitters for either power or float or combination thereof	
(TE3) Teton River - Harrop Bridge to confluence with Snake River (motors not to exceed 10 hp).	none	5

* Classified rivers

~~(4-5-00)~~()

02. Other -- Table. The following lakes and reservoirs or portions thereof that lie totally or partially within the state of Idaho shall be open to fishing by outfitters with the following limitations:

Lake or Reservoir	Maximum Number of Operators	Maximum Number of Boats per Operator per Lake or Reservoir
Lake Coeur d'Alene	8	1
Dworshak Reservoir	7	2
Hayden Lake	1	2
Henry's Lake	8	2
Island Park Reservoir	7	2
Magic Reservoir	3	2
Palisades Reservoir	10	2
Lake Pend Oreille	11	1
Priest Lake	5	1
American Falls Reservoir	3	2
C.J. Strike Reservoir	4	2

Lake or Reservoir	Maximum Number of Operators	Maximum Number of Boats per Operator per Lake or Reservoir
Brownlee Reservoir	5	2
Oxbow Reservoir	3	2
Hells Canyon Reservoir	3	2

(4-1-92)

03. Other Lakes And Reservoirs. All other Idaho lakes and reservoirs shall be limited to two (2) outfitters with a maximum of two (2) boats (float or power) per outfitter. (4-1-92)

(BREAK IN CONTINUITY OF SECTIONS)

064. ~~(RESERVED)~~ AUTHORIZATION FOR GRANTING, DENIAL AND REVOCATION OF LICENSES.

01. Executive Director Authorizations. The Executive Director is authorized to grant or deny licenses and license amendments under the following conditions: ()

a. The Executive Director may grant all routine license applications and amendments where the applicant does not have any convictions for fish and game violations or other convictions of violations enumerated in Section 36-2113(a), Idaho Code, and otherwise qualify for licensure. ()

b. The Executive Director may grant all license applications which otherwise qualify for licensure, but which have convictions of violations enumerated in Section 36-2113(a), Idaho Code, which occurred five (5) years prior to the date of application, except that a license will not be granted by the Executive Director to an applicant who has a felony conviction of any nature, or conviction of any outfitter and guide law violation or conviction of a major fish and game violation. ()

c. The Executive Director may grant a license with probationary status for conviction of minor fish and game violations. The Executive Director shall not grant a license to an applicant who has a conviction of a flagrant violation pursuant to Section. 36-2401(e), Idaho Code. ()

d. The Executive Director may defer granting or denying any license to the Board for action by the Board. ()

02. Board Conditions. The Board may grant or deny a license pursuant to the provisions of Sections 36-2109 and 36-2113, Idaho Code, under the following conditions: ()

a. The Board may grant a license to an applicant with convictions of violations enumerated in Section 36-2113(a), Idaho Code, which are over five (5) years old and may or may not place the licensee on probation. ()

b. The Board may grant a license to an applicant with convictions of violations enumerated in Section 36-2113(a), Idaho Code, which are less than five (5) years old and may or may not place the licensee on probation. ()

c. The Board shall proceed with the denial of an applicant for a hunting or fishing outfitter or guide license or proceed with the revocation process on a licensee upon conviction of a flagrant violation pursuant to Section 36-1402(e), Idaho Code, unless unusual mitigating circumstances exist. ()

(BREAK IN CONTINUITY OF SECTIONS)

066. ADMINISTRATION OF THE ACT (RESERVED).

Pursuant to authority granted by the Act, (Sections 36-2109, 36-2113, 36-2114, 36-2115 and 36-2117(a), Idaho Code), when addressing license denial, restriction, suspension, revocation or assessment of administrative fines, the Board shall hear aggrieved parties and on its own initiative may take those actions necessary to fulfill its responsibilities in administration of the Act. (9-1-90)

(BREAK IN CONTINUITY OF SECTIONS)

068. ADMINISTRATIVE FINES/PROBATION/RESTRICTIONS.

01. Penalties -- Table. In ~~lieu of~~ addition to suspension, probation, restriction or revocation of a license, the following penalties may be applied to that licensee or those licensees found to have violated the provisions of Idaho Code Title 36, Chapter 21 or the Rules of the Board. Each numbered penalty set forth below corresponds to the numbered sub-paragraph for discipline set forth in Section 36-2113(a), Idaho Code, ~~36-2113(a)~~ with such fine, suspension, probation, restriction or revocation of a license applicable to each numbered penalty.

<u>I.C. Section</u> <u>36-2113(a)</u>	First Offense	Second Offense	Third Offense
1.	\$100 - \$500 Fine	\$500 - \$5,000 Fine	Suspension or Revocation of License
2.	Probation/Restriction of License	\$100 - \$500 Fine	\$500 - \$5,000 Fine
3.	All Penalties Shall Be Within The Board's Discretion.		
4.	Probation/Restriction of License	\$100 - \$500 Fine	\$500 - \$5,000 Fine
5.	\$100 - \$300 Fine	\$100 - \$500 Fine	\$500 - \$5,000 Fine
6.	Probation/Restriction of License	\$100 - \$500 Fine	\$500 - \$5,000 Fine
7.	Probation/Restriction of License	\$100 - \$500 Fine	\$500 - \$5,000 Fine
8.	\$100 - \$500 Fine	\$500 - \$5,000 Fine	Suspension or Revocation of License
9.	\$100 - \$500 Fine	\$500 - \$5,000 Fine	Suspension or Revocation of License
10.	\$100 - \$500 Fine	\$500 - \$2,500 Fine	\$2,500 - \$5,000 Fine
11.	\$100 - \$300 Fine	\$100 - \$500 Fine	\$500 - \$5,000 Fine
12.	\$100 - \$500 Fine	\$500 - \$2,500 Fine	\$2,500 - \$5,000 Fine
13.	All Penalties Shall Be Within The Board's Discretion.		
14.	\$100 - \$300 Fine	\$100 - \$500 Fine	\$500 - \$5,000 Fine

~~(10-15-88)()~~

02. Restrictions. No license shall be issued while any outstanding administrative fine monies are due unless an arrangement has been made and approved by the Board for the payment of same. (10-15-88)

03. Terms Of Probation. The standard or usual terms of probation are that there be no violations of local, state or federal laws or ordinances, and that no amendments to the license will be permitted during the term of probation. Probation may also include such other restrictions as the Board shall order. (3-23-98)

IDAPA 31 - PUBLIC UTILITIES COMMISSION
31.71.03 - RAILROAD SAFETY/SANITATION RULES
DOCKET NO. 31-7103-0001
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given of the Public Utilities Commission's proposed rulemaking. This action is authorized pursuant to Sections 61-515, 61-129, and 61-113, Idaho Code.

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

Public hearings concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2000.

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 rulemaking:

The Commission is proposing to adopt federal safety regulations issued by the United States Department of Transportation pertaining to the packaging and transporting of hazardous materials by railroads operating in Idaho. The federal regulations proposed for adoption are listed in the proposed rules.

FEE SUMMARY: There are no fees associated with this proposed rulemaking.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.0811, negotiated rulemaking was not conducted because the proposed rules merely adopt existing federal safety regulations pertaining to the packaging and transporting of hazardous materials by railroads.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Donald L. Howell, II, Deputy Attorney General at (208) 334-0312. Anyone may submit written comments regarding these proposed rules.

All written comments concerning the proposed rules must be delivered to the Commission Secretary at the address identified below or must be postmarked on or before September 27, 2000. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than waiting until the comment deadline.

DATED at Boise, Idaho this 19th day of July, 2000.

Myrna J. Walters
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
Facsimile: (208) 334-3762

Street address for express delivery:
472 W. Washington
Boise, Idaho 83720-0074

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-7103-0001

000. LEGAL AUTHORITY (Rule 0).

These rules are adopted under the general authority of the Idaho Public Utilities Law, Chapters 1-7, Title 61, Idaho Code, and the specific authority of Sections 61-515 and 61-515A, Idaho Code. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

~~008. --100.~~ (RESERVED) INCORPORATION BY REFERENCE - CODE OF FEDERAL REGULATIONS (Rule 008).

The Code of Federal Regulations (CFR) is referred to in Rule 103. The annual volumes of the CFR may be obtained from the Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. The full text of the CFR is also available in electronic format at www.access.gpo.gov/nara. The incorporated CFR Parts are also available for inspection and copying at the office of the Idaho Public Utilities Commission and the Idaho State Law Library. Whenever a federal regulation is adopted by reference in these rules, subsequent annual recompilations are also adopted by reference, but subsequent amendments to the CFR are not adopted by reference. (____)

009. -- 100. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

~~103. --999.~~ (RESERVED) TRANSPORTATION OF HAZARDOUS MATERIAL BY RAIL (Rule 103).

01. Hazardous Material Defined. “Hazardous material” means a substance or material which has been determined by the United States Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated by the Secretary of Transportation. The term includes hazardous substances, hazardous wastes, marine pollutants, elevated temperature materials as defined in 49 C.F.R. Section 171.8, materials designated as hazardous under the provisions of 49 C.F.R. Section 172.101, and materials that meet the defining criteria for hazardous classes and divisions in 49 C.F.R. Part 173. (____)

02. Adoption Of Federal Safety Regulations. The Commission hereby adopts by reference 49 C.F.R. Parts 107, 171, 172, 173, 174, 178, 179, and 180 (October 1, 2000). All customers offering hazardous materials for shipment by rail and all railroads operating in Idaho that transport hazardous materials listed in, defined by, or regulated by the adopted federal safety regulations must comply with 49 C.F.R. Parts 107, 171, 172, 173, 174, 178, 179 and 180. (____)

03. Recognition Of Federal Exemptions. Whenever a railroad or shipper has applied to a federal agency and has been granted an exemption from the transportation or packaging requirements of the federal safety regulations adopted in Subsection 103.02, the federal exemption will also be recognized under these rules. The Commission shall not administer a program to duplicate consideration or approval of federal exemptions on a state level. (____)

104. -- 999. (RESERVED).

IDAPA 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-0001
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective July 19, 2000.

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has adopted a temporary rule and regular proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 63-105A and 63-3624, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Place: State Tax Commission,
800 Park Blvd. Plaza IV, Boise Idaho
Date: October 4, 2000
Time: 10:00 a.m. in Conference Room 1CR5

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:

Property Tax Administrative Rule 314 - County Valuation To Be Carried On By County Assessors is being adopted as a temporary rule and amended to reflect changes passed by the 2000 Legislature which allows a county to request an extension on the 5-year county valuation program retroactive to January 1, 2000. This rule is being amended to provide procedures the State Tax Commission will use for the valuation program extension as the authorized oversight agency.

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:

Statutory timing of the program requires the rule be adopted as a temporary rule.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the State Tax Commission is the authoritative agency for oversight of the county valuation program.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Alan Dornfest, at (208) 334-7530.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 4, 2000.

DATED this 19th day of July, 2000.

Alan Dornfest, Tax Policy Specialist Supervisor
State Tax Commission
P.O. Box 36
Boise, ID 83722
(208) 334-7530 FAX (208) 334-7844

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-0001

314. COUNTY VALUATION PROGRAM TO BE CARRIED ON BY ASSESSOR (Rule 314). (7-19-00)T
Sections 63-314 and 63-316, Idaho Code.

01. Definitions. (7-1-99)

a. Continuing Program of Valuation. "Continuing program of valuation" means the program by which each assessor completes the assessment of all taxable properties each year. (7-1-99)

b. Field Inspection. The "field inspection" shall include an observation of the physical attributes of all structures which significantly contribute to the property value, the visible land amenities, and a notation of any other factors which may influence the market value of any improvements. (7-1-99)

c. Index. "Index" refers to any annual adjustment or trending factor applied to existing assessed values to reflect current market value. Ratio studies or other market analyses can be used to develop indexes based on property type, location, size, age or other characteristics. (7-1-99)

d. Prediction of Market Value. As used in Section 63-314, Idaho Code, "prediction of market value" means an estimate of market value. (7-1-99)

e. Category to Be Assessed at Current Market Value. The level of assessment of each category will be considered to be current market value unless there is reasonable statistical certainty that the category is not equalized pursuant to Section 63-109, Idaho Code, and Rule 131. (7-19-00)T

02. Plan For Continuing Program Of Valuation. The plan for continuing program of valuation shall include: (7-1-99)

a. General Contents. A parcel count by category, the number of parcels to be appraised each year, maps that show each of the market areas, an analysis of staff requirements, a budget analysis ~~(that includes provides adequate funding for labor costs, capital and supply costs, travel and education costs)~~, and the method of program evaluation. ~~(7-1-99)~~(7-19-00)T

b. Market Data Bank. A market data bank including collection, verification and analysis of sales, income and expense data, building cost information, and application of this information to estimate market value. (7-1-99)

c. Maps. Maps prepared in accordance with Section 63-209, Idaho Code, which identify characteristics of each geographic area. (7-1-99)

d. Property Record. A property record for each parcel, complete with the property characteristics necessary for an estimate of the current market value. (7-1-99)

03. Date Plan Is Submitted. The plan must be submitted to the State Tax Commission on or before the first Monday of February in 1997, and every fifth year thereafter. (7-1-99)

04. Request For Extension. As provided in Section 63-314, Idaho Code, a county may request an extension to the current five (5) year county valuation plan. (7-19-00)T

a. Amended Plan. Any request for an extension must include an amended plan incorporating an inventory of the parcels to be appraised during the period of the approved extension. This inventory shall constitute the schedule of required appraisals for the initial year or years of the subsequent five (5) year valuation program. (7-19-00)T

b. Approval of the Extension and Amended Plan. A county shall be notified of the State Tax Commission's decision regarding the granting of an extension as provided in Section 63-314, Idaho Code, within thirty (30) days of receipt of the written request for the extension when accompanied by an amended plan.

(7-19-00)T

c. Approval of the Amended Plan. The State Tax Commission's approval of any extension shall specify timing and nature of progress reports.

(7-19-00)T

d. Voiding of the Extension. The State Tax Commission can void an extension unilaterally.

(7-19-00)T

045. Testing For Current Market Value. Assessed values shall be tested annually by the State Tax Commission as described in Section 63-109, Idaho Code, and Rule 131 of these rules to determine whether they level of assessment reflects "current market value".

(7-1-99)(7-19-00)T

IDAPA 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-0002
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective July 19, 2000.

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 regular proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 63-105A and 63-3624, 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 September 20, 1999.

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

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

Property Tax Rule 635 - Certification of Sales Tax Distribution. This rule is being adopted as a temporary rule and amended as a proposed rule to conform to legislation passed by the 2000 Legislature which sets a new base for distributing sales tax revenues. The rule is being renumbered to Rule 995. Codes references are being added, obsolete language is being deleted and a subsection is being added to address procedures for corrections when needed.

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:

Statutory timing of the program requires the rule be adopted as a temporary rule.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULE-MAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the non-controversial nature of the rule and the time constraints resulting from legislation that was retroactive to July 1, 2000.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Alan Dornfest, at (208) 334-7530.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2000.

DATED this 19th day of July, 2000.

Alan Dornfest, Tax Policy Specialist Supervisor
State Tax Commission
800 Park, Plaza IV, P.O. Box 36
Boise, ID 83722
(208) 334-7530
FAX (208) 334-7844

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-0002

~~621. -- 634.~~ (RESERVED).

~~635.~~ SECTION 635 HAS BEEN RENUMBERED TO SECTION 995.

~~63621.~~ -- 654. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

~~63995.~~ CERTIFICATION OF SALES TAX DISTRIBUTION (Rule ~~63995~~).

01. Most Current Census. Population shall be from the most current population census or estimate available from the Bureau of the Census during the quarter of the year for which any distribution of sales tax money is to be made. (3-24-94)

02. Market Value For Assessment Purposes. Market value for assessment purposes shall mean the market value certified to the State Tax Commission pursuant to Section 63-510, Idaho Code, and shall include including homeowners exemptions, and the amount of real and personal property value which exceeds the assessed value shown on the base assessment roll for a revenue allocation area as defined in Section 50-2903(12), Idaho Code, for the calendar year immediately preceding the current fiscal year. (~~3-24-94~~)(7-19-00)T

03. Current Fiscal Year. For the purposes of this section, current fiscal year shall mean the current fiscal year of the state of Idaho. For distribution purposes, the current fiscal year shall begin with the distribution made in October, following collection of sales taxes in July, August, and September. (7-19-00)T

034. Incorporated City. Incorporated city shall, for the current fiscal year, have a duly elected mayor and city council, and be recognized by the Bureau of the Census, U.S. Department of Commerce, for the distribution of federal general revenue sharing monies. (3-24-94)

045. Population And Valuation Estimates. Population and valuation estimates for distribution of revenue sharing monies shall be updated at least annually. Updated estimates shall be used beginning with the October distribution. (3-24-94)

056. Determination Date And Eligibility. The eligibility of each city for revenue sharing monies pursuant to Section 63-3638(8)(a), Idaho Code, shall be determined as of July 1 of the current year. Cities formed after January 1, 2001 shall also be entitled to share of money pursuant to the provisions of Section 63-3638(8)(c), Idaho Code. (~~3-24-94~~)(7-19-00)T

067. Quarterly Certification. The State Tax Commission shall certify quarterly to each county clerk the counties the BASE base and EXCESS excess shares of the six percent (6.0%) distributions required pursuant to Section 63-3638(8)(c) and 63-3638(8)(d), Idaho Code, and the distributions to cities and counties required pursuant to Section 63-3638(8)(a) and 63-3638(8)(b), Idaho Code. Each county clerk shall calculate and certify the distribution of these monies to the eligible taxing districts based on the directives of the State Tax Commission. The clerk shall prepare and transmit to the county treasurer and the State Tax Commission separate certifications for BASE base and EXCESS excess distributions. (~~3-24-94~~)(7-19-00)T

a. City and County Base Shares. For cities and counties, the initial base share shall be the amount of money to which they were entitled for the fourth calendar quarter of 1999, based on the provisions of Section 63-

3638(e), Idaho Code, as such section existed prior to July 1, 2000. In addition, the initial base share shall be adjusted proportionally to reflect increases that become available or decreases that occur, unless increases exceed five percent (5%) of the initial base share. (7-19-00)T

b. Special Purpose Taxing District Base Shares. For special purpose taxing districts the initial base share shall be the amount of money to which they were entitled for the fourth calendar quarter of 1999, based on the provisions of Section 63-3638(e), Idaho Code, as such section existed prior to July 1, 2000. Special purpose taxing district initial base shares shall be proportionally reduced to reflect decreases in the amount of sales tax available to be distributed. (7-19-00)T

c. Excess Shares. Excess shares shall be any amounts above the base share that any city, county or special purpose taxing district is entitled to receive pursuant to Section 63-3638(8)(c) or 63-3638(8)(d), Idaho Code. These amounts shall not be subject to redistribution provisions of Section 40-801, Idaho Code. (7-19-00)T

d. Shares Pursuant to Section 63-3638(8)(a) or 63-3638(8)(b), Idaho Code. Shares to be distributed pursuant to Section 63-3638(8)(a) or 63-3638(8)(b), Idaho Code, shall be termed "revenue sharing". Such shares shall be subject to quarterly distribution and for this purpose, the one million three hundred twenty thousand dollars (\$1,320,000) distribution pursuant to Section 63-3638(8)(b)(i), Idaho Code, shall be considered an annual amount and shall be divided into four (4) equal shares. (7-19-00)T

~~**07. Prescribed Filing.** Upon receipt of the current operating property roll from the Commission, and by the fourth Monday of September, each county auditor shall certify to the Commission the full market value of each taxing district within the county. The auditor shall use a form prescribed by the Commission and shall show for each district the net taxable market value used for levy certification, the value of the homeowners exemption, and the full market value after adding back the homeowners exemption. Values shall be shown for all cities, regardless of levy requests.~~ (3-24-94)

08. Notification Of Value. The county auditor shall notify the State Tax Commission of the value of each taxing district and unit as specified in Section 63-510, Idaho Code. (7-19-00)T

09. Corrections. (7-19-00)T

a. When distributions have been made erroneously, corrections shall be made to the following quarterly distribution(s) so as to provide the quickest practicable restitution to affected taxing districts. Corrections shall be made to reconcile erroneous distributions made for the current fiscal year. Errors made in distributions made for the last quarter of the current fiscal year shall be corrected as soon as practicable in distributions made for the following fiscal year. (7-19-00)T

b. The State Tax Commission shall notify affected county clerks when the State Tax Commission becomes aware of an error in the distribution of the base or excess shares. (7-19-00)T

c. The State Tax Commission shall notify affected cities or county clerks when the State Tax Commission becomes aware of an error in the distribution of city or county revenue sharing monies. (7-19-00)T

IDAPA 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-0003
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 63-105A and 63-3624, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Place: State Tax Commission, 800 Park Blvd. Plaza IV, Boise Idaho
Date: October 4, 2000
Time: 10:00 a.m. in Conference Room 1CR5

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:

Property Tax Administrative Rules regarding forest land are being amended. The proposed changes include renumbering the rules, deleting obsolete language, updating code references and modifying rules for legislation passed by the 2000 Legislature.

Rule 480 is being renumbered to Rule 960 - Definitions and has no substantive changes.

Rule 484 is being renumbered to Rule 961 - Lands Of Less Than Five Acres and is being amended to allow owners of contiguous parcels to add the acreages to determine if the five-acre requirement for forestland is met.

Rule 488 is being renumbered to Rule 963 - Certain Forest Lands To Be Designated For Taxation By Owner-- Limitations and has no substantive changes.

Rule 489 is being renumbered to Rule 966 - Recapture Of Deferred Taxes On Lands Designated Under Section 63-1706, Idaho Code, and is being amended to delete Subsection 966.03 and to clarify deferred taxes.

Rule 964 is being amended to clarify language that had been in a table is moved and placed into Subsections for Stumpage Value and Bare Forest Land Value.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because there is a public hearing set.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Alan Dornfest, at (208) 334-7530.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 4, 2000.

DATED this 19th day of July, 2000.

Alan Dornfest, Tax Policy Specialist Supervisor
State Tax Commission
800 Park Blvd.; P.O. Box 36
Boise, ID 83722
(208) 334-7530 / FAX (208) 334-7844

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-0003

~~418. -- 479.~~ (RESERVED).

~~480.~~ SECTION 480 HAS BEEN RENUMBERED TO SECTION 960.

~~481. -- 483.~~ (RESERVED).

~~484.~~ SECTION 484 HAS BEEN RENUMBERED TO SECTION 961.

~~485. -- 487.~~ (RESERVED).

~~488.~~ SECTION 488 HAS BEEN RENUMBERED TO SECTION 963.

~~489.~~ SECTION 489 HAS BEEN RENUMBERED TO SECTION 966.

~~490~~18. -- 499. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

~~489~~60. DEFINITIONS (Rule ~~489~~60).

01. Present Use. Present use shall mean that the land contains trees of a marketable species which are being actively managed to produce a forest crop for eventual harvest and which may be accepted by a commercial mill. (7-1-97)

02. Silvicultural Treatment. Silvicultural treatment shall include the following activities: site preparation, planting, vegetation control, precommercial thinning, commercial thinning, fertilization, mechanical or chemical pest and disease control, pruning, inventorying, cruising, or regeneration surveys, fencing established to protect seedlings, and genetic tree improvement. (7-1-97)

03. Forest Land Management Plan. Forest land management plan shall mean a written management plan reviewed by a professional consulting forester, Idaho Department of Lands private forestry specialist, professional industry forester, or federal government forester, to include eventual harvest of the forest crop. Professional forester is defined as an individual holding at least a Bachelor of Science degree in forestry from an accredited four (4) year institution. The forest land management plan shall include as a minimum: (7-1-97)

- a. Date of the plan preparation; (7-1-97)
- b. Name, address, and phone number of the land owner, and person preparing and/or reviewing the plan; (7-1-97)
- c. The legal description of the property; (7-1-97)
- d. A map of the property of not less than 1:24,000 scale; (7-1-97)
- e. A general description of the forest stand(s) including species and age classes; (7-1-97)
- f. A general description of the potential insect, disease, and fire hazards that may be present and the management systems which shall be used to control them; (7-1-97)
- g. The forest management plans of the landowner over the next twenty (20) years. (7-1-97)

04. Bare Forest Land. Bare forest land shall qualify as forest land only if, within five (5) years after harvest or initial assessment, they are planted or regenerated naturally to minimum stocking levels as specified by the Idaho Forest Practices Act. (Title 38, Chapter 13, Idaho Code). (7-1-97)

05. Joint Ownership. Joint ownership as used in Subsections ~~488963.01~~ and ~~48966.01~~ of these rules includes ownership of a single parcel of forest land by two (2) or more legal entities irrespective of their proportionate ownership interests in the parcel, but shall not include the community property interests of a spouse. (~~7-1-97~~)()

~~484961~~. LANDS OF LESS THAN FIVE ACRES (Rule ~~484961~~).

Forest land of four and nine hundred ninety-nine one thousandths (4.999) contiguous acres or less shall not be eligible for valuation and taxation as forest land, ~~whether or not the landowner owns other parcels which are eligible unless contiguous with another qualifying parcel under the same ownership.~~ The five (5) acre size is determined ~~EXCLUSIVE~~ exclusive of homesite. (~~7-1-93~~)()

01. Example 1. Landowner owns a fifteen (15) acre parcel which contains four (4) acres of forest, nine (9) acres of irrigated row crop, and two (2) acres of homesite. The four (4) acres of forest is not eligible for valuation and taxation as forest land. (7-1-93)

02. Example 2. Landowner owns eight (8) one (1) acre parcels of forest, and one (1) five hundred (500) acre parcel of forest. The eight (8) one (1) acre parcels are not eligible for valuation and taxation as forest lands, unless contiguous to the five hundred (500) acre parcel, or at least five (5) of the one (1) acre parcels are contiguous to each other. (~~7-1-93~~)()

(BREAK IN CONTINUITY OF SECTIONS)

~~488963~~. CERTAIN FOREST LANDS TO BE DESIGNATED FOR TAXATION BY OWNER--LIMITATIONS (Rule ~~488963~~).

01. Designation Of Forest Parcels. A forest landowner may choose to have the total acreage of forest land parcels owned within the state designated under the provisions of either Section 63-1705 or 63-1706, Idaho Code. The forest landowner cannot have parcels in both designations. If the new owner owns no forest land in the state designated under Section 63-1705 or 63-1706, Idaho Code, he may choose the option of forest taxation he desires. Designation shall be made on or before December 31st, of the year preceding assessment and will be effective for the following year. Where forest property is held in joint ownership, all co-owners must mutually agree on a property designation under Section 63-1703(a) and (b), Idaho Code. Each co-owner must make a timely designation. Where co-owners are unable to agree on a mutual designation or fail to make a designation, the forest land shall be subject to appraisal and assessment as provided in Section 63-1702, Idaho Code. (7-1-97)

02. Change In Use. Failure to notify the assessor of the change in use when lands have been designated shall cause forfeiture of the designation as to the changed acres, and the property shall be appraised, assessed and taxed, as provided in Section 63-1702, Idaho Code, from the date of latest designation or renewal. (7-1-97)

03. Certain Lands With No Deferred Taxes. There are no deferred taxes on lands designated under Section 63-1705, Idaho Code. (7-1-97)

964. YIELD TAX ON APPLICABLE FOREST PRODUCTS (Rule 964).

01. Calculation. The calculation described below will be used to update the bare forest land value for tax assessment purposes on an annual basis:

$$BLV_z = |(0.5 \times \frac{T_z - T_n}{T_n}) + 1| \times (BLV_y)$$

STEP 1:	Subtract T_n from T_z
STEP 2:	Divide the Answer in Step 1 by T_n
STEP 3:	Multiply the Answer in Step 2 by 0.5
STEP 4:	Add 1 to the Answer in Step 3
STEP 5:	Multiply BLV_y by the Answer in Step 4
KEY:	
BLV_z	= Bare <u>forest</u> land value for next year
BLV_y	= Bare <u>forest</u> land value for current year
T_z	= Five year average stumpage value (\$/MBF) for the period ending in the current year
T_n	= Five year average stumpage value (\$/MBF) for the period ending one year ago
<i>(This text has been removed from the table and renumbered as Subsections 964.02 and 964.03.)</i>	

(7-1-99)()

02. Stumpage Value. The stumpage value *used in the formula* shall be the same as that used in the productivity formula by zone, ~~and~~. ()

03. Bare Forest Land Value. ~~The~~ bare forest land values for the current year shall be reviewed and adjusted by the State Tax Commission periodically. ()

024. Landowner's Report. By June 1, of each year the county treasurer shall make a written report to include the forest landowner's name, legal description of forest property owned, and yield taxes paid for the current assessment year. This report shall be submitted to the county auditor and shall be kept on file. (7-1-97)

965. ~~987.~~ (RESERVED).

48966. RECAPTURE OF DEFERRED TAXES ON LANDS DESIGNATED UNDER SECTION 63-1706, IDAHO CODE (Rule 48966).

01. Ownership Interest/Deferred Taxes. Where forest land is held in joint ownership, a transfer of ownership for purposes of recapturing deferred taxes shall occur when any one (1) of the legal entities holding an ownership interest in the subject property shall convey, transfer, or otherwise dispose of their ownership interest or portion thereof. Any such transfer of ownership shall subject the entire parcel to recapture of deferred taxes, unless the new owner timely redesignates their ownership interest under Section 63-1706, Idaho Code. (7-1-97)

02. Deferred Tax Responsibility. ~~Recaptured~~ Deferred taxes shall be the responsibility of the selling landowner. Deferred taxes shall constitute a lien on the land. (7-1-97)()

~~**03. Detrimental/Influent Deferred Taxes.** All deferred tax amounts shall be certified to the real property roll immediately following delinquency.~~ (7-1-97)

043. Change In Use/Deferred Taxes. Forest lands designated under Section 63-1706, Idaho Code, and subsequently removed from the designation by change in use with no ownership transfer to any taxing category other than designation under Section 63-1705, Idaho Code, shall cause a recapture of deferred taxes calculated in the following manner: ()

(a) ~~The~~ difference between the current bare land value for the correct class of land in the forest value zone in which the parcel lies and the current market value for assessment purposes of the property during the current

year; ()

(b). ~~m~~Multiplied by the current levy for the tax code area or areas in which the parcel lies; ()

(c). ~~m~~Multiplied by the number of years, including the entire current year, the lands have been subject to designation under Section 63-1706, Idaho Code, not to exceed ten (10) years. Additionally, a credit shall be allowed for any yield tax paid up to the amount of the deferred taxes. ~~(7-1-97)~~()

054. Transfer Of Ownership/Deferred Taxes. Forest land designated under Section 63-1706, Idaho Code, upon transfer of ownership or removal to designation under Section 63-1705, Idaho Code, shall be subject to a recapture of deferred taxes calculated in the following manner: ()

(a). ~~f~~The difference between the current bare land value for the correct class of land in the forest value zone in which the parcel lies and the current productivity value for the correct class of land in the forest value zone in which the parcel lies, for the current year; ()

(b). ~~m~~Multiplied by the current levy for the tax code area or areas in which the parcel lies; ()

(c). ~~m~~Multiplied by the number of years, including the entire current year, which the lands have been subject to designation under Section 63-1706, Idaho Code, not to exceed ten (10) years. Additionally, a credit shall be allowed for any yield tax paid up to the amount of the deferred taxes. ~~(7-1-97)~~()

065. Investment Lands. Investment lands are defined as those in categories 1, 2, 3, 4, 5, and 9, as defined in Rule ~~327130~~ of these rules. ~~(7-1-97)~~()

967. -- 981. (RESERVED).

IDAPA 35 - STATE TAX COMMISSION
35.01.04 - IDAHO ESTATE AND TRANSFER TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0104-0001
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 63-105, 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 September 20, 2000.

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: Estate and Transfer Rule 017 is being amended to clarify that interest paid on refunds as provided in Section 63-3045, Idaho Code, will be calculated from the due date of the return or the day the tax was actually paid, whichever is later.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking 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 James Husted, at (208) 334-7530.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2000.

DATED this 19th day of July, 2000.

James Husted, 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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0104-0001

017. REFUND FOR OVERPAYMENTS (Rule 017).

As of January 1, 1994, the rate of interest on refunds is determined annually as provided in Section 63-3045, Idaho Code and Idaho Tax Commission Administration and Enforcement Rule 310. Simple interest shall accrue from the day the tax return was required to be filed, or the day the tax was actually paid to the State Tax Commission, whichever is later, to the day the refund is paid by the State Tax Commission. (~~4-5-00~~)()

~~161. INCORPORATION OF RULES FOR REGULAR PROCEEDINGS.~~

~~The following rules which are applicable to regular proceedings shall also apply to proceedings before the small claims division: Section 020, Procedure Governed; Section 025, Organization and Office; Section 030, Appearance and Practice Before the Board; Section 040, Parties; Section 045, Notice of Appeal; Section 075, Memorandum and Briefs; Section 055, Consolidation of Appeals; Section 151, Record; Section 155, Subpoenas. (4-5-00)~~

~~162. ELECTION.~~

~~Written notice of election to proceed in the small claims division shall be filed with the Board within twenty (20) days of the date of mailing of the Board's acknowledgment letter pursuant to Section 049. (4-5-00)~~

~~163. -- 164. (RESERVED).~~

~~165. SMALL CLAIMS HEARING.~~

~~Incorporation of Rules for Regular Hearings. The following rules which are applicable to regular hearings shall also apply to hearings before the small claims division: Section 100, Fair Hearing; Section 101, Failure to Appear; Section 106, Presiding Officer; Section 107, Procedure and Testimony; Section 110, Stipulations; Section 116, Open Hearings and Deliberations; Section 135, Scope of Appeal in Ad Valorem Appeals. (4-5-00)~~

~~166. -- 169. (RESERVED).~~

~~170. SMALL CLAIMS DECISIONS.~~

~~**01. Decision Of Board.** A decision will be based on the evidence and stipulations made by the parties and shall consist of a simple statement identifying the prevailing party and the relief, if any, to be granted. The Board may, within the limits of its powers, grant or deny the appeal in whole or in part. (7-1-93)~~

~~**02. Service Of Orders.** Parties shall be notified by mail of any decision or order. Copies of the decision or order shall be served on all parties. (7-1-93)~~

~~**03. Public Inspection.** Decisions and orders shall be open to public inspection. (7-1-93)~~

~~171-56. -- 999. (RESERVED).~~

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
39.02.02 - RULES GOVERNING VEHICLE AND VESSEL DEALER LICENSE
REQUIREMENTS - MOTOR VEHICLES

DOCKET NO. 39-0202-0001

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective July 1, 2000.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 49-1602 and 49-1606(7), 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 September 20, 2000.

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

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

This rulemaking modifies the rule to conform with SB1031, 1999, effective January 1, 2000, and SB1342, 2000, effective July 1, 2000. SB1031 provides for titling of vessels and requires dealer licensing for those selling five or more new or previously titled vessels per year. The term "vessel" is added throughout the rule for clarification, as the provisions are applicable to vehicle and vessel dealers alike. SB1342 redefines the term "temporary supplemental lot" and relaxes the requirements as to the proximity of a supplemental lot to the dealer's principal place of business.

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:

Compliance with Idaho Code.

NEGOTIATED RULE-MAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rule-making is a non-negotiable response to changes to Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Ed Pemble, Vehicle Services Manager, at 334-8660.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2000.

DATED this 19th day of July, 2000.

Linda L. Emry, Management Assistant
Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129, Boise ID 83707-1129
Phone – 208-334-8810 / FAX – 208-334-8195

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0202-0001

IDAPA 39
TITLE 02
Chapter 02

39.02.02 - RULES GOVERNING VEHICLE AND VESSEL DEALER LICENSE
REQUIREMENTS - MOTOR VEHICLES

001. TITLE AND SCOPE.

01. Title. This rule shall be known as IDAPA 39.02.02, "Rules Governing Vehicle and Vessel Dealer License Requirements - Motor Vehicles". (7-1-00)T

02. Scope. This rule clarifies the requirements for the issuance of dealer licenses, clarifies allowable locations for "supplemental lot" and "temporary supplemental lot" licenses, and specifies provisions for refunds of dealer and salesman licensing fees, dealer thirty-day (30) temporary permits, dealer license plates, and dealer validation sticker fees. (~~9-14-92~~)(7-1-00)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter. (7-1-00)T

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for administrative appeals. (7-1-00)T

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into this rule. (7-1-00)T

0025. -- 099. (RESERVED).

100. DEALER LICENSE REQUIREMENTS.

A dealer license is required in the following situations: (12-26-90)

01. Seller Not Titled Owner. Selling or exchanging; or (12-26-90)

02. Maximum Sales. Selling, or exchanging, or soliciting the sale of five (5) or more vehicles or vessels in any one (1) calendar year even though titled in seller's name; or (~~9-14-92~~)(7-1-00)T

03. Display For Sale. Displaying for sale or exchange, five (5) or more vehicles or vessels at any one (1) time even though titled in the displayer's name; or (~~9-14-92~~)(7-1-00)T

04. Displaying Vehicles Or Vessels. Displaying vehicles or vessels for sale, exchange or consign on property not legally controlled by the owner of the vehicle or vessels. (~~9-14-92~~)(7-1-00)T

(BREAK IN CONTINUITY OF SECTIONS)

200. OFF-PREMISE SALES ACTIVITIES.

The Department shall not issue a "supplemental lot" or "temporary supplemental lot" license, unless the proposed sale or display activity is located within the same or adjacent county as the dealership's principal place of business location or unless the dealership satisfies the requirements of Section 49-121(1), Idaho Code. Display of vehicle(s) or vessel(s) for sale or exchange at a location other than the location specified on the license issued to the dealer is a violation of this rule and the Dealer and Salesman Licensing Act. (~~9-14-92~~)(7-1-00)T

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
39.02.71 - RULES GOVERNING DRIVERS LICENSE VIOLATION
POINT COUNT SYSTEM

DOCKET NO. 39-0271-0001

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective July 1, 2000.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 49-201 and 49-326, 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 September 20, 2000.

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:

Certain citation language as listed is no longer used and must be revised to comply with Section 49-1424, Idaho Code. Also, certain citations and associated point counts were inadvertently omitted in a previous rulemaking and must be replaced to be in compliance with the code sections listed in the list of moving traffic convictions and/or violations point count.

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:

Compliance with Idaho Code.

NEGOTIATED RULE-MAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because these are non-negotiable revisions to make the rule compliant with Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jane Caviness, Driver Services Manager, 332-7830.

Anyone may submit written comments regarding this temporary and proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2000.

DATED this 19th day of July, 2000.

Linda L. Emry, Management Assistant
Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone – 208-334-8810
FAX – 208-334-8195

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0271-0001

001. TITLE AND SCOPE.

~~It is the purpose of this rule to establish minimum standards in determining the violation point count system for various moving traffic violations and infractions, and also give the department authority to suspend or revoke drivers licenses based on violation points.~~ (7-1-97)

01. Title. This rule shall be known as IDAPA 39.02.71, "Rules Governing Driver's License Violation Point System". (7-1-00)T

02. Scope. It is the purpose of this rule to establish guidelines for the implementation of a driver's license violation point system for drivers convicted of moving traffic violations and convictions. (7-1-00)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter. (7-1-00)T

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for administrative appeals. (7-1-00)T

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into this rule. (7-1-00)T

0025. -- 099. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

200. LIST OF MOVING TRAFFIC CONVICTIONS AND/OR VIOLATIONS POINT COUNT.

Idaho Code	Convictions Reported By Court	Point Count
49-603	STARTING PARKED VEHICLE	two (2)
49-604	LIMITATIONS ON BACKING	one (1)
49-615	DRIVERS TO EXERCISE DUE CARE	three (3)
49-616	DRIVING THROUGH SAFETY ZONE PROHIBITED	two (2)
<u>49-625</u>	<u>OPERATION OF VEHICLES ON APPROACH OF AUTHORIZED EMERGENCY POLICE VEHICLES</u>	<u>three (3)</u>
<u>49-630</u>	<u>DRIVE ON RIGHT SIDE OF ROAD – EXCEPTIONS</u>	<u>three (3)</u>
<u>49-631</u>	<u>PASSING VEHICLES PROCEEDING IN OPPOSITE DIRECTIONS</u>	<u>two (2)</u>
<u>49-632</u>	<u>OVERTAKING A VEHICLE ON LEFT</u>	<u>three (3)</u>
<u>49-633</u>	<u>WHEN PASSING ON THE RIGHT IS PERMITTED</u>	<u>two (2)</u>
49-634	LIMITATIONS ON OVERTAKING ON THE LEFT	three (3)

Idaho Code	Convictions Reported By Court	Point Count
49-635	FURTHER LIMITATIONS ON DRIVING ON LEFT OF CENTER OF HIGHWAY	three (3)
49-636	ONE-WAY HIGHWAYS	one (1)
49-637	DRIVING ON HIGHWAYS LANED FOR TRAFFIC	one (1)
49-638	FOLLOWING TOO CLOSELY	three (3)
49-640	VEHICLES APPROACHING OR ENTERING UNMARKED OR UNCONTROLLED INTERSECTION	three (3)
49-641	VEHICLE TURNING LEFT	three (3)
49-642	VEHICLE ENTERING HIGHWAY	three (3)
49-644	REQUIRED POSITION AND METHOD OF TURNING	three (3)
49-645	LIMITATIONS ON TURNING AROUND	three (3)
49-648	OBEDIENCE TO SIGNAL INDICATING APPROACH OF TRAIN	four (4)
49-649	COMPLIANCE WITH STOPPING REQUIREMENT AT ALL RAILROAD GRADE CROSSING	four (4)
49-651	EMERGING FROM ALLEY, DRIVEWAY OR BUILDING	three (3)
49-654	BASIC RULE AND MAXIMUM SPEED LIMITS	three (3) four (4)
49-655	MINIMUM SPEED REGULATION	three (3)
49-656	SPECIAL SPEED LIMITATIONS	three (3) four (4)
49-657	CONSTRUCTION DANGER ZONE SPEED LIMITS	three (3)
<u>49-702</u>	<u>PEDESTRIANS' RIGHT OF WAY IN CROSSWALKS</u>	<u>three (3)</u>
<u>49-801</u>	<u>OBEDIENCE TO AND REQUIRED TRAFFIC CONTROL DEVICES</u>	<u>three (3)</u>
<u>49-802</u>	<u>TRAFFIC CONTROL SIGNAL LEGEND</u>	<u>three (3)</u>
<u>49-804</u>	<u>FLASHING SIGNALS</u>	<u>three (3)</u>
<u>49-807(2)</u>	<u>STOP SIGNS</u>	<u>three (3)</u>
<u>49-807(3)</u>	<u>FAILURE TO YIELD – SIGNED INTERSECTION</u>	<u>three (3)</u>
<u>49-808</u>	<u>TURNING MOVEMENTS AND REQUIRED SIGNALS</u>	<u>three (3)</u>
<u>49-1302</u>	<u>DUTY TO GIVE INFORMATION IN ACCIDENT INVOLVING DAMAGE TO A VEHICLE</u>	<u>four (4)</u>
49-1303	DUTY UPON STRIKING UNATTENDED VEHICLE	four (4)
49-1304	DUTY UPON STRIKING FIXTURES UPON OR ADJACENT TO A HIGHWAY	four (4)
49-1401(3)	INATTENTIVE DRIVING	three (3)
49-1419	OBEDIENCE TO TRAFFIC DIRECTION	two (2)
49-1421(1)	DRIVING ON DIVIDED HIGHWAYS	one (1)

Idaho Code	Convictions Reported By Court	Point Count
49-1421(2)	RESTRICTED ACCESS	one (1)
49-1422	OVERTAKING AND PASSING SCHOOL BUS	four (4)
49-1424	RACING ON PUBLIC HIGHWAYS	four (4)
49-1424	EXHIBITION OF SPEED	four (4)
49-1424	EXCESSIVE ACCELERATION	four (4)

~~(3-23-98)(7-1-00)T~~

IDAPA 50 - COMMISSION OF PARDONS AND PAROLE
50.01.01 - RULES OF THE COMMISSION OF PARDONS AND PAROLE

DOCKET NO. 50-0101-9903

NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2001 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 20-223, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, [December 1, 1999, Volume 99-12, pages 102 through 122](#).

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Barbara McIntosh, Commission of Pardons and Parole, P.O. Box 83720, Boise, ID 83720, 208-334-2520.

Dated this 17th day of July, 2000.

Olivia Craven, Executive Director
Commission of Pardons and Parole
3125 So. Shoshone
P.O. Box 83720
Boise, ID 83720
208-334-2520 (phone)
208-334-3501 (fax)

IDAPA 50
TITLE 01
Chapter 01

RULES OF THE COMMISSION OF PARDONS AND PAROLE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 99-12, December 1, 1999, pages 102 through 122](#).

This rule has been adopted as a pending rule by the Agency and is now pending review and adoption by the 2001 Idaho State Legislature as a final rule.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO
DOCKET NO. 58-0101-9902 (originally 16-0101-9902)
NOTICE OF EXTENSION OF COMMENT PERIOD

AUTHORITY: In compliance with Section 67-5222, Idaho Code, notice is hereby given that this agency has extended the period for public comment. This rulemaking action is authorized by Sections 39-105 and 39-107, Idaho Code and is required under 40 CFR 51.390(a). In addition, this rule updates citations to federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 40 CFR part 70 and fulfilling the requirements of the Idaho's delegation agreement with EPA under section 112(I) of the Clean Air Act.

DESCRIPTIVE SUMMARY: The proposed rule was published in the Idaho Administrative Bulletin, [Volume 00-7, July 5, 2000, pages 80 through 96](#) with a comment deadline of August 11, 2000. In response to a request to extend the public comment period received on August 11, 2000, the Department of Environmental Quality, (DEQ) has extended the comment period for an additional fourteen (14) days from the date of this publication. This rulemaking has been undertaken to draft a transportation conformity rule. The rule would require that transportation activities conform to state air quality implementation plans and establish criteria and procedures for determining whether or not they do. Conformity to an air quality implementation plan means that transportation activities will not produce new air quality standards violations, contribute to new violations, or delay timely attainment of national ambient air quality standards. The rule will incorporate by reference transportation conformity requirements of 40 CFR Part 93, Section 100-129, except for the section pertaining to interagency consultation (Section 105). The consultation requirements will be developed through the negotiated rulemaking process. Although the federal regulations are already in effect, state adoption of these regulations allows for more effective implementation at the local level.

DEQ is specifically asking for public comment on Subsection 570.01.c.iii. This subsection provides language wherein a lead agency responsible for the rule may send a technical document for air quality analysis with only a 14 day review time. Normally, the required review time for review of technical air quality analysis is 30 days. This subsection was added to the rules based on a request from the Metropolitan Planning Organizations. DEQ is still conducting internal meetings as to the final form of this language and wishes to consider public input on this specific matter before finalizing the language. The language as it appears in the proposed rule, is as follows:

If distribution of technical material pursuant to Subsection 570.01.c.ii. is not feasible thirty (30) days prior to an ICC meeting, then the lead agency shall notify the ICC members and persons on the distribution list in writing at least thirty (30) days prior to the ICC meeting. Together with the notification, the lead agency shall distribute all available material to the ICC members and persons on the distribution list, informing them of the nature, purpose, and details of possible program changes that are expected to occur from earlier analyses of the actions. All technical material and documentation shall be distributed at a minimum of fourteen (14) days prior to the ICC meeting.

This proposed rule also updates citations to the federal regulations incorporated by reference to July 1, 2000 in order to maintain conformance with EPA's regulations as well as fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(1) of the Clean Air Act. This includes the Maximum Achievable Control Technology (MACT) Standards promulgated as National Emissions Standards for Hazardous Air Pollutants (NESHAPS).

As additional notice of this extension, DEQ responded to the requestor directly, and notified the members of the negotiating committee.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the proposed rulemaking or this notice, contact Krishna Viswanathan or Mike Edwards at (208) 373-0502.

Anyone may submit written comments by mail, fax, or by e-mail, at the address below, regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 20, 2000.

Dated this 11th day of August, 2000.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
Fax No. (208)373-0481
pgradwoh@deq.state.id.us

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO
DOCKET NO. 58-0101-9905 (originally 16-0101-9905)
NOTICE OF NEGOTIATED RULEMAKING (Second Notice)

AUTHORITY: In compliance with Section 67-5220, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation in an informal, negotiated rulemaking process prior to the initiation of formal rulemaking procedures by the agency. The negotiated rulemaking action is authorized by Section 39-105, Idaho Code. The formal rulemaking action is authorized by Sections 39-105 and 39-107, Idaho Code. In addition, it is a federal requirement that the Department of Environmental Quality (DEQ) collect sufficient money to fund an operating permit program in accordance with Title V of the Clean Air Act. See 40 CFR 70.4(b)(7) and (8).

MEETING SCHEDULE: Persons interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting:

September 12, 2000, 1 p.m. to 4 p.m.
Department of Environmental Quality
Conference Rooms C and D
1410 N. Hilton, Boise, Idaho

The meeting site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the meeting. For arrangements, contact the undersigned at (208)373-0418.

DESCRIPTIVE SUMMARY: This is an expansion of the scope of the ongoing negotiated rulemaking to increase the collection of registration fees in accordance with Title V of the Clean Air Act, to potentially include permitting fees for permits to construct (PTCs) and Tier II operating permits. Currently, the air quality permitting fund receipts are not sufficient to maintain the fund over the long-term, with Tier I fee expenditures approximately twice Tier I fee collections. Because Title V requires that a fee structure be established to pay for Title V activities, the fee structure should be carefully matched to program activities and be sufficient and adequate to cover all mandated Title V program costs. However, not all air quality program activities pertaining to Title V facilities are Title V mandated costs. Therefore, one potential option for increasing and stabilizing the level of funding for the air quality permitting program is to collect permitting fees from both major and minor sources to help cover the costs for issuing permits to construct and Tier 2 operating permits. Because non-Title V permitting fees were not included in the original notice of negotiated rulemaking, the scope of the rulemaking is being expanded to potentially consider the collection of fees for all types of air quality permits.

If implemented, permitting fees could potentially affect all stationary and portable sources within the State of Idaho. To ensure that opportunity is provided for all potentially affected parties and the public to participate in the development an integrated fee structure for air quality permits, the negotiated rulemaking scope is being expanded.

Potentially all stationary sources required to obtain construction and/or operating permits may be affected by the negotiated changes. Special interest groups or members of the public who wish to contribute to a more effective permitting process may also wish to participate. The rule will be developed by DEQ in conjunction with an advisory committee made up of persons having interests in the protection of air quality in Idaho.

The goal of the negotiated rulemaking process is to develop by consensus the text of a recommended rule. If a consensus is reached, a draft of the rule, incorporating the consensus and any other appropriate information, recommendations, or materials, will be transmitted to DEQ for consideration and use in the formal rulemaking process. If a consensus is unable to be achieved on particular issues, the negotiated rulemaking process may result in a report specifying those areas on which consensus was and was not reached, together with arguments for and against positions advocated by various participants. At the conclusion of the negotiated rulemaking process, DEQ intends to present a rule to the Board of Environmental Quality (Board) for temporary adoption and, at the same time, commence formal rulemaking with the publication of a proposed rule, using and taking into consideration the results of the negotiated rulemaking process. DEQ intends to present the rule to the Board for temporary adoption in November 2000.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the negotiated rulemaking, contact Marjorie MartzEmerson at (208)373-0502, mmartzem@deq.state.id.us.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposal to initiate negotiated rulemaking. All written comments must be received by the undersigned on or before September 27, 2000.

Dated this 4th day of August, 2000.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
Fax No. (208)373-0481
pgradwoh@deq.state.id.us

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS
DOCKET NO. 58-0102-0002
NOTICE OF PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: A public hearing concerning this proposed rulemaking will be held as follows:

September 13, 2000, 7:00 p.m.
Department of Environmental Quality Conference Center
1410 N. Hilton, Boise, Idaho.

Before opening the record to receive oral comments, DEQ staff intends to make a brief presentation and answer questions regarding the rule.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

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

The purpose of this rulemaking is to make the following changes to IDAPA 58.01.02, Water Quality Standards and Wastewater Treatment Requirements (Water Quality Standards):

1) The Water Quality Standards include a catalog of all the waters in the state which are to have use designations for state waters. This rulemaking adds new designations to the tables at Sections 110 through 160 and 252. Of note is the addition of the "Coldwater biota" use designation to segments of the South Fork of the Coeur d' Alene River and Canyon Creek, located at Subsection 110.09. These uses were previously designated by the U.S. EPA (62 FR 41162, July 31, 1997). Upon state designation of the uses, EPA is expected to withdraw their federal designation. The proposed state designation will avoid potential complications regarding federal/state promulgation authorities.

2) Temperature criteria to protect fish:

(a) In 1997 EPA promulgated for Idaho a summertime bull trout temperature standard of 10°C (50° F), expressed as the maximum weekly maximum temperature (MWMT). The MWMT is the mean of daily maximum water temperatures measured over the annual warmest consecutive seven-day period occurring during a given year. Idaho subsequently promulgated a 12°C (53.6°F) maximum daily average temperature (MDAT) standard which was intended to replace the EPA standard. New information supports revising this standard. DEQ proposes changing the summertime bull trout temperature standard to 13°C (55°F), expressed as the MWMT. At Subsection 250.02.f., the bull trout temperature criteria have been changed accordingly.

(b) A seasonal-coldwater biota category was recently added to the Water Quality Standards as an intermediate classification between cold and warm water biota. Waters designated for protection of seasonal coldwater biota would be expected to consist of a mixture of coldwater and coolwater adapted species. A subsequent expert scientific review of this standard supported a small lowering of temperature criteria to fully protect all species which would be expected to be found in these waters. At Subsection 250.03, the seasonal coldwater biota temperature criteria have been changed from 27°C (81°F) to 26°C (79°F) daily maximum and 24°C (75°F) to 23°C (73°F) daily average.

3) Variances for the communities of Mullan, Page, and Smeltonville for meeting water quality standards in the South Fork of the Coeur d' Alene River for metals (Subsection 260.02):

If a discharger cannot reduce discharges in order to meet water quality standards, DEQ may issue a variance from meeting these standards for up to 5 years. At the end of that time, the discharger must either meet the water quality standards or reapply for the variance. In considering such a reapplication, DEQ will require the discharger show reasonable progress toward meeting the standards.

Wastewater discharged to the South Fork of the Coeur d'Alene River from the communities of Mullan, Page, and Smeltonville contain elevated concentrations of metals, which do not meet metals criteria in the water quality standards. DEQ recognizes that the source of the metals is not from the community wastewater, rather the metals are an artefact of groundwater infiltration through contaminated soils into the piping. Under the State's plan for the remediation of the Coeur d'Alene River basin, \$10,000,000 is allocated to reduce this infiltration over 10 years. Under the usual discharge permitting process for wastewater treatment plants, their discharges must comply with water quality standards at the end of the 5-year discharge permit, unless a variance is granted. Because of these time frames, because the metals in the sewer districts' wastewater is not the sole responsibility of the dischargers, and because as discussed below, it appears the costs of compliance would result in substantial and widespread economic and social impacts, DEQ believes the usual discharge permitting process is not appropriate.

DEQ believes the proposed variances for the discharges from these facilities are appropriate, pursuant to Subsection 260.01.b.vi., because it appears that otherwise the cost of controls to meet the standards would result in substantial and widespread economic and social impacts to the communities of Page, Mullan and Smeltonville. However, DEQ seeks comments and information from the public with respect to the social and economic impacts of compliance with the standards and the issuance of a variance pursuant to Subsection 260.01.b.vi.

Granting these community wastewater systems variances will allow them to pursue required steps to locate and eliminate inflow and infiltration sources, and allow remediation pursuant to basin-wide plans, without being at risk of penalties or enforcement actions due to their current inability to comply with instream standards for metals, the source of which is unrelated to the residential and business hookups to the wastewater districts. In order to ensure steps are taken to locate and eliminate inflow and infiltration sources, DEQ proposes to condition the variances upon a showing by the dischargers that reasonable progress toward reducing their discharge of the relevant pollutants is made through the reduction of inflow and interception of groundwater. Reasonable progress shall be measured according to the terms of the state's certification of the discharges pursuant to Section 401 of the Clean Water Act. The effluent limitations are based upon their current performance, plus a margin of error.

Additionally, DEQ proposes a variance from the water quality standards for ammonia, chlorine, cadmium, lead and zinc for an anticipated future discharge from the Page wastewater treatment plant to the West Page Swamp. A 1994 federal consent decree between the EPA, State of Idaho, and six mining companies, specifies work to be completed in the West Page Swamp to limit releases of metals. The consent decree specifies that portions of the West Page Swamp be kept submerged with about 2 feet of water. The only reliable and convenient source of water to meet this element of the consent decree is from the Page wastewater treatment facility. This facility has been requested to move its wastewater discharge from the South Fork of the Coeur d'Alene River, to the West Page Swamp. Under this plan, the outlet of the West Page Swamp would be routed to discharge to the South Fork of the Coeur d'Alene River.

West Page Swamp was contaminated with tailings from a mill that formerly operated at the site. By keeping the tailings constantly submerged with two feet of water, they will be out of reach of dabbling ducks, such as mallards, teal, and shovelers, which feed on invertebrates and plants by dabbling in shallow mud. This work should reduce the ducks' exposure to potentially harmful amounts of metals in the tailings. Also, constantly submerged tailings are expected to release less metals than are tailings which get periodically soaked and dried. In addition to the environmental benefit of reducing metals exposure to waterfowl, this scheme would likely provide additional environmental benefit by removing some phosphorous and attenuating some metals from the facility's treated wastewater which is currently discharged directly to the river. Under current operations, since there is less dilution water available in the swamp than in the river, the facility would not achieve water quality standards for ammonia and chlorine in the West Page Swamp. This variance would require ammonia and chlorine limits to be met in the South Fork of the Coeur d'Alene River. This variance is also proposed to be conditioned upon reasonable progress being made in the reduction of the discharge of pollutants through the reduction of inflow and interception of groundwater.

It appears the variance for the discharge to the West Page Swamp is appropriate because the cost of controls to meet the standards in the Swamp would result in substantial and widespread economic and social impacts to the community of Page. However, DEQ seeks comments and information from the public with respect to the social and economic impacts of compliance with the standards and the issuance of a variance pursuant to Subsection 260.01.b.vi.

- 4) Site-specific standards for Pat Hughes and Buckskin Creeks (Section 284):

Site-specific criteria for several metals were recalculated for these two small, intermittent streams. These streams drain waste rock dumps from a molybdenum mine near Clayton, Idaho. The state-wide numeric criteria for metals were based upon a national database of their toxicity to aquatic life. Under Subsections 275.01.a.i.(2) and 275.01.h.ii.(1) of the Idaho Water Quality Standards, if the composition of aquatic species in a water body is different from those used to derive a water quality criterion, then the criteria may be recalculated using only the resident species, excluding non-resident species. Since certain aquatic life listed in the national database used to derive criteria are not naturally resident in the streams, the criteria were recalculated based upon the resident species.

5) This rulemaking makes minor corrections remaining from the 1999 restructuring of the Water Quality Standards. For example, in 1991 the standard for pH at Subsection 250.01.a. was inadvertently changed due to a typographical error. The 1999 correction of this error was then inadvertently left out of the published rule text.

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

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in the fall of 2000 for adoption of a pending rule.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted because the nature of this rulemaking did not lend itself to the negotiated rulemaking process.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rule, contact Chris Mebane at (208)373-0502 or cmebane@deq.state.id.us.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 27, 2000.

DATED this 21st day of July, 2000.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
Fax No. (208)373-0481, pgradwoh@deq.state.id.us

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0102-0002

110. PANHANDLE BASIN.

Surface waters found within the Panhandle basin total fourteen (14) subbasins and are designated as follows: (4-5-00)

01. Upper Kootenai Subbasin. The Upper Kootenai Subbasin, HUC 17010101, is comprised of six (6) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Star Creek - source to Idaho/Montana border	<u>COLD</u> <u>SS</u>	<u>PCR</u>	
P-2	North Callahan Creek - source to Idaho/Montana border	<u>COLD</u> <u>SS</u>	<u>PCR</u>	
P-3	South Callahan Creek - Glad Creek to Idaho/Montana border	COLD SS	SCR <u>PCR</u>	
P-4	South Callahan Creek - source to Glad Creek	<u>COLD</u> <u>SS</u>	<u>PCR</u>	
P-5	Glad Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>PCR</u>	
P-6	Keeler Creek - source to Idaho/Montana border	<u>COLD</u> <u>SS</u>	<u>PCR</u>	

(4-5-00)()

02. Lower Kootenai Subbasin. The Lower Kootenai Subbasin, HUC 17010104, is comprised of forty (40) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Kootenai River - Shorty's Island to the Idaho/Canadian border	COLD <u>SS</u>	PCR	DWS SRW
P-2	Boundary Creek - Idaho/Canadian border to mouth	COLD SS	SCR <u>PCR</u>	
P-3	Grass Creek - source to Idaho/Canadian border	COLD SS	SCR <u>PCR</u>	
P-4	Blue Joe Creek - source to Idaho/Canadian border	COLD <u>SS</u>	SCR <u>PCR</u>	
P-5	Smith Creek - Cow Creek to mouth	COLD SS	SCR <u>PCR</u>	
P-6	Cow Creek - source to mouth	COLD SS	SCR <u>PCR</u>	
P-7	Smith Creek - source to Cow Creek	<u>COLD</u> <u>SS</u>	<u>PCR</u>	
P-8	Long Canyon Creek - source to mouth	COLD SS	SCR <u>PCR</u>	
P-9	Parker Creek - source to mouth	COLD SS	SCR <u>PCR</u>	

Unit	Waters	Aquatic Life	Recreation	Other
P-10	Trout Creek - source to mouth	COLD SS	SCR <u>PCR</u>	
P-11	Ball Creek - source to mouth	COLD SS	SCR <u>PCR</u>	
P-12	Kootenai River - Deep Creek to and including Shorty's Island	COLD <u>SS</u>	PCR	DWS SRW
P-13	Myrtle Creek - source to mouth	COLD SS	SCR <u>PCR</u>	
P-14	Cascade Creek - source to mouth	COLD SS	SCR <u>PCR</u>	
P-15	Deep Creek - Snow Creek to mouth	COLD SS	PCR	DWS SRW
P-16	Snow Creek - source to mouth	COLD SS	SCR <u>PCR</u>	
P-17	Caribou Creek - source to mouth	COLD SS	SCR <u>PCR</u>	
P-18	Deep Creek - Brown Creek to Snow Creek	COLD SS	PCR	DWS SRW
P-19	Deep Creek - Trail Creek to Brown Creek	COLD SS	PCR	DWS SRW
P-20	Ruby Creek - source to mouth	COLD SS	SCR <u>PCR</u>	
P-21	Fall Creek - source to mouth	COLD SS	SCR <u>PCR</u>	
P-22	Deep Creek - McArthur Lake to Trail Creek	COLD SS	PCR	DWS SRW
P-23	McArthur Lake	<u>COLD</u>		
P-24	Dodge Creek - source to mouth	COLD SS	SCR	
P-25	Deep Creek - source to McArthur Lake	<u>COLD</u> <u>SS</u>	<u>PCR</u>	
P-26	Trail Creek - source to mouth	COLD SS	SCR <u>PCR</u>	
P-27	Brown Creek - source to mouth	COLD SS	SCR <u>PCR</u>	
P-28	Twentymile Creek - source to mouth	COLD SS	SCR <u>PCR</u>	
P-29	Kootenai River - Moyie River to Deep Creek	COLD <u>SS</u>	PCR	DWS SRW
P-30	Cow Creek - source to mouth	COLD SS	SCR	

Unit	Waters	Aquatic Life	Recreation	Other
P-31	Kootenai River - Idaho/Montana to Moyie River	COLD SS	PCR	DWS SRW
P-32	Boulder Creek - East Fork Boulder Creek to mouth	COLD SS	SCR PCR	
P-33	Boulder Creek - source to East Fork Boulder Creek	COLD SS	SCR PCR	
P-34	East Fork Boulder Creek - source to mouth	<u>COLD</u> <u>SS</u>	PCR	
P-35	Curley Creek - source to mouth	COLD SS	SCR	
P-36	Flemming Creek - source to mouth	<u>COLD</u> <u>SS</u>	SCR	
P-37	Rock Creek - source to mouth	<u>COLD</u> <u>SS</u>	SCR	
P-38	Mission Creek - Brush Creek to mouth	<u>COLD</u> <u>SS</u>	PCR	
P-39	Brush Creek - source to mouth	<u>COLD</u> <u>SS</u>	SCR	
P-40	Mission Creek - Idaho/Canadian border to Brush Creek	<u>COLD</u> <u>SS</u>	SCR	

(4-5-00)()

03. Moyie Subbasin. The Moyie Subbasin, HUC 17010105, is comprised of twelve (12) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Moyie River - Moyie Falls Dam to mouth	COLD SS	PCR	DWS SRW
P-2	Moyie River - Meadow Creek to Moyie Falls Dam	COLD SS	PCR	DWS SRW
P-3	Skin Creek - Idaho/Montana border to mouth	<u>COLD</u> <u>SS</u>	PCR	
P-4	Deer Creek - source to mouth	COLD SS	SCR PCR	
P-5	Moyie River - Round Prairie Creek to Meadow Creek	COLD SS	PCR	DWS SRW
P-6	Moyie River - Idaho/Canadian border to Round Prairie Creek	COLD SS	PCR	DWS SRW
P-7	Canuck Creek - Idaho/Montana border to Idaho/Canadian border	COLD SS	SCR	

Unit	Waters	Aquatic Life	Recreation	Other
P-8	Round Prairie Creek - Gillon Creek to mouth	COLD SS	SCR <u>PCR</u>	
P-9	Gillon Creek - Idaho/Canadian border to mouth	COLD SS	SCR <u>PCR</u>	
P-10	Round Prairie Creek - source to Gillon Creek	COLD SS	SCR <u>PCR</u>	
P-11	Miller Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>PCR</u>	
P-12	Meadow Creek - source to mouth	COLD SS	PCR	

(4-5-00)()

04. No Change To This Subsection.

05. No Change To This Subsection.

06. No Change To This Subsection.

07. No Change To This Subsection.

08. No Change To This Subsection.

09. South Fork Coeur d'Alene Subbasin. The South Fork Coeur d'Alene Subbasin, HUC 17010302, is comprised of twenty (20) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	South Fork Coeur d'Alene River - Canyon Creek to mouth	<u>COLD</u>	SCR	
P-2	Pine Creek - East Fork Pine Creek to mouth	COLD SS	SCR	
P-3	Pine Creek - source to East Fork Pine Creek	COLD SS	PCR	DWS
P-4	East Fork Pine Creek - source to mouth			
P-5	Hunter Creek - source to mouth			
P-6	Government Gulch - source to mouth	COLD SS	SCR	
P-7a	Big Creek - source to mining impact area	COLD SS	PCR	DWS
P-7b	Big Creek - mining impact area to mouth	COLD SS	SCR	
P-8a	Shields Gulch - source to mining impact area	COLD SS	PCR	DWS
P-8b	Shields Gulch - mining impact area to mouth		SCR	

Unit	Waters	Aquatic Life	Recreation	Other
P-9a	Lake Creek - source to mining impact area	COLD SS	PCR	DWS
P-9b	Lake Creek - mining impact area to mouth	COLD SS	SCR	
P-10	Placer Creek - source to mouth			
P-11	South Fork Coeur d'Alene River - from and including Daisy Gulch to Canyon Creek	<u>COLD</u>	SCR	
P-12	Willow Creek - source to mouth			
P-13	South Fork Coeur d'Alene River - source to Daisy Gulch	COLD SS	PCR	DWS
P-14	Canyon Creek - from and including Gorge Gulch to mouth	<u>COLD</u>	SCR	
P-15	Canyon Creek - source to Gorge Gulch	COLD SS	PCR	DWS
P-16	Ninemile Creek - from and including East Fork Ninemile Creek to mouth	COLD SS	SCR	
P-17	Ninemile Creek - source to East Fork Ninemile Creek	COLD SS	PCR	DWS
P-18	Moon Creek - source to mouth			
P-19	West Fork Moon Creek - source to mouth			
P-20	Bear Creek - source to mouth	COLD SS	PCR	DWS

(4-5-00)()

- 10. No Change To This Subsection.
- 11. No Change To This Subsection.
- 12. No Change To This Subsection.
- 13. No Change To This Subsection.
- 14. No Change To This Subsection.

(BREAK IN CONTINUITY OF SECTIONS)

120. CLEARWATER BASIN.

Surface waters found within the Clearwater basin total ten (10) subbasins and are designated as follows: (4-5-00)

- 01. No Change To This Subsection.
- 02. No Change To This Subsection.
- 03. No Change To This Subsection.

04. No Change To This Subsection.

05. No Change To This Subsection.

06. No Change To This Subsection.

07. South Fork Clearwater Subbasin. The South Fork Clearwater Subbasin, HUC 17060305, is comprised of eighty-two (82) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	South Fork Clearwater River - Butcher Creek to mouth	COLD SS	PCR	SRW
C-2	Cottonwood Creek - Cottonwood Creek waterfall (9.0 miles upstream) to mouth	COLD SS	PCR	
C-3	Cottonwood Creek - source to Cottonwood Creek waterfall (9.0 miles upstream)	COLD SS	PCR	
C-4	Red Rock Creek - Red Rock Creek waterfall (3.6 miles upstream) to mouth			
C-5	Red Rock Creek - source to Red Rock Creek waterfall (3.6 miles upstream)			
C-6	Stockney Creek - source to mouth			
C-7	Shebang Creek - source to mouth			
C-8	South Fork Cottonwood Creek - source to mouth			
C-9	Long Haul Creek - source to mouth			
C-10	Threemile Creek - source to mouth	COLD SS	SCR	
C-11	Butcher Creek - source to mouth			
C-12	South Fork Clearwater River - Johns Creek to Butcher Creek	COLD SS	PCR	SRW
C-13	Mill Creek - source to mouth			
C-14	Johns Creek - Gospel Creek to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-15	Gospel Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-16	West Fork Gospel Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-17	Johns Creek - Moores Creek to Gospel Creek	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-18	Johns Creek - source to Moores Creek	<u>COLD</u> <u>SS</u>	<u>SCR</u>	

Unit	Waters	Aquatic Life	Recreation	Other
C-19	Moore's Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-20	Square Mountain Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-21	Hagen Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-22	South Fork Clearwater River - Tenmile Creek to Johns Creek	COLD SS	PCR	SRW
C-23	Wing Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-24	Twentymile Creek - source to mouth			
C-25	Tenmile Creek - Sixmile Creek to mouth			
C-26	Tenmile Creek - Williams Creek to Sixmile Creek	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-27	Tenmile Creek - source to Williams Creek	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-28	Williams Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-29	Sixmile Creek - source to mouth			
C-30	South Fork Clearwater River - Crooked River to Tenmile Creek	COLD SS	PCR	SRW
C-31	Crooked River - Relief Creek to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-32	Crooked River - confluence of West and East Fork Crooked Rivers to Relief Creek	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-33	West Fork Crooked River - source to mouth			
C-34	East Fork Crooked River - source to mouth			
C-35	Relief Creek - source to mouth			
C-36	South Fork Clearwater River - confluence of American River and Red River to Crooked River	COLD SS	PCR	SRW
C-37	Red River- Siegel Creek to mouth	COLD SS	PCR	DWS SRW
C-38	Red River - South Fork Red River to Siegel Creek	COLD SS	PCR	DWS SRW
C-39	Moose Butte Creek - source to mouth			
C-40	South Fork Red River - Trapper Creek to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-41	South Fork Red River - West Fork Red River to Trapper Creek	<u>COLD</u> <u>SS</u>	<u>SCR</u>	

Unit	Waters	Aquatic Life	Recreation	Other
C-42	West Fork Red River - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-43	South Fork Red River - source to West Fork Red River	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-44	Trapper Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-45	Red River - source to South Fork Red River	COLD SS	PCR <u>SCR</u>	DWS SRW
C-46	Soda Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-47	Bridge Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-48	Otterson Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-49	Trail Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-50	Siegel Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-51	Red Horse Creek - source to mouth			
C-52	American River - East Fork American River to mouth	COLD SS	PCR	DWS SRW
C-53	Kirks Fork - source to mouth			
C-54	East Fork American River - source to mouth			
C-55	American River - source to East Fork American River	COLD SS	PCR	DWS SRW
C-56	Elk Creek - confluence of Big Elk and Little Elk Creeks to mouth			
C-57	Little Elk Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-58	Big Elk Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-59	Buffalo Gulch - source to mouth			
C-60	Whiskey Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-61	Maurice Creek - source to mouth			
C-62	Newsome Creek - Beaver Creek to mouth			
C-63	Bear Creek - source to mouth			
C-64	Nugget Creek - source to mouth			
C-65	Beaver Creek - source to mouth			
C-66	Newsome Creek - Mule Creek to Beaver Creek			

Unit	Waters	Aquatic Life	Recreation	Other
C-67	Mule Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-68	Newsome Creek - source to Mule Creek			
C-69	Haysfork Creek - source to mouth			
C-70	Baldy Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-71	Pilot Creek - source to mouth			
C-72	Sawmill Creek - source to mouth			
C-73	Sing Lee Creek - source to mouth			
C-74	West Fork Newsome Creek - source to mouth			
C-75	Leggett Creek - source to mouth			
C-76	Fall Creek - source to mouth			
C-77	Silver Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-78	Peasley Creek - source to mouth			
C-79	Cougar Creek - source to mouth			
C-80	Meadow Creek - source to mouth			
C-81	Sally Ann Creek - source to mouth			
C-82	Rabbit Creek - source to mouth			

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- 08. No Change To This Subsection.**
- 09. No Change To This Subsection.**
- 10. No Change To This Subsection.**

(BREAK IN CONTINUITY OF SECTIONS)

130. SALMON BASIN.

Surface waters found within the Salmon basin total twelve (12) subbasins and are designated as follows: (4-5-00)

- 01. No Change To This Subsection.**
- 02. No Change To This Subsection.**
- 03. Upper Salmon Subbasin.** The Upper Salmon Subbasin, HUC 17060201, is comprised of one

hundred thirty-two (132) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Salmon River - Pennal Gulch to Pashimeroi River	COLD SS	PCR	DWS SRW
S-2	Morgan Creek - West Creek to mouth			
S-3	Morgan Creek - source to West Creek			
S-4	West Creek - Blowfly Creek to mouth			
S-5	Blowfly Creek - source to mouth			
S-6	West Creek - source to Blowfly Creek			
S-7	Challis Creek - Darling Creek to mouth			
S-8	Darling Creek - source to mouth			
S-9	Challis Creek - Bear Creek to Darling Creek			
S-10	Eddy Creek - source to mouth			
S-11	Bear Creek - source to mouth			
S-12	Challis Creek - source to Bear Creek			
S-13	Mill Creek - source to mouth			
S-14	Salmon River - Garden Creek to Pennal Gulch	COLD SS	PCR	DWS SRW
S-15	Garden Creek - source to mouth			
S-16	Salmon River - East Fork Salmon River to Garden Creek	COLD SS	PCR	DWS SRW
S-17	Bayhorse Creek - source to mouth			
S-18	Lyon Creek - source to mouth			
S-19	Salmon River - Squaw Creek to East Fork Salmon River	COLD SS	PCR	DWS SRW
S-20	Kinnikinick Creek - source to mouth			
S-21	Squaw Creek - Cash Creek to mouth	COLD SS	SCR	
S-22	Cash Creek - source to mouth			
S-23	Squaw Creek - confluence of Aspen and Cinnabar Creeks to Cash Creek	COLD SS	SCR	
S-24	Aspen Creek - source to mouth			
S-25	Cinnabar Creek - source to mouth			
<u>S-26</u>	<u>Bruno Creek - source to mouth</u>			
S-26	Salmon River - Thompson Creek to Squaw Creek	COLD SS	PCR	DWS SRW

Unit	Waters	Aquatic Life	Recreation	Other
S-278	Thompson Creek - source to mouth	COLD SS	SCR	
S-29	Pat Hughes Creek -source to mouth	COLD	SCR	
S-30	Buckskin Creek - source to mouth	COLD	SCR	
S-2831	Salmon River - Yankee Fork Creek to Thompson Creek	COLD SS	PCR	DWS SRW
S-2932	Yankee Fork Creek - Jordan Creek to mouth	COLD SS	PCR	DWS SRW
S-303	Ramey Creek - source to mouth			
S-344	Yankee Fork Creek - source to Jordan Creek	COLD SS	PCR	DWS SRW
S-325	Fivemile Creek - source to mouth			
S-336	Elevenmile Creek - source to mouth			
S-347	McKay Creek - source to mouth			
S-358	Twentymile Creek - source to mouth			
S-369	Tenmile Creek - source to mouth			
S-3740	Eightmile Creek - source to mouth			
S-3841	Jordan Creek - from and including Unnamed Tributary (T13N, R15E, Sec. 29) to mouth			
S-3942	Jordan Creek - source to Unnamed Tributary (T13N, R15E, Sec. 29)			
S-403	West Fork Yankee Fork Creek - Lightning Creek to mouth			
S-414	Lightning Creek - source to mouth			
S-425	West Fork Yankee Fork Creek - source to Lightning Creek			
S-436	Cabin Creek - source to mouth			
S-447	Salmon River - Valley Creek to Yankee Fork Creek	COLD SS	PCR	DWS SRW
S-458	Basin Creek - East Basin Creek to mouth			
S-469	East Basin Creek - source to mouth			
S-4750	Basin Creek - source to East Basin Creek			
S-4851	Valley Creek - Trap Creek to mouth			
S-4952	Stanley Creek - source to mouth			
S-503	Valley Creek - source to Trap Creek			
S-514	Trap Creek - Meadow Creek to mouth			
S-525	Trap Creek - source to Meadow Creek			
S-536	Meadow Creek - source to mouth			
S-547	Elk Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-558	Stanley Creek - source to mouth			
S-562	Crooked Creek - source to mouth			
S-5760	Iron Creek - source to mouth			
S-5861	Goat Creek - source to mouth			
S-5962	Meadow Creek - source to mouth			
S-603	Salmon River - Redfish Lake Creek to Valley Creek	COLD SS	PCR	DWS SRW
S-644	Redfish Lake Creek - Redfish Lake to mouth			
S-625	Fishhook Creek - source to mouth			
S-636	Redfish Lake			
S-647	Redfish Lake Creek - source to Redfish Lake			
S-658	Salmon River - Unnamed Tributary (T19N, R13E, Sec. 25) to Redfish Lake Creek	COLD SS	PCR	DWS SRW
S-662	Decker Creek - Huckleberry Creek to mouth			
S-670	Decker Creek - source to Huckleberry Creek			
S-6871	Huckleberry Creek - source to mouth			
S-6972	Salmon River - Fisher Creek to Decker Creek	COLD SS	PCR	DWS SRW
S-703	Salmon River - Alturas Lake Creek to Fisher Creek	COLD SS	PCR	DWS SRW
S-744	Hell Roaring Creek - source to mouth			
S-725	Alturas Lake Creek - Alturas Lake to mouth			
S-736	Toxaway/Farley Lake - source to mouth			
S-747	Pettit Lake			
S-758	Alturas Lake			
S-762	Alturas Lake Creek - source to Alturas Lake			
S-7780	Alpine Creek - source to mouth			
S-781	Salmon River - source to Alturas Lake Creek	COLD SS	PCR	DWS SRW
S-7982	Beaver Creek - source to mouth			
S-803	Smiley Creek - source to mouth			
S-844	Frenchman Creek - source to mouth			
S-825	Pole Creek - source to mouth			
S-836	Champion Creek - source to mouth			
S-847	Fourth of July Creek - source to mouth			
S-858	Fisher Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-869	Williams Creek - source to mouth			
S-8790	Gold Creek - source to mouth			
S-8891	Little Casino Creek - source to mouth			
S-892	Big Casino Creek - source to mouth			
S-903	Rough Creek - source to mouth			
S-974	Warm Springs Creek - Swimm Creek to mouth			
S-925	Warm Springs Creek - Pigtail Creek to Swimm Creek			
S-936	Pigtail Creek - source to mouth			
S-947	Warm Springs Creek - source to Pigtail Creek			
S-958	Swimm Creek - source to mouth			
S-969	Slate Creek - source to mouth			
S-97100	Holman Creek - source to mouth			
S-98101	Sullivan Creek - source to mouth			
S-99102	East Fork Salmon River - Herd Creek to mouth	COLD SS	PCR	DWS SRW
S-1003	East Fork Salmon River - Germania Creek to Herd Creek	COLD SS	PCR	DWS SRW
S-1074	Big Lake Creek - source to mouth			
S-1025	Big Boulder Creek - source to mouth			
S-1036	Little Boulder Creek - source to mouth			
S-1047	Germania Creek - Chamberlain Creek to mouth			
S-1058	Chamberlain Creek - source to mouth			
S-1069	Germania Creek - source to Chamberlain Creek			
S-10710	East Fork Salmon River - confluence of South and West Fork Salmon Rivers to Germania	COLD SS	PCR	DWS SRW
S-10811	West Fork East Fork Salmon River - source to mouth			
S-10912	South Fork East Fork Salmon River - source to mouth			
S-1103	Ibex Creek - source to mouth			
S-1174	West Pass Creek - source to mouth			
S-1125	Bowery Creek - source to mouth			
S-1136	Pine Creek - source to mouth			
S-1147	McDonald Creek - source to mouth			
S-1158	Herd Creek - confluence of West Fork Herd Creek and East Pass Creek to mouth			
S-1169	East Pass Creek - source to mouth			
S-17720	Taylor Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-17821	West Fork Herd Creek - source to mouth			
S-17922	East Fork Herd Creek - source to mouth			
S-1203	Lake Creek - source to mouth			
S-1274	Road Creek - Corral Basin Creek to mouth			
S-1225	Road Creek - source to Corral Basin Creek			
S-1236	Mosquito Creek - source to mouth			
S-1247	Corral Basin Creek - source to mouth			
S-1258	Horse Basin Creek - source to mouth			
S-1269	Spar Canyon Creek - source to mouth			
S-12730	Bradshaw Gulch - source to mouth			
S-12831	Warm Spring Creek - Hole-in-Rock Creek to mouth			
S-12932	Warm Spring Creek - source to Hole-in-Rock Creek			
S-1303	Broken Wagon Creek - source to mouth			
S-1374	Hole-in-Rock Creek - source to mouth			
S-1325	Pennal Gulch - source to mouth			

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04. No Change To This Subsection.

05. Middle Salmon-Panther Subbasin. The Middle Salmon-Panther Subbasin, HUC 17060203, is comprised of eighty-eight (88) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Salmon River - Panther Creek to Middle Fork Salmon River	COLD SS	PCR	DWS SRW
S-2	Panther Creek - Big Deer Creek to mouth	COLD SS	SCR	
S-3	Garden Creek - source to mouth			
S-4	Clear Creek - source to mouth			
S-5	Big Deer Creek - South Fork Big Deer Creek to mouth			
S-6	Big Deer Creek - source to South Fork Big Deer Creek			
S-7	South Fork Big Deer Creek - source Bucktail Creek to mouth			
S-8	South Fork Big Deer Creek -source to Bucktail Creek			
S-9	Bucktail Creek - source to mouth			
S-810	Panther Creek - Napias Creek to Big Deer Creek	COLD SS	SCR	

Unit	Waters	Aquatic Life	Recreation	Other
S- 9 11	Panther Creek - Blackbird Creek to Napias Creek	COLD SS	SCR	
S-1 6 2a	Blackbird Creek - source to Blackbird Reservoir Dam	COLD SS	SCR	
S-1 6 2b	Blackbird Creek - Blackbird Reservoir Dam to mouth	NONE	SCR	
S-1- 7 3a	West Fork Blackbird Creek - source to concrete channel	COLD SS	SCR	
S-1- 7 3b	West Fork Blackbird Creek - concrete channel to mouth only	NONE	SCR	
S-1 2 4	Panther Creek - Porphyry Creek to Blackbird Creek	COLD SS	PCR	DWS SRW
S-1 3 5	Musgrove Creek - source to mouth			
S-1 4 6	Porphyry Creek - source to mouth			
S-1 5 7	Panther Creek - source to Porphyry Creek	COLD SS	PCR	DWS SRW
S-1 6 8	Moyer Creek - source to mouth			
S-1 7 9	Woodtick Creek - source to mouth			
S- 1 8 2 0	Deep Creek - Little Deep Creek to mouth			
S- 1 9 2 1	Little Deep Creek - source to mouth			
S-2 0 2	Deep Creek - source to Little Deep Creek			
S-2 1 3	Napias Creek - Moccasin Creek to mouth			
S-2 2 4	Napias Creek - Arnett Creek to and including Moccasin Creek			
S-2 3 5	Napias Creek - source to Arnett Creek			
S-2 4 6	Arnett Creek - source to mouth			
S-2 5 7	Trail Creek - source to mouth			
S-2 6 8	Beaver Creek - source to mouth			
S-2 7 9	Salmon River - Indian Creek to Panther Creek	COLD SS	PCR	DWS SRW
S- 2 8 3 0	Pine Creek - source to mouth			
S- 2 9 3 1	East Boulder Creek - source to mouth			
S-3 0 2	Salmon River - North Fork Sheep Creek to Indian Creek	COLD SS	PCR	DWS SRW
S-3 1 3	Moose Creek - Little Moose Creek to mouth			
S-3 2 4	Little Moose Creek - source to mouth			
S-3 3 5	Moose Creek - Dolly Creek to Little Moose Creek			
S-3 4 6	Moose Creek - source to Dolly Creek			
S-3 5 7	Dolly Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-368	Dump Creek - Moose Creek to mouth			
S-379	Salmon River - Carmen Creek to North Fork Salmon River	COLD SS	PCR	DWS SRW
S-3840	Wallace Creek - source to mouth			
S-3941	Salmon River - Pollard Creek to Carmen Creek	COLD SS	PCR	DWS SRW
S-402	Salmon River - Williams Creek to Pollard Creek	COLD SS	PCR	DWS SRW
S-473	Williams Creek - confluence of North and South Fork Williams Creek to mouth			
S-424	North Fork Williams Creek - source to mouth			
S-435	South Fork Williams Creek - source to mouth			
S-446	Salmon River - Twelvemile Creek to Williams Creek	COLD SS	PCR	DWS SRW
S-457	Salmon River - Iron Creek to Twelvemile Creek	COLD SS	PCR	DWS SRW
S-468	Iron Creek - North Fork Iron Creek to mouth			
S-479	North Fork Iron Creek - source to mouth			
S-4850	Iron Creek - source to North Fork Iron Creek			
S-4951	West Fork Iron Creek - source to mouth			
S-502	South Fork Iron Creek - source to mouth			
S-573	Salmon River - Pahsimeroi River to Iron Creek	COLD SS	PCR	DWS SRW
S-524	Hot Creek - source to mouth			
S-535	Cow Creek - source to mouth			
S-546	Allison Creek - source to mouth			
S-557	McKim Creek - source to mouth			
S-568	Poison Creek - source to mouth			
S-579	Warm Springs Creek - source to mouth			
S-5860	Twelvemile Creek - source to mouth			
S-5961	Carmen Creek - Freeman Creek to mouth			
S-602	Freeman Creek - source to mouth			
S-673	Carmen Creek - source to Freeman Creek			
S-624	Tower Creek - source to mouth			
S-635	Fourth of July Creek - Little Fourth of July Creek to mouth			
S-646	Fourth of July Creek - source to Little Fourth of July Creek			

Unit	Waters	Aquatic Life	Recreation	Other
S-657	Little Fourth of July Creek - source to mouth			
S-668	North Fork Salmon River - Hughes Creek to mouth	COLD SS	PCR	DWS SRW
S-672	Big Silverlead Creek - source to mouth			
S-6870	North Fork Salmon River - Sheep Creek to Hughes Creek	COLD SS	PCR	DWS SRW
S-6971	Sheep Creek - source to mouth			
S-702	North Fork Salmon River - Dahlongega Creek to Sheep Creek	COLD SS	PCR	DWS SRW
S-743	Dahlongega Creek - Nez Perce Creek to mouth			
S-724	Dahlongega Creek - source to Nez Perce Creek			
S-735	Nez Perce Creek - source to mouth			
S-746	Anderson Creek - source to mouth			
S-757	North Fork Salmon River - Twin Creek to Dahlongega Creek	COLD SS	PCR	DWS SRW
S-768	North Fork Salmon River - source to Twin Creek	COLD SS	PCR	DWS SRW
S-772	Pierce Creek - source to mouth			
S-780	Twin Creek - source to mouth			
S-7981	Hughes Creek - source to mouth			
S-802	Hull Creek - source to mouth			
S-843	Indian Creek - source to mouth			
S-824	Squaw Creek - source to mouth			
S-835	Spring Creek - source to mouth			
S-846	Boulder Creek - source to mouth			
S-857	Owl Creek - East Fork Owl Creek to mouth			
S-868	East Fork Owl Creek - source to mouth			
S-872	Owl Creek - source to East Fork Owl Creek			
S-8890	Colson Creek - source to mouth			

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- 06. No Change To This Subsection.**
- 07. No Change To This Subsection.**
- 08. No Change To This Subsection.**
- 09. No Change To This Subsection.**

- 10. No Change To This Subsection.
- 11. No Change To This Subsection.
- 12. No Change To This Subsection.

(BREAK IN CONTINUITY OF SECTIONS)

140. SOUTHWEST IDAHO BASIN.

Surface waters found within the Southwest basin total nineteen (19) subbasins and are designated as follows: (4-5-00)

- 01. No Change To This Subsection.
- 02. No Change To This Subsection.
- 03. No Change To This Subsection.
- 04. No Change To This Subsection.
- 05. No Change To This Subsection.
- 06. No Change To This Subsection.
- 07. No Change To This Subsection.
- 08. No Change To This Subsection.

09. North And Middle Fork Boise Subbasin. The North and Middle Fork Boise Subbasin, HUC 17050111, is comprised of seventeen (17) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Middle Fork Boise River - source to mouth	COLD SS	PCR	DWS SRW
SW-2	East Fork Roaring River -source to mouth	<u>COLD</u> <u>SS</u>	<u>PCR</u>	
SW-3	Hot Creek - source to mouth			
SW-4	Yuba River - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
SW-5	Decker Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
SW-6	Queens River - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
SW-7	Little Queens River - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
SW-8	Black Warrior Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	

Unit	Waters	Aquatic Life	Recreation	Other
SW-9	Browns Creek - source to mouth	COLD SS	PCR	
SW-10	North Fork Boise River - source to mouth	COLD SS	PCR	DWS SRW
SW-11	Johnson Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
SW-12	Bear River - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
SW-13	Big Owl/Little Owl Creeks - source to mouth	COLD SS	PCR	
SW-14	Crooked River - source to mouth	COLD SS	PCR	
SW-15	Rabbit Creek - source to mouth	COLD SS	PCR	
SW-16	Meadow Creek - source to mouth	<u>COLD</u>	<u>SCR</u>	
SW-17	French Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	

(4-5-00)()

10. No Change To This Subsection.

11. South Fork Boise Subbasin. The South Fork Boise Subbasin, HUC 17050113, is comprised of thirty-three (33) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Arrowrock Reservoir (Boise River)	COLD SS	PCR	DWS SRW
SW-2	Willow Creek - source to Arrowrock Reservoir	<u>COLD</u> <u>SS</u>	<u>PCR</u>	
SW-3	Wood Creek - source to mouth	COLD SS	PCR	
SW-4	South Fork Boise River - Anderson Ranch Dam to Arrowrock Reservoir	COLD SS	PCR	DWS SRW
SW-5	Anderson Ranch Reservoir (Boise River)	COLD SS	PCR	DWS SRW
SW-6	Little Camas Creek - Little Camas Reservoir Dam to Anderson Ranch Reservoir			
SW-7	Little Camas Creek Reservoir	<u>SC</u>	<u>PCR</u>	
SW-8	Little Camas Creek - source to Little Camas Creek Reservoir			
SW-9	Wood Creek - source to Anderson Ranch Reservoir			

Unit	Waters	Aquatic Life	Recreation	Other
SW-10	Lime Creek - source to Anderson Ranch Reservoir	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
SW-11	South Fork Lime Creek - source to mouth			
SW-12	Deer Creek - source to Anderson Ranch Reservoir	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
SW-13	South Fork Boise River - Willow Creek to Anderson Ranch Reservoir	COLD SS	PCR	DWS SRW
SW-14	Grouse Creek - source to mouth	COLD SS	PCR	
SW-15	South Fork Boise River - Little Smoky Creek to Willow Creek	COLD SS	PCR	DWS SRW
SW-16	Beaver Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
SW-17	Boardman Creek - source to mouth	<u>COLD</u> <u>SS</u>		
SW-18	Little Smoky Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
SW-19	Big Smoky Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>PCR</u>	
SW-20	Paradise Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
SW-21	South Fork Boise River - confluence of Ross Fork and Johnson Creeks to Little Smoky Creek	COLD SS	PCR	DWS SRW
SW-22	Johnson Creek - source to mouth			
SW-23	Ross Fork - source to mouth	<u>COLD</u> <u>SS</u>	<u>PCR</u>	
SW-24	Skeleton Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>PCR</u>	
SW-25	Willow Creek - source to mouth	COLD SS	PCR	
SW-26	Shake Creek - source to mouth	COLD SS	PCR	
SW-27	Feather Creek - source to mouth	COLD SS	PCR	
SW-28	Trinity Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>PCR</u>	
SW-29	Green Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
SW-30	Dog Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>PCR</u>	

Unit	Waters	Aquatic Life	Recreation	Other
SW-31	Fall Creek - source to Anderson Ranch Reservoir	<u>COLD</u> <u>SS</u>	<u>PCR</u>	
SW-32	Smith Creek - source to mouth	COLD SS	PCR	
SW-33	Rattlesnake Creek - source to Arrowrock Reservoir	<u>COLD</u> <u>SS</u>	<u>SCR</u>	

(4-5-00)()

12. No Change To This Subsection.

13. No Change To This Subsection.

14. No Change To This Subsection.

15. No Change To This Subsection.

16. No Change To This Subsection.

17. No Change To This Subsection.

18. No Change To This Subsection.

19. Brownlee Reservoir Subbasin. The Brownlee Reservoir Subbasin, HUC 17050201, is comprised of seventeen (17) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Snake River (Hells Canyon Reservoir) - Oxbow Dam to Hells Canyon Dam	COLD SS	PCR	DWS SRW
SW-2	Snake River (Oxbow Reservoir) - Brownlee Dam to Oxbow Dam	COLD SS	PCR	DWS SRW
SW-3	Snake River (Brownlee Reservoir) - Scott Creek to Brownlee Dam	COLD SS	PCR	DWS SRW
SW-4	Snake River - Weiser River to Scott Creek	COLD	PCR	DWS
SW-5	Jenkins Creek - source to mouth	COLD	PCR	
SW-6	Scott Creek - source to mouth			
SW-7	Warm Springs Creek - source to mouth			
SW-8	Hog Creek - source to mouth			
SW-9	Grouse Creek - source to mouth			
SW-10	Rock Creek - source to mouth			
SW-11	Wolf Creek - source to mouth			
SW-12	Dennett Creek - source to mouth			
SW-13	Sturgill Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
SW-14	Brownlee Creek - source to mouth			
SW-15	Wildhorse River - confluence of Bear Creek and including Crooked River to mouth	COLD SS	PCR	
SW-16	Bear Creek - source to mouth	COLD SS	PCR	
SW-17	Indian Creek - source to mouth			

(4-5-00)()

(BREAK IN CONTINUITY OF SECTIONS)

150. UPPER SNAKE BASIN.

Surface waters found within the Upper Snake basin total twenty-three (23) subbasins and are designated as follows:
 (4-5-00)

- 01. No Change To This Subsection.**
- 02. No Change To This Subsection.**
- 03. No Change To This Subsection.**

04. Upper Henrys Subbasin. The Upper Henrys Subbasin, HUC 17040202, is comprised of fifty-five (55) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Henrys Fork - Warm River to Ashton Reservoir Dam	COLD SS	PCR	DWS SRW
US-2	Warm River - Moose Creek <u>Warm River Spring</u> to mouth	COLD SS	PCR	DWS SRW
US-3	Moose Creek - source to mouth <u>confluence with Warm River</u>			
US-4	Warm River - Partridge Creek to Moose Creek	COLD SS	PCR	DWS SRW
US- 54	Partridge Creek - source to mouth			
US- 65	Warm River - source to Partridge Creek <u>Warm River Spring</u>	COLD SS	PCR	DWS SRW
US- 76	Robinson Creek - Rock Creek to mouth			
US- 87	Porcupine Creek - source to mouth	COLD SS	SCR	
US- 98	Rock Creek - Wyoming Creek to mouth			
US- 109	Wyoming Creek - Idaho/Wyoming border to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
US-140	Rock Creek - source to Wyoming Creek			
US-12	Robinson Creek - Snow Creek to Rock Creek			
US-131	Robinson Creek - Idaho/Wyoming border and sources west of border to Snow Rock Creek			
US-142	Snow Creek - source to mouth			
US-153	Fish Creek - source to mouth			
US-16	North Fork Fish Creek - source to mouth			
US-174	Henrys Fork - Silver Lake Thurman Creek to Warm River	COLD SS	PCR	DWS SRW
US-185	Henrys Fork - Island Park Reservoir Dam to Silver Lake Thurman Creek	COLD SS	PCR	DWS SRW
US-196	Buffalo River - Elk Creek to mouth	COLD SS	PCR	DWS SRW
US-2017	Toms Creek - source to mouth			
US-218	Buffalo River - source to Elk Creek	COLD SS	PCR	DWS SRW
US-2219	Elk Creek - source to mouth			
US-230	Island Park Reservoir	COLD SS	PCR	DWS SRW
US-241	Henrys Fork - <u>Confluence of Big Springs and Henrys Lake Outlet</u> to Island Park Reservoir	COLD SS	PCR	DWS SRW
US-252	Moose Creek - source to mouth <u>confluence with Henrys Fork</u>			
US-23	Big Springs - source to mouth	<u>COLD</u> <u>SS</u>	<u>PCR</u>	<u>DWS</u> <u>SRW</u>
US-264	Thirsty Creek - Idaho/Montana border to mouth	COLD SS	SCR	
US-275	Henrys Lake Outlet - Henrys Lake Dam to Big Springs mouth	COLD SS	PCR	DWS SRW
US-28	Crooked Creek - source to mouth			
US-296	Meadows Creek - source to mouth			
US-3027	Reas Pass Creek - source to mouth <u>sink</u>			
US-3128	Jones Creek - source to mouth			
US-3229	Jesse Creek - source to mouth			
US-330	Twin Creek - source to mouth			
US-341	Tygee Creek - source to mouth <u>sink</u>			
US-352	Henrys Lake	COLD	SCR	
US-363	Howard Creek - source to mouth	COLD SS	SCR	

Unit	Waters	Aquatic Life	Recreation	Other
US-374	Targhee Creek - source to mouth	COLD SS	SCR	
US-385	Timber Creek - source to mouth			
US-396	Duck Creek - source to mouth	COLD SS	SCR	
US-4037	Rock Creek - source to mouth			
US-4138	Hope Creek - source to mouth			
US-39	<u>Crooked Creek - source to mouth</u>			
US-420	Hotel Creek - source to mouth	COLD SS	SCR	
US-431	Yale Creek - source to mouth	COLD SS	SCR	
US-442	Blue Creek - source to mouth			
US-453	Sheep Creek - source to mouth			
US-464	Icehouse Creek - source to Island Park Reservoir	COLD SS	SCR	
US-475	Willow Creek - Sheridan Creek to Island Park Reservoir <u>Sheridan Creek - Kilgore Road (T13N, R41E, Sec. 07) to mouth</u>	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
US-486	Willow Creek - source to Sheridan Creek <u>mouth</u>			
US-497	Myers Creek - source to mouth			
US-50	Sheridan Creek - Kilgore Road (T13N, R41E, Sec. 07) to mouth	COLD SS	SCR	
US-5148	Sheridan Creek - source to Kilgore Road (T13N, R41E, Sec. 07)	COLD SS	SCR	
US-5249	Sheridan Reservoir			
US-530	Dry Creek - source to Sheridan Reservoir			
US-541	Silver Lake <u>Thurman Creek - source to mouth</u>			
US-552	Rattlesnake Creek - source to mouth			

(4-5-00)()

05. No Change To This Subsection.

06. Teton Subbasin. The Teton Subbasin, HUC 17040204, is comprised of forty-four (44) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	South Fork Teton River - Teton River Forks to Henrys Fork	COLD SS	SCR	

Unit	Waters	Aquatic Life	Recreation	Other
US-2	North Fork Teton River - Teton River Forks to Henrys Fork	COLD SS	SCR	
US-3	Teton River - Teton Dam to Teton River Forks	COLD SS	PCR	DWS SRW
US-4	Teton River - Canyon Creek to Teton Dam	COLD SS	PCR	DWS SRW
US-5	Moody Creek - Long Hollow Creek to mouth			
US-6	Moody Creek - confluence of North and South Fork Moody Creeks to Long Hollow Creek			
US-7	South Fork Moody Creek - source to mouth			
US-8	North Fork Moody Creek - source to mouth			
US-9	Long Hollow Creek - source to mouth			
US-10	Tributaries to Canyon Creek Canal - source to mouth			
US-11	Canyon Creek - Crooked Creek to mouth			
US-12	Canyon Creek - Warm Creek to Crooked Creek			
US-13	Canyon Creek - source to Warm Creek			
US-14	Calamity Creek - source to mouth			
US-15	Warm Creek - source to mouth			
US-16	Crooked Creek - source to mouth			
US-17	Teton River - Milk Creek to Canyon Creek	COLD SS	PCR	DWS SRW
US-18	Milk Creek - source to mouth			
US-19	Teton River - Badger Creek to Milk Creek	COLD SS	PCR	DWS SRW
US-20	Teton River - Spring Creek to Badger Creek	COLD SS	PCR	DWS SRW
US-21	Teton River - Mahogany Creek to Spring Creek	COLD SS	PCR	DWS SRW
US-22	Packsaddle Creek - source to mouth			
US-23	Horseshoe Creek - source to mouth			
US-24	Mahogany Creek - source to mouth			
US-25	Teton River - Patterson Creek to Mahogany Creek	COLD SS	PCR	DWS SRW
US-26	Patterson Creek - source to mouth			
US-27	Teton River - source to Patterson Creek	COLD SS	PCR	DWS SRW
US-28	Trail Creek - Moose Creek to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
US-29	Trail Creek - Idaho/Wyoming border to and including Moose Creek			
US-30	Fox Creek - Idaho/Wyoming border to mouth			
US-31	Darby Creek - Idaho/Wyoming border to mouth			
US-32	Teton Creek - Idaho/Wyoming border to mouth			
US-33	Dry Creek - source to mouth			
US-34	South Leigh Creek - Idaho/Wyoming border to mouth			
US-35	Spring Creek - North Leigh Creek to mouth			
US-36	North Leigh Creek - Idaho/Wyoming border to mouth			
US-37	Spring Creek - source to North Leigh Creek			
US-38	Badger Creek - confluence of North and South Fork Badger Creeks to mouth			
US-39	South Fork Badger Creek - source to mouth			
US-40	North Fork Badger Creek - source to mouth			
US-41	Bitch Creek - Swanner Creek to mouth			
US-42	Swanner Creek - source to mouth			
US-43	Horse Creek - source to mouth			
US-44	Bitch Creek - source Idaho/Wyoming border to Horse Swanner Creek			

(4-5-00)()

- 07. No Change To This Subsection.
- 08. No Change To This Subsection.
- 09. No Change To This Subsection.
- 10. No Change To This Subsection.
- 11. No Change To This Subsection.
- 12. No Change To This Subsection.
- 13. No Change To This Subsection.
- 14. **Upper Snake-Rock Subbasin.** The Upper Snake-Rock Subbasin, HUC 17040212, is comprised of forty-one (41) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Snake River - Lower Salmon Falls to Browns Clover Creek	COLD SS	PCR	
US-2	Big Pilgrim Gulch - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
US-3	Cassia Gulch - source to mouth			
US-4	Tuana Gulch - source to mouth			
US-5	Snake River - Box Canyon Creek to Lower Salmon Falls	COLD SS	PCR	
US-6	Riley Creek - source to mouth	COLD SS	PCR	DWS SRW
US-7	Snake River - Rock Creek to Box Canyon Creek	COLD SS	PCR	
US-8	Deep Creek - High Line Canal to mouth	COLD SS	SCR	
US-9	Deep Creek - source to High Line Canal	COLD SS	SCR	
US-10	Mud Creek - Deep Creek Road (T09S, R14E) to mouth	COLD SS	SCR	
US-11	Mud Creek - source to Deep Creek Road (T09S, R14E)			
US-12	Cedar Draw - source to mouth	COLD SS	SCR	
US-13	Rock Creek -river mile 25 (T11S, R18E, Sec. 36) to mouth	COLD SS	SCR	
US-14	Cottonwood Creek - source to mouth	<u>COLD</u>	<u>SCR</u>	
US-15	McMullen Creek - source to mouth	<u>COLD</u>	<u>SCR</u>	
US-16	Rock Creek - Fifth Fork Rock Creek to river mile 25 (T11S, R18E, Sec. 36)	COLD SS	PCR	DWS SRW
US-17	Fifth Fork Rock Creek - source to mouth	<u>COLD</u>	<u>SCR</u>	
US-18	Rock Creek - source to Fifth Fork Rock Creek	COLD SS	PCR	DWS SRW
US-19	Snake River - Box Canyon Creek <u>Twin Falls</u> to Rock Creek	COLD SS	PCR	
US-20	Snake River - Milner- Gooding Canal <u>Dam</u> to Box Canyon Creek <u>Twin Falls</u>	COLD SS	PCR	
US-21	Murtaugh Lake			
US-22	Dry Creek - source to mouth	COLD SS	SCR	
US-23	West Fork Dry Creek - source to mouth			
US-24	East Fork Dry Creek - source to mouth	<u>COLD</u>	<u>SCR</u>	
US-25	Big Cottonwood Creek - source to mouth			
US-26	Wilson Lake Reservoir			
US-27	Box Canyon <u>Vinyard</u> Creek - source <u>Vinyard Lake</u> to mouth	<u>COLD</u>	<u>SCR</u>	

Unit	Waters	Aquatic Life	Recreation	Other
US-28	Clear Lakes	<u>COLD</u>	<u>SCR</u>	
US-29	Banbury Springs		<u>PCR</u>	
US-30	Box Canyon Creek - source to mouth	<u>COLD</u>	<u>SCR</u>	
US-31	Thousand Springs	<u>COLD</u>	<u>SCR</u>	
US-32	Bickel Springs	<u>COLD</u>	<u>SCR</u>	
US-33	Billingsley Creek - source to mouth	COLD SS	PCR	DWS SRW
US-34	Clover Creek - Pioneer Reservoir Dam to mouth	COLD SS	PCR	
US-35	Pioneer Reservoir			
US-36	Clover Creek - source to Pioneer Reservoir	COLD SS	PCR	
US-37	Cottonwood Creek - source to mouth			
US-38	Catchall Creek - source to mouth			
US-39	Deer Creek - source to mouth			
US-40	Calf Creek - source to mouth	<u>COLD</u>	<u>SCR</u>	
US-41	Dry Creek - source to mouth	<u>COLD</u>	<u>SCR</u>	

(4-5-00)()

- 15. No Change To This Subsection.
- 16. No Change To This Subsection.
- 17. No Change To This Subsection.
- 18. No Change To This Subsection.
- 19. No Change To This Subsection.
- 20. No Change To This Subsection.
- 21. No Change To This Subsection.
- 22. No Change To This Subsection.
- 23. No Change To This Subsection.

(BREAK IN CONTINUITY OF SECTIONS)

250. SURFACE WATER QUALITY CRITERIA FOR AQUATIC LIFE USE DESIGNATIONS.

- 01. **General Criteria.** The following criteria apply to all aquatic life use designations: (4-5-00)

a. Hydrogen Ion Concentration (pH) values within the range of six point five (6.5) to nine point ~~five~~ zero (9.50); ~~(7-1-93)~~()

b. The total concentration of dissolved gas not exceeding one hundred and ten percent (110%) of saturation at atmospheric pressure at the point of sample collection; (7-1-93)

c. Total chlorine residual. (8-24-94)

i. One (1) hour average concentration not to exceed nineteen (19) ug/l. (8-24-94)

ii. Four (4) day average concentration not to exceed eleven (11) ug/l. (8-24-94)

02. Cold Water. Waters designated for cold water aquatic life are to exhibit the following characteristics: (4-5-00)

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

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

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

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

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

c. Ammonia. (8-24-94)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) One (1) day minimum of not less than six point zero (6.0) mg/l or ninety percent (90%) of saturation, whichever is greater. (8-24-94)

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

iii. Ammonia. (8-24-94)

(1) One (1) hour average concentration of un-ionized ammonia is not to exceed the criteria defined at Subsection 250.02.c.i. (4-5-00)

(2) Four (4) day average concentration of un-ionized ammonia is not to exceed the criteria defined at Subsection 250.02.c.i. (4-5-00)

f. Bull Trout Temperature Criteria. Water temperatures for the waters identified under Subsection 250.02.f.i. shall not exceed ~~twelve~~ thirteen degrees Celsius (~~12~~13C) ~~daily average maximum weekly maximum temperature (MWMT)~~ during June, July and August for juvenile bull trout rearing, and nine degrees Celsius (9C) daily average during September and October for bull trout spawning. For the purposes of measuring these criteria, the ~~daily average values~~ shall be generated from a recording device with a minimum of six (6) evenly spaced measurements in a twenty-four (24) hour period. The MWMT is the mean of daily maximum water temperatures measured over the annual warmest consecutive seven (7) day period occurring during a given year. (~~4-5-00~~)()

i. The bull trout temperature criteria shall apply to all tributary waters, not including fifth order main stem rivers, located within areas above fourteen hundred (1400) meters elevation south of the Salmon River basin-Clearwater River basin divide, and above six hundred (600) meters elevation north of the Salmon River basin-Clearwater River basin divide, in the fifty-nine (59) Key Watersheds listed in Table 6, Appendix F of Governor Batt's State of Idaho Bull Trout Conservation Plan, 1996, or as designated under Sections 110 through 160 of this rule. (3-23-98)

ii. No thermal discharges will be permitted to the waters described under Subsection 250.02.f.i. unless socially and economically justified as determined by the Department, and then only if the resultant increase in stream temperature is less than five-tenths degrees Celsius (0.5C). (4-5-00)

g. Kootenai River sturgeon temperature criteria. Water temperatures within the Kootenai River from Bonners Ferry to Shorty's Island, shall not exceed a seven (7) day moving average of fourteen degrees celsius (14C) based on daily average water temperatures, during May 1 through July 1. (3-23-98)

03. Seasonal Cold Water. Between the summer solstice and autumn equinox, waters designated for

seasonal cold water aquatic life are to exhibit the following characteristics. For the period from autumn equinox to summer solstice the cold water criteria will apply: (4-5-00)

a. Dissolved Oxygen Concentrations exceeding six (6) mg/l at all times. In lakes and reservoirs this standard does not apply to: (4-5-00)

i. The bottom twenty percent (20%) of water depth in natural lakes and reservoirs where depths are thirty-five (35) meters or less. (4-5-00)

ii. The bottom seven (7) meters of water depth in natural lakes and reservoirs where depths are greater than thirty-five (35) meters. (4-5-00)

iii. Those waters of the hypolimnion in stratified lakes and reservoirs. (4-5-00)

b. Water temperatures of twenty-~~seven six~~ (276) degrees C or less as a daily maximum with a daily average of no greater than twenty-~~four three~~ (243) degrees C. (~~4-5-00~~)()

c. Ammonia. (4-5-00)

i. One (1) hour average concentration of un-ionized ammonia is not to exceed the criteria defined at Subsection 250.02.c.i. (4-5-00)

ii. Four (4) day average concentration of un-ionized ammonia is not to exceed the criteria defined at Subsection 250.02.c.ii. (4-5-00)

04. Warm Water. Waters designated for warm water aquatic life are to exhibit the following characteristics: (4-5-00)

a. Dissolved oxygen concentrations exceeding five (5) mg/l at all times. In lakes and reservoirs this standard does not apply to: (7-1-93)

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

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

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

b. Water temperatures of thirty-three (33) degrees C or less with a maximum daily average not greater than twenty-nine (29) degrees C. (8-24-94)

c. Ammonia. (8-24-94)

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

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

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

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

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

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

where:

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

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

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

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

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

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

05. Modified. Water quality criteria for modified aquatic life will be determined on a case-by-case basis reflecting the chemical, physical, and biological levels necessary to fully support the existing aquatic life community. These criteria, when determined, will be adopted into this rule. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

252. SURFACE WATER QUALITY CRITERIA FOR WATER SUPPLY USE DESIGNATION.

01. Domestic. Waters designated for domestic water supplies are to exhibit the following characteristics: (4-5-00)

a. Radioactive materials or radioactivity not to exceed concentrations specified in Idaho Department of Environmental Quality Rules, IDAPA 58.01.08, "Rules Governing Public Drinking Water Systems". (8-24-94)

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

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

TABLE - DESIGNATED SMALL PUBLIC WATER SUPPLIES

County	Water Body	Supply No.*	Supply System Name
<u>Benewah</u>	<u>Spring</u>	<u>1050001</u>	<u>BLM Sheep Springs</u>
<u>Benewah</u>	<u>Spring</u>	<u>1050002</u>	<u>BLM Tingley Springs</u>
Benewah	Adams Ck.	1050011	Fernwood Water Dist.
<u>Benewah</u>	<u>Rochat Ck.</u>	<u>1050024</u>	<u>St Maries, City of</u>
Boise	Elk Ck.	4080025	Idaho City Water Dept.
Boise	McBride Ck.	4080047	Terrace Lakes Rec. Ranch
<u>Bonner</u>	<u>Spring</u>	<u>1090168</u>	<u>Beaver Ck Camp Assn</u>
<u>Bonner</u>	<u>Spring</u>	<u>1090017</u>	<u>Clark Fork U ID Field Campus</u>
Bonner	Berry Ck.	1090021	Colburn Water Assn.

County	Water Body	Supply No.*	Supply System Name
<u>Bonner</u>	<u>Cougar Ck.</u>	<u>1090030</u>	<u>Cougar Creek Water Assn</u>
Bonner	Strong Ck.	1090038	East Hope Water Dept.
<u>Bonner</u>	<u>Composite Spring</u>	<u>1090052</u>	<u>Hope Water System</u>
<u>Bonner</u>	<u>Spring</u>	<u>1090074</u>	<u>Lakeview Townsite Improve Assn</u>
<u>Bonner</u>	<u>Spring</u>	<u>1090031</u>	<u>Midas Water System</u>
<u>Bonner</u>	<u>Little Sand Ck.</u>	<u>1090121</u>	<u>Sandpoint Water Dept</u>
<u>Bonner</u>	<u>Schweitzer Ck.</u>	<u>1090124</u>	<u>Schweitzer Basin Water Co</u>
<u>Bonner</u>	<u>Spring #1</u>	<u>1090123</u>	<u>Schweitzer Mtn Resort</u>
<u>Bonner</u>	<u>Spring #2</u>	<u>1090123</u>	<u>Schweitzer Mtn Resort</u>
<u>Bonner</u>	<u>Springs</u>	<u>1090151</u>	<u>West Bonner WD#1</u>
Boundary	Meadow Ck.	1110001	Bee Line Water Assn.
<u>Boundary</u>	<u>Myrtle Ck.</u>	<u>1110003</u>	<u>Bonnors Ferry, City of</u>
<u>Boundary</u>	<u>Spring</u>	<u>1110007</u>	<u>Cow Ck Water Assn</u>
Boundary	Curley Ck.	1110008	Curley Ck. Water Assn.
<i>Boundary</i>	<i>Molar Ck. and Highland Ck.</i>	<i>1110017</i>	<i>Highland Flats Water Assn.</i>
Boundary	Mission Ck.	1110019	Mission Creek Water Assn.
Boundary	Caribou Ck.	1110020	Moravia Water Assn.
<u>Boundary</u>	<u>Spring</u>	<u>1110044</u>	<u>Northwest Academy/Ascent</u>
<u>Boundary</u>	<u>Ruby Ck.</u>	<u>1110044</u>	<u>Northwest Academy/Ascent</u>
Boundary	Brown Creek and Cedar Ck.	1110023	Paradise Valley Water Assn.
<u>Boundary</u>	<u>Spring #1</u>	<u>1110024</u>	<u>Rocky Mountain Academy</u>
<u>Boundary</u>	<u>Spring #2</u>	<u>1110024</u>	<u>Rocky Mountain Academy</u>
Boundary	Skin Ck.	1110025	Skin Ck. Water Assn.
<u>Boundary</u>	<u>Springs</u>	<u>1110029</u>	<u>Trow Creek Water Assn</u>
Boundary	Twenty Mile Ck.	1110030	Twenty Mile Ck. Water Assn.
Clearwater	N.F. Clearwater R.**	2180001	Ahsahka Water and Sewer District
Clearwater	Reeds Ck.	2180029	Potlatch Corp-Headquarters
<u>Custer</u>	<u>Garden Ck.</u>	<u>7190013</u>	<u>Challis, City of</u>
Elmore	E.F. Montezuma Ck.	4200005	Atlanta Water Assn.
Idaho	Wall Creek	2250011	Clearwater Water Assn.
Idaho	Big Elk Ck.	2250017	Elk City Water/Sewer Assn.
<u>Kootenai</u>	<u>Spring</u>	<u>1280068</u>	<u>Excelsior Beach Water</u>
<u>Kootenai</u>	<u>Rose Spring</u>	<u>1280161</u>	<u>Rose Lake Water Assn</u>

County	Water Body	Supply No.*	Supply System Name
Lemhi	<u>Chick Ck., Jesse Ck., and Pollard Ck.</u>	<u>7300042</u>	<u>Salmon, City of</u>
Nez Perce	Big Canyon Ck.	2350023	Peck Water System
Shoshone	<u>Lake Ck.</u>	<u>1400081</u>	<u>Asarco Galena Unit</u>
Shoshone	<u>Shields Ck.</u>	<u>1400089</u>	<u>Central Shoshone County WD</u>
Shoshone	<u>Big Ck.</u>	<u>1400089</u>	<u>Central Shoshone County WD</u>
Shoshone	<u>McFarren Ck.</u>	<u>1400089</u>	<u>Central Shoshone County WD</u>
Shoshone	<u>Milo Ck.</u>	<u>1400089</u>	<u>Central Shoshone County WD</u>
Shoshone	Sawmill Gulch and Canyon Ck.	1400016	Citizens Utility Co-Burke <u>East Shoshone County WD-Burke</u>
Shoshone	<u>Boulder Ck.</u>	<u>1400017</u>	<u>East Shoshone County WD-Mullan</u>
Shoshone	<u>Cranky Gulch</u>	<u>1400019</u>	<u>East Shoshone County WD-Wallace</u>
Shoshone	<u>Weyer Gulch</u>	<u>1400019</u>	<u>East Shoshone County WD-Wallace</u>
Shoshone	<u>Experimental Ck.</u>	<u>1400019</u>	<u>East Shoshone County WD-Wallace</u>
Shoshone	<u>Canyon Ck.</u>	<u>1400016</u>	<u>East Shoshone County WD-Burke</u>
Shoshone	<u>Mill Ck.</u>	<u>1400017</u>	<u>East Shoshone County WD-Mullan</u>
Shoshone	<u>Placer Ck.-main channel</u>	<u>1400019</u>	<u>East Shoshone County WD-Wallace</u>
Shoshone	<u>Placer Ck-WF</u>	<u>1400019</u>	<u>East Shoshone County WD-Wallace</u>
Shoshone	<u>Deadman Ck. MF</u>	<u>1400028</u>	<u>Hecla Mining Co-Lucky Friday</u>
Shoshone	<u>National Tunnel</u>	<u>1400028</u>	<u>Hecla Mining Co-Lucky Friday</u>
Shoshone	<u>Deadman Ck. WF</u>	<u>1400028</u>	<u>Hecla Mining Co-Lucky Friday</u>
Shoshone	<u>Spring Gulch and Rosebud Gulch</u>	<u>1400032</u>	<u>Leisure Acres Trailer Court</u>
Shoshone	<u>Spring</u>	<u>1400067</u>	<u>Lookout Pass Ski Area</u>
Shoshone	Alder Ck. and East Alder Ck.	1400039	Murray Water Works
Shoshone	E.F. Silver Ck.	1400046	Silver Creek Water Assn.
Shoshone	<u>Big Ck #1</u>	<u>1400050</u>	<u>Sunshine Precious Metals</u>
Valley	Boulder Ck.	4430059	Yellowpine Water System, Inc.

* Public water supply number assigned by IDHW/DEQ.

** Only the portion of the watershed below Dworshak Dam is included. (4-5-00)()

ii. For those surface waters identified in Subsection 252.01.b.i. turbidity as measured at the public water intake shall not be: (4-5-00)

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

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

02. Agricultural. Water quality criteria for agricultural water supplies will generally be satisfied by the water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, "Water Quality Criteria 1972" (Blue Book), Section V, Agricultural Uses of Water, EPA, March, 1973 will be used for determining criteria. This document is available for review at the Idaho Department of Environmental Quality, or can be obtained from EPA or the U.S. Government Printing Office. (4-5-00)

03. Industrial. Water quality criteria for industrial water supplies will generally be satisfied by the general water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, appropriate criteria will be adopted in Sections 252 or 275 through 298. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

260. VARIANCES FROM WATER QUALITY STANDARDS.

01. Variances. Variances from meeting certain water quality standards may be granted by the Department provided they are consistent with the following requirements: (8-24-94)

a. When granted by the Department, individual variances are to be pollutant and discharger specific, and will be included as part of this section. (8-24-94)

b. In order to obtain a variance from a water quality standard, the discharger must demonstrate that meeting the standard is unattainable based on one or more of the following grounds: (8-24-94)

i. Naturally occurring pollutant concentrations prevent the attainment of the standard; or (8-24-94)

ii. Natural, intermittent, or low flow conditions or water levels prevent the attainment of the standard; or (4-5-00)

iii. Human caused conditions or sources of pollution prevent the attainment of the standard and cannot be remedied or would cause more environmental damage to correct than to leave in place; or (8-24-94)

iv. Dams, diversions or other types of hydrologic modifications preclude the attainment of the standard, and it is not feasible to restore the water body to its original condition or to operate such modification in a way that would result in attainment of the standard; or (8-24-94)

v. Physical conditions related to the natural features of the water body, unrelated to water quality, preclude attainment of the standard; or (8-24-94)

vi. Controls more stringent than technology-based effluent limitations would result in substantial and widespread economic and social impact. (8-24-94)

c. The discharger must submit to the Department documentation that treatment more advanced than required by technology-based effluent limitations have been considered and that alternative effluent control strategies have been evaluated. (8-24-94)

d. Any variance granted by the Department will remain in effect for a period of five (5) years or the life of the permit. (8-24-94)

i. Upon expiration of the five (5) year time period or permit, the discharger must either meet the

standard or must re-apply for the variance in accordance with these rules. (8-24-94)

ii. In considering a re-application for a variance, the Department will require the discharger to demonstrate reasonable progress towards meeting the standard. (8-24-94)

02. Specific Variances. The following are specific variances granted by the Department in accordance with Subsection 260.01: (3-1-95)

a. Kinross DeLamar Mining Company is granted variances from meeting water quality standards listed in Subsection 210.02 for Copper, Selenium and Cyanide discharged to Jordan Creek, Subsection 150.08, SW-1 and SW-4. This variance expressly requires effluent limitations to equal zero point sixty-nine (0.69) mg/l daily and zero point forty-one (0.41) mg/l monthly for Copper, three point nine (3.9) mg/l daily and two point four (2.4) mg/l monthly for WAD Cyanide, and two point eight (2.8) mg/l daily and one point seven (1.7) mg/l monthly for Selenium, all presented on a total recoverable basis. Additionally, this variance is conditioned upon compliance with any terms identified in the state's certification of the discharge. (4-5-00)

b. South Fork Coeur d'Alene River Sewer District (Page Wastewater Treatment Facility), South Fork Coeur d'Alene River Sewer District (Mullan Wastewater Treatment Facility), and the City of Smelterville: ()

i. The South Fork Coeur d'Alene River Sewer District (Page Wastewater Treatment Facility) is granted variances from meeting water quality standards in Section 250 for ammonia and chlorine, and Section 210 for cadmium, lead, and zinc, discharged to the West Page Swamp, located in T49N, R2E, S32, Boise Prime Meridian. ()

ii. The South Fork Coeur d'Alene River Sewer District (Page Wastewater Treatment Facility), South Fork Coeur d'Alene River Sewer District (Mullan Wastewater Treatment Facility), and the City of Smelterville are granted variances from meeting standards in Section 210 for cadmium, lead, and zinc, discharged to the South Fork Coeur d'Alene River, Subsection 110.09, HUC 17010302, Unit P-1. During the term of these variances, effluent limitations shall not exceed the following concentrations, in ug/L, total recoverable metals.

<u>Facility</u>	<u>Cadmium</u>	<u>Lead</u>	<u>Zinc</u>
<u>Mullan Wastewater Treatment Facility</u>	<u>11</u>	<u>15</u>	<u>2700</u>
<u>City of Smelterville</u>	<u>50</u>	<u>93</u>	<u>5300</u>
<u>Page Wastewater Treatment Facility</u>	<u>6</u>	<u>660</u>	<u>860</u>

iii. The variances provided in Subsection 260.02.b. are conditioned upon the discharge's showing reasonable progress toward reducing their discharge of cadmium, lead, and zinc through the reduction of inflow and interception of groundwater. Reasonable progress shall be measured according to the terms of the state's certification of the discharges. ()

(BREAK IN CONTINUITY OF SECTIONS)

~~284.--299.~~ (RESERVED) PAT HUGHES CREEK AND BUCKSKIN CREEK, SUBSECTION 130.03, HUC 17060201, UNITS S-29 AND S-30, SITE-SPECIFIC CRITERIA.

Pursuant to procedures and definitions in Subsections 275.01.a.i.(2), 275.01.h.ii.(1), and 275.01.h.ii.(5), the following criteria for the pollutants listed herein are to be met, instead of those set forth in Section 210. The following criteria are expressed as dissolved criteria except for selenium which is expressed as total recoverable concentrations. All

criteria are in ug/L.

<u>Pat Hughes Creek, Unit S-29</u>			<u>Buckskin Creek, Unit S-30</u>	
<u>Substance</u>	<u>Acute criterion</u>	<u>Chronic criterion</u>	<u>Acute criterion</u>	<u>Chronic criterion</u>
<u>Cadmium</u>	<u>19</u>	<u>8</u>	<u>62</u>	<u>11</u>
<u>Copper</u>	<u>41</u>	<u>26</u>	<u>38</u>	<u>24</u>
<u>Lead</u>	<u>268</u>	<u>10</u>	<u>247</u>	<u>10</u>
<u>Mercury</u>	<u>4.4</u>	<u>0.033</u>	<u>4.4</u>	<u>0.033</u>
<u>Selenium</u>	<u>269</u>	<u>22</u>	<u>269</u>	<u>22</u>
<u>Zinc</u>	<u>1424</u>	<u>1300</u>	<u>1335</u>	<u>1219</u>

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285. -- 299. (RESERVED).

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 58-0105-0001

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Department of Environmental Quality (DEQ) has proposed rulemaking. The action is authorized by Chapters 44 and 58, Title 39, Idaho Code. In addition, 40 CFR 271.21(e) and Section 39-4404, Idaho Code, require DEQ to adopt amendments to federal law as proposed under this docket.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 20, 2000. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: Idaho's Rules and Standards for Hazardous Waste are updated annually to maintain consistency with the U.S. Environmental Protection Agency's federal regulations implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA). This proposed rulemaking updates Idaho's rules so that they are consistent with revisions to the federal RCRA regulations as of July 1, 2000. This rulemaking also corrects Section 011 by adding 40 CFR 268.44(a) through (g) to the list of subparts of 40 CFR 268 not incorporated by reference into the state rules. 40 CFR 268.44(a) through (g) have been deemed non-delegable by the U.S. EPA.

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

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2000 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2001 session of the Idaho Legislature.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted because the nature of this rulemaking does not lend itself to the negotiated rulemaking process.

GENERAL INFORMATION: For more information about the Department of Environmental Quality's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the proposed rulemaking, contact John Brueck at (208)373-0502 or jbrueck@deq.state.id.us.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before September 27, 2000.

Dated this 17th day of July, 2000.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
Fax No. (208)373-0481
pgradwoh@deq.state.id.us

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0105-0001

002. INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS.

Any reference in these rules to requirements, procedures, or specific forms contained in the Code of Federal Regulations (CFR), Title 40, Parts 124, 260-266, 268, 270, 273, and 279 shall constitute the full adoption by reference of that part and Subparts as they appear in 40 CFR, revised as of July 1, ~~1999~~2000, including any notes and appendices therein, unless expressly provided otherwise in these rules. (~~4-5-00~~)()

01. Exceptions. Nothing in 40 CFR Parts 260 - 266, 268, 270, 273, 279 or Part 124 as pertains to permits for Underground Injection Control (U.I.C.) under the Safe Drinking Water Act, the Dredge or Fill Program under Section 404 of the Clean Water Act, the National Pollution Discharge Elimination System (NPDES) under the Clean Water Act or Prevention of Significant Deterioration Program (PSD) under the Clean Air Act is adopted or included by reference herein. (7-2-97)

02. Availability Of Referenced Material. The federal regulations adopted by reference throughout these rules are maintained at the following locations: (7-2-97)

a. Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, or U.S. Government Bookstore, Room 194, Federal Bldg., 915 Second Ave., Seattle, WA 98174, (206)553-4270; and (7-2-97)

b. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051, (208)334-3316; and (7-2-97)

c. Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502. (7-2-97)

(BREAK IN CONTINUITY OF SECTIONS)

004. HAZARDOUS WASTE MANAGEMENT SYSTEM.

40 CFR Part 260 and all Subparts, except 40 CFR 260.2, are herein incorporated by reference as provided in 40 CFR, revised as of July 1, ~~1999~~2000. For purposes of 40 CFR 260.20, "Federal Register" shall be defined as the Idaho Administrative Bulletin. (~~4-5-00~~)()

005. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE.

40 CFR Part 261 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, ~~1999~~2000. (~~4-5-00~~)()

01. Excluded Wastes. Chemically Stabilized Electric Arc Furnace Dust (CSEAFD) generated by Envirosafe Services of Idaho, Inc. (ESII) at ESII's facility in Grand View, Idaho using the Super Detox(R) treatment process as modified by ESII and that is disposed of in a Subtitle D or Subtitle C landfill is excluded from the lists of hazardous waste provided ESII implements a program that meets the following conditions: (3-16-96)

a. Verification Testing Requirements. Sample Collection and analyses, including quality control procedures, conducted pursuant to Subsections 005.01.b. and 005.01.c., must be performed according to SW-846 methodologies and the RCRA Part B permit, including future revisions. (3-16-96)

b. Initial Verification Testing. (3-16-96)

i. For purposes of Subsections 005.01.b., "new source" shall mean any generator of Electric Arc Furnace Dust (EAFD), EPA and Idaho Department of Environmental Quality Hazardous Waste No. KO61, whose waste has not previously been processed by ESII using the Super Detox(R) treatment process resulting in processed

EAFD which has been subjected to initial verification testing and has demonstrated compliance with the delisting levels specified in Subsection 005.01.d. (3-16-96)

ii. Prior to the initial treatment of any new source of EAFD, ESII must notify the Department in writing. The written notification shall include: (3-16-96)

(1) The waste profile information; and (3-16-96)

(2) The name and address of the generator. (3-16-96)

iii. The first four (4) consecutive batches treated must be sampled in accordance with Subsection 005.01.a. Each of the four (4) samples shall be analyzed to determine if the CSEAFD generated meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

iv. If the initial verification testing demonstrates that the CSEAFD samples meet the delisting levels specified in Subsection 005.01.d., ESII shall submit the operational and analytical test data, including quality control information, to the Department, in accordance with Subsection 005.01.f. Subsequent to such data submittal, the CSEAFD generated from EAFD originating from the new source shall be considered delisted. (3-16-96)

v. CSEAFD generated by ESII from EAFD originating from a new source shall be managed as hazardous waste in accordance with Subtitle C of RCRA until: (3-16-96)

(1) Initial verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.01.d.; and (3-16-96)

(2) The operational and analytical test data is submitted to the Department pursuant to Subsection 005.01.b.iv. (3-16-96)

vi. For purposes of Subsections 005.01.b. and 005.01.c., "batch" shall mean the CSEAFD which results from a single treatment episode in a full scale mixing vessel. (3-16-96)

c. Subsequent Verification Testing. (3-16-96)

i. Subsequent to initial verification testing, ESII shall collect a representative sample, in accordance with Subsection 005.01.a., from each batch of CSEAFD generated by ESII. ESII may, at its discretion, conduct subsequent verification testing on composite samples. In no event shall a composite sample consist of representative samples from more than twenty (20) batches of CSEAFD. (3-16-96)

ii. The samples shall be analyzed prior to disposal of each batch of CSEAFD to determine if the CSEAFD meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

iii. Each batch of CSEAFD generated by ESII shall be subjected to subsequent verification testing no later than thirty (30) days after it is generated by ESII. (3-16-96)

iv. If the levels of constituents measured in a sample, or composite sample, of CSEAFD do not exceed the levels set forth in Subsection 005.01.d., then any batch of CSEAFD which contributed to the sample that does not exceed the levels set forth in Subsection 005.01.d. is non-hazardous and may be managed and/or disposed of in a Subtitle D or Subtitle C landfill. (3-16-96)

v. If the constituent levels in a sample, or composite sample, exceed any of the delisting levels set forth in Subsection 005.01.d., then ESII must submit written notification of the results of the analysis to the Department within fifteen (15) days from receiving the final analytical results, and any CSEAFD which contributed to the sample must be: (3-16-96)

(1) Retested, and retreated if necessary, until it meets the levels set forth in Subsection 005.01.d.; or (3-16-96)

(2) Managed and disposed of in accordance with Subtitle C of RCRA. (3-16-96)

vi. Each batch of CSEAFD shall be managed as hazardous waste in accordance with Subtitle C of RCRA until subsequent verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

d. Delisting levels. (3-16-96)

i. All leachable concentrations for these metals must not exceed the following levels (mg/l):

antimony	0.06
arsenic	0.50
barium	7.60
beryllium	0.010
cadmium	0.050
chromium	0.33
lead	0.15
mercury	0.009
nickel	1
selenium	0.16
silver	0.30
thallium	0.020
vanadium	2
zinc	70

(3-16-96)

ii. Metal concentrations must be measured in the waste leachate by the method specified in 40 CFR Part 261.24. (3-16-96)

e. Modification of Treatment Process. (3-16-96)

i. If ESII makes a decision to modify the Super Detox(R) treatment process from the description of the process as set forth in ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995, ESII shall notify the Department in writing prior to implementing the modification. (3-16-96)

ii. After ESII's receipt of written approval from the Department, and subject to any conditions included with the approval, ESII may implement the proposed modification. (3-16-96)

iii. If ESII modifies its treatment process without first receiving written approval from the Department, this exclusion of waste will be void from the time the process was modified. (3-16-96)

iv. ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995 is available at the Department of Environmental Quality, Permits and Enforcement, 1410 N. Hilton, Boise, Idaho 83706. (3-16-96)

- f. Records and Data Retention and Submittal. (3-16-96)
- i. Records of disposal site, operating conditions and analytical data from verification testing must be compiled, summarized, and maintained at ESII's Grand View facility for a minimum of five (5) years from the date the records or data are generated. (3-16-96)
- ii. The records and data maintained by ESII must be furnished upon request to the Department or EPA. (3-16-96)
- iii. Failure to submit requested records or data within ten (10) business days of receipt of a written request or failure to maintain the required records and data on site for the specified time, will be considered by the Department, at its discretion, sufficient basis to revoke the exclusion to the extent directed by the Department. (3-16-96)
- iv. All records or data submitted to the Department must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the records or data submitted: "Under civil and/or criminal penalty of law for the making or submission of false or fraudulent statements or representations, I certify that the information contained in or accompanying this document is true, accurate, and complete. As to any identified sections of this document for which I cannot personally verify the truth and accuracy, I certify as the ESII official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete. In the event that any of this information is determined by the Department in its sole discretion to be false, inaccurate, or incomplete, and upon conveyance of this fact to ESII, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by the Department and that ESII will be liable for any actions taken in contravention of ESII's RCRA and CERCLA obligations premised upon ESII's reliance on the void exclusion." (3-16-96)

006. STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE.

01. Incorporation By Reference. 40 CFR Part 262 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, ~~1999~~2000. For purposes of 40 CFR 262.55, 262.56, and 262.57(b), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. Copies of advance notification, annual reports, and exception reports, required under those sections, shall also be provided to the Director. For purposes of 40 CFR 262.51, 262.53, and 262.54(g)(1), EPA shall be defined as the U.S. Environmental Protection Agency. (~~4-5-00~~)(____)

02. Generator Emergency Notification. In addition to the emergency notification required by 40 CFR 265.56(d)(2) and 262.34(d)(5)(iv)(C), (see 40 CFR 262.34(a)(4)), the emergency coordinator must also immediately notify the State Communications Center by telephone, 1-800-632-8000, to file an identical report. (4-5-00)

007. STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE.

40 CFR Part 263 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, ~~1999~~2000. (~~4-5-00~~)(____)

008. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.

40 CFR Part 264 and all Subparts (excluding 40 CFR 264.149, 264.150, and 264.301(l)) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, ~~1999~~2000. For purposes of 40 CFR Subsection 264.12(a), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. (~~4-5-00~~)(____)

009. INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.

40 CFR Part 265, and all Subparts (excluding Subpart R, 40 CFR 265.149 and 265.150) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, ~~1999~~2000. For purposes of 40 CFR Subsection 265.12(a), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. (~~4-5-00~~)(____)

010. STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE FACILITIES.

40 CFR Part 266 and all Subparts (excluding Subparts A and B) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, ~~1999~~2000. (4-5-00)(____)

011. LAND DISPOSAL RESTRICTIONS.

40 CFR Part 268 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, ~~1999~~2000, except for 40 CFR 268.1(e)(3), 268.5, 268.6, ~~and~~ 268.42(b), and 268.44(a) through (g). The authority for implementing the provisions of these excluded sections remains with the EPA. However, the requirements of Sections 39-4403(17) and 39-4423, Idaho Code, shall be applied in all cases where these requirements are more stringent than the federal standards. If the Administrator of the EPA grants a case-by-case variance pursuant to 40 CFR 268.5, that variance will simultaneously create the same case-by-case variance to the equivalent requirement of these rules. (4-5-00)(____)

012. HAZARDOUS WASTE PERMIT PROGRAM.

40 CFR Part 270 and all Subparts, except 40 CFR 270.12(a), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, ~~1999~~2000. For purposes of 40 CFR 270.2, 270.5, 270.10(e)(2), 270.10(e)(3), 270.10(f)(3), 270.72(a)(5), and 270.72(b)(5), "EPA" and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator respectively. (4-5-00)(____)

013. PROCEDURES FOR DECISION-MAKING (STATE PROCEDURES FOR RCRA OR HWMA PERMIT APPLICATIONS).

40 CFR Part 124, Subparts A and B are herein incorporated by reference as provided in 40 CFR, revised as of July 1, ~~1999~~2000, except that the fourth sentence of 40 CFR 124.31(a), the third sentence of 40 CFR 124.32(a), and the second sentence of 40 CFR 124.33(a) are expressly omitted from the incorporation by reference of each of those subsections. For purposes of 40 CFR 124.6(e), 124.10(b), and 124.10(c)(1)(ii) "EPA" and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator, respectively. (4-5-00)(____)

(BREAK IN CONTINUITY OF SECTIONS)

015. STANDARDS FOR THE MANAGEMENT OF USED OIL.

01. Incorporation By Reference. 40 CFR Part 279 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, ~~1999~~2000. (4-5-00)(____)

02. Used Oil As A Dust Suppressant. 40 CFR Part 279 contains a prohibition on the use of used oil as a dust suppressant at 279.82(a), however, States may petition EPA to allow the use of used oil as a dust suppressant. Members of the public may petition the State to make this application to EPA. This petition to the State must: (2-11-94)

a. Be submitted to the Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706-1255; and (2-11-94)

b. Demonstrate how the requirements of 40 CFR 279.82(b) will be met. (2-11-94)

016. STANDARDS FOR UNIVERSAL WASTE MANAGEMENT.

40 CFR Part 273 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, ~~1999~~2000. (4-5-00)(____)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.12 - RULES FOR ADMINISTRATION OF WASTEWATER
TREATMENT FACILITY LOANS

DOCKET NO. 58-0112-0001 (originally 16-0112-0001)

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Department of Environmental Quality (DEQ) has proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code, and Chapter 36, Title 39, Idaho Code (amended by Senate Bill 1535).

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 20, 2000. If no such written request is received, a public hearing will not be held.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208)373-0418.

DESCRIPTIVE SUMMARY: This proposed rule implements the provisions of the 2000 legislation enacted under Senate Bill 1535 (codified at Sections 39-3626 and 39-3627, Idaho Code) wherein DEQ has been given the authority to expand the existing wastewater treatment loan program to provide loans to address nonpoint pollution problems such as agricultural runoff, effluent trading, septic tank replacement, wetland restoration and stormwater control. The rule establishes a priority rating system that integrates wastewater treatment projects and nonpoint pollution projects into one list. Affected parties could include agriculture, cities, counties and water and sewer districts.

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

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2000 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2001 session of the Idaho Legislature.

NEGOTIATED RULEMAKING: The text of the rule is based on a consensus recommendation resulting from the negotiated rulemaking process conducted pursuant to Section 67-5220, Idaho Code, and IDAPA 04.11.01.812 -815. The negotiation was open to the public. Participants in the negotiation included engineering consultants, water purveyors, water user associations, and DEQ staff. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, [Volume 00-5, May 3, 2000, page 22](#).

GENERAL INFORMATION: For more information about the Department of Environmental Quality's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the proposed rulemaking, contact Bill Jerrel at (208)373-0502 or wjerrel@deq.state.id.us.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before September 27, 2000.

Dated this 17th day of July, 2000.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
Fax No. (208)373-0481
pgradwoh@deq.state.id.us

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0112-0001

58.01.12 - RULES FOR ADMINISTRATION OF ~~WASTEWATER-TREATMENT FACILITY~~ WATER POLLUTION CONTROL LOANS

000. LEGAL AUTHORITY.

The Idaho Board of Environmental Quality, pursuant to authority granted in Chapter 36, Title 39, Idaho Code, did adopt the following rules for the administration of a ~~Wastewater Treatment Facility~~ Water Pollution Control Loan Program in Idaho. (1-1-89)(____)

001. TITLE AND SCOPE.

01. Title. These rules ~~and regulations~~ will be known and cited as Idaho Department of Environmental Quality Rules, IDAPA 58.01.12, "Rules for Administration of ~~Wastewater Treatment Facility~~ Water Pollution Control Loans". (1-1-89)(____)

02. Scope. The provisions of these rules will establish administrative procedures and requirements for establishing, implementing and administering a state loan program for providing financial assistance to ~~qualifying entities~~ eligible applicants for the construction of ~~wastewater treatment facilities~~ water pollution control projects. (1-1-89)(____)

002. POLICY.

It is the policy of the Idaho Board of Environmental Quality through the Idaho Department of Environmental Quality, to administer the ~~Wastewater Treatment Facility~~ Water Pollution Control Loan Program for the purpose of protecting and enhancing the quality and value of the water resources of the state of Idaho by financially assisting in the prevention, control and abatement of water pollution. It is also the intent of the Board of Environmental Quality to assign a priority rating to those projects which will most significantly improve the quality of the waters of the state and most adequately protect the public health. (1-1-89)(____)

003. INCORPORATION BY REFERENCE.

These rules do not contain documents incorporated by reference. (____)

0034. DEFINITIONS.

For the purpose of the rules contained in this chapter, the following definitions apply: (12-31-91)

01. ~~Applicant.~~ Any qualifying entity making application for loan funds. **Best Management Practice. A practice or combination of practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan which are determined to be the most cost-effective and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality needs. (1-1-89)(____)**

02. Board. The Idaho State Board of Environmental Quality. (12-31-91)

03. Collector Sewer. That portion of the wastewater treatment facility whose primary purpose is to receive sewage from individual residences and other individual public or private structures and which is intended to convey wastewater to an interceptor sewer or a treatment plant. (1-1-89)

04. Construction. The erection, building, acquisition, alteration, reconstruction, improvement or extension of wastewater treatment facilities, including preliminary planning to determine the economic and engineering feasibility of wastewater treatment facilities, the engineering, architectural, legal, fiscal and economic investigations, reports and studies, surveys, designs, plans, working drawings, specifications, procedures and other action necessary in the construction of wastewater treatment facilities; the inspection and supervision of the construction; and for projects funded with federal moneys the costs incurred during the one (1) year project certification period. (1-1-89)

- 05. Department.** The Idaho Department of Environmental Quality. (1-1-89)
- 06. Director.** The Director of the Idaho Department of Environmental Quality or his designee. (12-31-91)
- 07. Eligible Applicant.** A municipality or nonpoint source project sponsor which has the ability to establish and maintain a loan repayment source. Individuals and for-profit corporations are not eligible. ()
- 078. Eligible Costs.** Costs which are necessary for planning, designing and/or constructing wastewater treatment facilities or implementation of water pollution control projects. To be eligible, costs must be reasonable, allowable and allocable. (~~1-1-89~~)()
- 089. Facility Plan.** Systematic evaluation by an engineer of feasible treatment alternatives considering demographic, topographic, hydrologic and institutional characteristics of a project area to demonstrate that the scheduled alternative is cost effective. (1-1-89)
- 0910. Financial Management System.** Uniform method of recording, summarizing and analyzing financial information about the ~~wastewater treatment facility~~ water pollution control loan applicant. (~~1-1-89~~)()
- 11. Implementation Plan.** Completed project implementation plan or work plan provides detailed documentation of the proposed project including list of tasks, schedule of tasks, agency/contractor/entity responsible for implementation of the project tasks, adequate time schedules for completion of all budget tasks, and the anticipated results of the project. ()
- 102. Ineligible Costs.** Costs which are not necessary for the planning, designing and/or construction of wastewater treatment facilities or implementation of water pollution control projects or which are not reasonable, allowable or allocable. (~~1-1-89~~)()
- 113. Interceptor Sewer.** That portion of the wastewater treatment facility whose primary purpose is to transport domestic sewage or nondomestic wastewater from collector sewers to a treatment plant. (1-1-89)
- 14. Municipality.** Any county, city, special service district, nonprofit corporation or other governmental entity having authority to dispose of sewage, industrial wastes, or other wastes, or to provide for safe drinking water, any Indian tribe or authorized Indian tribal organization, or any combination of two (2) or more of the foregoing acting jointly, in connection with an eligible project. ()
- 15. National Pollutant Discharge Elimination System.** Point source permitting program established pursuant to Section 402 of the federal Clean Water Act (33 U.S.C. Section 1342). ()
- 16. Nonpoint Source Pollution.** Water pollution that comes from varied, nonspecific, and diffuse sources and can be associated with the general land disturbing activity that causes the pollution. ()
- 17. Nonpoint Source Project Sponsor.** Any county, city, special service district, nonprofit corporation, or other governmental entity, or a combination thereof. ()
- 128. O & M Manual.** A For wastewater treatment facilities, a guidance and training manual outlining the optimum operation and maintenance of the wastewater treatment facility or its components. For nonpoint source water pollution control projects, a plan that incorporates applicable sections of the Natural Resources Conservation Service Field Office Technical Guide, for implementation of best management practices. (~~1-1-89~~)()
- 139. Plan of Operation.** A schedule of specifications and completion dates for construction, start-up and operation of the wastewater treatment facility or for implementation of water pollution control projects. (~~1-1-89~~)()
- 20. Point Source.** Any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding

operation, or vessel or other floating craft, from which pollutants are, or may be discharged. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition. ()

~~1421.~~ **Pollutant.** Any chemical, biological, or physical substance whether it be solid, liquid, gas, or a quality thereof, which if released into the environment can, by itself or in combination with other substances, create a nuisance or render that environment harmful, detrimental, or injurious to public health, safety or welfare or to domestic, commercial, industrial, recreational, aesthetic or other beneficial uses. (1-1-89)

~~1522.~~ **Preliminary Engineering Report.** A report which compares wastewater treatment facility alternatives and identifies the most cost effective, environmentally sound alternative. (1-1-89)

~~1623.~~ **Priority List.** An integrated list of proposed wastewater treatment facility and nonpoint source pollution control projects rated by severity of water quality pollution problems, public health needs, population affected, and need for protection of Idaho's water resources. (~~1-1-89~~)()

~~17.~~ **Qualifying Entity.** ~~Any county, city, special service district, nonprofit corporation, or other governmental entity, or a combination thereof, having authority to collect, treat or dispose of wastewater and which establishes and maintains a dedicated loan repayment source; a municipality.~~ (1-1-89)

~~18.~~ **Rehabilitation.** ~~The repair of interceptor or collector sewers, including replacement of limited segments.~~ (1-1-89)

~~1924.~~ **Reserve Capacity.** That portion of the treatment works that is designed and incorporated in the constructed facilities to handle future sewage flows and loadings. (1-1-89)

~~205.~~ **Scope Of Project.** Those portions of the proposed facility project, including administration, engineering and physical components that constitute a complete project as determined from the most cost effective, environmentally sound ~~wastewater treatment facility~~ alternative identified in a preliminary engineering report or water pollution control project plan and approved by the Department. (~~1-1-89~~)()

~~216.~~ **Sewer Use Ordinance.** An ordinance adopted pursuant to Title 42, Chapter 32, Idaho Code, or other applicable law which requires new sewers and connections to be properly designed and constructed, prohibits extraneous sources of inflow and prohibits introduction of wastes into the sewer in an amount that endangers the public safety or the physical or operational integrity of the wastewater treatment facility. (1-1-89)

~~227.~~ **State.** The state of Idaho. (12-31-91)

~~238.~~ **Supplemental Grants.** A grant awarded to a municipality in conjunction with a loan from the ~~wastewater facility~~ water pollution control loan account. (~~1-1-89~~)()

~~249.~~ **Suspension.** An action by the Director to suspend a loan contract prior to project completion for a specified cause. Suspended contracts may be reinstated. (1-1-89)

~~30.~~ **Unified Watershed Assessment.** Federal watershed assessment that encompasses the State list of impaired waters. ()

~~2531.~~ **Termination.** An action by the Director to permanently terminate a loan contract prior to project completion for a specific cause. Terminated contracts will not be reinstated. (1-1-89)

~~2632.~~ **User Charge System.** A system of rates and service charges applicable to specific types of users, including any legal enforcement mechanism as may be required and which provides sufficient reserves and/or revenues for debt retirement, operation and maintenance, and replacement of the ~~wastewater treatment facility~~ installed equipment or structures. (~~1-1-89~~)()

~~2733.~~ **Wastewater.** A combination of the liquid and water-carried wastes from dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any groundwater, surface water and

storm water that may be present; liquid and water that is physically, chemically, biologically, or rationally identifiable as containing excreta, urine, pollutants or domestic or commercial wastes; sewage. (1-1-89)

2834. Wastewater Treatment Facility. Any facility, including land, equipment, furnishings and appurtenances thereof, used for the purpose of collecting, treating, neutralizing or stabilizing wastewater and removing pollutants from wastewater including the treatment plant, collectors, interceptors, outfall and outlet sewers, pumping stations, sludge treatment and handling systems, land disposal systems; a sewage treatment plant. (1-1-89)

35. Water Pollution Control Project. Any project that contributes to the removal, curtailment, or mitigation of pollution of the surface waters or groundwater of the state, or the restoration of the quality of said waters, and conforms to any applicable planning document which has been approved and/or adopted such as the State Water Quality Management Plan. This includes the planning, design, construction/implementation or any other distinct stage or phase of a project. ()

0045. -- 009. (RESERVED).

010. FINANCIAL AND MANAGEMENT CAPABILITY ANALYSIS.

No loans shall be awarded for ~~the construction of~~ projects unless the applicant has demonstrated and certified that it has the legal, ~~institutional~~ technical, managerial, and financial capabilities as provided for in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," to ensure construction, operation and maintenance, ~~including equipment replacement of the proposed wastewater treatment facility;~~ and to repay principal and interest which would be due on a loan. (1-1-89)()

01. Information Needed. Before an application will be considered complete, the applicant must submit all necessary information on a form prescribed by the Department along with an analysis of that information. The information shall include, but not be limited to, demographic information of the applicant, estimated construction or implementation costs, annual operating costs, and information regarding the financing of the project, including the legal debt limit of the applicant and the existence and amount of any outstanding bonds or other indebtedness which may affect the project; and (1-1-89)()

02. Incorporated Nonprofit Applicants. (7-1-93)

a. In addition to all other information required to be submitted by these rules ~~and regulations,~~ an incorporated nonprofit applicant must demonstrate to the satisfaction of the Department by its articles of incorporation and/or bylaws, that: (1-1-89)()

i. The corporation is nonprofit and lawfully incorporated pursuant to Chapter 3, Title 30, Idaho Code; and (1-1-89)

ii. The corporation is authorized to incur indebtedness to construct, improve or repair wastewater treatment facilities and/or implement water pollution control projects; and (1-1-89)()

iii. The corporation is authorized to secure indebtedness by pledging corporation property, including any revenues raised through a user charge system; and (1-1-89)

iv. The corporation exists either perpetually or for a period long enough to repay a wastewater treatment facility loan or water pollution control project loan; and (1-1-89)()

v. The corporation is capable of raising revenues ~~by fixing and collecting user charges~~ sufficient to repay a loan. (1-1-89)()

b. The Department may impose conditions on the making of a wastewater treatment facility loan or water pollution control project to an incorporated nonprofit applicant which are necessary to carry out the provisions of these rules and the provisions of Chapter 36, Title 39, Idaho Code. (1-1-89)()

03. Cost Allocation. An applicant proposing to construct wastewater treatment facilities designed to serve two (2) or more qualifying entities must show how the costs will be allocated among the participating entities.

Such applicants must provide an executed intermunicipal service agreement which, at a minimum, incorporates the following information: (1-1-89)

- a. The basis upon which the costs are allocated; and (1-1-89)
- b. The formula by which the costs are allocated; and (1-1-89)
- c. The manner in which the cost allocation system will be implemented. (1-1-89)

04. Waivers. The requirement in Subsection 010.03 may be waived by the Department if the applicant can demonstrate: (12-31-91)

- a. Such an agreement is already in place; or (1-1-89)
- b. There is documentation of a service relationship in the absence of a formal agreement; or (1-1-89)
- c. The entity providing wastewater treatment exhibits sufficient financial strength to continue the project if one (1) or more of the entities supplying wastewater fails to participate. (1-1-89)

(BREAK IN CONTINUITY OF SECTIONS)

020. INTEGRATED PRIORITY SYSTEM.

01. Purpose. An integrated priority rating system will be utilized by the Department to annually allot available funds to water quality projects determined eligible for funding assistance under the ~~construction~~ water pollution control loan program in accordance with these ~~regulations~~ rules. ~~Projects considered for priority rating will first be evaluated by Department field staff.~~ (1-1-89)(____)

02. ~~Priority Rating~~ Water Quality Project Ranking. ~~The~~ An integrated priority rating system of point source and eligible nonpoint source water pollution control projects shall first be primarily ranked based on ~~a weighted numerical points system wherein each succeeding prevention, control or abatement need is weighted less heavily than the preceding need. Priority criteria, listed herein in descending numerical weight, shall contain the following points~~ the following factors: (1-1-89)(____)

a. ~~Public health emergency, certified by the Board, caused by widespread contamination of surface or groundwater by human wastes—forty (40) points.~~ Project eliminates an officially declared or designated water-borne public health hazard or public health emergency. (1-1-89)(____)

b. ~~Project needed to meet enforceable requirements of Clean Water Act—thirty (30) points.~~ Project addresses watershed restoration as identified in the Unified Watershed Assessment and Restoration Priorities for Idaho. (1-1-89)(____)

c. ~~Public health hazard, identified by District Boards of Health or the Department, caused by limited contamination of surface or groundwater by human wastes—ten (10) points.~~ Project addresses watershed protection as identified in the Rules of the Department of Environmental Quality, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," or IDAPA 58.01.11, "Ground Water Quality Rule". (1-1-89)(____)

d. ~~Threat to special resource waters as documented by the Department under Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements"—ten (10) points.~~ Project addresses preventing watershed degradation. (1-1-89)(____)

e. ~~Restoration or enhancement of beneficial use:~~ (1-1-89)

i. ~~Potential public health hazard which is suspected but may not be documented by District Boards of~~

~~Health or the Department – five (5) points. (1-1-89)~~

~~ii. Potential water quality impacts other than public health which may affect a beneficial use of surface or groundwaters as identified in Idaho Department of Environmental Quality Rules, IDAPA 58, Title 01, Chapter 02, “Water Quality Standards and Wastewater Treatment Requirements” – five (5) points (1-1-89)~~

~~f. The points in Subsections 020.02.e.i. and 020.02.e.ii. shall be selected based on the proportion of the population in contact with the pollutant, the quantity of wastewater discharged in relation to the volume of the receiving water or the relation of the pollutant quantity to other pollutant sources. (12-31-91)~~

03. Department Guidelines. Secondary ranking under each factor in Subsection 020.02 will be established by Department guidelines, which will be approved and advertised each year. The additional ranking will include but not limited to the following: nexus/benefit to the municipality; project water quality effectiveness; readiness to proceed; cost effectiveness, etc. ()

034. Integrated Priority List. A list shall be developed annually from projects rated according to Subsection 020.02 and 020.03. Such list shall be submitted for public review and comment, and shall thereafter be submitted to the Board for approval and adoption. (12-31-91)()

04a. Priority Reevaluation. Whenever significant changes occur, which in the Department’s judgment would affect the design parameters or treatment requirements by either increasing or decreasing the need for or scope of any project, a reevaluation of that priority rating will be conducted. (1-1-89)

05b. Priority Target Date. An ~~qualifying entity~~ eligible applicant whose project is on the adopted priority list, and for which funding is available, will be contacted by the Department and a target date for submission of a completed loan application will be established. (1-1-89)()

06c. Project Bypass. A project that does not or will not meet the project target date or a Department schedule that allows for timely utilization of loan funds may be bypassed, substituting in its place the next highest ranking project(s) that is ready to proceed. A municipality project that is bypassed will be notified in writing of the reasons for being bypassed. (1-1-89)()

021. SUPPLEMENTAL GRANTS.

In conjunction with loans, the Department may award supplemental grants, not to exceed ninety percent (90%) of total eligible costs, to municipalities ~~from the Water Pollution Control Account~~ in the following manner: (1-1-89)()

01. Projects Not Funded By Loans. Planning and design projects may receive grant assistance up to ninety percent (90%) funding of eligible costs not funded by a loan; and (1-1-89)

02. Costs In Excess Of Financial Ability. Municipalities may receive supplemental grant assistance for eligible costs that exceed the amount a loan recipient is able to pay as determined by ~~the following~~ Department guidelines. (1-1-89)()

~~a. The annual user charge including operation, maintenance, replacement reserve and loan repayment, for a residential user exceeds one and three fourths percent (1.75%) of the median household income, as determined by the most recent decennial U.S. census when the applicant’s median household income is less than ten thousand dollars (\$10,000) annually; or (1-1-89)~~

~~b. The annual user charge, including operation, maintenance, replacement reserve and loan repayment, for a residential user exceeds two percent (2%) of the median household income, as determined by the most recent decennial U.S. census when the applicant’s median household income is between ten thousand dollars (\$10,000) and seventeen thousand dollars (\$17,000) annually; or (1-1-89)~~

~~e. The annual user charge, including operation, maintenance, replacement reserve and loan repayment, for a residential user exceeds two and one fourth percent (2.25%) of the median household income, as determined by the most recent decennial U.S. census when the applicant’s median household income exceeds~~

~~seventeen thousand dollars (\$17,000) annually.~~

~~(1-1-89)~~

03. Accrued Interest On Loans With Supplemental Grants. Interest will not be accrued during the design and construction phases on loan projects that also have a supplemental grant. ()

(BREAK IN CONTINUITY OF SECTIONS)

030. PROJECT FUNDING.

01. Nonpoint Source Implementation Funding. Eligible nonpoint source water pollution control projects may be funded when all of the following criteria are met: ()

- a. Consistent with and implements the Idaho Nonpoint Source Management Plan. ()
- b. Data is used to substantiate a nonpoint source pollutant problem or issue exists and is described or directly referenced. ()
- c. Completed project implementation plan or work plan. ()
- d. Project commitment documentation through demonstrated ability for loan repayment. ()
- e. The project includes documentation that the project owner(s), manager(s), or the sponsoring agency will maintain the project for the life of the project (i.e., Maintenance Agreement). ()
- f. The project provides adequate tracking and evaluation of the effectiveness of the water quality improvements being funded by either the project owner/manager or the sponsoring agency throughout the life of the project. ()
- g. The project demonstrates nexus/benefit to municipality through a letter of support from one (1) or more affected municipalities. ()

~~012.~~ Project Step Wastewater Treatment Facility Funding. Projects may be funded in steps: ~~(1-1-89)~~()

- a. Step 1. Facility planning, which will include: (1-1-89)
 - i. Preliminary engineering report prepared by an engineer licensed in the state of Idaho and on a form prescribed by the Department; or (1-1-89)
 - ii. For projects built with funds made available from EPA capitalization funds, a facility plan prepared in accordance with 40 CFR 35.2030, "Grants for Construction of Treatment Works; Final and Interim Rule". (1-1-89)
 - b. Step 2. Design which includes the preparation of the detailed engineering plans and specifications necessary for the bidding and construction of the project. (1-1-89)
 - c. Step 3. Construction, which includes bidding and actual construction of the project. (1-1-89)
 - d. Step 4. A combination of Step 2 and Step 3. (1-1-89)
- ~~02e.~~ Combination Step Funding. Projects may be funded in any combination of the steps with the approval of the Department. Separate loans may be awarded for Step 1 or Step 2 projects. If a Step 1 or Step 2 project proceeds to construction, either the Step 1 or Step 2 loan, or both, may be consolidated with the Step 3 loan. If a project does not proceed to construction, outstanding Step 1 and Step 2 loans will be amortized and a repayment schedule prepared by the Department. (1-1-89)

03f. Cost Effective Requirement. Step 2, Step 3 or Step 4 loans will not be awarded until a final cost effective alternative has been selected by the Step 1 facility plan or preliminary engineering report as approved by the Department. The cost effective alternative may be selected based on the comment received from at least one (1) public hearing attended by affected users within the jurisdiction of the ~~qualifying entity~~ eligible applicant and conducted in accordance with state law. (1-1-89)(____)

04g. Funding For Reserve Capacity. Funding for reserve capacity of a treatment plant will not exceed a twenty (20) year population growth and funding for reserve capacity of an interceptor will not exceed a forty (40) year population growth as determined by the Department. (1-1-89)

05h. Collector Sewer Eligibility. Eligibility for funding new collector sewers will be determined by the following criteria: (1-1-89)

i. If the existing sewage disposal systems create a public health hazard, are contaminating groundwater or are violating point source discharge requirements. (1-1-89)

ii. When population density within the collector system is less than two (2) occupied households per acre, collection systems will not be considered cost effective unless a severe pollution or public health problem is determined by the Department and collector sewers are less costly than alternatives. (1-1-89)

iii. The collector system will not provide capacity for new habitations on environmentally sensitive wetlands or prime agricultural lands unless, in the latter case, an adopted comprehensive plan identifies those agricultural lands as new growth areas. Collection systems for new habitations on flood plains will not be funded unless those areas are covered by an adequate flood plain management program as determined by the Department. (1-1-89)

iv. Financing of collector systems may be provided only from funds in the ~~Wastewater Facilities~~ Water Pollution Control Loan Account in excess of funds received directly from EPA capitalization grant funds unless the Governor exercises his authority to reserve EPA capitalization grant funds for collector systems. (1-1-89)(____)

063. Eligible Project Costs. Costs eligible for funding shall be determined from the scope of the project and may include, but not be limited to: (1-1-89)

a. Costs of salaries, benefits, and expendable material the qualified entity incurs in the project except ordinary operating expenses of local government such as salaries and expenses of a mayor, city council members or a city attorney. (1-1-89)

b. Costs under construction contracts bid and executed in compliance with state public works construction laws; (1-1-89)

c. Professional and consulting services; (1-1-89)

d. ~~Facility p~~Planning directly related to the ~~wastewater treatment facilities~~ water pollution control projects; (1-1-89)(____)

e. Sewer system evaluations; (1-1-89)

f. Financial and management capability analysis; (1-1-89)

g. Preparation of construction drawings, specifications, estimates, and construction contract documents; (1-1-89)

h. Landscaping; (1-1-89)

i. Removal and relocation or replacement of utilities for which the qualifying entity is legally obligated to pay; (1-1-89)

- j. Material acquired, consumed, or expended specifically for the project; (1-1-89)
- k. A reasonable inventory of laboratory chemicals and supplies necessary to initiate plant operations; (1-1-89)
- l. Preparation of an operation and maintenance manual; (1-1-89)
- m. Preparation of a plan of operation; (1-1-89)
- n. Start-up services; (1-1-89)
- o. Project identification signs; (1-1-89)
- p. Public participation for alternative selection; (1-1-89)
- q. Development of user charge and financial management systems; (1-1-89)
- r. Development of sewer use ordinance; (1-1-89)
- s. Staffing plans and budget development; (1-1-89)
- t. Certain direct and other costs as determined eligible by the Department; (1-1-89)
- u. Costs of assessing and defending contractor claims determined unmeritorious by the Department; (1-1-89)
- v. Costs of complying with the Federal Water Pollution Control Act (P.L. 92-500) as amended, 33 USC Section 1251 et seq. loan requirements applied to specific projects; and (1-1-89)
- w. ~~Right Site~~ acquisition costs, including sewer right of way, sewage treatment plant site, sanitation landfills and sludge disposal areas. ~~(1-1-89)~~()

074. Ineligible Project Costs. Costs which are ineligible for funding include, but are not limited to: (1-1-89)

- a. Basin or area wide planning not directly related to the project; (1-1-89)
- b. Bonus payments not legally required for completion of construction before a contractual completion date; (1-1-89)
- c. Personal injury compensation or damages arising out of the project; (1-1-89)
- d. Fines or penalties due to violations of, or failure to comply with, federal, state, or local laws; (1-1-89)
- e. Costs outside the scope of the approved project; (1-1-89)
- f. Ordinary operating expenses of local government, such as salaries and expenses of a mayor, city council members, or city attorney; (1-1-89)
- g. Construction of privately owned wastewater treatment facilities; (1-1-89)
- h. Cost of land in excess of that needed for ~~treatment or disposal of wastewater~~ the proposed project. ~~(1-1-89)~~()
- i. Cost of refinancing existing indebtedness. (1-1-89)

~~08. **Projects Funded With State Moneys.** Provided that funds are available in the Wastewater Facilities Loan Account, loans may be awarded for up to one hundred percent (100%) of eligible costs of projects which are on an approved priority list. Such loan projects awarded solely from state moneys are exempt from the sixteen (16) requirements of Title II of the Federal Clean Water Act which apply to projects funded with federal moneys. The reason for awarding loans with state moneys is to allow construction of projects which either are not eligible for federal funding or for which sufficient federal funds are not available. Separate accounting records will be maintained by the Department to track the fiscal records of those projects funded solely with state moneys. (1-1-89)~~

(BREAK IN CONTINUITY OF SECTIONS)

040. LOAN APPLICATION AND REVIEW.

01. Submission Of Application. The applicant shall submit to the Department, a completed application on a form as prescribed by the Department. (1-1-89)

02. Application Requirements. Applications shall contain a completed state loan application form and the following documentation, as applicable, approved or approvable by the Department in both form and content: (1-1-89)

- a. All loan applications: (1-1-89)
 - i. A lawful resolution passed by the governing body authorizing an elected official or chief financial officer of the qualifying entity to execute a loan contract and sign subsequent loan disbursement requests; (1-1-89)
 - ii. Contracts for architectural/engineering or other technical services, including justification for the firm selected and a certification of liability indemnification, as described in Subsection 050.05.d., which covers all such services rendered for all project phases, whether or not such services or phases are state funded; ~~(12-31-91)(_____)~~
 - iii. Preliminary plan of system revenue and loan repayment schedule; and (1-1-89)
 - iv. A legal opinion from the loan applicant's lawyer stating that the loan applicant has complied with all applicable federal, state and local laws including, if applicable, laws relating to the issuance of bonds and the incurrence of debt. The costs of such an opinion can be included as eligible project costs. (1-1-89)
- b. Step 1 - Facility Planning. Plan of study describing the work tasks to be performed in the preliminary engineering report or facility plan if required in accordance with Subsection 030.0~~1~~², a schedule for completion of the work tasks and an estimate of man hours and costs to complete the work tasks. ~~(12-31-91)(_____)~~
- c. Step 2 - Design, or Step 4 - Design and Construction: (1-1-89)
 - i. Preliminary engineering report or facility plan as appropriate, including a final environmental document and decision in accordance with Section 041; and (1-1-89)
 - ii. Financial and management capability analysis as provided in Subsection 010.01; and (12-31-91)
 - iii. Intermunicipal service agreements between all qualifying entities within the scope of the project, if applicable; and (1-1-89)
 - iv. Documented evidence of all necessary easements and land acquisition. (1-1-89)
- d. Step 3 - Construction: (1-1-89)

- i. Biddable plans and specifications of the approved wastewater treatment facility alternative; and (1-1-89)
- ii. A plan of operation and project schedule; and (1-1-89)
- iii. A user charge system, sewer use ordinance and financial management system; and (1-1-89)
- iv. A staffing plan and budget. (1-1-89)
- e. Step 4 - Design and Construction. Loan applicants must submit all documentation specified in Subsection 040.02.d. prior to advertising for bids on construction contracts. (12-31-91)

03. Acceptance Of Application. Applications will be accepted in accordance with the state integrated priority list target dates and no applications will be accepted for projects not rated on the ~~original~~ integrated priority list unless approved by the Director and the integrated priority list is amended. Incomplete applications lacking information may be returned to the applicant. Once complete information is provided, the application may be resubmitted. (~~1-1-89~~)(____)

04. Notification Of Approval. Written notification of application acceptance will be sent to the applicant. (1-1-89)

05. Notification Of Disapproval. Written notification of application rejection with the reasons for denial will be sent to the applicant. (1-1-89)

06. Reapplication For Loan. The action of disapproving, recalling or terminating a loan in no way precludes or limits the former applicant from reapplying for another loan when the project deficiencies are resolved and project readiness is secured. (1-1-89)

041. ENVIRONMENTAL REVIEW.

01. Environmental Documentation. For eligible nonpoint source projects funded solely with non-federal funds, see Subsection 041.08. The applicant shall consult with the Department during facility planning to determine the required level of environmental review. The Department will assess the possible environmental impacts associated with the project and will notify the applicant of the type of environmental documentation which will be required. Based upon the Department's determination, the applicant shall: (~~1-1-89~~)(____)

- a. Submit a request for categorical exclusion with supporting backup documentation as specified by the Department; (1-1-89)
- b. Prepare an environmental information document in a format specified by the Department; or (1-1-89)
- c. Prepare an environmental impact statement in a format specified by the Department. (1-1-89)

02. Review Of Request. If an applicant requests a categorical exclusion, the Department shall review the request and, based upon project documentation submitted by the applicant, shall: (1-1-89)

- a. Issue notice of categorical exclusion; (1-1-89)
- b. Notify the applicant of need for preparation of an environmental information document; or (1-1-89)
- c. Notify the applicant of need for preparation of an environmental impact statement. (1-1-89)

03. Environmental Information Document Requirements. If an environmental information document is required, the Department shall: (1-1-89)

- a. Conduct an environmental assessment based upon the applicant's environmental information

document and issue: (1-1-89)

- i. A draft finding of no significant impact; or (1-1-89)
- ii. A notice of need for preparation of an environmental impact statement. (1-1-89)
- b. Allow a thirty (30) day public comment period, following public notice, for all projects receiving a draft finding of no significant impact. If negative impacts are found during the public process, the Department will reassess the project to determine whether an environmental impact statement will be required. (1-1-89)
- c. Issue a final finding of no significant impact if no new information is received requiring a reassessment. (1-1-89)

04. Environmental Impact Statement Requirements. If an environmental impact statement is required, the applicant shall: (1-1-89)

- a. Contact all affected state agencies to determine the required scope of the document; and (1-1-89)
- b. Prepare and submit a draft environmental impact statement to all affected agencies for review and comment; and (1-1-89)
- c. Conduct a public hearing which may be in conjunction with a facility plan hearing; and (1-1-89)
- d. Prepare and submit a final environmental impact statement incorporating all agency and public input for Departmental review and approval. (1-1-89)

05. Approval Of Requirements. Upon completion by the applicant and approval by the Department of all requirements listed in Subsection 041.04.d., the Department will issue a record of decision documenting the mitigative measures which will be required of the applicant. The loan agreement will be conditioned upon such mitigative measures. (12-31-91)

06. Federal Environmental Review Use. If a federal environmental review for the project has been conducted, the Department may, in its discretion, adopt the document of the federal agency and issue its own determination. (1-1-89)

07. Validity Of Review. Environmental reviews are valid for five (5) years. If a loan application is received for a project with an environmental review which is more than five (5) years old, the Department will reevaluate the project, environmental conditions and public views and will: (1-1-89)

- a. Reaffirm the earlier decision; or (1-1-89)
- b. Require supplemental information to the earlier environmental impact statement, environmental information document, or request for categorical exclusion. Based upon a review of the updated document, the Department will issue and distribute a revised notice of categorical exclusion, finding of no significant impact, or record of decision. (1-1-89)

08. Exemption From Review. Loan projects funded solely with state moneys are exempt from the environmental review process described in this manual. Notice of such exemption will be provided to the loan applicant/recipient by the Department. (1-1-89)

(BREAK IN CONTINUITY OF SECTIONS)

050. LOAN OFFER AND ACCEPTANCE.

01. Loan Offer. Loan offers will be delivered to successful applicants by representatives of the Department or by registered mail. (1-1-89)

02. Acceptance Of Loan Offer. Applicants have sixty (60) days in which to officially accept the loan offer on prescribed forms furnished by the Department. The sixty (60) day acceptance period commences from the date indicated on the loan offer notice. If the applicant does not accept the loan offer within the sixty (60) day period the loan funds may be offered to the next project of priority. (1-1-89)

03. Acceptance Executed As A Contract Agreement. Upon signature by the Director or the Director's designee, and upon signature by the authorized representative of the ~~qualifying entity~~ eligible applicant, the loan offer shall become a contract. Upon accepting a loan offer a ~~qualifying entity~~ eligible applicant becomes a loan recipient. The disbursement of funds pursuant to a loan contract is subject to a finding by the Director that the loan recipient has complied with all loan contract conditions and has prudently managed the project. The Director may, as a condition of disbursement, require that a loan recipient vigorously pursue any claims it has against third parties who will be paid in whole or in part, directly or indirectly, with loan funds. No third party shall acquire any rights against the state or its employees from a loan contract. (~~1-1-89~~)()

04. Estimate Of Reasonable Cost. All loan contracts will include an estimate of the reasonable eligible costs of the project. (1-1-89)

05. Terms Of Loan Offers. The loan offer shall contain such terms as are prescribed by the Department including, but not limited to: (1-1-89)

a. Terms consistent with the rules and regulations set out in this manual, the project step to be funded under the loan offer, and Title 39, Chapter 36, Idaho Code; and (1-1-89)

b. Special clauses as determined necessary by the Department for the successful investigation, design, construction and management of the project; and (1-1-89)

c. Terms consistent with applicable state and federal laws pertaining to engineering reports, design and construction, including the Public Works Contractors License Act and the Public Contracts Bond Act, Chapter 19, Title 54, Idaho Code, and the federal Clean Water Act requirements for projects funded with loan moneys of federal origin; and (1-1-89)

d. Requirement for the prime architectural/engineering firm(s) and their principals retained for architectural/engineering services to carry professional liability indemnification to protect the public from the architect's/engineer's negligent acts and errors of omission of a professional nature. The total aggregate of the architect's/engineer's professional liability indemnification shall be one hundred thousand dollars (\$100,000) or twice the amount of the architect's/engineer's fee, whichever is greater. Professional liability indemnification must cover all such services rendered for all project phases, whether or not such services or phases are state funded, until the certification of project performance is accepted by the Department; and (1-1-89)

e. The project shall be bid, contracted and constructed according to the Idaho Standards for Public Works Construction unless the qualifying entity has approved and adopted acceptable public works construction standards; and (1-1-89)

f. The loan interest rate for loans made during the state fiscal year beginning July 1 will be established by the Director ~~by January 1 prior to the state fiscal year~~. The interest rate will be a fixed rate in effect for the life of the loan. The rate may equal but shall not exceed the current market rate; and (~~1-1-89~~)()

g. All loans must be fully amortized within a period not to exceed twenty (20) years after project completion. The loan contract will contain a schedule of loan repayments stating the due dates and the amount due. The borrower may elect for either a schedule of ~~quarterly repayments~~ semi-annual or annual repayments at the time the loan is finalized; and (~~1-1-89~~)()

h. Repayment default will occur when a scheduled loan repayment is ten (10) days past due. If default occurs, the Department may invoke appropriate loan contract provisions and/or bond covenants. (1-1-89)

051. ACCOUNTING AND AUDITING PROCEDURES.

~~Loan recipients~~ Municipalities receiving loans must maintain project accounts in accordance with generally accepted government accounting standards. These standards are usually defined as, but not limited to, those contained in the U.S. General Accounting Office (GAO) publication "Standards for Audit of Governmental Organization, Programs, Activities, and Functions," ~~published February 27, 1981~~. Eligible nonpoint source water pollution control implementation funding project sponsors will be audited on an annual basis according to generally accepted accounting procedures. (1-1-89)()

(BREAK IN CONTINUITY OF SECTIONS)

060. DISBURSEMENTS.

01. Loan Disbursements. ~~The loan contract will include a schedule of estimated disbursements to be made to the borrower. The schedule will include the anticipated dates and amounts of disbursements.~~ Requests to the Department for actual disbursement of loan proceeds will be made by the loan recipient on forms provided by the Department. (1-1-89)()

02. Loan Increases. An increase in the loan amount as a result of an increase in eligible project costs will be considered, provided funds are available. Documentation supporting the need for an increase must be submitted to the Department for approval prior to incurring any costs above the eligible cost ceiling. (1-1-89)

03. Loan Decreases. If the actual eligible cost is determined by the Department to be lower than the estimated eligible cost the loan amount will be reduced proportionately. (1-1-89)

04. Project Review To Determine Final Eligible Costs. A project review by the Department or a Department designee will determine the final eligible costs. (1-1-89)()

05. Final Disbursement. The final loan disbursement ~~consisting of five percent (5%) of the total loan amount~~ will not be made until final inspection, final review and a final loan repayment schedule have been completed. (1-1-89)()

061. LOAN CONSOLIDATION.

If two (2) or more loans are consolidated into one (1) loan, the interest rate for the consolidated loan will be at the same rate as the loan being consolidated with the lowest interest rate. ()

~~062.~~ -- 079. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

999. SEVERABILITY.

Idaho Department of Environmental Quality Rules, IDAPA 58.01.12, "Rules for Administration of ~~Wastewater Facility~~ Water Pollution Control Loans," are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance, is declared invalid, that invalidity does not affect the validity of any remaining portion of the chapter. (1-1-89)()

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.22 - RULES FOR ADMINISTRATION OF PLANNING GRANTS
FOR PUBLIC DRINKING WATER FACILITIES

DOCKET NO. 58-0122-0001 (originally 16-0122-0001)

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective July 26, 2000.

AUTHORITY: In compliance with Sections 67-5226(1) and 67-5221(1), Idaho Code, notice is hereby given that the Board of Environmental Quality has adopted a temporary rule and the Department of Environmental Quality (DEQ) is commencing proposed rulemaking to promulgate a final rule. The action is authorized by Sections 39-105 and 39-107, Idaho Code, and Chapter 36, Title 39, Idaho Code (amended by Senate Bill 1387).

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 20, 2000. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: This proposed rule implements the provisions of the 2000 legislation enacted under Senate Bill 1387 (codified at Sections 39-3624 through 39-3627, Idaho Code) wherein DEQ has been given the authority to provide grants to public drinking water systems in Idaho. The drinking water grant program will provide guidance for issuance of grants to eligible public drinking water systems in Idaho to do planning for drinking water construction projects. This will be a companion program to the existing wastewater facility grant program that is governed by IDAPA 58.01.04, "Rules for Administration of Wastewater Treatment Facility Grants". The proposed rules are in large part a mirror image of the existing rules for wastewater treatment facility grants, which serves as a template and format in drafting of the rules for drinking water system grants. Key topics included in the rules are: 1) Priority rating system, 2) limitations on pre-grant engineering, 3) review and evaluation of grant applications, 4) environmental reviews, 5) grant offer acceptance, 6) payments, and 7) waivers. The rules will affect eligible drinking water systems statewide.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2000 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2001 session of the Idaho Legislature.

NEGOTIATED RULEMAKING: The text of the rule is based on a consensus recommendation resulting from the negotiated rulemaking process conducted pursuant to Section 67-5220, Idaho Code, and IDAPA 04.11.01.812 through 815. The negotiation was open to the public. Participants in the negotiation included engineering consultants, water purveyors, water user associations, and DEQ staff. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, [Volume 00-5, May 3, 2000, page 23 and 24.](#)

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate because this rulemaking confers a benefit. Before public drinking water systems can use DEQ's revolving loan funds for construction projects they must first do planning studies. Paying for such studies has been a barrier to many projects in the past. The new grant program gives drinking water systems the financial help they need to begin planning work and move toward design and construction using Idaho's state revolving fund loans. DEQ estimates that adopting this rule as a temporary rules will shorten the time that grants are available by three to six months.

GENERAL INFORMATION: For more information about the Department of Environmental Quality's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the proposed rulemaking, contact Alan Stanford at (208)373-0502, astanfor@deq.state.id.us.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 27, 2000.

Dated this 17th day of July, 2000.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
Fax No. (208)373-0481
pgradwoh@deq.state.id.us

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0112-0001

IDAPA 58
TITLE 01
Chapter 22

**58.01.22 - RULES FOR ADMINISTRATION OF PLANNING GRANTS
FOR DRINKING WATER FACILITIES**

000. LEGAL AUTHORITY.

The Idaho Board of Environmental Quality, pursuant to authority granted in Chapters 1 and 36, Title 39, Idaho Code, adopted the following rules for the administration of a Drinking Water Planning Grant Program in Idaho. (7-26-00)T

001. TITLE AND SCOPE.

01. Title. These rules will be known and cited as Rules of the Idaho Department of Environmental Quality, IDAPA 58.01.22, "Rules for Administration of Planning Grants for Drinking Water Facilities". (7-26-00)T

02. Scope. The provisions of these rules will establish administrative procedures and requirements for establishing, implementing and administering a state grant program providing financial assistance to qualifying entities to prepare an engineering report in conformance with Chapter 5 of the "Drinking Water Facilities Loan Account Handbook of Procedures" to evaluate feasible treatment, storage and distribution alternatives for public drinking water systems. (7-26-00)T

002. WRITTEN INTERPRETATIONS.

As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706. (7-26-00)T

003. ADMINISTRATIVE PROCEDURES.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to Rules of the Department of Health and Welfare, IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings". (7-26-00)T

004. INCORPORATION BY REFERENCE.

These rules do not contain documents incorporated by reference. (7-26-00)T

005. CONFIDENTIALITY OF RECORDS.

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 3, Title 9, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality". (7-26-00)T

006. POLICY.

It is the policy of the Idaho Board of Environmental Quality, through the Idaho Department of Environmental Quality, to administer the Drinking Water Grant Program. The Drinking Water Grant Program provides assistance to eligible public drinking water systems for the planning of facilities to help ensure safe and adequate supplies of drinking water. It is also the intent of the Board of Environmental Quality to assign a priority rating to those projects which shall facilitate the compliance of any eligible public water system with national primary drinking water regulations applicable to the system, Idaho Rules for Public Drinking Water Systems, IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," and the Safe Drinking Water Act, 42 U.S.C. Sections 300f et seq. (7-26-00)T

007. SYSTEM ELIGIBILITY.

01. Eligible Systems. Public and private community water systems and nonprofit noncommunity water systems. (7-26-00)T

02. Systems Not Eligible. The following public drinking water systems will not be considered eligible for project planning grants: (7-26-00)T

a. Systems that do not have the financial capability to pay their non-grant share of a planning project. (7-26-00)T

b. Systems delinquent in payment of the annual state drinking water fee assessment. (7-26-00)T

008. -- 009. (RESERVED).

010. DEFINITIONS.

For the purpose of the rules contained in this chapter, the following definitions apply: (7-26-00)T

01. Applicant. Any qualifying entity making application for drinking water planning grant funds. (7-26-00)T

02. Board. The Board of Environmental Quality. (7-26-00)T

03. Categorical Exclusion (CE). Category of actions which do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. (7-26-00)T

04. Community Water System. A public water system that: (7-26-00)T

a. Serves at least fifteen (15) service connections used by year round residents of the area served by the system; or (7-26-00)T

b. Regularly serves at least twenty-five (25) year-round residents. (7-26-00)T

05. Construction. The erection, building, acquisition, alteration, reconstruction, improvement or extension of a public drinking water system, including preliminary planning to determine the economic and engineering feasibility of a public drinking water system, the engineering, architectural, legal, fiscal and economic investigations, reports and studies, surveys, designs, plans, working drawings, specifications, procedures and other action necessary in the construction of a public drinking water system, and the inspection and supervision of the construction. (7-26-00)T

06. Contaminant. Any physical, chemical, biological, or radiological substance or matter in water. (7-26-00)T

- 07. Department.** The Idaho Department of Environmental Quality. (7-26-00)T
- 08. Director.** The Director of the Idaho Department of Environmental Quality or his designee. (7-26-00)T
- 09. Distribution System.** Any combination of pipes, tanks, pumps, and other equipment which delivers water from the source(s) and/or treatment facility(ies) to the consumer. (7-26-00)T
- 10. Environmental Information Document (EID).** Any written environmental assessment prepared by an applicant or consultant describing the environmental impacts of a proposed drinking water construction project. This document will be of sufficient scope to enable the responsible official to assess the environmental impacts of the proposed project and ultimately determine if an environmental impact statement (EIS) is warranted. (7-26-00)T
- 11. Environmental Impact Statement (EIS).** A document prepared by the grantee in accordance with Environmental Review Procedures contained in Chapter 5 of the Handbook when the Department determines that the proposed drinking water construction project will significantly affect the environment as described in Appendix C of the Handbook. The major purpose of the EIS will be to describe fully the significant impacts of the project and how these impacts can be either avoided or mitigated. (7-26-00)T
- 12. Eligible Costs.** Costs which are necessary for planning public drinking water systems. To be eligible, costs must be reasonable, allowable and allocable. (7-26-00)T
- 13. Engineering Report.** Report prepared in conformance with Chapter 5 of the Handbook to evaluate feasible treatment, storage, and distribution alternatives for public drinking water systems. (7-26-00)T
- 14. Financial Capability.** The ability to raise and manage funds to provide the necessary resources for proper operation. (7-26-00)T
- 15. Finding Of No Significant Impact (FNSI).** A document prepared by the Department briefly presenting the reasons why an action, not otherwise excluded, will not have a significant effect on the human environment and for which an environmental impact statement (EIS) will not be prepared. It shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it. (7-26-00)T
- 16. Handbook.** "Drinking Water Loan Account Handbook of Procedures." (7-26-00)T
- 17. Ineligible Costs.** Costs which are not necessary for planning at a public drinking water system or which are not reasonable, allowable or allocable. (7-26-00)T
- 18. Maximum Contaminant Level (MCL).** The maximum permissible level of a contaminant in water which is delivered to any user of a public water system. (7-26-00)T
- 19. Managerial Capability.** The capabilities of the qualified entity to support the proper financial management and technical operation of the system. (7-26-00)T
- 20. Municipality.** Any county, city, special service district, nonprofit corporation or other governmental entity having authority to dispose of sewage, industrial wastes, or other wastes, or to provide for safe drinking water, any Indian tribe or authorized Indian tribal organization, or any combination of two (2) or more of the foregoing acting jointly, in connection with an eligible project. (7-26-00)T
- 21. Noncommunity Water System.** A public water system that is not a community water system. (7-26-00)T
- 22. Nontransient Noncommunity Water System (NTNCWS).** A public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. (7-26-00)T

23. Priority List. A list of proposed projects rated according to the priority rating system by severity of a risk to public health, the necessity to ensure compliance with, IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," and the Safe Drinking Water Act, 42 U.S.C., Sections 300f et seq., and the need on a household basis and for protection of Idaho's public drinking water supplies. (7-26-00)T

24. Public Drinking Water System. (7-26-00)T

a. In General. A system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: (7-26-00)T

i. Any collection, treatment, storage, and distribution facilities under control of the operator of such system, and used primarily in connection with such system; and (7-26-00)T

ii. Any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. A public drinking water system is either a "community water system" or a "noncommunity water system". (7-26-00)T

b. Connections. For purposes of Subsection 010.24.a., a connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection, if: (7-26-00)T

i. The water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses); (7-26-00)T

ii. The Director determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulation is provided for residential or similar uses for drinking and cooking; or (7-26-00)T

iii. The Director determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations. (7-26-00)T

c. Irrigation Districts. An irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use shall not be considered to be a public drinking water system if the system or the residential or similar users of the system comply with Subsections 010.24.b.ii. and 010.24.b.iii. (7-26-00)T

d. Transition Period. A supplier of water that would be a public drinking water system only as a result of modifications made to Subsection 010.24 by the Safe Drinking Water Act Amendments of 1996 shall not be considered a public drinking water system for purposes of the Safe Drinking Water Act until the date that is two (2) years after the date of enactment of the Safe Drinking Water Act Amendments of 1996. If a supplier of water does not serve fifteen (15) service connections (as defined in Subsections 010.24.a., 010.24.b., and 010.24.c.) or twenty-five (25) people at any time after the conclusion of the two (2) year period, the supplier of water shall not be considered a public drinking water system. (7-26-00)T

25. Qualifying Entity. Public and private community water systems and nonprofit noncommunity water systems. (7-26-00)T

26. Rehabilitation. The repair or replacement of segments of drinking water facilities. (7-26-00)T

27. Reserve Capacity. That portion of the system in the planned facilities to handle future drinking water demand. (7-26-00)T

28. Scope Of Project. The preparation of an engineering report which identifies the most cost

effective, environmentally sound drinking water system alternative to achieve or maintain compliance with, IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," and the Safe Drinking Water Act, 42 U.S.C., Sections 300f et seq., and which is approvable by the Department. (7-26-00)T

29. State. The state of Idaho. (7-26-00)T

30. Suspension. An action by the Director to suspend a grant contract prior to project completion for a specified cause. Suspended contracts may be reinstated. (7-26-00)T

31. Technical Capability. The ability of the public drinking water system to comply with existing and expected drinking water rules. (7-26-00)T

32. Termination. An action by the Director to permanently terminate a grant contract prior to project completion for a specific cause. Terminated contracts will not be reinstated. (7-26-00)T

33. Water Treatment Plant. That portion of the public drinking water system whose primary purpose is to remove contaminants. (7-26-00)T

34. Unreasonable Risk To Health (URTH). Refers to a level of contamination that presents an "unreasonable risk to health" and is determined on a contamination basis by the U.S. Environmental Protection Agency. (7-26-00)T

011. -- 019. (RESERVED).

020. PRIORITY RATING SYSTEM.

01. Priority Rating. Priority criteria shall contain the following points: (7-26-00)T

a. **Public Health Emergency.** Certified by the Department. Such emergencies shall be related to a waterborne outbreak, chemical or radiological contamination levels above URTH, or a failed water source - one hundred (100) points. (7-26-00)T

b. **Public Health Hazard.** Identified and verified by the Department. Points shall be given based on the presence and severity of waterborne illnesses - nineteen (19) points. (7-26-00)T

c. **Water Quality Violations.** Identified and verified by the Department. Points shall be given, based on maximum contaminant levels (MCLs) or based on treatment technique violations, for microbiological and chemical constituents - seventy-one (71) points. (7-26-00)T

d. **General Conditions of Existing Facilities.** Points shall be given based on deficiencies with facilities for pumping, treating, storing, and delivering drinking water - sixty-one (61) points. (7-26-00)T

e. **Overall Urgency.** Points shall be given to entities that need a new source of water to assure safety and adequate supply - ten (10) points. (7-26-00)T

f. **Consent or Administrative Orders.** Points shall be given if the system is operating under an order - thirty (30) points. (7-26-00)T

g. **Incentives.** Bonus points shall be awarded to systems that promote source water protection, conservation, economy, proper operation maintenance, and monitoring - sixteen (16) points. (7-26-00)T

h. **Affordability.** Points shall be given when current system user charges exceed state affordability guidelines - ten (10) points. (7-26-00)T

02. Priority List. A list shall be developed annually from projects rated according to the priority rating system. Such list shall be submitted for public review and comment, and shall thereafter be submitted to the Board for approval and adoption. (7-26-00)T

03. Priority Reevaluation. Whenever significant changes occur, which in the Department's judgment would affect the design parameters or treatment requirements by either increasing or decreasing the need for or scope of any project, a reevaluation of that priority rating will be conducted. (7-26-00)T

04. Priority Target Date. A qualifying entity whose project is on the adopted list will be contacted by the Department and a target date for submission of a completed grant application will be established. (7-26-00)T

05. Project Bypass. A project that does not or will not meet the project target date or a Department schedule that allows for timely utilization of grant funds may be bypassed, substituting in its place the next highest ranking project that is ready to proceed. A qualifying entity that is bypassed will be notified in writing of the reasons for being bypassed. (7-26-00)T

021. -- 029. (RESERVED).

030. PROJECT FUNDING.

Grant funds awarded under this program will be used entirely to prepare an engineering report which identifies the most cost effective, environmentally sound drinking water system alternative to achieve or maintain compliance with the Idaho Rules for Public Drinking Water Systems, IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," and the Safe Drinking Water Act, 42 U.S.C., Sections 300f et seq., and which is approvable by the Department. The engineering report will be prepared in accordance with Chapter 5 of the Handbook and certified by a registered professional engineer licensed in the state of Idaho. The report must be reviewed and approved by the Department. The planning period shall be twenty (20) years for all facilities except distribution and transmission systems may be forty (40) years. The most cost effective environmentally sound alternative may be selected based in part on public comments received from at least one (1) public hearing attended by intended users within the jurisdiction of the qualifying agency conducted in accordance with state law. (7-26-00)T

01. Limitation On Funding Assistance. The maximum grant funding provided in a state planning grant award shall not exceed fifty percent (50%) of the total eligible costs for grants awarded. (7-26-00)T

02. Eligible Project Costs. Costs eligible for funding shall be determined from the scope of the project and may include, but are not limited to: (7-26-00)T

a. Costs of salaries, benefits, and expendable material the qualified entity incurs in the project except ordinary expenses of local government such as salaries and expenses of a mayor; city council members; board; or a city, district or board attorney; (7-26-00)T

b. Professional and consulting services utilizing any type of contract except cost plus percentage of construction. (7-26-00)T

c. Engineering directly related to the planning of public drinking water treatment, storage and distribution facilities including but not limited to the preparation of an engineering report and environmental review report; (7-26-00)T

d. Financial, technical and management capability analysis; (7-26-00)T

e. Public participation for alternative selection; (7-26-00)T

f. Certain direct and other costs as determined eligible by the Department; and (7-26-00)T

g. Site acquisition services which could include legal fees, appraisals and surveys for land associated with the cost-effective alternative in the report and for land for purchase through future State Revolving Fund loan funding. (7-26-00)T

03. Ineligible Costs. Costs which are ineligible for funding for the planning of the drinking water facilities include but are not limited to: (7-26-00)T

- a. Basin or area wide planning not directly related to the project; (7-26-00)T
- b. Personal injury compensation or damages arising out of the project; (7-26-00)T
- c. Fines or penalties due to violations of, or failure to comply with, federal, state, or local laws; (7-26-00)T
- d. Costs outside the scope of the approved project; (7-26-00)T
- e. Ordinary operating expenses of local government, such as salaries and expenses of a mayor, city council members, or city attorney; (7-26-00)T
- f. Preparation of a grant application; (7-26-00)T
- g. All costs related to assessment, defense and settlement of disputes; (7-26-00)T
- h. Costs of supplying required permits or waivers; (7-26-00)T
- i. Costs incurred prior to award of the grant unless specifically approved in writing as eligible pre-award costs by the Department; (7-26-00)T
- j. Engineering costs incurred prior to approval of the engineering contract or those costs in excess of the contract ceiling unless preapproval has been given in writing by the Department; and (7-26-00)T
- k. Land acquisition costs and associated costs other than those listed as eligible in Subsection 030.02.g. (7-26-00)T

031. REVIEW AND EVALUATION OF GRANT APPLICATIONS.

01. Submission Of Application. The applicant shall submit to the Department, a completed application in a form prescribed by the Department. (7-26-00)T

02. Application Requirements. Applications shall contain the following documentation approved or approvable by the Department: (7-26-00)T

- a. An authorizing resolution passed by a majority of the governing body authorizing an elected official or chief financial officer of the qualifying entity to commit funding; and (7-26-00)T
- b. Contracts for engineering services, including justification for the firm selected; (7-26-00)T
- c. A certification of professional liability indemnification for a total aggregate of one hundred thousand dollars (\$100,000) or twice the amount of the engineering firm's fee, whichever is greater, which covers all such services rendered for all project steps whether or not such services or steps are state funded; and (7-26-00)T
- d. A statement regarding how the non-grant portion of the project will be funded. (7-26-00)T

03. Acceptance Of Application. Applications will be accepted in accordance with the state priority list target dates and no applications will be accepted for projects not rated on the priority list unless approved by the Board in instances of a public health emergency as provided in Subsection 020.01.a. (7-26-00)T

04. Basis Of Evaluation Of Applications. The evaluation by the Department for the approval of grant applications will include, but not be limited to, consideration of the following items: (7-26-00)T

- a. Adequate justification for selected engineering services. An engineer selected by the applicant must as a minimum: (7-26-00)T
 - i. Be procured through the selection guidelines and procedures prescribed under Idaho law; and

(7-26-00)T

ii. Be a registered professional engineer currently licensed by the Idaho Board of Professional Engineers and Land Surveyors; and (7-26-00)T

iii. Not be debarred or otherwise prevented from providing services under another federal or state financial assistance program; and (7-26-00)T

iv. Be covered by professional liability indemnification to protect the public from the engineer's negligent acts and errors of omission of a professional nature. The total aggregate of the engineer's professional liability shall be one hundred thousand dollars (\$100,000) or twice the amount of the engineer's fee, whichever is greater. (7-26-00)T

b. An incorporated nonprofit applicant must show by its Articles of Incorporation and/or Bylaws that it is nonprofit and incorporated according to Chapter 3, Title 30, Idaho Code. (7-26-00)T

c. Demonstration of the financial capability to fund the non-grant portion of the project. (7-26-00)T

05. Notification Of Disapproval. Written notification of disapproval with the reasons for denial will be sent to the applicant. (7-26-00)T

06. Reapplication For Grant. The action of disapproving, recalling or terminating a grant in no way precludes or limits the former applicant from reapplying for another grant when project deficiencies are resolved and project readiness is secured, provided the applicant remains on the approved priority list. (7-26-00)T

032. -- 039. (RESERVED).

040. ENVIRONMENTAL REVIEW.

01. Overview Of Process. The applicant will complete an environmental review in accordance with Chapter 5 of the Handbook. The applicant shall also consult with the Department at an early stage in the preparation of the engineering report to determine the required level of environmental review. Based on review of existing information, the Department shall assess potential environmental impacts and shall instruct the applicant to either: (7-26-00)T

a. Submit a request for Categorical Exclusion (CE) with supporting backup documentation as specified by the Department; (7-26-00)T

or
b. Prepare an Environmental Information Document (EID) in a format specified by the Department; (7-26-00)T

c. Prepare an Environmental Impact Statement (EIS) in a format specified by the Department. (7-26-00)T

02. Use Of Environmental Reviews Prepared By Other Agencies. If an environmental review for the project has been conducted by another state, federal, or local agency, the Department may, in its discretion, issue its own determination by adopting the document of the other agency. (7-26-00)T

03. Validity Of Review. Environmental reviews are valid for five (5) years. If a grant application is received for a project with an environmental review which is more than five (5) years old, the Department shall reevaluate the project, environmental conditions, and public comments and shall: (7-26-00)T

a. Reaffirm the earlier decision; or (7-26-00)T

b. Require supplemental information to the earlier Environmental Impact Statement, Environmental Information Document, or request for Categorical Exclusion. Based upon a review of the updated document, the Department shall issue and distribute a revised notice of Categorical Exclusion, finding of no significant impact, or

record of decision.

(7-26-00)T

041. -- 049. (RESERVED).

050. GRANT OFFER AND ACCEPTANCE.

01. Grant Offer. Grant offers will be delivered to successful applicants by representatives of the Department or by registered mail. (7-26-00)T

02. Acceptance Of Grant Offer. Applicants have sixty (60) days in which to officially accept the grant offer on prescribed forms furnished by the State. The sixty (60) day acceptance period commences from the date indicated on the grant offer notice. If the applicant does not accept the grant offer within the sixty (60) day period, the grant funds may be offered to the next project of priority. (7-26-00)T

03. Acceptance Executed As A Contract Agreement. Upon signature by the Director or the Director's designee as the grantor, and upon signature by the authorized representative of the qualifying entity, as the grantee, the grant offer shall become a grant contract agreement. The disbursement of funds pursuant to an agreement is subject to a finding by the Director that the grantee has complied with all agreement conditions and has prudently managed the project. The Director may, as a condition of payment, require that a grantee vigorously pursue any claims it has against third parties who will be paid in whole or in part, directly or indirectly, with grant funds or transfer its claim against such third parties to the Department. Grant contract agreements shall be interpreted according to the law of grants in aid. No third party shall acquire any rights against the State or its employees from a grant contract agreement. (7-26-00)T

04. Estimate Of Reasonable Cost. Each grant project contract will include an estimate of the reasonable eligible cost of the project. (7-26-00)T

05. Terms Of Agreement. The grant offer shall contain terms of agreement as prescribed by the Department including, but not limited to special conditions as determined necessary by the Department for the successful planning of the project. (7-26-00)T

051. -- 059. (RESERVED).

060. PAYMENTS.

01. Payments For State Grants. Notification that payment is warranted will be provided according to the latest approved payment schedule by submission of reports showing expenditures upon which state payments in a proportional amount of eligible costs will be made. (7-26-00)T

02. Grant Increases. Grant amendment increase requests as a result of an increase in eligible project costs will be considered, provided funds are available. Documentation and justification supporting the unavoidable need for a grant increase must be submitted to the Department for approval prior to incurring any costs above the approved eligible cost ceiling. (7-26-00)T

03. Grant Decreases. If the actual eligible cost is determined to be lower than the estimated eligible cost the grant amount will be reduced proportionately. (7-26-00)T

04. Final Project Audit To Determine Actual Eligible Costs. The final project audit by the Department will determine the actual eligible costs. The audit may be deferred until the audit of the design/construction loan is performed. (7-26-00)T

05. Final Payment. The final payment consisting of five percent (5%) of the total state grant will not be made until after final approval of the engineering, completion of the environmental review process, and the audit has been completed or deferred. (7-26-00)T

061. -- 069. (RESERVED).

070. SUSPENSION OR TERMINATION OF GRANT.

01. Causes. The Director may suspend or terminate any grant for failure by the grantee or its agents, including his engineering firm(s), contractor(s) or subcontractor(s) to perform. A grant may be suspended or terminated for good cause including, but not limited to, the following: (7-26-00)T

a. Commission of fraud, embezzlement, theft, forgery, bribery, misrepresentation, conversion, malpractice, misconduct, malfeasance, misfeasance, falsification or unlawful destruction of records, or receipt of stolen property, or any form of tortious conduct; or (7-26-00)T

b. Commission of any crime for which the maximum sentence includes the possibility of one (1) or more years imprisonment or any crime involving or affecting the project; or (7-26-00)T

c. Violation(s) of any term of agreement of the grant offer or contract agreement; or (7-26-00)T

d. Any willful or serious failure to perform within the scope of the project, plan of operation and project schedule, terms of engineering subagreements, or contracts for construction; or (7-26-00)T

e. Debarment of an engineering firm, contractor or subcontractor for good cause by any federal or state agency from working on public work projects funded by that agency. (7-26-00)T

02. Notice. The Director will notify the grantee in writing and by certified mail of the intent to suspend or terminate the grant. The notice of intent shall state: (7-26-00)T

a. Specific acts or omissions which form the basis for suspension or termination; and (7-26-00)T

b. That the grantee may be entitled to appeal the suspension or termination pursuant to Rules of the Department of Health and Welfare, IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (7-26-00)T

03. Determination. A determination will be made by the Board pursuant to Rules of the Department of Health and Welfare, IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings". (7-26-00)T

04. Reinstatement Of Suspended Grant. Upon written request by the grantee and evidence that the cause(s) for suspension no longer exist, the Director may, if funds are available reinstate the grant. (7-26-00)T

05. Reinstatement Of Terminated Grant. No terminated grant shall be reinstated. (7-26-00)T

071. -- 079. (RESERVED).

080. WAIVERS.

Waivers from the requirements of these rules may be granted by the Department on a case-by-case basis upon full demonstration that a significant public health emergency exists. (7-26-00)T

081. -- 999. (RESERVED).

Subjects Affected Index

IDAPA 07 - DIVISION OF BUILDING SAFETY, ELECTRICAL BUREAU

07.01.06 - RULES GOVERNING THE USE OF NATIONAL ELECTRICAL CODE

Docket No. **07-0106-0001**

011. National Electrical Code, 1999 Edition..... 17

07.01.11 - RULES GOVERNING CIVIL PENALTIES

Docket No. **07-0111-0001**

000. Legal Authority..... 19

001. Title And Scope..... 19

002. Written Interpretations..... 19

003. Administrative Appeals..... 19

004. Incorporation By Reference..... 19

005. Office -- Office Hours -- Mailing Address And Street Address..... 19

011. Civil Penalties..... 19

07.03.11 - RULES GOVERNING MANUFACTURED/MOBILE HOME LICENSING

Docket No. **07-0311-0001**

030. Manufactured Home Buyer's Information And Disclosure Form..... 21

IDAPA 09 - IDAHO DEPARTMENT OF LABOR

09.01.30 - RULES OF THE BENEFITS BUREAU

Docket No. **09-0130-0001**

425. New Claims/additional Claims..... 24

09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU

Docket No. **09-0135-0001**

011. General Provisions..... 30

166. Field Operations Control..... 31

241. Board, Lodging, Meals..... 33

262. Determination Of Proper Quarter In Which To Assign And Report Wages..... 34

09.01.50 - RULES OF THE WAGE AND HOUR SECTION

Docket No. **09-0150-0001**

000. Legal Authority..... 36

001. Title And Scope..... 36

002. Written Interpretations..... 36

003. Administrative Appeals..... 36

004. Incorporation By Reference..... 36

005. -- 020. (Reserved)..... 36

021. Dismissal Of Wage Claim For Lack Of Prosecution..... 36

022. -- 999. (Reserved)..... 36

IDAPA 10 - IDAHO BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

10.01.01 - RULES OF PROCEDURE

Docket No. **10-0101-0001**

009. Order Of Business..... 38

011. Fees..... 38

013. Publications..... 39

016. Application For Registration Or Certification.....	39
017. Examinations.....	40
10.01.02 - RULES OF PROFESSIONAL RESPONSIBILITY	
Docket No. 10-0102-0001	
005. Responsibility To The Public.....	43
10.01.03 - RULES FOR CORNER PERPETUATION AND FILING	
Docket No. 10-0103-0001	
002. Administrative Appeals.....	45
005. Form.....	46
015. Public Records Act Compliance.....	46
10.01.04 - RULES OF CONTINUING PROFESSIONAL DEVELOPMENT	
Docket No. 10-0104-0001	
005. Requirements.....	47
007. Determination Of Credit.....	48
009. Exemptions.....	48
IDAPA 11 - IDAHO STATE POLICE	
11.02.01 - RULES OF THE IDAHO STATE BRAND BOARD	
Docket No. 11-0201-0001 (Fee Rule)	
001. Title And Scope.....	51
002. Written Interpretations.....	51
003. Administrative Appeals.....	51
004. Mailing Address And Office Hours.....	51
005. Definitions.....	51
006. -- 010. (Reserved).....	53
011. Recording, Use And Placement Of Brands.....	53
015. Brand Alternatives.....	55
019. Brand Inspections.....	55
021. Annual Brand Inspection Certificate.....	57
022. Certificates Of Ownership And Transportation.....	57
030. Transportation Of Livestock.....	58
034. Schedule Of Fees For The Idaho State Brand Board.....	58
040. Claims For Funds Or Livestock Subject To A Hold Order.....	59
041. -- 049. (Reserved).....	60
050. Locations Of The Offices Of The Idaho State Brand Board.....	60
11.05.01 - RULES GOVERNING ALCOHOL BEVERAGE CONTROL	
Docket No. 11-0501-0001	
001. Title And Scope.....	62
002. Written Interpretations.....	62
003. Administrative Appeals.....	62
004. Mailing Address And Office Hours.....	62
005. Public Records Availability.....	62
006. -- 009. (Reserved).....	62
010. Definitions.....	62
11.10.01 - RULES GOVERNING THE ILETS SYSTEM - IDAHO LAW ENFORCEMENT TELETYPEWRITER SYSTEM	
Docket No. 11-1001-0003	
018. User Access Fees.....	67

**IDAPA 15 - OFFICE OF THE GOVERNOR
IDAHO COMMISSION ON AGING**

15.01.03 - RULES GOVERNING OMBUDSMAN FOR THE ELDERLY PROGRAM

Docket No. **15-0103-0001**

021. Staffing..... 70

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.08 - VITAL STATISTICS RULES

Docket No. **16-0208-0001**

251. Fees For Copies, Searches, And Other Services..... 72

16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO

Docket No. **16-0304-0001**

002. Definitions..... 75
218. Persons Disqualified As Food Stamp Household Members..... 79
287. Ineligibility For A Felony Conviction For Possession, Use, Or Distribution
Of A Controlled Substance..... 80
321. Resources Of Disqualified Household Members..... 80
542. Costs Allowed For Shelter Deduction..... 81
774. Excluded Household Members. 82
775. Food Stamps For Households With Ipv Members, Ineligible Fugitive Felon, Probation/
Parole Violator, Or A Member Convicted Of A Controlled Substance-related Felony..... 82

16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM IN IDAHO

Docket No. **16-0309-0006**

541. nutritional Services..... 89
543. Oxygen And Related Equipment..... 89

Docket No. **16-0309-0007**

201. Definitions..... 91
203. Investigation. 92
206. Denial Of Payment. 92
207. Recoupment. 93
215. Permissive Exclusions..... 93

16.04.12 - RULES GOVERNING THE INDIVIDUAL AND FAMILY GRANT PROGRAM

Docket No. **16-0412-0001**

000. Legal Authority. 95
001. Title And Scope..... 95
002. Written Interpretations..... 95
003. Administrative Appeal..... 95
004. Rule Availability..... 95
005. Definitions..... 95
006. Abbreviations..... 96
007. -- 199. (Reserved)..... 96
200. Applications..... 96
201. -- 299. (Reserved)..... 96
300. Duplication Of Benefits..... 96
301. -- 399. (Reserved)..... 97
400. Eligible Categories. 97
401. -- 499. (Reserved)..... 98
500. Grant Payments. 98

501. Minimum Grant Payment.....	98
502. -- 599. (Reserved).....	98
600. Overpayments.....	98
601. -- 799. (Reserved).....	98
800. Availability Of Funds.....	98
801. -- 899. (Reserved).....	98
900. Confidentiality.....	98
901. -- 999. (Reserved).....	98
16.06.02 - RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING	
Docket No. 16-0602-0001	
000. Legal Authority.....	100
001. Title And Scope.....	100
002. Written Interpretations.....	100
003. Administrative Appeals.....	100
004. Incorporation By Reference.....	100
005. Policy.....	101
006. Definitions.....	101
007. -- 099. (Reserved).....	104
100. Licensing And Certification.....	104
101. Applications For License Or Certification.....	105
102. Disposition Of Applications.....	105
103. Restrictions On Applicability.....	107
104. Mandatory Visitations.....	107
105. Revisit, Relicense And Recertification.....	107
106. Complaints Against Foster Homes, Children's Residential Care Facilities And Children's Agencies.....	107
107. Suspension For Circumstances Beyond Control Of Foster Parent Or Operator.....	107
108. Suspension Or Revocation For Infractions.....	107
109. Non-renewal, Denial, Revocation, Or Suspension Of License Or Certification.....	108
110. -- 299. (Reserved).....	108
300. Standards For Day Care.....	108
301. -- 399. (Reserved).....	112
400. Standards For Foster Homes.....	112
401. Licensing Provisions Related To The Indian Child Welfare Act.....	112
402. Foster Parent Qualifications And Suitability.....	112
403. Member Of Household Qualifications And Suitability.....	113
404. Criminal History Checks.....	113
405. Initial Evaluation.....	113
406. Subsequent Evaluations.....	115
407. Foster Parent Duties.....	115
408. Foster Parent Training.....	116
409. -- 429. (Reserved).....	116
430. Child Care And Safety Requirements.....	116
431. Installation, Maintenance And Inspection Of Flame And Heat Producing Equipment.....	116
432. Smoke And Carbon Monoxide Detecting Devices.....	116
433. Exits.....	117
434. Dangerous And Hazardous Materials.....	117
435. Firearms And Ammunition.....	117
436. Pets And Domestic Animals.....	117
437. Adequate Heat, Light, And Ventilation.....	117
438. Bathrooms, Water Supply, And Sewage Disposal.....	117

439. Transportation	118
440. Telephone	118
441. Wheelchair Access	118
442. Child Placement Requirements	118
443. Interagency Placement Of Children	119
444. Substitute Care Placement And Children's Agency Notification	119
445. Bedrooms	119
446. Behavior Management And Discipline	120
447. Medical And Dental Care	121
448. Personal Care And Hygiene	121
449. Food And Nutrition	121
450. Necessary Clothing	121
451. Personal Possessions, Allowances, And Money	121
452. Child Tasks	121
453. Education	122
454. Religious And Cultural Practices	122
455. Recreation	122
456. Mail	122
457. -- 469. (Reserved)	122
470. Record Management And Reporting Requirements	122
471. Reporting Foster Home Changes	122
472. Confidentiality	123
473. Unusual Incident Notification	123
474. -- 499. (Reserved)	123
500. General Standards For Organizations Known As Children's Agencies And Children's Residential Care Facilities	123
501. Access By Department Authorized Agents	123
502. Compliance Required	123
503. Notification To The Licensing Authority	123
504. Notification To The Licensing Authority No Later Than One Day	123
505. Unauthorized Absences	124
506. Death Of A Child In Care Notification	124
507. -- 519. (Reserved)	124
520. Written Bylaws	124
521. Governing Body Required	124
522. Delineation Of Job Responsibilities	124
523. Organizational Chart, Policies And Procedures	124
524. Insurance Coverage	124
525. Quality Of Services Environment	124
526. Research Protections For Persons Served	124
527. Confidentiality And Privacy Protections Of Persons Served	125
528. Description Of Services	125
529. Intake Policy	125
530. -- 534. (Reserved)	125
535. Sufficient Financial Resources	125
536. Annual Audit	125
537. -- 544. (Reserved)	125
545. Human Resources Needed	125
546. Staff Recruitment, Hiring, Supervision, Training, Evaluation, Promotion And Discipline	125
547. Person Filling More Than One Position	126
548. Employee Qualifications Under Previous Rules	126
549. Tuberculosis Screening	126

550. Volunteer Supervision.....	126
551. Employee And Volunteer Orientation.....	126
552. Employee And Volunteer Training.....	127
553. -- 559. (Reserved).....	127
560. Permanent Register.....	127
561. Content Of Child's Record.....	127
562. Authorizations Required.....	128
563. Service Plans.....	129
564. Shelter Care Admission And Plans.....	129
565. Maintenance Of Records.....	129
566. Record Retention.....	130
567. -- 569. (Reserved).....	130
570. Reporting Of Child Abuse And Neglect.....	130
571. Health Services.....	130
572. Dental Services.....	130
573. Non-violent Physical Intervention.....	130
574. Client Grievance Policy.....	131
575. Suicide Prevention Plan.....	131
576. Clothing.....	131
577. Visitation Policy.....	131
578. Correspondence Policy.....	131
579. Religious And Culture Policy.....	131
580. Education Policy.....	132
581. Personal Possessions, Allowance, And Money Policy.....	132
582. Emergency Policies.....	132
583. -- 599. (Reserved).....	132
600. Additional Standards For Children's Agencies.....	132
601. Chief Administrator Position And Qualifications.....	132
602. Service Worker Supervisor Position.....	133
603. Service Worker Supervisor Responsibilities.....	133
604. Social Worker Position And Qualifications.....	133
605. Service Worker Position And Qualifications.....	133
606. Social Worker Or Service Worker Responsibilities.....	133
607. Self-supervision Prohibited.....	133
608. Staff Workloads.....	133
609. Certification Training.....	133
610. -- 614. (Reserved).....	134
615. Additional Provisions For Foster Home Certification.....	134
616. Program Description.....	134
617. Licensing And Certification Agency Policies And Procedures For Foster Homes.....	134
618. Application Request Process.....	134
619. Application Submission, Withdrawal, And Denial Process.....	134
620. Initial And Subsequent Family Foster Home Evaluation Study Process And Contents.....	134
621. Training.....	134
622. Placement Agreement Required Contents.....	134
623. Complaint Investigation, Basis, Time Requirements, Notifying Foster Parents, Contents, And Process.....	134
624. Records Management, Maintenance, Availability To Foster Parent, And Contents.....	135
625. -- 629. (Reserved).....	136
630. Additional Placement Considerations.....	136
631. Emergency Evacuation Plan.....	136
632. Unusual Incident Policy.....	136

633. Service Plans And Participants	136
634. Children's Agency Supervision Of Child.....	136
635. -- 649. (Reserved).....	136
651. Program Statement For Transitional Living Services.....	136
652. Policies And Procedures For Transitional Living Services	136
653. Record Management.....	137
654. Service Components.....	137
655. Transitional Living Placement	137
656. Supervision And Support.....	137
657. Termination Of Transitional Living Services.....	138
658. Required Information For Youth At Service Termination.....	138
659. (Reserved).....	138
661. Adoption Services - Nonprofit Status.....	138
662. Program Statement.....	138
663. Written Policies And Procedures - Adoption.....	139
664. Services For Children Shall Be The Primary Consideration.....	139
665. Services For Child's Birth Parents.....	139
666. Services For Adoptive Applicants.....	139
667. Recruitment Of Adoptive Applicants.....	139
668. Payment Limitations In Adoption.....	140
669. Prohibition Of Contributions In Adoptions.....	140
670. Prohibition Of Staff Adoptions.....	140
671. Family Home Study, Adoption, Application Process And Content.....	140
672. Services For Adoptive Parents.....	141
673. Selection Of An Adoptive Placement.....	141
674. Conditions For Placement In An Adoptive Home.....	141
675. Adoptive Parent Information.....	142
676. Supervision.....	142
677. -- 679. (Reserved).....	142
680. Additional Provisions For Inter-country Adoption Services.....	142
681. Inter-country Adoption Services.....	142
682. Legal Requirements For Inter-country Adoption Services.....	143
683. Financial.....	143
684. Inter-country Adoption Services To Adoptive Parents.....	143
685. Collecting And Exchanging Information About A Child.....	143
686. Post-placement And Post-finalization Adoption Services.....	144
687. -- 699. (Reserved).....	144
701. -- 704. (Reserved).....	144
705. Chief Administrator Qualifications.....	144
706. Service Worker Supervisor Qualifications.....	144
707. Direct Care Staff Supervisor Qualifications.....	144
708. Service Worker Qualifications.....	145
709. Direct Care Staff Qualifications.....	145
710. Required Staff Ratios.....	145
711. House Parent Relief Staff.....	145
712. Staff Training.....	145
713. -- 714. (Reserved).....	145
715. Compliance With Applicable Laws.....	146
716. Children's Residential Care Facility Building Requirements.....	146
717. National Electrical Code Compliance.....	146
718. Fire Safety Requirements.....	146
719. Emergency Procedures.....	146

720. Emergency Drills.....	146
721. District Health Department Inspection.....	147
722. Buildings, Grounds, Furnishings And Equipment.....	147
723. Maintenance.....	147
724. Equipment Storage.....	147
725. Service Sink.....	147
726. Lead Paint.....	147
727. Lighting.....	147
728. Heating.....	147
729. Bathroom Facilities.....	148
730. Sleeping Rooms.....	148
731. Beds.....	148
732. Storage Of Poisonous And Toxic Materials.....	148
733. Flammable Liquids.....	148
734. Firearms.....	148
735. Sufficient Recreational Space.....	148
736. General Safety Provisions.....	148
737. Diapering And Sanitation.....	149
738. -- 744. (Reserved).....	149
745. Education Program.....	149
746. Work.....	149
747. Recreation, Physical Exercise, And Leisure Time Activities.....	149
748. Sleep.....	149
749. Swimming Pool, Pond, Or Other Body Of Water.....	150
750. Water Front.....	150
751. Supervision Of Recreational Activity.....	150
752. Medication Storage And Administration.....	150
753. Universal Precautions.....	151
754. First Aid Kit.....	151
755. Nutrition.....	151
756. Animals And Pets.....	151
757. Use Of Tobacco Products, Alcohol, And Illegal Drugs Prohibited.....	151
758. Transporting Children.....	151
759. Contraband.....	152
760. Searches.....	152
761. Behavior Management And Discipline Policy.....	153
762. Time-out.....	154
763. Seclusion.....	154
764. Locked Seclusion.....	155
765. Locked Seclusion Room Requirements.....	156
766. Mechanical Restraint.....	156
767. Alternative Forms Of Restraint.....	158
768. Transportation Of Children In Restraints.....	159
769. (Reserved).....	159
770. Additional Provisions For Children's Residential Maternity Care.....	159
771. Service Worker Available.....	159
772. Prenatal And Postpartum Care.....	159
773. Discharge Plans.....	160
774. -- 779. (Reserved).....	160
780. Additional Provisions For Children's Alcohol-drug Abuse Residential Care Facilities.....	160
781. Diagnosis.....	160
782. Treatment Focus.....	160

783. Care To Children And Adult Residents.	160
784. Staff Qualifications For Children's Alcohol-drug Abuse Residential Facility.....	160
785. After Care Plan.....	161
786. Alcohol-drug Testing.	162
787. Confidentiality.....	162
788. --789. (Reserved).....	162
790. Additional Provisions For Non-accredited Children's Residential Schools.....	162
791. Application Process.....	162
792. Staff Ratios Required.	162
793. Child's Record.....	162
794. -- 996. (Reserved).....	163
997. Confidentiality Of Records.....	163
998. -- 999. (Reserved).....	163

IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD**25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD****Docket No. 25-0101-0001**

000. Legal Authority.	168
002. Definitions.....	168
015. Fees.	172
026. Operating Area Adjustments.	173
034. Guide Application Requirements - General.....	174
053. Controlled Hunts Outside Outfitter's Operating Area.	174
059. River, Lake And Reservoir Power And Float Outfitter Limits.....	175
064. Authorization For Granting, Denial And Revocation Of Licenses.....	182
066. (Reserved).....	183
068. Administrative Fines/probation/restrictions.....	183

IDAPA 31 - PUBLIC UTILITIES COMMISSION**31.71.03 - RAILROAD SAFETY/SANITATION RULES****Docket No. 31-7103-0001**

000. Legal Authority (Rule 0).....	186
008. Incorporation By Reference - Code Of Federal Regulations (Rule 008).....	186
009. -- 100. (Reserved).....	186
103. Transportation Of Hazardous Material By Rail (Rule 103).....	186

IDAPA 35 - STATE TAX COMMISSION**35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES****Docket No. 35-0103-0001**

314. County Valuation Program To Be Carried On By Assessor (Rule 314).	188
---	-----

Docket No. 35-0103-0002

621. -- 654. (Reserved).....	191
995. Certification Of Sales Tax Distribution (Rule 995).....	191

Docket No. 35-0103-0003

418. -- 499. (Reserved).....	194
960. Definitions (Rule 960).....	194
961. Lands Of Less Than Five Acres (Rule 961).	195
963. Certain Forest Lands To Be Designated For Taxation By Owner--limitations (Rule 963).....	195

964. Yield Tax On Applicable Forest Products (Rule 964).....	195
965. (Reserved).....	196
966. Recapture Of Deferred Taxes On Lands Designated Under Section 63-1706, Idaho Code (Rule 966).....	196
967. -- 981. (Reserved).....	197
 35.01.04 - IDAHO ESTATE AND TRANSFER TAX ADMINISTRATIVE RULES	
Docket No. 35-0104-0001	
017. Refund For Overpayments (Rule 017).....	198
 IDAPA 36 - IDAHO BOARD OF TAX APPEALS	
36.01.01 - IDAHO BOARD OF TAX APPEALS RULES	
Docket No. 36-0101-0001	
156. -- 999. (Reserved).....	200
 IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT	
39.02.02 - RULES GOVERNING VEHICLE AND VESSEL DEALER LICENSE REQUIREMENTS - MOTOR VEHICLES	
Docket No. 39-0202-0001	
001. Title And Scope.....	202
002. Written Interpretations.....	202
003. Administrative Appeals.....	202
004. Incorporation By Reference.....	202
005. -- 099. (Reserved).....	202
100. Dealer License Requirements.....	202
200. Off-premise Sales Activities.....	202
 39.02.71 - RULES GOVERNING DRIVERS LICENSE VIOLATION POINT COUNT SYSTEM	
Docket No. 39-0271-0001	
001. Title And Scope.....	204
002. Written Interpretations.....	204
003. Administrative Appeals.....	204
004. Incorporation By Reference.....	204
005. -- 099. (Reserved).....	204
200. List Of Moving Traffic Convictions And/or Violations Point Count.....	204
 IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY	
58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS	
Docket No. 58-0102-0002	
110. Panhandle Basin.....	214
120. Clearwater Basin.....	219
130. Salmon Basin.....	223
140. Southwest Idaho Basin.....	232
150. Upper Snake Basin.....	236
250. Surface Water Quality Criteria For Aquatic Life Use Designations.....	242
252. Surface Water Quality Criteria For Water Supply Use Designation.....	246
260. Variances From Water Quality Standards.....	249
284. Pat Hughes Creek And Buckskin Creek, Subsection 130.03, HUC 17060201, Units S-29 And S-30, Site-specific Criteria.....	250
285. -- 299. (Reserved).....	251

58.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE

Docket No. **58-0105-0001**

	002. Incorporation By Reference Of Federal Regulations.....	253
	004. Hazardous Waste Management System.....	253
	005. Identification And Listing Of Hazardous Waste.....	253
	006. Standards Applicable To Generators Of Hazardous Waste.....	256
	007. Standards Applicable To Transporters Of Hazardous Waste.....	256
	008. Standards For Owners And Operators Of Hazardous Waste Treatment, Storage And Disposal Facilities.....	256
	009. Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage And Disposal Facilities.....	256
	010. Standards For The Management Of Specific Hazardous Wastes And Specific Types Of Hazardous Waste Facilities.....	257
	011. Land Disposal Restrictions.....	257
	012. Hazardous Waste Permit Program.....	257
257	013. Procedures For Decision-making (State Procedures For RCRA Or HWMA Permit Applications).....	
	015. Standards For The Management Of Used Oil.....	257
	016. Standards For Universal Waste Management.....	257

58.01.12 - RULES FOR ADMINISTRATION OF WASTEWATER TREATMENT FACILITY LOANS

Docket No. **58-0112-0001** (Originally **16-0112-0001**)

	000. Legal Authority.....	259
	001. Title And Scope.....	259
	002. Policy.....	259
	003. Incorporation By Reference.....	259
	004. Definitions.....	259
	005. -- 009. (Reserved).....	262
	010. Financial And Management Capability Analysis.....	262
	020. Integrated Priority System.....	263
	021. Supplemental Grants.....	264
	030. Project Funding.....	265
	040. Loan Application And Review.....	268
	041. Environmental Review.....	269
	050. Loan Offer And Acceptance.....	270
	051. Accounting And Auditing Procedures.....	272
	060. Disbursements.....	272
	061. Loan Consolidation.....	272
	062. -- 079. (Reserved).....	272
	999. Severability.....	272

**58.01.22 - RULES FOR ADMINISTRATION OF PLANNING GRANTS
FOR PUBLIC DRINKING WATER FACILITIES**

Docket No. **58-0122-0001**(Originally **16-0122-0001**)

	000. Legal Authority.....	274
	001. Title And Scope.....	274
	002. Written Interpretations.....	274
	003. Administrative Procedures.....	274
	004. Incorporation By Reference.....	274
	005. Confidentiality Of Records.....	275
	006. Policy.....	275
	007. System Eligibility.....	275
	008. -- 009. (Reserved).....	275

010. Definitions.....	275
011. -- 019. (Reserved).....	278
020. Priority Rating System.....	278
021. -- 029. (Reserved).....	279
030. Project Funding.	279
031. Review And Evaluation Of Grant Applications.	280
032. -- 039. (Reserved).....	281
040. Environmental Review.....	281
041. -- 049. (Reserved).....	282
050. Grant Offer And Acceptance.	282
051. -- 059. (Reserved).....	282
060. Payments.	282
061. -- 069. (Reserved).....	283
070. Suspension Or Termination Of Grant.....	283
071. -- 079. (Reserved).....	283
080. Waivers.	283
081. -- 999. (Reserved).....	283

Bulletin Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

IDAPA 07 – DIVISION OF BUILDING SAFETY P.O. Box 83720, Boise, Idaho 83720

Docket No. **07-0106-0001**, Rules Governing the Use of the National Electrical Code. Prohibits the installation of electrical service equipment on manufactured homes built before January 1, 1992. Comment By: 9/27/00.

Docket No. **07-0111-0001**, Rules Governing Civil Penalties. Provides for the imposition of civil penalties and for the hearing of appeals regarding civil penalties by the Electrical Board. Comment By: 9/27/00.

Docket No. **07-0311-0001**, Rules Governing Manufactured/Mobile Home Licensing. Removes the homebuyer's disclosure form from rule so that it can be revised as needed. Comment By: 9/27/00.

IDAPA 09 – DEPARTMENT OF LABOR 317 W. Main St., Boise, ID 83735

Docket No. **09-0130-0001**, Rules of the Benefits Bureau. Adds that benefit claims may be filed electronically and interstate claims may be filed by telephone and states when those claims are effective. Comment By: 9/27/00.

Docket No. **09-0135-0001**, Rules of the Employer Accounts Bureau. Changes the special redetermination language to determination and explains the process for appealing the determination; clarifies how these determinations are to be made and the provisions for appeal to be included in the determination; clarifies the method for selecting employers for audit and the records that will be examined; clarifies the statute of limitations for audit and collection actions; specifies that value will be based on the reasonable or fair market value of the item and deletes out-of-date table reflecting minimum lodging and board rates; clarifies that there are 3 different tests to use in determining which quarter to attribute wages to an employee and provides that one of the tests applies when events are beyond the control of the "employer or the employee" instead of the employer and/or the employee. Comment By: 9/27/00.

Docket No. **09-0150-0001**, Rules of the Wage and Hour Section. Allows Department to dismiss wage claims when claimant fails to respond to requests for additional information or to otherwise prosecute their wage claims. Comment By: 9/27/00.

IDAPA 10 – BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS 600 S. Orchard, Suite A, Boise, Id 83705-1242

Docket No. **10-0101-0001**, Rules of Procedure. Changes the Order of Business for conduct of the Board meetings; eliminates references to temporary permits and publication of the roster; changes nomenclature to reference biennial renewals rather than annual as now provided by statute; extends the application deadline for the Spring examinations from January 1 to January 10 and allows for the extension of application deadlines for students at Universities; eliminates a reference to references that is adequately covered in Idaho Code; eliminates reference to a fee for rescheduling; allows for examination review at locations other than at the Board office; and allows disposal of used examination material 1 year after the examination. Comment By: 9/27/00.

Docket No. **10-0102-0001**, Rules of Professional Responsibility. Clarifies the responsibilities of the discoverer and the alleged maker of an error, material discrepancy, or omission. Comment By: 9/27/00.

Docket No. **10-0103-0001**, Rules for Corner Perpetuation and Filing. Allows that a clear space be provided on the form to place recording information. Comment By: 9/27/00.

Docket No. **10-0104-0001**, Rules of Continuing Professional Development. Makes the certification of completion of required Continuing Professional Development for Professional Land Surveyors consistent with biennial renewals as approved by the Legislature. Comment By: 9/27/00.

**IDAPA 11 – IDAHO STATE POLICE
P.O. Box 700, Meridian, ID 83680-0700**

Docket No. **11-0201-0001**, Rules of the Idaho State Brand Board. Conforms to statutory changes and includes provisions relating to the issuance of brand certificates, brand fees, prorating of fees in the staggered brand renewal system, recording of DOT brands and exemption of Idaho approved feedlots from the minimum fee. Comment By: 9/27/00.

Docket No. **11-0501-0001**, Rules Governing Alcohol Beverage Control. Redefines “restaurant” to give smaller establishments greater flexibility to provide food but excludes bars with crock pots which could, under the current definition, be considered a restaurant and allow entry to minors. Comment By: 9/27/00.

Docket No. **11-1001-0003**, Rules Governing the ILETTS System- Idaho Law Enforcement Teletypewriter System. Increases previously adopted fee schedule for use fees, which is necessary for the continued operation of the criminal justice information system. Comment By: 9/27/00.

**IDAPA 15 – OFFICE OF THE GOVERNOR – IDAHO COMMISSION ON AGING
PO Box 83720, Boise, ID 83720-0007**

Docket No. **15-0103-0001**, Rules Governing Ombudsman for the Elderly Program. Changes are necessary to expand the field of candidates suitable for the Ombudsman position. Comment By: 9/27/00.

**IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
P.O. Box 83720, Boise, ID 83720-0036**

Docket No. **16-0208-0001**, Vital Statistics Rules. Increases fee to \$10 for the issuance of a certified copy of a vital record or birth registration and removes references to birth registration card which is no longer being issued. Comment By: 9/27/00.

Docket No. **16-0304-0001**, Rules Governing the Food Stamp Program in Idaho. Makes food stamps available to a person who has been convicted of a felony involving a controlled substance, if the person complies with the terms of a withheld judgment, probation or parole; condominium fees for maintenance of the structure and grounds are allowable shelter costs for Food Stamps. Comment By: 9/27/00

Docket No. **16-0309-0006**, Rules Governing Medical Assistance Program in Idaho. Puts back into rule the EPSDT coverage for nutrition, drugs, and oxygen that were inadvertently deleted. Comment By: 9/27/00.

Docket No. **16-0309-0007**, Rules Governing Medical Assistance Program in Idaho. Adds definition for “conviction” to be consistent with federal law; clarifies Department's authority to utilize cost effective, and generally accepted statistical extrapolation methodology in completing audits; changes “shall” to “may” and make other language changes to be consistent with Idaho Code. Comment By: 9/27/00.

Docket No. **16-0412-0001**, Rules Governing the Individual and Family Grant Program. Re-codifies chapter that was inadvertently omitted from the 2000 edition of the Idaho Administrative Code. Comment by: 9/27/00.

Docket No. **16-0602-0001**, Rules Governing Standards for Child Care Licensing. Rewrite of chapter addresses child placements and adoptions, licensure of agencies performing those functions, Foster Care, and Residential Care for Children; the “Day Care” section remains unchanged. Comment By: 9/27/00.

Docket No. **16-0602-0002**, Rules Governing Standards for Child Care Licensing. Repeal of chapter. Comment By: 9/

27/00.

**IDAPA 25 – OUTFITTERS AND GUIDES LICENSING BOARD
1365 North Orchard, Suite 172, Boise, ID 83706**

Docket No. **25-0101-0001**, Rules of the Outfitters and Guides Licensing Board. Specifies location of Board offices, the Board's normal working hours, and telephone numbers; provides for electronic signatures; clarifies the current Board interpretation that pre-season or in-season scouting fall within the definition of hunting; failure to pay suppliers or failure to pay taxes is considered unethical or unprofessional conduct; annual renewal of licenses will be on an anniversary date rather than April 1; land based guides must either read and understand a map or operate a GPS or other computerized map system; clarifies where the exact put-in and takeout is on certain river sections; converts certain current Board policies into rule; omits unnecessary language and conforms to provisions in Idaho Code. Comment By: 9/27/00.

**IDAPA 31 – IDAHO PUBLIC UTILITIES COMMISSION
P.O. Box 83720, Boise, Idaho 83720-0074**

Docket No. **31-7103-0001**, Railroad Safety/Sanitation Rules. Adopts federal safety regulations issued by the US Department of Transportation pertaining to the packaging and transporting of hazardous materials by railroads operating in Idaho. Comment By: 9/27/00.

**IDAPA 35- -IDAHO STATE TAX COMMISSION
P.O. Box 36, Boise, ID 83722**

Docket No. **35-0103-0001**, Property Tax Administrative Rules. Provides procedures the State Tax Commission will use for the valuation program extension as the authorized oversight agency. Comment By: 10/4/00.

Docket No. **35-0103-0002**, Property Tax Administrative Rules. Conforms to statutory changes and sets a new base for distributing sales tax revenues; adds codes references; deletes obsolete language; adds procedures for making corrections when needed. Comment By: 9/27/00.

Docket No. **35-0103-0003**, Property Tax Administrative Rules. Changes affecting forest land include renumbering, deletion of obsolete language, and updating code references. Comment By: 10/4/00.

Docket No. **35-0104-0001**, Idaho Estate and Transfer Tax Administrative Rules. Clarifies that interest paid on refunds will be calculated from the due date of the return or the day the tax was actually paid, whichever is later. Comment By: 9/27/00.

**IDAPA 36- -IDAHO STATE BOARD OF TAX APPEALS
P.O. Box 83720, Boise, Idaho 83720-0088**

Docket No. **36-0101-0001**, Idaho Board of Tax Appeals Rules. Deletes sections that address the Small Claims Division which were deleted from Idaho Code and are no longer enforceable. Comment by: 9/29/00.

**IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT
P.O. Box 7129, Boise ID 83707-1129**

Docket No. **39-0101-0001**, Rules Governing Vehicle Dealer License Requirements-Motor Vehicles. Changes made to titling of vessels and requires dealer licensing for those selling 5 or more new or previously titled vessels per year; adds the term "vessel" for clarification; redefines the term "temporary supplemental lot" and relaxes the requirements as to the proximity of a supplemental lot to the dealer's principal place of business. Comment By: 9/27/00.

Docket No. **39-0271-0001**, Rules Governing Drivers License Violation Point Count System. Removes obsolete citation language to comply with Idaho Code; certain citations and associated point counts were inadvertently omitted and must be replaced to be in compliance with the Idaho Code. Comment By: 9/27/00.

**IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY
1410 N. Hilton, Boise, Idaho 83706-1255**

Docket No. **58-0102-0002**, Water Quality Standards and Wastewater Treatment Requirements. Adds new use designations to the tables for state waters; changes temperature criteria to protect fish; allows variances for the communities of Mullan, Page, and Smeltonville for meeting water quality standards in the South Fork of the Coeur d'Alene River for metals; recalculates site-specific standards for Pat Hughes and Buckskin Creeks; and makes minor corrections. Comment By: 9/27/00.

Docket No. **58-0105-0001**, Rules and Standards for Hazardous Waste. Updates rules to make them consistent with revisions to the federal RCRA regulations as of July 1, 2000; incorporates additional federal regulations to rule. Comment By: 9/27/00.

Docket No. **58-0112-0001**, Rules for Administration of Wastewater Treatment Facilities Loans. Changes conform to statutory changes that give DEQ authority to expand the existing wastewater treatment loan program to provide loans to address non-point pollution problems such as agricultural runoff, effluent trading, septic tank replacement, wetland restoration and stormwater control and establishes a priority rating system that integrates wastewater treatment projects and non-point pollution projects into one list. Comment By: 9/27/00.

Docket No. **58-0122-0001**, Rules for Administration of Planning Grants for Public Drinking Water Facilities. Changes conform to statutory changes that give DEQ authority to provide grants to public drinking water systems in Idaho and address a priority rating system, limitations on pre-grant engineering, review and evaluation of grant applications, environmental reviews, grant offer acceptance, payments, and waivers. Comment By: 9/27/00.

PUBLIC NOTICE OF AGENCY ACTION - The **Department of Health and Welfare** in response to legislative intent language for the period of 7/1/00 through 6/30/01, rates of Medicaid commercial transportation providers shall not exceed rates in effect as of March 1, 2000.

PUBLIC HEARINGS – Public Hearings have been scheduled for the following dockets:

Department of Health and Welfare

Docket Nos. **16-0602-0001** & **16-0602-0002**, Rules Governing Standards for Child Care Licensing.

Outfitters And Guides Licensing Board

Docket No. **25-0101-0001**, Rules of the Outfitters and Guides Licensing Board.

Idaho State Tax Commission

Docket Nos. **35-0103-0001** & **35-0103-0003**, Property Tax Administrative Rules.

Department of Environmental Quality

Docket No. **58-0101-9905** & **58-0101-0002**, Rules for the Control of Air Pollution in Idaho. Comment deadline: 9/27/00.

The Public Comment Period For The Following Docket Has Been Extended:

Department of Environmental Quality - Docket No. **58-0101-9902**, Rules for the Control of Air Pollution in Idaho. Comment deadline: 9/20/00.

Please refer to the Idaho Administrative Bulletin, **September 6, 2000, Volume 00-9** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact names.

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VOLUME 1 - IDAPA 01 THROUGH 15

VOLUME 2 - IDAPA 16 THROUGH 19

VOLUME 3 - IDAPA 20 THROUGH 59

Subject Index

A

- ABAWD Not Meeting Work Requirement 79
- Abbreviations, IDAPA 16.04.12 96
- Abuse Or Abusive 91
- Acceptance Executed As A Contract Agreement 271
- Acceptance Executed As A Contract Agreement, Public Drinking Water System Grants 282
- Acceptance Of Application 269
- Acceptance Of Grant Offer, Public Drinking Water System Grants 282
- Acceptance Of Loan Offer 271
- Access By Department Authorized Agents, Children's Agency Or Residential Care Facility 123
- Access To Community Resources, Children's Residential Care Facilities 146
- Accounting And Auditing Procedures 272
- Accredited Residential School 101
- Accrued Interest On Loans With Supplemental Grants 265
- Act 168
- Active Duty In The Armed Forces 48
- Additional Placement Considerations, Children's Agencies 136
- Additional Provisions For Adoption Services, Sections 662 Through 681 138
- Additional Provisions For Children's Alcohol-drug Abuse Residential Care Facilities, Sections 781 through 790, see also Sections 500 through 599 and 700 through 769 160
- Additional Provisions For Children's Residential Maternity Care, Also See Sections 500 Through 599 And 700 Through 769 159
- Additional Provisions For Foster Home Certification 134
- Additional Provisions For Inter-Country Adoption Services, Sections 680 Through 699 142
- Additional Provisions For Non-accredited Children's Residential Schools, Sections 790 Through 793, see also Sections 500 through 599 and 700 through 769 162
- Additional Provisions For Transitional Living Services, Sections 650 Through 661 136
- Additional Standards For Children's Agencies, Sections 600 through 699, see also Sections 500 through 599 132
- Additional Standards For Children's Residential Care Facilities, Sections 700 Through 769 144
- Adequate Heat, Light, And Ventilation, Foster Homes And Children's Residential Care Facility 117
- Administrative Error Claim 75
- Administrative Fines/Probation/Restrictions, Outfitters And Guides 183
- Administrator Approval, Mechanical Restraint, Children's Residential Care Facilities 156
- Admission Or Release From Facilities, Correctional Facility, Foster Parent Shall Report To The Children's Agency 122
- Adoption Disruption Re-Placement, Inter-Country Adoption Services To Adoptive Parents 144
- Adoption Finalization Assistance, Services For Adoptive Parents 141
- Adoption Of Federal Safety Regulations, Transportation Of Hazardous Material By Rail 186
- Adoption Services - Nonprofit Status 138
- Adoptive Parent Information, Children's Agency Shall Provide 142
- Affiant Administrative Employees, Non-Accredited Children's Residential Schools 162
- After Care Plan, Children's Alcohol-drug Abuse Residential Facility 161
- Agenda Titles And Sequence, Order Of Business 38
- Agreements, With Adjacent States 57
- Agricultural, Water Quality Criteria 249
- Alcohol-Drug Abuse Treatment Facility 101
- Alcohol-drug Testing, Children's Alcohol-drug Abuse Residential Facility 162
- Alienage and Residency 96
- Alternative Forms Of Restraint, Children's Residential Care Facilities 158
- Animals And Pets, Children's Residential Care Facilities 151
- Annual Brand Inspection Certificate 57
- Annual Brand Inspection Form Also Known As "Seasonal" 57
- Annual Inspection 57
- Annual Report 39
- Applicant 75, 95
- Applicant Participation, Foster Care Licensure 113
- Application Fee For Renewal Of Certification, Standards For Day Care 110
- Application Fees For Renewal Of Basic Day Care License 109
- Application For Participation 75
- Application For Registration Or Certification 39
- Application Process, Non-Accredited Children's Residential Schools 162
- Application Request Process, Children's Agencies 134
- Application Requirements 268
- Application Requirements, Public Drinking Water System Grants 280
- Application Submission, Withdrawal, And Denial Process, Children's Agencies 134
- Applications And Renewals 38
- Applications For License Or Certification 105
- Applications, Individual And Family Grants 96
- Appropriate Bedding, Foster Homes 120
- Approval Of Application, Foster Home/Child Care Facility/Children's Agency License And Certification 105
- Approval Of Requirements 270
- Arrests, Citations, Withheld Judgements Or Criminal Conviction, Foster Parent Shall Report To The Children's Agency 122
- Assistance From Other Means 95
- Auction Brand Inspection 51
- Auction Brand Inspection Certificate 51

Authorization By Board, To Hunt
Outside An Outfitters Area 175
Authorization For Granting, Denial And
Revocation Of Licenses 182
Authorizations Required, To Provide
Medical Care To Children In Foster
Homes 128
Authorized Person 168
Authorized Placement On Approved
Recommendations, Selection Of An
Adoptive Placement 141
Authorized Representative, Designated
To Act In Behalf 75
Availability 17
Availability For Child Placement,
Foster Parent Qualifications And
Suitability 112
Availability Of Funds, Individual And
Family Grants 98
Availability Of Referenced
Material 253
Awarded Damages Against
Employers 34

B

Bar Brand 51
Bare Forest Land 195
Basis Of Evaluation Of Applications,
Public Drinking Water System
Grants 280
Bathroom Facilities, Children's
Residential Care Facilities 148
Bathrooms, Water Supply, And Sewage
Disposal, Foster Homes And
Children's Residential Care
Facility 117
Battered Women And Children's
Shelter 75
Bedrooms, Foster Homes 119
Beds, Children's Residential Care
Facilities 148
Behavior Management And Discipline
Policy, Children's Residential Care
Facilities 153
Behavior Management And Discipline,
Foster Homes 120
Best Management Practice 259
Bill Of Sale 51
Billing And Payment, ILETS Network
User Access Fees 67
Board 51, 168, 259
Board Conditions, Outfitters And
Guides Licensing 182

Board Meeting 168
Board, Lodging, Meals, Employer
Accounts Bureau 33
Boarder 75
Boarding House 75
Booking Agent 168
Brand Alternatives 55
Brand Card 51
Brand Inspection 52
Brand Inspections 55
Brands Acceptable For Recording 54
Brownlee Reservoir Subbasin 235
Buildings, Grounds, Furnishings And
Equipment, Children's Residential
Care Facilities 147

C

Calculation, Yield Tax On Applicable
Forest Products 195
Cardiopulmonary Resuscitation (CPR)
And First Aid, Children's Residential
Care Facilities 150
Care To Children And Adult Residents,
Children's Alcohol-drug Abuse
Residential Care Facilities 160
Cash Value, Board, Lodging, Meals 33
Categorical Eligibility 75
Categorical Exclusion (CE) 275
Causes, Suspension Or Termination Of
Grant 283
Certain Forest Lands To Be Designated
For Taxation By Owner--
Limitations 195
Certain Lands With No Deferred
Taxes 195
Certificates Of Ownership And
Transportation 57
Certificates, Used For Transport Of
Animals 57
Certification Determination 75
Certification Of Sales Tax
Distribution 191
Certification Training, Children's
Agencies 133
Certified Copies, Fees 72
Change In Household Membership,
Criminal History Checks 113
Change In Use, Forest Lands To Be
Designated For Taxation By
Owner 195
Change In Use/Deferred Taxes, Forest
Land 196
Change Of Residence, Foster Parent

Shall Report To The Children's
Agency 123
Chief Administrator Position And
Qualifications, Children's
Agencies 132
Chief Administrator Qualifications,
Children's Residential Care
Facilities 144
Chief Administrator, Children's
Alcohol-drug Abuse Residential
Facility 160
Child Care 101
Child Care And Safety
Requirements 116
Child Origin Information Access, Inter-
Country Adoption Services To
Adoptive Parents 144
Child Placement Preparation 136
Child Placement Requirements, Foster
Home 118
Child Tasks, Foster Children 121
Child's Personal Possessions 132
Children Of The Opposite Gender,
Bedrooms 120
Children Under Six Years Of Age, Use
Of Unlocked Seclusion, Children's
Residential Care Facilities 154
Children's Agency 101
Children's Camp 101
Children's Institution 102
Children's Residential Care Facility
Building Requirements 146
Children's Agency Supervision Of
Child, Supervisory Visits Plan For
Child In Foster Care 136
Children's Agency, Foreign
Government Agreement Review,
Inter-Country Adoption
Services 143
Children's Residential Care
Facility 102
Child's Record, Non-Accredited
Children's Residential Schools 162
Circumstances Of The Placement,
Adoptive Parent Information 142
Civil Penalties, Electrical
Contractor 19
Claim Determination 75
Claim, Request Or Demand For
Payment 91
Claims For Benefits, Delayed
Filing 24

- Claims For Funds Or Livestock Subject To A Hold Order 59
Clearwater Basin 219
Client 75
Client Grievance Policy, Children's Services And Residential Care Facilities 131
Clinical Director Qualifications, Children's Alcohol-drug Abuse Residential Facility 160
Clothing, Residential Care Facilities 131
Cold Water 243
Collecting And Exchanging Information About A Child, Inter-Country Adoption Services To Adoptive Parents 143
Collector Sewer 259
Community Water System 275
Compensation 168
Complaint Investigation, Basis, Time Requirements, Notifying Foster Parents, Contents, And Process, Children's Agencies 134
Complaints Against Foster Homes, Children's Residential Care Facilities And Children's Agencies 107
Completed Application 168
Completion Of Application 39
Compliance Required, Children's Agency Or Residential Care Facility 123
Compliance With Applicable Laws, Children's Residential Care Facilities 146
Compliance With Licensing Rules, Foster Parent Qualifications And Suitability 113
Conditions For Placement In An Adoptive Home 141
Conditions Limiting Restraint Use, Children's Services And Residential Care Facilities 131
Condominium Fees 81
Confidential Information 30
Confidentiality And Privacy Protections Of Persons Served, Children's Services And Residential Care Facilities 125
Confidentiality Of References 40
Confidentiality, Children's Alcohol-drug Abuse Residential Facility 162
Confidentiality, Regarding A Foster Child, The Parents And Relatives Of The Child 123
Conflicts Between Brands 55
Consideration 168
Consignee 52
Construction 259
Contaminant, Public Drinking Water Systems 275
Content Of Child's Record, Children's Services And Residential Care Facilities 127
Continued Care 102
Contraband 102
Contraband, Children's Residential Care Facilities Shall Define Prohibited Contraband 152
Contribution Due Date 30
Contribution Reports 31
Controlled Hunts Outside Outfitter's Operating Area 174
Conviction, Criminal Offense 91
Corrections, Made To The Following Quarterly Distribution 192
Corrections, Person Who Fails To Make Electrical Corrections In Time Allotted 20
Corrective Action And Fees, Applications For License Or Certification 105
Correspondence Policy, Children's Services And Residential Care Facilities 131
Cost Allocation 262
Costs Allowed For Shelter Deduction 81
Costs For Home Repairs, Nonreimbursable Costs 81
Costs In Excess Of Financial Ability 264
Counseling, Treatment Or Therapy, Foster Parent Shall Report To The Children's Agency 122
Counselor Qualifications, Children's Alcohol-drug Abuse Residential Facility 161
County Valuation Program To Be Carried On By Assessor 188
Coupon 75
Coupon Allotment 75
Courtesy Brand Inspection 52
Criminal History Checks, Foster Parent Qualifications 113
Crisis Counseling, Inter-Country Adoption Services To Adoptive Parents 144
Current Fiscal Year, The Current Fiscal Year Of The State Of Idaho 191
- D**
- Dangerous And Hazardous Materials, Foster Homes And Children's Residential Care Facility 117
Dash Brand 52
Date Plan Is Submitted, Five Year County Valuation Program 188
Date, Time And Location Of Birth, Adoptive Parent Information 142
Dates Of Submittal 40
Day Care 102
Day Care Center 102
Dealer License Requirements, Motor Vehicles 202
Death Of A Child In Care Notification, Residential Care Facility 124
Deferred Tax Responsibility, Selling Landowner 196
Definitions, County Valuation Program To Be Carried On By Assessor 188
Definitions, IDAPA 06.06.02 101
Definitions, IDAPA 11.02.01 51
Definitions, IDAPA 11.05.01 62
Definitions, IDAPA 16.03.04 75
Definitions, IDAPA 16.04.12 95
Definitions, IDAPA 25.01.01 168
Definitions, IDAPA 35.01.03 194
Definitions, IDAPA 58.01.12 259
Definitions, IDAPA 58.01.22 275
Definitions, Sections 200 Through 233 91
Delinquent Unpaid Fees, ILETS Network User Access Fees 67
Delivery Sequence, To Avoid Duplication Of Benefits 96
Denial Of Application, Foster Home/Child Care Facility/Children's Agency License And Certification 107
Denial Of Payment 92
Dental Services, Children's Services And Residential Care Facilities 130
Department 75, 260
Department Guidelines, Integrated Priority System 264
Description Of Services, Children's

- Services And Residential Care
Facilities 125
- Desert 168
- Designated Agent 168
- Designation Of Forest Parcels 195
- Destination 52
- Determination Date And Eligibility,
Certification Of Sales Tax
Distribution 191
- Determination Of Adoptive Applicant's
Ability, Inter-Country Adoption
Services To Adoptive Parents 143
- Determination Of Credit 48
- Determination Of Payment Date 31
- Determination Of Proper Quarter In
Which To Assign And Report
Wages 34
- Determinations, Employer Accounts
Bureau 31
- Diagnosis, Children's Alcohol-drug
Abuse Residential Care
Facilities 160
- Diapering And Sanitation, Children's
Residential Care Facilities 149
- Direct Care Staff 102
- Direct Care Staff Qualifications,
Children's Alcohol-drug Abuse
Residential Facility 161
- Direct Care Staff Qualifications,
Children's Residential Care
Facilities 145
- Direct Care Staff Supervisor
Qualifications, Children's Residential
Care Facilities 144
- Director 260
- Disbursements 272
- Discharge Plans, Children's Residential
Maternity Care 160
- Disclosure Of Information, Foster Care
Licensure 114
- Disclosure Of Non-Identifying Child
Information, Services For Adoptive
Parents 141
- Dismissal Of Wage Claim For Lack Of
Prosecution 36
- Dispensing Of Medications, Foster
Homes 121
- Display For Sale, Motor Vehicles 202
- Displaying Vehicles, Motor
Vehicles 202
- Disposal Of Unused Medication,
Children's Residential Care
Facilities 151
- Disposal Of Used Examination
Pamphlets And Answer Sheets 42
- Disposition Of Applications, Foster
Home/Child Care Facility/Children's
Agency License And
Certification 105
- Disqualified Household Members 75
- Distribution System, Community Water
System 276
- District Brand Offices 60
- District Health Department Inspection,
Children's Residential Care
Facilities 147
- Documentation 76
- Documentation Of Adjustment,
Supervision, Post Placement
Supervision To The Adoptive
Family 142
- Documentation, Denial Of Payment 93
- Documenting Child's Legal Status,
Inter-Country Adoption Services To
Adoptive Parents 143
- Documents 17
- Domestic, Waters Designated For
Domestic Water Supplies 246
- Draws And Advances On Wages 34
- Drift Boats 169
- Drinking Water Systems, Children's
Residential Care Facilities 147
- Drug Addiction Or Alcoholic Treatment
Program 76
- Drug Convicted Felon 80
- Drugs, Not Covered By Idaho Medicaid
- May Be Covered By EPSDT 89
- Due And Payable, Brand Inspection
Fees At Time Of Inspection 59
- Duplication Of Benefits 96
- Duration, Locked Seclusion, Children's
Residential Care Facilities 155
- E**
- EBT Handbook 76
- Education Policy, Children's Services
And Residential Care Facilities 132
- Education Program, Children's
Residential Care Facilities 149
- Education, Foster Children 122
- Educational Requirements 40
- Effective Date Of Backdated
Claims 24
- Electrical Contractor, Civil
Penalties 19
- Electronic Benefit Transfer 76
- Eligibility Criteria Disclosure, Inter-
Country Adoption Services To
Adoptive Parents 143
- Eligibility For Examinations 40
- Eligible Applicant 260
- Eligible Categories, Individual And
Family Grants 97
- Eligible Costs 260
- Eligible Foods 76
- Eligible Household 77
- Eligible Items And Services, Individual
And Family Grants 97
- Eligible Project Costs 266
- Eligible Project Costs, Public Drinking
Water System Grants 279
- Emancipated Minor 77
- Emergency Drills, Children's
Residential Care Facilities 146
- Emergency Evacuation Plan, Children's
Agencies 136
- Emergency Policies, Children's
Services And Residential Care
Facilities 132
- Emergency Procedures, Children's
Residential Care Facilities 146
- Emergency Staff Access, Children's
Residential Care Facilities 145
- Employee And Volunteer Orientation,
Children's Services And Residential
Care Facilities 126
- Employee And Volunteer Training,
Children's Services And Residential
Care Facilities 127
- Employee Training, Standards For Day
Care 112
- Employees, Without A Valid Electrical
License Or Registration 19
- Endangerment Of Health Or Safety Of
A Patient 93
- Enforcement Agent 169
- Engineering Report, Public Drinking
Water Systems 276
- Enumeration 77
- Environmental Documentation 269
- Environmental Impact Statement
(EIS) 276
- Environmental Impact Statement
Requirements 270
- Environmental Information Document
(EID) 276
- Environmental Information Document

Requirements 269
Environmental Review 269
Environmental Review, Public Drinking
Water System Grants 281
Equipment Storage, Cleaning
Equipment Children's Residential
Care Facilities 147
Estimate Of Reasonable Cost 271
Examinations, Professional Engineers/
Land Surveyors 40
Excessive Seclusion, Use Of Unlocked
Seclusion, Children's Residential
Care Facilities 155
Excluded Household Members 82
Excluded Wastes 253
Exclusion 91
Excused Non-Attendance At Exam 41
Execution Against Assets, Employer
Accounts Bureau 32
Executive Director Authorizations,
Outfitters And Guides
Licensing 182
Exempt 77
Exemption From Review 270
Exemptions 48
Exemptions From Licensure, Licensing
And Certification 104
Exits, Foster Homes And Children's
Residential Care Facility 117
Expired License 49
Extenuating Circumstances 49
Extrapolation, Potential Instances Of
Fraud, Abuse, Or Misconduct 92

F

Facilities And Services 169
Facility Plan 260
Failure To Cooperate In Paternity
Establishment Or Obtaining Support,
Disqualified As Food Stamp
Household Members 80
Failure To Disclose Or Make Available
Records 93
Family 95
Family Day Care Home 102
Family Day Care Homes, Standards For
Day Care 110
Family Home Study, Adoption,
Application Process And
Content 140
Federal Environmental Review
Use 270
Federal Environmental Review Use,

Public Drinking Water System
Grants 281
Federal Fiscal Year 77
Fee Charged, Standards For Day
Care 108
Fee Schedule, ILETS Network User
Access Fees 67
Fee, Annual Brand Inspection 57
Fees And Permits, Electrical Permit 20
Fees For Copies, Searches, And Other
Services 72
Fees, Applications And Renewals 38
Fees, Authorized By The State Brand
Board 58
Fees, Brand Inspection 56
Fees, Outfitters And Guides 172
Field Brand Inspection 52
Field Brand Inspection Certificate 52
Field Operations Control 31
Filing Of An Additional Claim Or
Reopening A Claim 27
Filing Of An Employer Appeal,
Employer Accounts Bureau 30
Filing Of New Claims, Intrastate And
Interstate Claims 24
Final Disbursement 272
Final Project Audit To Determine
Actual Eligible Costs, Public
Drinking Water System Grants 282
Financial And Management Capability
Analysis 262
Financial Capability, Public Drinking
Water Systems 276
Financial Management System 260
Financial, Inter-Country Adoption
Services 143
Finding Of No Significant Impact
(FNSI), Public Drinking Water
Systems 276
Fire Extinguishers, Children's
Residential Care Facilities 146
Fire Inspection, Applications For
License Or Certification 105
Fire Safety Requirements, Children's
Residential Care Facilities 146
Firearms And Ammunition, Foster
Homes And Children's Residential
Care Facility 117
Firearms, Children's Residential Care
Facilities 148
First Aid Card 169
First Aid Card, Guide Application

Requirement 174
First Aid Kit, Children's Residential
Care Facilities 151
First Renewal Period 48
Fishing 169
Flammable Liquids, Children's
Residential Care Facilities 148
Float Boats 169
Flood Insurance, Applications 96
Food And Nutrition, Foster
Homes 121
Food Assistance 77
Food Sanitation Standards, Children's
Residential Care Facilities 147
Food Stamps For Households With IPV
Members, Ineligible Fugitive Felon,
Or Probation/Parole Violator, Or A
Member Convicted Of A Controlled
Substance-Related Felony 82
Forest Land Management Plan 194
Form, Filing Corner Perpetuations 46
Foster Parent Duties 115
Foster Parent Qualifications And
Suitability 112
Foster Parent Training 116
Fraud Or Fraudulent 91
Frequency Of Audits, Field Operations
Control 32
Fugitive Felon 80
Fundamentals Of Engineering 41

G

Garbage Disposal Requirements,
Children's Residential Care
Facilities 147
General Assistance 77
General Criteria, To All Aquatic Life
Use 242
General Provisions, Rules For Employer
Contributions 30
General Safety Provisions, Children's
Residential Care Facilities 148
General Standards For Organizations
Known As Children's Agencies And
Children's Residential Care
Facilities, Sections 500 Through
599 123
Generator Emergency Notification 256
Grading 42
Grant Offer And Acceptance, Public
Drinking Water System Grants 282
Grant Offer, Public Drinking Water
System Grants 282

Grant Payments 98
Group Day Care Facility 102
Group Living Arrangement 77
Group R-1, Children's Residential Care Facilities 146
Group R-3, Children's Residential Care Facilities 146
Guide 169
Guide Application Requirements - General 174
Guide License 169

H

Handbook, Drinking Water Loan Account Handbook Of Procedures 276
Hazardous Excursions 169
Hazardous Material Defined 186
Hazardous Waste Management System 253
Hazardous Waste Permit Program 257
He/His/Him 170
Health Services, Children's Services And Residential Care Facilities 130
Hearing, Outfitters And Guides License Adjustment 173
Heating, Children's Residential Care Facilities 147
Hiring, Ombudsman 70
Hold Order 52
Home Temporarily Not Occupied, During Employment, Training Or Illness 81
Homeless Meal Provider 77
Homeless Person 77
House Parent Relief Staff, Children's Residential Care Facilities 145
House Payments, Shelter Deduction 81
Human Resources Needed, Children's Services And Residential Care Facilities 125
Hunting 170

I

Idaho Livestock Owner 52
Identification And Listing Of Hazardous Waste 253
Identification Card 77
Identification, Alternative To Permanent Marks 55
Illness, Injury, Or Death, Foster Parent Shall Report To The Children's Agency 122

Immunizations Required, Standards For Day Care 111
In-State, Livestock Transported Intrastate 58
Inadvertent Household Error Claim (IHE) 77
Incidental Activity 170
Incidental Amendment 170
Income And Resources, Foster Parent Qualifications And Suitability 112
Incorporated City, Certification Of Sales Tax Distribution 191
Incorporated Nonprofit Applicants 262
Incorporation By Reference Of Federal Regulations 253
Indian General Assistance 78
Individual 96
Industrial, Water Quality Criteria 249
Ineligibility For A Felony Conviction For Possession, Use, Or Distribution Of A Controlled Substance 80
Ineligible Aliens 79
Ineligible Costs 260
Ineligible Costs, Public Drinking Water System Grants 279
Ineligible Costs, Public Drinking Water Systems 276
Ineligible Items And Services 97
Ineligible Legal Noncitizen 80
Ineligible Project Costs 267
Infant Medical Care Plan, Children's Residential Maternity Care 159
Information Needed 262
Initial And Subsequent Family Foster Home Evaluation Study Process And Contents 134
Initial Application Fees For Basic Day Care License 109
Initial Application Fees For Certification, Standards For Day Care 110
Initial Evaluation, Foster Care Licensure 113
Installation, Maintenance And Inspection Of Flame And Heat Producing Equipment 116
Institution Of Higher Education 78
Institution Of Post Secondary 78
Insurance Coverage, Residential Care Facility 124
Intake Policy, Children's Services And Residential Care Facilities 125

Integrated Priority List, Developed Annually 264
Integrated Priority System 263
Inter-Country Adoption 103
Inter-Country Adoption Orientation, Inter-Country Adoption Services To Adoptive Parents 143
Inter-Country Adoption Services 142
Inter-Country Adoption Services To Adoptive Parents 143
Interagency Placement Of Children, Foster Homes 119
Interceptor Sewer 260
Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage And Disposal Facilities 256
Intervention Documentation, Children's Services And Residential Care Facilities 131
Investigation Methods, Potential Instances Of Fraud, Abuse, Or Misconduct 92
Investigation, Funds Or Livestock Subject To A Hold Order 59
Investigation, Potential Instances Of Fraud, Abuse, Or Misconduct 92
Investigator 170
Investment Lands 197
Itinerant Claims 25

J

JSAP Or Work Registration Noncompliance 79
Joint Ownership 195
Journeyman To Apprentice Ratio, Electrical Contractor 20
Judgements Of Wages 34

K

Knowingly, Known, Or With Knowledge 91

L

Land Disposal Restrictions 257
Landowner's Report, Yield Tax On Applicable Forest Products 196
Lands Of Less Than Five Acres, Forest Land 195
Late Fee, Outfitters And Guides 172
Late Or Denied Renewals 39
Late Penalty 30
Law Enforcement Authorities, Foster

- Parent Shall Report To The Children's Agency A Childs Detainment 123
- Lead Paint, Prohibited In Or On Children's Residential Care Facilities 147
- Legal Authority 259
- Legal Requirements For Inter-Country Adoption Services 143
- Legal Requirements For Transporting Children, Foster Homes And Children's Residential Care Facility 118
- Licensable Waters -- Table, Outfitters And Guides 175
- License Or Registration, Any Person Performing Electrical Work Without Valid License Or Registration 20
- Licensed Premises 62
- Licensee 62
- Licensing And Certification 104
- Licensing And Certification Agency Policies And Procedures For Foster Homes 134
- Licensing Provisions Related To The Indian Child Welfare Act, Standards For Foster Homes 112
- Licensing Standard Compliance Requirement, Inter-Country Adoption Services 143
- Lien Interest 30
- Lifetime Certificate 52
- Lighting, Children's Residential Care Facilities 147
- Limitation On Funding Assistance, Public Drinking Water System Grants 279
- List Of Moving Traffic Convictions Point Count 204
- Livestock Dealer 52
- Loan Application And Review 268
- Loan Consolidation 272
- Loan Decreases 272
- Loan Disbursements 272
- Loan Increases 272
- Loan Offer 271
- Loan Offer And Acceptance 270
- Loan Payments, Shelter Deduction 81
- Local Option, Licensing And Certification 104
- Locations Of The Offices Of The Idaho State Brand Board 60
- Locked Seclusion Log, Locked Seclusion, Children's Residential Care Facilities 155
- Locked Seclusion Room Requirements, Children's Residential Care Facilities 156
- Locked Seclusion, Children's Residential Care Facilities 155
- Lower Kootenai Subbasin 215
- M**
- Mail, Foster Children 122
- Main Office, Idaho State Brand Board 60
- Maintenance Of Records, Children's Services And Residential Care Facilities 129
- Maintenance, Children's Residential Care Facilities 147
- Major Activity 170
- Major Amendment 170
- Major Disaster 96
- Managing Employee 91
- Mandatory Visitations, Foster Home/ Child Care Facility/Children's Agency 107
- Manufactured Home Buyer's Information And Disclosure Form 21
- Market Value For Assessment Purposes, Certification Of Sales Tax Distribution 191
- Maximum Contaminant Level (MCL), Public Drinking Water Systems 276
- Maximum Number Of Children In A Bedroom, Foster Homes 120
- Maximum Number Of Children, Foster Home 118
- Maximum Sales, Motor Vehicles 202
- Meals And Lodging Not Included In Gross Wages 33
- Meals Or Lodging For Employer Convenience 33
- Mechanical Restraint 103
- Mechanical Restraint Log, Children's Residential Care Facilities 157
- Mechanical Restraint Use As A Last Resort, Children's Residential Care Facilities 156
- Mechanical Restraint, Children's Residential Care Facilities 156
- Medical And Dental Care, Foster Homes 121
- Medical Assistance 91
- Medical Emergency, Children's Residential Care Facilities 145
- Medical Professionals 103
- Medication Storage And Administration, Children's Residential Care Facilities 150
- Member Disqualified As A Fugitive Felon Or Probation Or Parole Violator 80
- Member Disqualified For A Voluntary Quit Or Reduction In Hours Of Work 80
- Member Disqualified For Conviction Of A Controlled Substance Felony 81
- Member Disqualified For Failure To Comply 80
- Member Disqualified For Failure To Cooperate In Establishing Paternity And Obtaining Support 81
- Member Disqualified For Failure To Meet The ABAWD Work Requirement 80
- Member Disqualified For IPV 80
- Member Ineligible Due To SSN 80
- Member Of Household Qualifications And Suitability, Foster Parent Qualifications 113
- Members Of The Household Physical And Mental Health, Foster Care Licensure 113
- Middle Salmon-Panther Subbasin 228
- Minimum Age, Foster Parent Qualifications And Suitability 112
- Minimum Grant Payment 98
- Minimum Qualifications, Ombudsman 70
- Minimum Standards - References 40
- Minor Activity 170
- Modified, Water Quality Criteria For Modified Aquatic Life 246
- More Than One Claimant, Funds Or Livestock Subject To A Hold Order 59
- Most Current Census, Certification Of Sales Tax Distribution 191
- Mountainous 170
- Moyie Subbasin 217
- Municipality 260
- Municipality, Public Drinking Water Systems 276

N

- National Electrical Code Compliance, Children's Residential Care Facilities 146
- National Electrical Code, 1999 Edition 17
- National Pollutant Discharge Elimination System 260
- Nationwide, Ownership And Transportation Certificates 57
- Necessary Clothing, Foster Homes 121
- Necessary Expense 96
- New Claims/Additional Claims 24
- New Licenses 62
- New Opportunity 170
- Nonaccredited Residential School 103
- Noncommunity Water System 276
- Nonexempt 78
- Nonpoint Source Implementation Funding, Project Funding 265
- Nonpoint Source Pollution 260
- Nonpoint Source Project Sponsor 260
- Nonprofit Meal Delivery Service 78
- Nonrenewal, Denial, Revocation, Or Suspension Of License Or Certification, Foster Home/Child Care Facility/Children's Agency 108
- Nonresident 170
- Nontransient Noncommunity Water System (NTNCWS) 276
- Nonuse 170
- Non-violent Physical Intervention, Written Policies And Procedures 130
- North And Middle Fork Boise Subbasin 232
- Not Provided Or Not Medically Necessary, Denial Of Payment 92
- Notice, Suspension Or Termination Of Grant 283
- Notification Of Approval 269
- Notification Of Audits 32
- Notification Of Disapproval 269
- Notification Of Disapproval, Public Drinking Water System Grants 281
- Notification Of Value, Each Taxing District And Unit 192
- Notification To Applicant By Board 41
- Notification To Board By Applicant 41
- Notification To The Licensing Authority, Within Thirty Days Of Name Change/Type Of Service/Ownership/Capacity/Type Of Children Being Served In A Children's Agency Or Residential Care Facility 123
- Number Of Children In A Bed, Foster Homes 120
- Nutrition, Children's Residential Care Facilities 151
- Nutritional Services 89

O

- O & M Manual 260
- Obligation To Communicate Discovery Of Discrepancy 44
- Obligation To Comply With Rules Of Continuing Professional Development 44
- Observation, Locked Seclusion, Children's Residential Care Facilities 155
- Off-Premise Sales Activities, Motor Vehicles 202
- Office -- Office Hours -- Mailing Address And Street Address, Administrative Rules 19
- Operating Area 170
- Operating Area Adjustments, Outfitters And Guides 173
- Operating Plan 170
- Oral Or Unassembled Examinations 42
- Order Buyer 52
- Order Of Business 38
- Other Exclusions, Secretary Of Health And Human Services 93
- Other Lakes And Reservoirs, Outfitters And Guides 182
- Other Services, Copies And Searches Fees 72
- Out-Of-Pocket Costs 171
- Out-Of-State, Transportation Of Livestock 58
- Outfitter 170
- Outfitter License 171
- Overissuance 78
- Overpayments, Individual And Family Grants 98
- Overview Of Process, Environmental Review 281
- Owner-Occupied 96
- Ownership And Transportation Certificate 52

- Ownership Interest/Deferred Taxes, Forest Land 196
- Ownership Or Control Interest 91
- Oxygen And Related Equipment, Physician Ordered 89

P

- PRO 92
- Panhandle Basin 214
- Parental Control 78
- Participation 78
- Pat Down Searches, Children's Residential Care Facilities 152
- Pat Hughes Creek And Buckskin Creek, Subsection 130.03, HUC 17060201, Units S-29 And S-30, Site-specific Criteria 250
- Payment Limitations In Adoption, Children's Agencies Shall Prohibit The Actual Or Promised Payment 140
- Payment, Nutritional Services 89
- Payments, Public Drinking Water System Grants 282
- Penalties -- Table, Outfitters And Guides 183
- Penalties And Interest On Bankruptcy 30
- Penalty And Interest During Controversy 30
- Performance Outside Scope Of License, Specialty Electrical Contractor 20
- Permanent Register, Children's Services And Residential Care Facilities 127
- Permissive Exclusions, Persons Or Entities 93
- Person 92
- Person Refusing To Provide SSN 79
- Personal Attributes And Experiences, Foster Parent Qualifications And Suitability 112
- Personal Care And Hygiene, Foster Homes 121
- Personal Possessions, Allowance, And Money Policy, Children's Services And Residential Care Facilities 132
- Personal Possessions, Allowances, And Money, Foster Children 121
- Persons Disqualified As Food Stamp Household Members 79
- Persons With Citizenship Questionable 79

- Persons With IPV 79
Pets And Domestic Animals, Foster
Homes And Children's Residential
Care Facility 117
Placement Agreement Required
Contents, Children's Agencies 134
Placement Emergency Change,
Children's Agencies 136
Placement Service Termination,
Children's Agencies 136
Plan For Continuing Program Of
Valuation 188
Plan Of Operation 260
Policies And Procedures For
Transitional Living Services 136
Policy 259
Pollutant 261
Population And Valuation Estimates,
Certification Of Sales Tax
Distribution 191
Post-Finalization Counseling, Inter-
Country Adoption Services To
Adoptive Parents 144
Post-Finalization Services, Services For
Adoptive Parents 141
Post-Placement And Post-Finalization
Adoption Services, Inter-Country
Adoption Services To Adoptive
Parents 144
Post-Placement Reports, Inter-Country
Adoption Services To Adoptive
Parents 144
Post-Placement Services, Services For
Adoptive Parents 141
Post-Placement Supervision, Inter-
Country Adoption Services To
Adoptive Parents 143
Potentially Harmful Objects, Locked
Seclusion, Children's Residential
Care Facilities 155
Power Boats 171
Preliminary Engineering Report 261
Prenatal And Postpartum Care,
Children's Residential Maternity
Care 159
Preparation For Placement, Adoptive
Parent Information 142
Present Use 194
Primary Obligation 43
Primary Residence 96
Principles And Practice Of Engineering
- Disciplines 42
Priority List 261
Priority List, Public Drinking Water
Systems 277, 278
Priority Rating System, Grants Funding
Public Drinking Water Systems 278
Priority Reevaluation, Public Drinking
Water Systems 279
Probability Sampling, Potential
Instances Of Fraud, Abuse, Or
Misconduct 92
Procedure For Criminal History Checks,
Standards For Day Care 111
Procedures For Decision-Making (State
Procedures For RCRA Or HWMA
Permit Applications) 257
Professional Judgement 44
Program 78, 92
Program Description, Children's
Agencies 134
Program Statement For Transitional
Living Services 136
Program Statement, Children's
Agencies Who Provide Adoption
Services 138
Program Supervision Qualifications,
Children's Alcohol-drug Abuse
Residential Facility 161
Prohibited Physician Referral, Denial
Of Payment 93
Prohibition Of Contributions In
Adoptions, Children's Agencies Shall
Not Accept Contributions From
Adoptive Applicants 140
Prohibition Of Staff Adoptions,
Children's Agency Shall Not Do An
Adoption Study For Its Own
Staff 140
Prohibitions Of Foster Child
Transportation 118
Prohibitions On Mechanical Restraints,
Children's Residential Care
Facilities 157
Prohibitions, Behavior Management
And Discipline, Foster Homes 120
Project Area 78
Project Funding 265
Project Funding, Public Drinking Water
Systems 279
Project Review To Determine Final
Eligible Costs 272
Projects Not Funded By Loans 264
Proof Of Ownership 56
Protection From Harm To Self Or
Others 130
Provider Suspension 92
Psychotropic Medication, Children's
Residential Care Facilities 150
Public Assistance 78
Public Drinking Water System 277
Public Records Act Compliance 46
Publications, Professional Engineers
And Land Surveyors 39
Purpose, Standards For Day Care 108
- Q**
Qualifying Entity, Grants For Public
Drinking Water Facilities 277
Quality Of Services Environment,
Children's Services And Residential
Care Facilities 124
Quarterly Certification, Certification Of
Sales Tax Distribution 191
Quarterly Reporting 30
- R**
Racial, Ethnic, And Religious
Considerations, Adoptive Parent
Information 142
Racial, Ethnic, and Cultural
Considerations, Selection Of An
Adoptive Placement 141
Reapplication For Grant, Public
Drinking Water System Grants 281
Reapplication For Loan 269
Reasonable Access, Foster Care
Licensure Shall Grant The
Department Access 115
Recapture Of Deferred Taxes On Lands
Designated Under Section 63-1706,
Idaho Code 196
Recognition Of Federal Exemptions,
Transportation Of Hazardous
Material By Rail 186
Recognized Standards, Denial Of
Payment 93
Record Management And Reporting
Requirements, Foster Parent Shall
Maintain A Record For Each
Child 122
Record Management, Transitional
Living Services 137
Record Retention, Children's Services
And Residential Care Facilities 130
Recording And Use Of Brands 53
Recording Procedures 53

- Recording, Use And Placement Of Brands 53
- Records Management, Maintenance, Availability To Foster Parent, And Contents 135
- Recoup And Recoupment 92
- Recoupment 93
- Recovery Of Duplicate Benefits 97
- Recreation, Foster Children 122
- Recreation, Physical Exercise, And Leisure Time Activities, Children's Residential Care Facilities 149
- Recruitment Of Adoptive Applicants 139
- Reexaminations, Separate Fees For Each Examination 39
- Refund For Overpayments, Estate And Transfer Tax 198
- Refund Of Unused One Time Application Fees, Outfitters And Guides 172
- Registration For Work 25
- Registration/Reporting Requirements – Interstate Claimants 25
- Reinstatement Of Suspended Grant, Public Drinking Water Facilities Grants 283
- Reinstatement Of Terminated Grant, Public Drinking Water Facilities Grants 283
- Release Of Lien Upon Payment In Full 31
- Release Order 53
- Relief Of Indebtedness, Employer Accounts Bureau 32
- Religious And Cultural Practices, Foster Children 122
- Religious And Culture Policy, Children's Services And Residential Care Facilities 131
- Relinquishment Of License Privileges 171
- Renewal Of Brands 54
- Rent, Shelter Deduction 81
- Reporting Foster Home Changes, Foster Parent Shall Report To The Children's Agency 122
- Reporting Of Child Abuse And Neglect, Shall Be Reported Immediately 130
- Reporting Progress And Problems, Foster Parent Duties 115
- Request For Extension, Five Year County Valuation Plan 188
- Required Information For Youth At Service Termination, Transitional Living Services 138
- Required Staff Ratios, Children's Residential Care Facilities 145
- Requirement To Provide Information 25
- Requirements To Conduct A Controlled Hunt Outside Operating Area 174
- Requirements, Licensee 47
- Research Protections For Persons Served, Children's Services And Residential Care Facilities 124
- Reserve Capacity 261
- Resident 171
- Residential School 103
- Resources Of Disqualified Household Members 80
- Responsibilities Of Applicants, Owners/ Operators, Standards For Day Care 111
- Responsibilities Of The Foster Parent Or Operator, Licensing And Certification 105
- Responsibility To The Public 43
- Restaurant 62
- Restraint 104
- Restraint Approval, Alternative Forms Of Restraint, Children's Residential Care Facilities 158
- Restraint Type, Mechanical Restraint, Children's Residential Care Facilities 156
- Restraint Use As A Last Resort, Alternative Forms Of Restraint, Children's Residential Care Facilities 158
- Restrictions On Applicability, Foster Home/Child Care Facility/Children's Agency 107
- Restrictions On Seclusion, Use Of Unlocked Seclusion, Children's Residential Care Facilities 155
- Restrictions On Sleeping Arrangements, Foster Homes 120
- Retail Food Store 78
- Retired And Receiving No Remuneration 49
- Retired Status 39
- Review And Evaluation Of Grant Applications, Public Drinking Water System Grants 280
- Review Of Examination By Examinee 42
- Review Of Request 269
- Revisits, Relicenses And Recertifications, Foster Home/Child Care Facility/Children's Agency 107
- Right To Claim Benefits 26
- River, Lake And Reservoir Power And Float Outfitter Limits 175
- Roster 39
- Rules 171
- Rules Or Provider Agreement 93
- S**
- Safety Adjustment, Outfitters And Guides License Adjustment 173
- Salmon Basin 223
- Sanction 92
- Sanctions For Delinquency, ILETS Network User Access Fees 67
- Sanitation Inspection, Applications For License Or Certification 105
- Schedule Of Fees 39
- Schedule Of Fees For The Idaho State Brand Board 58
- School Administrative Description, Non-Accredited Children's Residential Schools 162
- Scope Of Project 261
- Searches, Children's Residential Care Facilities 152
- Searches, Fees 72
- Seasonal Cold Water 244
- Seclusion 104
- Seclusion, Children's Residential Care Facilities 154
- Secure Groups, Children's Residential Care Facilities 146
- Selection Of An Adoptive Placement 141
- Self-Supervision Prohibited, Children's Agencies 133
- Seller Not Titled Owner, Motor Vehicles 202
- Semiannually Or Annually 40
- Separation Information 26
- Separation Notice 26
- Serious Need 96
- Service Components, Transitional Living Services 137
- Service Plan Implementation, Foster

- Parent Duties 115
Service Plans And Participants,
Children's Agencies 136
Service Plans, Children's Services And
Residential Care Facilities 129
Service Sink, Children's Residential
Care Facilities 147
Service Worker Available, Children's
Residential Maternity Care 159
Service Worker Position And
Qualifications, Children's
Agencies 133
Service Worker Qualifications,
Children's Residential Care
Facilities 145
Service Worker Ratios, Children's
Residential Care Facilities 145
Service Worker Supervisor Position,
Children's Agencies 133
Service Worker Supervisor
Qualifications, Children's Residential
Care Facilities 144
Service Worker Supervisor
Responsibilities, Children's
Agencies 133
Services For Adoptive Applicants,
Children's Agencies Who Provide
Adoption Services 139
Services For Adoptive Parents 141
Services For Children Shall Be The
Primary Consideration, Children's
Agencies 139
Services For Child's Birth Parents 139
Severability 272
Sewage Disposal Systems, Children's
Residential Care Facilities 147
Sewer Use Ordinance 261
Sharing A Bedroom With A Foster
Parent 120
Sharing Bedroom With A Non-Parent
Adult, Foster Homes 119
Shelter Care Admission And Plans, To
Be Written Within Seven Days By
Children's Services 129
Shelter Care In Excess Of Thirty
Days 129
Shelter Care More Than Sixty
Days 129
Signatures, Guide Application
Requirements 174
Silvicultural Treatment 194
Sleep, Children's Residential Care
Facilities 149
Sleeping Arrangements, Foster
Homes 119
Sleeping Rooms, Children's Residential
Care Facilities 148
Smoke And Carbon Monoxide
Detecting Devices, Foster Homes
And Children's Residential Care
Facility 116
Social Worker Or Service Worker
Responsibilities, Children's
Agencies 133
Social Worker Position And
Qualifications, Children's
Agencies 133
Soft Restraints 104
South Fork Boise Subbasin 233
South Fork Clearwater Subbasin 220
South Fork Coeur d'Alene
Subbasin 218
Southwest Idaho Basin 232
Special Circumstances Regarding
Maximum Numbers Of Children,
Foster Home 118
Special Examinations 42
Special Or Oral Examination 40
Specific Training, Services For
Adoptive Parents 141
Specific Variances 250
Spouse 79
Staff -Child Ratio-Sleeping Hours,
Children's Residential Care
Facilities 145
Staff Coverage, Supervision Of
Recreational Activity 150
Staff Qualifications For Children's
Alcohol-drug Abuse Residential
Facility 160
Staff Ratios Required, Non-Accredited
Children's Residential Schools 162
Staff Recruitment, Hiring, Supervision,
Training, Evaluation, Promotion And
Discipline, Children's Services And
Residential Care Facilities 125
Staff Supervision, Use Of Unlocked
Seclusion, Children's Residential
Care Facilities 155
Staff Training, Children's Residential
Care Facilities 145
Staff Workloads, Children's
Agencies 133
Staff-Child Ratio-Daytime, Children's
Residential Care Facilities 145
Staffing 70
Standard Of Care 44
Standards Applicable To Generators Of
Hazardous Waste 256
Standards Applicable To Transporters
Of Hazardous Waste 256
Standards For Day Care 108
Standards For Foster Homes 112
Standards For Owners And Operators
Of Hazardous Waste Treatment,
Storage And Disposal Facilities 256
Standards For The Management Of
Specific Hazardous Wastes And
Specific Types Of Hazardous Waste
Facilities 257
Standards For The Management Of
Used Oil 257
Standards For Universal Waste
Management 257
State 79, 261
State Agency 79
State Plan 92
Statistical, Research Or Public Health
Services 72
Statute Of Limitations For Audits And
Inspections Of Employer
Records 31
Statute Of Limitations For Collections
Of Contributions, Penalty And
Interest 32
Stay Of Board Action 171
Stock Transfer 63
Storage Of Medication, Foster
Homes 121
Storage Of Poisonous And Toxic
Materials, Must Be Stored Under
Lock And Key At Children's
Residential Care Facilities 148
Strip Searches, Children's Residential
Care Facilities 153
Student 79
Submission Of Application 268
Submission Of Application, Public
Drinking Water System Grants 280
Subsequent Evaluations, Foster Care
Licensure 115
Subsistence Remuneration 33
Substitute Care Placement And
Children's Agency Notification,
Foster Parent 119
Sufficient Financial Resources,

Children's Services And Residential Care Facilities 125
Sufficient Recreational Space, Children's Residential Care Facilities 148
Suicide Prevention Plan, Children's Services And Residential Care Facilities 131
Supervision And Support, Transitional Living Services Plan Of Supervision 137
Supervision Of Recreational Activity, Children's Residential Care Facilities 150
Supervision, Electrical Contractor 20
Supervision, Post Placement Supervision To The Adoptive Family 142
Supervisor To Staff Ratio, Children's Agencies 133
Supervisor-Staff Ratio, Children's Residential Care Facilities 145
Supervisory Approval, Use Of Unlocked Seclusion, Children's Residential Care Facilities 155
Supplemental Grants 261, 264
Supplemental Security Income (SSI) 79
Surface Water Quality Criteria For Aquatic Life Use Designations 242
Suspension 261
Suspension For Circumstances Beyond Control Of Operator, Foster Parent or Operator 107
Suspension Or Revocation For Infractions, Foster Home/Child Care Facility/Children's Agency 107
Suspension Or Termination Of Grant, Public Drinking Water System Grants 283
Swimming Pool, Pond, Or Other Body Of Water, Children's Residential Care Facilities 150
System Eligibility, Public, Private Community And Nonprofit Noncommunity Water Systems 275

T

Tally Sheet 53
Taxes And Insurance 81
Technical Capability, Public Drinking Water Systems 278
Telephone, Foster Homes And

Children's Residential Care Facility 118
Temporary Basic Day Care Licenses, Certifications And Day Care Provider Permits 111
Termination 261
Termination Of Placement By The Foster Family, Foster Parent Duties 115
Termination Of Transitional Living Services 138
Termination, Grants Funding Public Drinking Water Systems 278
Terms Of Agreement, Public Drinking Water System Grants 282
Terms Of Loan Offers 271
Terms Of Probation, Outfitters And Guides 184
Testing For Current Market Value 189
Teton Subbasin 238
Third Party Agreement 171
Time Needed, Use Of Unlocked Seclusion, Children's Residential Care Facilities 154
Time-Out, Children's Residential Care Facilities 154
Title And Scope 259
Tolling of Statute of Limitations 32
Trainee 171
Training, Children's Agencies 134
Transfer Of Ownership/Deferred Taxes, Forest Land 197
Transfer Of Recorded Brands 54
Transitional Living 104
Transitional Living Placement 137
Transportation Of Children In Restraints, Children's Residential Care Facilities 159
Transportation Of Hazardous Material By Rail 186
Transportation Of Livestock 58
Transportation, Foster Homes And Children's Residential Care Facility 118
Transporting Children, Children's Residential Care Facilities 151
Treatment Focus, Children's Alcohol-drug Abuse Residential Care Facilities 160
Tuberculosis Screening, Staff And Volunteers Who Have Contact With The Children Four Hours Or More

Per Week 126
Twenty-Four Hour Agency Telephone Access, Transitional Living Services 138
Two Examinations For Engineering Registration 41
Two Examinations For Land Surveying Registration 42

U

Unauthorized Absences, Residential Care Facility 124
Under Supervision 171
Unethical/Unprofessional Conduct 171
Unified Watershed Assessment 261
Universal Precautions, Children's Residential Care Facilities 151
Unreasonable Risk To Health (URTH) 278
Unusual Incident Notification, Foster Parent Shall Report To The Children's Agency 123
Unusual Incident Policy, Children's Agencies To Notify State Licensing Authority Within One Day 136
Update Information, Foster Care Licensure 115
Upper Henrys Subbasin 236
Upper Kootenai Subbasin 214
Upper Salmon Subbasin 223
Upper Snake Basin 236
Upper Snake-Rock Subbasin 240
Use Of NCEES Examinations 42
Use Of Tobacco Products, Alcohol, And Illegal Drugs Prohibited, Children's Residential Care Facilities 151
Use Of Unlocked Seclusion, Children's Residential Care Facilities 154
Use Of Wage Credits 28
Used Oil As A Dust Suppressant 257
Used Only Until Child Has Regained Control, Mechanical Restraint, Children's Residential Care Facilities 156
Used Only Until The Child Has Regained Control, Alternative Forms Of Restraint, Children's Residential Care Facilities 158
User Access Fees, ILETS Network 67
User Charge System 261
Utilities, Shelter Deduction 81

V

Valid Claim 28
Validated Training Form 172
Validity Of Review 270
Validity, Ownership And
Transportation Certificate Is Not
Transferable 57
Variances From Water Quality
Standards 249
Vehicle Payments 81
Verification 79
Verifications, Fees 72
Visitation Policy, Children's Services
And Residential Care Facilities 131
Voluntary Compliance By Group Day
Care Facilities For Basic Day Care
License 110
Voluntary Quit Or Reduction Of Hours
Of Work 79

W

Wage Assignment To Proper Calendar
Quarter 34
Waiver Of Fee Requirement 73
Waivers, Planning Grants For Public
Drinking Water Facilities 283
Warm Water 245
Wastewater 261
Wastewater Treatment Facility 262
Wastewater Treatment Facility
Funding, Project Funding 265
Water Front, Safety Equipment
Required At Children's Residential
Care Facilities 150
Water Pollution Control Project 262
Water Quality Project Ranking,
Integrated Priority System 263
Water Treatment Plant 278
Watercraft 172
Welfare 96
Welfare, Not Duplicate Benefits 97
Wheelchair Access, Foster Homes And
Children's Residential Care
Facility 118
Work, Children's Residential Care
Facilities, Children May Be Given
Non-Vocational Work
Assignment 149
Written Bylaws, Residential Care
Facility 124
Written Contract And Reviews,
Transitional Living Services 138

Written Policies And Procedures -
Adoption, Children's Agencies Who
Provide Adoption Services 139
Written Transcripts And An Individual
Education Plan (IEP), Children's
Residential Care Facilities 149

Y

Yield Tax On Applicable Forest
Products 195
Youths Need For Supervision,
Transitional Living Services 137

Z

Zero Use 172