

IDAHO ADMINISTRATIVE BULLETIN

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October 4, 2000 -- Volume 00-10

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Preface

The Idaho Administrative Bulletin is published once each month by the Department of Administration, Office of the Administrative Rules Coordinator, pursuant to Section 67-5203, Idaho Code. The Bulletin is a compilation of all administrative 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
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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
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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.*

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IDAPA 26 - IDAHO DEPARTMENT OF PARKS AND RECREATION
26.01.20 - RULES GOVERNING THE ADMINISTRATION OF PARK
AND RECREATION AREAS AND FACILITIES

DOCKET NO. 26-0120-0001

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 67-4223 (Powers of the Board), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 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:

Additions to state park rules include:

- Specific rules for the operation of vehicles within state parks.
- Interfering with state park employees duties.
- Adding our agency's smoke free policy.
- Better defining liquid waste as it relates to camping.
- Including current Fish & Game regulations on bag/creel limits.

Violations to state park rules are considered infractions. These additions would also become citable as infractions, a civil offence.

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 large number of persons potentially affected by this rule change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Larry Stevens, Region Manager.

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 25, 2000.

DATED this 21st day of August, 2000.

Larry Stevens, Region Manager
Idaho Department of Parks and Recreation
2103 Lanark
Meridian, ID 83642
Phone: 208-887-4863
FAX: 208-887-1394

THE FOLLOWING IS THE TEXT OF DOCKET NO. 26-0120-0001

075. AUTHORITY CONFERRABLE ON EMPLOYEES.

The director may, pursuant to Section 67-4239, Idaho Code, authorize any employee of the department to exercise any power granted to, or perform any duty imposed upon the director. (1-1-94)()

01. Park Manager Authority. The park manager may establish and enforce rules which apply to the public safety, use, and enjoyment or protection of natural, cultural, or other resources within lands administered by the department. Those rules shall be posted for public view and shall be consistent with established state laws and these rules. All state, county, and local laws are in effect and subject to enforcement within lands administered by the department. (7-1-99)

02. Establishing And Posting Hours. The park manager shall establish and post the hours for use areas so as to serve the general public and protect the area with the staff available. (3-13-97)

(BREAK IN CONTINUITY OF SECTIONS)

150. USE OF MOTORIZED VEHICLES.

All motorized vehicles shall stay on authorized established department roadways or parking areas except for trails and areas which are clearly identified by signs for off-road use. ~~The drivers of all and~~ vehicles operated within lands administered by the department shall be licensed or certified as required under state law ~~for the type of vehicle operated.~~ The drivers of all vehicles shall comply with the speed and traffic rules of the department, and all other local, and state ordinances and laws governing traffic on public roads. (1-1-94)()

01. Use Of Parking Spaces For Persons With A Disability. Special zones and parking spaces within state parks are designated and signed for exclusive use by vehicles displaying a special license plate or card denoting legal handicap status. ()

02. Overdriving Road Conditions And Speeding Prohibited. No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions. Every person shall drive at a safe and appropriate speed when traveling on park roads, in congested areas, when pedestrians or bicyclists are present, or by reason of weather or hazardous highway conditions. ()

03. Motorcycle Safety Helmets. Persons under eighteen (18) years of age shall wear a protective safety helmet when riding upon a motorcycle as operator or passenger within Idaho State Parks. ()

04. Snowmobile Operation Limited. No person shall operate a snowmobile on any regularly plowed park road. Access on non-plowed roads and trails shall only be permitted when authorized by the park manager. ()

05. Compliance With Posted Regulatory Signs Required. Persons operating vehicles within state parks are required to obey posted regulatory signs. ()

06. Obedience To Traffic Direction Required. No person shall willfully fail or refuse to comply with any lawful order or directions of any park employee invested with authority to direct, control or regulate traffic within a state park. ()

048. Restrictions. All motorized vehicles within a specified campground are restricted to ingress and egress. (7-1-93)

028. Official Use. This rule does not prohibit official use of motorized vehicles by department employees anywhere within lands administered by the department. (1-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

175. PUBLIC BEHAVIOR.

01. Resisting And Obstructing A Park Employee Prohibited. Persons shall not willfully resist, delay, obstruct, or interfere with any park employee in his duties to protect the state's resources and facilities and to provide a safe place to recreate. ()

02. Quiet Hours. Within lands administered by the department, the hours between 10:00 p.m. and 7:00 a.m. shall be considered quiet hours unless otherwise posted. During that time, users are restricted from the production of noise that may be disturbing to other users. (1-1-94)

03. Noise. Amplified sound, poorly muffled vehicles, loud conduct or loud equipment are prohibited within lands administered by the department, except in designated areas or by authority of the park manager. (1-1-94)

04. Alcohol. State laws regulating alcoholic beverages, and public drunkenness ~~and the illegal use of drugs~~ shall be enforced within lands administered by the department. (1-1-94)()

05. Littering. Littering is prohibited within lands administered by the department. (1-1-94)

06. Smoking. State Park facilities have been designated as "smoke free". Persons shall not smoke within park structures or at posted outdoor areas. ()

(BREAK IN CONTINUITY OF SECTIONS)

200. CAMPING.

01. Occupancy. Camping shall be permitted only in designated campsites with maximums of: eight (8) people, one (1) extra vehicle, two (2) tents, and one (1) motor vehicle or towed unit with built-in sleeping accommodations. Additional vehicle(s) may be parked at the site with permission of the park manager. (3-10-00)

02. Motorcycles. Maximum of two (2) motorcycles constitute one (1) motor vehicle or towed unit with built-in sleeping accommodations. (3-13-97)

03. Length Of Stay. Except as provided herein, no person, party or organization may be permitted to camp on any lands administered by the department for more than fifteen (15) days in any thirty (30) day period. Shorter or longer periods may be designated for any individual area by the director or designee. (3-10-00)

04. Saving Sites. Saving campsites is prohibited. The party registering for a campsite shall be the party that occupies it for the first night. (1-1-94)

05. Condition Of Site. Campers shall keep their campgrounds and other use areas clean. (7-1-93)

06. Liquid Waste Disposal. All ~~liquid~~ gray water and sewage wastes shall be held in self-contained units or collected in water-tight receptacles in compliance with state adopted standards and dumped in sanitary facilities provided for the disposal of such wastes. (1-1-94)()

07. Unattended Sites. Campers may not leave their camps unattended for longer than one (1) camping day, except by permission of the park manager. (1-1-94)

08. Motorized Equipment. No generators or other motorized equipment emitting sound and exhaust are permitted to be operated during quiet hours. (7-1-93)

09. Campsite Parking. All boats, trailers, rigs and motorized vehicles shall fit entirely within the

campsite parking spur provided with the assigned campsite. All equipment which does not fit entirely within the campsite parking spur shall be parked outside the campground in an area designated by the park manager. If no outside parking is available, a second campsite shall be purchased. (1-1-94)

10. Equipment. All camping equipment and personal belongings of a camper shall be maintained within the assigned campsite perimeter. (3-13-97)

11. Check Out. Campers are required to check out and leave a clean campsite by 1:00 p.m. of the day following the paid night of camping. (7-1-99)

12. Visitors. Visitors to campers shall park outside the campground, except with permission of the park manager. Visitors shall conform to established day use hours. (1-1-94)

13. Responsible Party. The individual purchasing a campsite is responsible for assuring compliance with the rules within this chapter. (1-1-94)

14. Camping Prohibited. No camping is permitted outside designated campsites unless specifically authorized. (3-13-97)

(BREAK IN CONTINUITY OF SECTIONS)

575. PROTECTION OF WILDLIFE.

All molesting, injuring, or killing of any wild creature is strictly prohibited, except as provided by action of the board. Persons in possession of wildlife, which may be legally taken within state park boundaries, shall comply with current Idaho Fish and Game rules. (~~1-1-94~~)(____)

IDAPA 26 - IDHAO DEPARTMENT OF PARKS AND RECREATION

26.01.30 - IDAHO SAFE BOATING RULES

DOCKET NO. 26-0130-0001

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 67-4223 (Powers of the Board), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 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 clarifies the Personal Flotation Device (PFD) rule to specify that persons on personal watercraft (Jet Ski, Wave Runner, etc) and persons being towed by boats (water ski, wake board, knee board, tube, etc.) must be wearing the personal flotation device to be considered having it readily available.

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 large number of persons potentially affected by this rule change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Larry Stevens, Region Manager.

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 25, 2000.

DATED this 21st day of August, 2000.

Larry Stevens, Region Manager
Idaho Department of Parks and Recreation
2103 Lanark
Meridian, ID 83642
Phone: 208 887-4863
FAX: 208 887-1394

THE FOLLOWING IS THE TEXT OF DOCKET NO. 26-0130-0001

050. PERSONAL FLOTATION DEVICES (PFD's).

01. Personal Flotation Devices Required. Except seaplanes, sailboards, and as provided in Subsections 050.03 and 050.04 of this chapter, no person shall operate or permit to be operated any vessel on the waters of this state without carrying on board personal flotation devices (Type I life preservers, Type II buoyant vests,

Type III special purpose marine buoyant devices, Type IV buoyant cushions or ring life buoys, or Type V restricted use devices) as follows: (7-1-93)

a. Recreational vessels (used for non-commercial use) less than sixteen (16) feet in length, and canoes and kayaks of any length, shall have one (1) type I, II, or III wearable personal flotation devices of a suitable size for each person on board. (5-1-95)

b. Recreational vessels sixteen (16) feet in length and over, except as stated in Subsection 050.01.a. of this chapter, shall have one (1) type I, II, or III wearable personal flotation device of a suitable size for each person on board and, in addition, one (1) type IV throwable device. (1-1-94)

c. Commercial vessels less than forty (40) feet in length not carrying passengers for hire shall have at least one (1) Type I, II, or III wearable personal flotation device of a suitable size for each person on board. (1-1-94)

d. Commercial vessels carrying passengers for hire and commercial vessels forty (40) feet in length or longer not carrying passengers for hire shall have at least one Type I wearable personal flotation device of a suitable size for each person on board. (1-1-94)

e. Commercial vessels twenty-six (26) feet in length or longer shall have at least one (1) Type IV throwable ring life buoy in addition to other requirements. (1-1-94)

02. Location And Condition. All personal flotation devices required by Section 050 of this chapter shall be readily accessible to persons on board and be of good and serviceable condition. When aboard a personal watercraft (Jet Ski, Wave Runner, etc.) or being towed by a boat (water ski, wake board, knee board, tube, etc.), an approved flotation device must be worn to be considered readily accessible. All such devices shall be approved by the U.S. Coast Guard, and shall be marked in accordance with U.S. Coast Guard standards. All such devices shall comply with the construction and design standards set forth by 46 U.S.C. Section 2101 et seq. and Section 4301 et seq., and applicable federal regulations. (~~1-1-94~~)()

03. Alternative PFD Requirement. A Type V personal flotation device may be carried in lieu of any required personal flotation device if U.S. Coast Guard approved for the activity engaged in. (7-1-93)

04. Exemptions. (7-1-99)

a. Racing shells, rowing sculls and racing kayaks are exempt from the requirements of Section 050 of this chapter provided they are manually propelled, recognized by a national or international racing association and designed solely for competitive racing. (7-1-99)

b. Float tubes are exempt from the requirements of Section 050 of this chapter while being operated on lakes and reservoirs of this state of less than two hundred (200) surface acres in size at natural or ordinary high water. (7-1-99)

IDAPA 27 - BOARD OF PHARMACY
27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY
DOCKET NO. 27-0101-0001
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 end 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. After 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 54-1717, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any changes 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 No. 00-6, pages 61 and 62.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Richard K. Markuson, Director, (208) 334-2356.

DATED this 18th day of August, 2000.

Richard K. Markuson
Director
Idaho Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise, ID 83720-0067
Telephone: (208) 334-2356
Facsimile: (208) 334-3536

IDAPA 27
TITLE 01
Chapter 01

RULES OF THE IDAHO BOARD OF PHARMACY

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 61 and 62.](#)

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 27 - BOARD OF PHARMACY
27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY
DOCKET NO. 27-0101-0002
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 54-1717, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 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:

This rule change will allow transfer of prescriptions via facsimile and remove outdated requirement for placing transfer information on the original prescription for pharmacies that maintain the same information in a computer prescription database.

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 Board of Pharmacy believes all relevant interest groups will approve of the change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Richard K. Markuson, Director, at (208) 334-2356.

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 25, 2000.

DATED this 22nd day of August, 2000.

Richard K. Markuson, Director
Idaho Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720, Boise, ID 83720-0067
Telephone: (208) 334-2356 / Facsimile: (208) 334-3536

THE FOLLOWING IS THE TEXT OF DOCKET NO. 27-0101-0002

160. PRESCRIPTION TRANSFER.

A pharmacist may transfer prescription order information for the purpose of refilling a prescription only if the information is communicated orally directly by one (1) pharmacist to another pharmacist. Such oral information can be communicated by an extern/intern under the direct supervision of a pharmacist to another pharmacist as long as one (1) of the parties involved in the communication is a pharmacist and the order is not for a controlled substance. In the alternative, the transferring pharmacist may transfer the prescription order information by facsimile transmission

to the receiving pharmacist. In the case of a facsimile transmission, the transmission shall be signed by the transferring pharmacist. (7-1-93)()

01. Prescriptions For Controlled Substances. Prescriptions for controlled substances may be transferred only from the pharmacy where it was originally filled, and never from the pharmacy that received the transfer. (7-1-93)

a. In addition to the information required below, the pharmacist transferring the prescription shall record on the back of the original order, the DEA number and address of the pharmacy to which the transfer was made. (7-1-93)

b. The receiving pharmacist must record the DEA number and address of the pharmacy transferring the order. (7-1-93)

02. Transferring A Prescription. The pharmacist (extern/intern) who transfers the prescription shall: (7-1-93)

a. Invalidate the original prescription by writing the word “void” across the face of the form. (7-1-93)

b. On the reverse side of the form shall record the following information: his name; name of the receiving individual; name of the receiving pharmacy; date of the transfer and the number of authorized refills available. (7-1-93)

03. Receiving Transferred Prescription. The pharmacist (extern/intern) who receives the transferred prescription shall: (7-1-93)

a. Reduce the transferred information to writing including a notation that the prescription is a “transfer” and include all information required by law or rule. (7-1-93)

b. On the reverse side of the form he shall record the following information: his name; the name of the transferring individual; the name of the transferring pharmacy; the date of the original dispensing and transfer and the number of refills authorized; the number of valid refills remaining and the date of the last refill; the serial number of the prescription transferred. (7-1-93)

04. Computer. Transferring Pharmacies that utilize a computer ~~must follow~~ prescription database which contains all of the prescription information required by law or rule ~~as stated above~~, may enter the information required under Section 160 into the pharmacy’s prescription database (including de-activation of the transferred prescription in the database of the transferring pharmacy-computer), in lieu of entry of the required information on the original written prescription. The receiving pharmacy must generate a hard copy to be treated as a new prescription, which hard copy shall also contain all of the information required under Section 160. (7-1-93)

05. Refills. Prescriptions for non-controlled drugs may be transferred more than one (1) time as long as there are refills remaining and all of the provisions as listed above are followed. (7-1-93)

06. Common Electronic Files. (7-1-98)

a. For drugs other than controlled substances: Two (2) or more pharmacies may establish and use a common shared electronic prescription file to maintain required dispensing information. Pharmacies using such a common file are not required to transfer prescriptions or information for dispensing purposes between or among pharmacies participating in the same common prescription file. (7-1-98)

b. For controlled substances: Pharmacies must satisfy all information requirements of a manual mode for prescription transferal. (7-1-98)

c. All common electronic files must contain complete and accurate records of each prescription and refill dispensed. Hard copies must be generated and treated as a new prescription by the receiving pharmacy. (7-1-98)

IDAPA 27 - BOARD OF PHARMACY
27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY
DOCKET NO. 27-0101-0003
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 54-1717, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 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:

This rule change will add the substance carisoprodol to the list of Schedule IV controlled substances.

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 Board of Pharmacy believes that attempts at negotiated rule making would be fruitless.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Richard K. Markuson, Director, at (208) 334-2356.

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 25, 2000.

DATED this 22nd day of August 2000.

Richard K. Markuson
Director
Idaho Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise, ID 83720-0067
Telephone: (208) 334-2356
Facsimile: (208) 334-3536

THE FOLLOWING IS THE TEXT OF DOCKET NO. 27-0101-0003

446. ARTICLE II, SCHEDULES III AND IV.

Unless specifically excepted or unless listed in another schedule, the drug carisoprodol shall be listed in Schedule IV, under Article II, Title 37, Chapter 27, Idaho Code. ()

4467. REQUIREMENT OF PRESCRIPTION - SCHEDULE III OR IV.

01. Dispensing A Controlled Substance - Pharmacist. A pharmacist may dispense a controlled substance listed in Schedule III or IV, which is a prescription drug as determined under the Federal Food, Drug and Cosmetic Act, only pursuant to either a written prescription signed by a prescribing individual practitioner or an oral prescription made by a prescribing individual practitioner and promptly reduced to writing by the pharmacist containing all information required in Section 37-2722(c), Idaho Code except for the signature of the prescribing individual practitioner. (7-1-93)

02. Dispensing A Controlled Substance - Individual Practitioner. An individual practitioner may administer or dispense a controlled substance listed in Schedule III or IV in the course of his professional practice without a prescription, subject to Section 37-2720, Idaho Code. (7-1-93)

03. Dispensing A Controlled Substance - Institutional Practitioner. An institutional practitioner may administer or dispense directly (but not prescribe) a controlled substance listed in Schedule III or IV pursuant to a written prescription signed by a prescribing individual practitioner, or pursuant to an oral prescription made by a prescribing individual practitioner and promptly reduced to writing by the pharmacist (containing all of the information required in Section 37-2723, Idaho Code, except for the signature of the prescribing individual practitioner), or pursuant to an order for medication made by an individual practitioner which is dispensed for immediate administration to the ultimate user, subject to Section 37-2720, Idaho Code. (7-1-93)

4478. REFILLING OF PRESCRIPTION.

No prescription for a controlled substance listed in Schedule III or IV shall be filled or refilled more than six (6) months after the date on which such prescription was issued and no such prescription authorized to be refilled may be refilled more than five (5) times. (7-1-93)

01. Refilling A Prescription For A Controlled Substance. Each refilling of a prescription shall be entered on the back of the prescription (or on another appropriate uniformly maintained record, such as medication records, which indicates prescription refills), initialed, and dated by the pharmacist as of the date of dispensing, and shall state the amount dispensed. (7-1-93)

02. Initialing And Dating Prescription. If the pharmacist merely initials and dates the back of the prescription he shall be deemed to have dispensed for a full face amount of the prescription. (7-1-93)

03. New Prescription Required For Additional Quantities. Additional quantities of controlled substances listed in Schedule III or IV may only be authorized by a prescribing practitioner through issuance of a new prescription as provided in Section 37-2722, Idaho Code, which shall be a new and separate prescription. (7-1-93)

4489. LABELING OF SUBSTANCES.

The pharmacist filling a prescription for a controlled substance listed in Schedule III or IV shall affix to the package a label showing the pharmacy name and address, the serial number and date of initial filling, the name of the patient, the name of the practitioner issuing the prescription, and directions for use and cautionary statements, if any, contained in such prescription as required by law. (7-1-93)

44950. FILING PRESCRIPTIONS.

All prescriptions for controlled substances listed in Schedule III and IV shall be kept in accordance with Section 37-2720, Idaho Code. (7-1-93)

4501. REQUIREMENT OF PRESCRIPTION - SCHEDULE V.

01. Dispensing Schedule V Controlled Substances. A pharmacist may dispense a controlled substance listed in Schedule V pursuant to a prescription as required for controlled substances listed in Schedule III and IV in Section 451. (7-1-93)

02. Refilling Schedule V Controlled Substances Requires Authorization. A prescription for a controlled substance listed in Schedule V may be refilled only as expressly authorized by the prescribing individual practitioner on the prescription; if no such authorization is given, the prescription may not be refilled. (7-1-93)

03. Labeling Schedule V Controlled Substances For Dispensing. A pharmacist dispensing such substance pursuant to a prescription shall label the substance in accordance with Section 448 and file the prescription in accordance with Section 449. (7-1-93)

04. Dispensing Schedule V Controlled Substances By Individual Practitioner. An individual practitioner may administer or dispense a controlled substance listed in Schedule V in the course of his professional practice without a prescription, subject to Section 37-2720, Idaho Code. (7-1-93)

05. Dispensing Schedule V Controlled Substances By Institutional Practitioner. An institutional practitioner may administer or dispense directly (but not prescribe) a controlled substance listed in Schedule V only pursuant to a written prescription signed by the prescribing individual practitioner, or pursuant to an oral prescription made by a prescribing individual practitioner and promptly reduced to writing by the pharmacist (containing all information required in Section 37-2723, Idaho Code, except for the signature of the prescribing individual practitioner), or pursuant to an order for medication made by an individual practitioner which is dispensed for immediate administration to the ultimate user, subject to Section 37-2720, Idaho Code. (7-1-93)

4542. DISPENSING WITHOUT A PRESCRIPTION.

A controlled substance listed in Schedule V, and a controlled substance listed in Schedule II, III, or IV which is not a prescription drug as determined under the Federal Food, Drug and Cosmetic Act, may be dispensed by a pharmacist or pharmacist-intern, without a prescription to a purchaser at retail. (7-1-93)

01. Distribution Of Schedule V Controlled Substances By Pharmacist Or Pharmacist-Intern. Such distribution is made only by a pharmacist or a pharmacist-intern, not by a nonpharmacist employee even if under the direct supervision of a pharmacist (although after the pharmacist has fulfilled his professional and legal responsibilities set forth in this Section, the actual cash credit transaction, or delivery may be completed by a nonpharmacist). (7-1-93)

02. Restricted Quantity. Not more than two hundred and forty (240) cc. (eight (8) ounces) of any such substances containing opium, nor more than one hundred and twenty (120) cc. (four (4) ounces) of any other controlled substances listed in Schedule V may be distributed at retail to the same purchaser in any given forty-eight (48) hour period. (7-1-93)

03. Purchaser's Age. The purchaser is at least eighteen (18) years of age. (7-1-93)

04. Identification Required For Purchase. The pharmacist requires every purchaser of a controlled substance listed in Schedule V not known to him to furnish suitable identification (including proof of age where appropriate) and require every purchaser of a controlled substance listed in Schedule V to sign the Official Idaho Register upon receipt of the controlled substance. (7-1-93)

05. Official Idaho Register. A bound record book to be known as the "Official Idaho Register" provided by the Board at a reasonable fee for recording distributions of controlled substances listed in Schedule V (other than by prescription) is maintained by the pharmacist, which book shall contain the name and address of the purchaser, the name and quantity of controlled substances purchased, the date of each purchase, and the name or initials of the pharmacist who distributed the substance to the purchaser and the book shall be maintained in accordance with the record-keeping requirement of Section 37-2720, Idaho Code. (7-1-93)

06. Prescription. A prescription is not required for distribution or dispensing of the substance pursuant to any other federal, state or local law. (7-1-93)

4523. EMERGENCY DISTRIBUTION OF A DISPENSER.

In the event of an emergency, a dispenser may distribute (without being registered to distribute) a controlled substance to a second dispenser in order for the second dispenser to dispense the substance. (7-1-93)

01. Allowable Amount. The amount distributed does not exceed to the amount required by the second dispenser for immediate dispensing. (7-1-93)

02. Records Of The Distribution. The distribution is recorded as a dispensing by the first dispenser, and the receipt as a distribution received by the second dispenser; and each dispenser retains a signed receipt of the distribution. (7-1-93)

03. Registration. The second dispenser is registered under the Act to dispense the controlled substance to be distributed to him. (7-1-93)

04. Required Order Form. If the substance is listed in Schedule I and II, an order form is used as required in Section 37-2721, Idaho Code. (7-1-93)

05. Emergency. For purposes of this section, an emergency shall mean a situation where a quantity of controlled substance must be dispensed to a person who does not have an alternative source for such substance reasonably available to him and the dispenser cannot obtain such substance through normal distribution channels within the time required to meet the need of the person for such substance. (7-1-93)

4534. ACQUISITION OF SCHEDULE I AND II SUBSTANCES - PROCEDURE REQUIRED.
Persons authorized under this act to manufacture, distribute or dispense controlled substances in Schedule I and II, and hospitals and approved state institutions may acquire these substances for sale, manufacture, administration, distribution or prescription only by executing the official written order required by Section 37-2721, Idaho Code. (7-1-93)

4545. PRESCRIBING FOR SELF PROHIBITED.
No person shall prescribe, administer, or furnish a controlled substance for himself. (7-1-93)

4556. ANTEDATING OR POSTDATING PRESCRIPTION PROHIBITED.
No person shall antedate or postdate a prescription. (7-1-93)

4567. FALSE NAME OR ADDRESS PROHIBITED.
No person shall in connection with the prescribing, furnishing, administering or dispensing of a controlled substance, give a false name or false address. (7-1-93)

4578. ALTERATION OR ERASURE - FILLING PROHIBITED.
No person shall fill a prescription if it shows evidence of alteration, erasure or addition by any person other than the person writing it. (7-1-93)

4589. TIME FOR FILLING PRESCRIPTION.
No person shall fill a prescription unless it is tendered to him on or before the seventh day following the date of issue. (7-1-93)

45960. PRESCRIPTION FILE OPEN TO INSPECTION.
A controlled substance prescription on file shall at all times be open to inspection by the prescriber, and properly authorized agents and inspectors of the Board of Pharmacy. (7-1-93)

4601. POSSESSION OF GREATER OR LESSER AMOUNT OF CONTROLLED SUBSTANCE THAN SHOWN BY RECORDS - EVIDENCE OF GUILT.
In a prosecution under this act proof that a defendant received or has had in his possession at any time a greater amount of controlled substances than is accounted for by any record required by law or that the amount of controlled substance possessed by a defendant is a lesser amount than is accounted for by any record required by law is prima facie evidence of guilt. (7-1-93)

4612. RECORDS OPEN TO INSPECTION.
Any record required by this act shall be open at all times to inspection by inspectors of the Board of Pharmacy and it is unlawful to refuse to permit, or to obstruct such inspection. (7-1-93)

4623. RECEIPT FOR REMOVED CONTROLLED SUBSTANCE PRESCRIPTION.
Whenever the pharmacist's copy of a controlled substance prescription is removed by an inspector of the Board of Pharmacy for the purpose of evidence, the inspector shall give to the pharmacist a receipt in lieu thereof. (7-1-93)

4634. CONTENTS OF PRESCRIPTION FILE RECORD.

The prescription file shall constitute a record that as to the transactions shall show all of the following: name and address of patient; the date; the character and quantity of the controlled substance involved; the name, address and state registry number of the prescriber. (7-1-93)

4645. FILLING OF A PRESCRIPTION FOR A CONTROLLED SUBSTANCE.

No person other than a registered pharmacist under the laws of this state shall be responsible for the filling and dispensing of a prescription for a controlled substance. (7-1-93)

4656. VETERINARIANS PROHIBITED FROM PRESCRIBING FOR PERSONS.

No veterinarian shall prescribe, administer or furnish controlled substances for himself or any other human being. (7-1-93)

4667. CONTENTS OF VETERINARIANS' PRESCRIPTIONS.

A prescription written by a veterinarian shall state the kind of animal for which ordered and the name and address of the owner or person having custody of the animal and must conform to Section 37-2723, Idaho Code. (7-1-93)

4678. DUTY OF PROSECUTING ATTORNEY - REPORT NOT REQUIRED.

It shall be the duty of each prosecuting attorney, to whom the board reports any violation of this act, to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law. Nothing in this act shall be construed as requiring the secretary to report for the institution of proceedings under this act for minor violations, whenever the secretary believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning. (7-1-93)

4689. PROHIBITION ON ADVERTISING CONTROLLED SUBSTANCES.

No person shall advertise controlled substances, Schedule I through V in any manner to the public, nor shall any pharmacy display these products to their patrons or members of the public. (7-1-93)

46970. PRESCRIPTION REPORTING.

01. Prescription Reporting Requirements. All community and mail service pharmacies will report by the first of every month or more often as directed by the Board, certain data, as required by the Board, on all schedule II, III and IV controlled substance prescriptions filled. The data may be reported in the form of diskette, direct computer link, magnetic tape or other method as approved by the Board. (7-1-98)

02. Reporting Not Required. Prescriptions for controlled substances filled for patients in long term care facilities, are not required to be reported. (7-1-98)

4701. -- 490. (RESERVED).

**IDAHO DEPARTMENT OF ADMINISTRATION
OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR
AND THE IDAHO PUBLIC UTILITIES COMMISSION**

**IDAPA 31 - PUBLIC UTILITIES COMMISSION
31.01.01 - RULES OF PROCEDURE OF THE IDAHO PUBLIC UTILITIES COMMISSION
DOCKET NO. 31-0101-0001**

NOTICE OF CORRECTION ACTION AND TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of this corrective action is 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 61-601, 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 October 18, 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:

Section 31.01.01.067 of this chapter was inadvertently removed from the printed edition of the Idaho Administrative Code, July 1, 1994. Chapter 67, Title 52, Idaho Code requires that this Section 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 repromulgated 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 confers a benefit.

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 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 Don Howell at 334-0312 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 October 25, 2000.

DATED this 1st day of September, 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. 31-0101-0001

068. WITHDRAWAL OF PLEADINGS (Rules 68).

A party desiring to withdraw a pleading must file a notice of withdrawal of the pleading with the Commission and serve all parties with it. Unless otherwise ordered by the Commission, the notice is effective fourteen (14) days after filing. (4-5-00)T

0689. -- 070. (RESERVED).

IDAPA 31 - PUBLIC UTILITIES COMMISSION
31.11.01 - SAFETY AND ACCIDENT REPORTING RULES FOR UTILITIES REGULATED
BY THE IDAHO PUBLIC UTILITIES COMMISSION

DOCKET NO. 31-1101-0001

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given of the Idaho Public Utilities Commission's proposed rulemaking. This action is authorized pursuant to Section 61-515, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be scheduled only if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2000.

The hearing site will be accessible to persons with disabilities. Request for accommodations 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 non-technical explanation of the substance and purpose of the proposed rules:

The Commission's Safety and Accident Reporting Rules currently adopt by reference several national safety codes and the federal gas pipeline safety regulations. Several of these national safety codes and regulations have recently been updated. The Commission is proposing to adopt the updated version of the safety codes and regulations.

Existing Rule 201 adopts various parts of Title 49 of the Code of Federal Regulations pertaining to gas and pipeline corporations. The Commission proposes to adopt the updated safety regulations promulgated by the United States Department of Transportation found at 49 C.F.R. Parts 191, 192, 193, 195, and 199 (effective October 1, 2000) and 65 Fed.Reg. 54,440 (issued September 8, 2000).

The Commission also proposes to update Rule 202 by adopting the 1999 edition of the National Fuel Gas Code. The Commission also proposes to adopt the 2000 edition of the Uniform Mechanical Code. Finally, the Commission proposes to make a few non-substantive and format changes to its Safety Rules.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.0811, negotiated rulemaking was not conducted because these proposed rules adopt updated national safety codes and regulations dealing with the provision of electricity, natural gas, telecommunications, and water services.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rules, contact Donald L. Howell II, Deputy Attorney General at (208) 334-0312 or David Schunke, Deputy Administrator at (208) 334-0355.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding these proposed rules. All written comments and data concerning the proposed rules must be delivered to the Commission Secretary at the address identified above or must be postmarked on or before October 25, 2000.

Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 22nd day of August, 2000.

Myrna J. Walters
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
FAX: (208) 334-3762 / TDD: (208) 334-3151

Street Address for Express Mail
472 West Washington Street
Boise, ID 83702-5983

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-1101-0001

008. INCORPORATION BY REFERENCE - CODE OF FEDERAL REGULATIONS (RULE 8).

Rules 101, 201, 202, and 203 incorporate by reference various national safety codes and federal gas pipeline safety regulations. Each applicable rule identifies the issuing entity for each code or regulation and indicates where the incorporated materials may be obtained. Incorporated materials are also available for inspection and copying at the offices of the Idaho Public Utilities Commission and the Idaho State Law Library. ()

0089. -- 100. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

201. FEDERAL REGULATIONS--49 C.F.R. PARTS 191, 192, 193, 195 AND 199 (Rule 201).

The Commission adopts by reference Parts 191, 192, 193, 195, and 199, Title 49, the Code of Federal Regulations (October 1, ~~1996~~ 2000) and Volume 65 Federal Register 54,440 (September 8, 2000), except that federal accident reporting requirements contained in the rules adopted by reference in Rule 201 are replaced for state reporting purposes by orders of the Commission or rules of the Commission. These regulations are found in the Code of Federal Regulations, available from the, U.S. Government Printing Office, Superintendent of Documents, ~~Mail Stop: SSOP, Washington, DC 20402-9328~~ Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. The incorporated CFR Parts are also available in electronic format at www.access.gpo.gov/nara. All gas and pipeline corporations subject to the Commission's jurisdiction are required to abide by applicable provisions of these federal regulations adopted by reference. (~~4-1-98~~)()

202. NATIONAL FUEL GAS CODE (NFGA) (Rule 202).

01. Adoption By Reference. The Commission adopts by reference the NFPA 54 ANSI Z223.1 National Fuel Gas Code, 1996~~9~~ Edition and the errata 99-1 dated April 13, 2000. The 1996~~9~~ Edition of the National Fuel Gas Code is designated as ANSI Z-223.1-1992~~9~~ by the American National Standards Institute, Inc. (ANSI), and as NFPA 54-1996~~9~~ by the National Fire Protection Association (NFPA). The National Fuel Gas Code is jointly published by the American Gas Association, ~~1515 Wilson Blvd., Arlington, Virginia 22209~~ Codes and Standards, 400 N. Capitol Street, NW, Washington, D.C. 20001, and the National Fire Protection Association, 1 Batterymarch Park, PO Box 9101, Quincy, Massachusetts 02269-9101, and is available from them and may be ordered by calling 1-800-344-3555. All gas corporations subject to the jurisdiction of this Commission are required to abide by applicable provisions of the National Fuel Gas Code and to connect for service and light only those installations that:

- (~~4-1-98~~)()
- a. Have been inspected and approved by authorized agencies; or (4-1-98)
 - b. When inspecting agencies do not exist, to require their customers to abide by applicable provisions of the National Fuel Gas Code as a condition of receiving service or continuing to receive service. (4-1-98)

203. UNIFORM MECHANICAL CODE (UMC) (Rule 203).

01. Adoption By Reference. The Commission adopts by reference those portions of the Uniform Mechanical Code ~~1997~~ 2000 Edition and the undated first errata explicitly referring to gas or gas-burning appliances; provided, however, that unvented room heaters not meeting the requirements of Section 807(c) of the Uniform Mechanical Code may be connected for service if they comply with Sections 6.24 and 7.2 of the National Fuel Gas Code. The Uniform Mechanical Code ~~1997~~ 2000 Edition is published by the International Association of Plumbing and Mechanical Officials, 20001 South Walnut Drive, Walnut, California 91789-2825 and may be ordered by calling 800-284-4406. Corporations subject to the jurisdiction of this Commission are required to abide by applicable provisions of the Uniform Mechanical Code and to connect for service and light only those installations that:

~~(4-1-98)~~()

- a. Have been inspected and approved by authorized agencies; or (4-1-98)
- b. When inspecting agencies do not exist, to require their customers to abide by applicable provisions of the Uniform Mechanical Code; provided, however, that unvented room heaters not meeting the requirements of Section 807(c) of the Uniform Mechanical Code may be connected for service if they comply with Sections 6.24 and 7.2 of the National Fuel Gas Code as a condition of receiving service or continuing to receive service. (4-1-98)

IDAPA 31 - PUBLIC UTILITIES COMMISSION
31.21.01 - CUSTOMER RELATIONS RULES FOR GAS, ELECTRIC AND WATER UTILITIES
REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION
(THE UTILITY CUSTOMER RELATIONS RULES)

DOCKET NO. 31-2101-0001

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 61-302, 61-303, 61-503, 61-507, 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 October 18, 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 non-technical explanation of the substance and purpose of the proposed rulemaking:

The Commission's Utility Customer Relations Rules were last updated in 1993. The Commission is proposing several changes to these rules, some suggested by various utilities. First, the Commission is recommending the elimination of "guarantees" in lieu of service deposits. This change will mirror the elimination of guarantees in the Telephone Customer Relations Rules (IDAPA 31.41.01). Second, the Commission is recommending several changes to its utility billing Rule 201 including that bills be issued on a monthly basis and that utilities are required to list their mailing addresses and toll-free telephone numbers on the bills rather than merely the location of their nearest billing office. Third, the Commission would prohibit the billing for services or merchandise not ordered or otherwise authorized by the consumer and would specify how partial payments are to be applied to bills. Fourth, the notice procedures for terminating service are clarified and simplified. Fifth, the Commission proposes to eliminate reporting requirements of terminated service during winter months. Next, Rule 310.01 is modified to allow utilities to collect reasonable deposits rather than two (2) months' usage as a minimum threshold billing. Finally, new Rule 404 requires utilities to respond within ten (10) business days to a customer's informal complaint as is the case with telephone customer complaints.

FEE SUMMARY: There are no fees associated with this proposed rulemaking. N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.0811, negotiated rulemaking was not conducted because several of the proposed changes were recommended by utilities.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Beverly Barker, Consumer Section Supervisor at (208) 334-0302. 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 October 25, 2000. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than waiting until the comment deadline.

DATED this 22nd day of August, 2000.

Myrna J. Walters
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
FAX: (208) 334-3762
TDD: (208) 334-3151

Street Address for Express Mail
472 West Washington Street
Boise, ID 83702-5983

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-2101-0001

103. ~~GUARANTEE IN LIEU OF DEPOSIT (RULE 103)~~ (RESERVED).

~~01. Guarantor. In lieu of a deposit required by these rules, a utility shall accept a written guarantee of payment from another customer of the same utility. An acceptable guarantor must have good credit and be receiving the same class of service as the customer whose account is guaranteed.~~ (7-1-93)

~~02. Guarantee Form. The guarantee form used by each utility must be filed with and approved by this Commission. The guarantee form must state:~~ (7-1-93)

~~a. The terms of the guarantee, the maximum amount guaranteed, and that the utility shall not hold the guarantor liable for sums in excess of that amount;~~ (7-1-93)

~~b. That the maximum amount guaranteed shall not exceed the amount of the deposit that would have been charged the applicant; and~~ (7-1-93)

~~c. That the guarantor shall be released from the guarantor's obligation when the customer whose account is guaranteed has established good credit.~~ (7-1-93)

~~03. Period Of Guarantee. The minimum guarantee period is thirty (30) days. The guarantee shall remain in full force and effect until five (5) days after the utility's receipt of the guarantor's notice of cancellation of the guarantee agreement.~~ (7-1-93)

104. WRITTEN EXPLANATION FOR DENIAL OF SERVICE OR REQUIREMENT OF DEPOSIT (RULE 104).

If the utility denies service or requires a cash deposit ~~or written guarantee~~ as a condition of providing service, then it must immediately provide a written explanation to the applicant or customer stating the precise reasons why it denies service or requires a deposit. The applicant or customer must be given an opportunity to rebut those reasons.

(7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

107. RETURN OF DEPOSIT (RULE 107).

01. Former Customers. Upon termination of service, the deposit, with accrued interest, shall be credited to the final bill. The balance of the deposit remaining, if any, shall be returned promptly to the customer. (7-1-93)

02. Existing Customers. ~~Unless the customer has requested that the deposit be credited to future bills,~~ ~~the deposit, with accrued interest, will~~ must either be credited to the customer's current bill or be refunded promptly by the utility when: (7-1-93)(____)

a. The residential customer establishes and maintains good credit; or (7-1-93)

b. The small commercial customer maintains good credit and is not delinquent more than once in the previous twelve (12) months. (7-1-93)

03. Retention During Dispute. The utility may retain the deposit pending the resolution of a dispute over termination of service. If the deposit is later returned to the customer, the utility shall pay interest at the annual

rates established in Rule 106 for the entire period over which the deposit was held. (7-1-93)

04. Early Return Of Deposit. A utility may refund a deposit plus accrued interest in whole or in part at any time before the time prescribed in this rule. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

201. ISSUANCE OF BILLS--CONTENTS OF BILLS (RULE 201).

Bills shall be issued ~~on a regular basis~~ monthly. Upon application by a utility, the Commission may allow billing on a less frequent basis. Bills must contain the following information: (7-1-93)()

01. The Billing Date. (7-1-93)

02. The Time Period Covered By The Bill. (7-1-93)

03. Metered Service Billing. If metered service is the basis for billing, the beginning and ending meter readings, where the bill is based on actual readings, or a clearly marked statement that the bill is estimated, if the meter was not actually read, and the quantity of service provided, when applicable. (7-1-93)

04. Billing Comparisons. Comparisons of current and previous consumptions, when required by IDAPA 31.22.01.103. (7-1-93)

05. The Due Date Of The Bill. (7-1-93)

06. Itemization Of All Charges. An itemization of all charges, both recurring and nonrecurring. (7-1-93)

07. Any Amount Transferred From Another Account. (7-1-93)

08. Any Amounts Past Due. (7-1-93)

09. Payments Or Credits. Any payments or credits applied to the customer's account since the last bill. (7-1-93)

10. The Total Amount Due. (7-1-93)

11. ~~Billing Records Office Location~~ Address and Telephone Number. The mailing address and toll-free telephone number(s) ~~of the utility's nearest office maintaining billing records for the~~ available to customers in the service territory for answering billing inquiries. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

207. BILLING PROHIBITED (Rule 207).

No utility shall bill for utility service or other service(s) or merchandise not ordered or otherwise authorized by the customer of record. Any charges for these services that appear on a customer's bill shall be removed from the customer's bill no later than two (2) billing cycles following notice by the customer to the utility. A utility that unknowingly submits a bill containing charges for utility service or other service(s) or merchandise not ordered or otherwise authorized by the customer of record shall not be considered in violation of Rule 207 if the disputed amounts are removed from the customer's bill. ()

207~~8~~. -- 299. (RESERVED).

300. FURTHER DEFINITIONS (Rule 300).

As used in Rules 301 through 313:

(7-1-93)

01. Applicant. "Applicant" is restricted from its general definition to refer only to applicants for residential or small commercial service, unless further restricted by the rule. (7-1-93)

02. Customer. "Customer" is restricted from its general definition to refer only to residential or small commercial customers, unless further restricted by the rule. (7-1-93)

03. Non-Utility Service. "Non-utility service" means: (7-1-93)

a. Service for which the Commission does not regulate rates, charges, or availability of service; (7-1-93)

b. Service for which no rate or charge is contained in the utility's tariffs; or (7-1-93)

c. Merchandise or equipment or charges for merchandise or equipment not required as a condition of receiving utility service. (7-1-93)

~~**04. Residential And Small Commercial Classes.** The Commission shall maintain on file a list of which customer classes of a given utility are residential and which are small commercial. (7-1-93)~~

(BREAK IN CONTINUITY OF SECTIONS)

302. GROUNDS FOR DENIAL OR TERMINATION OF SERVICE WITH PRIOR NOTICE (RULE 302).

A utility may deny or terminate service to a customer or applicant without the customer's or applicant's permission, but only after adequate notice has been given in accordance with these rules, for one (1) or more of the following reasons: (7-1-93)

01. Failure To Pay. The customer or applicant did not pay undisputed delinquent bills or paid a delinquent bill with any check not honored by the bank. (7-1-93)

02. Failure To Make Security Deposit. The customer or applicant failed to make a security deposit; ~~or make an installment payment on a deposit; or obtain a guarantee,~~ where it is required. (7-1-93)()

03. Failure To Abide By Terms Of Payment Arrangement. The customer or applicant failed to abide by the terms of a payment arrangement. (7-1-93)()

04. Identity Misrepresentation. The customer or applicant misrepresented the customer's or applicant's identity for the purpose of obtaining utility service. (7-1-93)

05. Denial Of Access To Meter. The customer or applicant denied or willfully prevented the utility's access to the meter. (7-1-93)

06. Willful Waste Of Service. The utility determines as prescribed by relevant State or other applicable standards that the customer is willfully wasting service through improper equipment or otherwise. (7-1-93)

07. Misuse Of Service. The customer or applicant is using service for which the customer or applicant did not apply. (7-1-93)

08. Previous Account Balance Owing. Nothing in this rule requires the utility to connect service for a customer who owes money on an existing account or from a previous account when that customer moves to a new

residence that does not have service.

(7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

304. REQUIREMENTS FOR NOTICE BEFORE TERMINATION OF SERVICE (RULE 304).

01. Seven Day Notice. If the utility intends to terminate service under Rule 302, the utility shall send to the customer written notice of termination mailed at least seven (7) calendar days before the proposed date of termination. This written notice ~~shall~~ must contain the information required by Rule 305. ~~This seven-day (7) notice does not apply under the conditions listed in Subsection 304.04.~~ (7-1-93)(____)

02. Twenty-Four Hour Notice. At least twenty-four (24) hours before actual termination, the utility ~~shall~~ must diligently attempt to contact the customer affected, either in person or by telephone, to advise the customer of the proposed action and steps to take to avoid or delay termination. This oral notice ~~shall~~ must contain the same information required by Rule 305. (7-1-93)(____)

03. Additional Notice. If service is not terminated within ~~seven~~ twenty-one (21) calendar days after the proposed termination date ~~and the matter is not the subject of a pending complaint filed with this Commission, or other arrangements have not been made with the customer, as specified in a written notice~~ the utility ~~shall~~ must again ~~make a diligent attempt to contact the customer, either in person or by telephone, to advise the customer of the proposed action. Actual termination is prohibited until a minimum of twenty-four (24) hours after~~ provide notice ~~or after the diligent attempt to notify~~ under Subsections 304.01 and 304.02 if it still intends to terminate service. (7-1-93)(____)

04. Failure to Pay -- Payment With Dishonored Check ~~Not Honored By Bank.~~ ~~The requirement of seven (7) days' written~~ No additional notice ~~shall not apply when~~ of termination is required if, upon receipt of a termination notice: (7-1-93)(____)

a. The customer ~~does not~~ makes an initial payment according to a payment arrangement and subsequently fails to keep that arrangement; or ~~makes the initial~~ ()

b. The customer tenders payment with a dishonored check ~~not honored by the bank;~~ or (7-1-93)(____)

~~bc.~~ The customer, at a utility's collection visit to terminate service, tenders payment with a dishonored check ~~not honored by the bank. In either case, the utility shall make a diligent attempt to contact the customer in person or by telephone to apprise the customer of the proposed action, and actual termination is prohibited until a minimum of twenty-four (24) hours after notice or after the diligent attempt. Further twenty-four (24) hour notices need not be given if the customer has been provided with a twenty-four (24) hour notice in the past seven (7) days.~~ (7-1-93)(____)

305. CONTENTS OF NOTICE OF INTENT TO TERMINATE SERVICE (RULE 305).

The written or oral notice of intent to terminate service required by Rule 304 shall state:

(7-1-93)

01. Reasons For Termination. The reason(s), citing these rules, why service will be terminated and the proposed date of termination; (7-1-93)

02. Actions To Avoid Termination. Actions the customer may take to avoid termination of service; (7-1-93)

03. Medical Certificate. That a certificate notifying the utility of a serious illness or medical emergency in the household may delay termination as prescribed by Rule 308; (7-1-93)

04. Filing Complaints. That an informal or formal complaint concerning termination may be filed

with the utility or the Commission, and that service will not be terminated on the ground relating to the dispute between the customer and the utility before resolution of the complaint (the Commission's address and telephone number must be given to the customer); and (7-1-93)

05. Payment Arrangements. That the utility is willing to make payment arrangements (this statement must be in bold print on written notices). (7-1-93)

06. Partial Payments. That for purposes of termination, partial payments will be applied toward utility service charges first, unless the customer requests otherwise, and that charges for non-utility services cannot be used as a basis for termination. ()

306. TERMINATION OF RESIDENTIAL GAS AND ELECTRIC SERVICE--WINTER PAYMENT PLAN--~~REPORTING TO COMMISSION~~ (RULE 306).

01. Restrictions On Termination Of Service To Households With Children, Elderly, Or Infirm. Except as provided in Rule 303, no gas or electric utility may terminate service or threaten to terminate service during the months of December through February to any residential customer who declares that he or she is unable to pay in full for utility service and whose household includes children, elderly or infirm persons. (7-1-93)

02. Definitions For This Rule. For purposes of this rule: (7-1-93)

a. "Children" are defined as persons eighteen (18) years of age or younger, but customers who are emancipated minors are not children under this rule. (7-1-93)

b. "Elderly" are defined as persons sixty two (62) years of age or older. (7-1-93)

c. "Infirm" are defined as persons whose physical health or safety would be seriously impaired by termination of utility service. (7-1-93)

03. Opportunity To Participate In Winter Payment Plan. Any residential customer who declares that he or she is unable to pay in full for utility service and whose household includes children, elderly or infirm persons must be offered the opportunity to establish a Winter Payment Plan. However, no customer may be required to establish such a plan. Except as provided in Rule 303, no gas or electric utility may terminate service during the months of November through March to any customer who establishes a Winter Payment Plan before November 1. A customer may establish a Winter Payment Plan after November 1, but the extended protection from termination of service offered under such a plan will not begin until the date the plan is established. Failure of a participating customer to make payments as required will result in cancellation of the plan and elimination of the extended protection from termination of service offered under the plan. The customer may use any source of funds to satisfy the payment requirements of Winter Payment Plan. (7-1-93)

04. Amount Of Payments Under Winter Payment Plan. Monthly payments under a Winter Payment Plan are equal to one-half (1/2) of the Level Pay Plan amount for that customer. The Level Payment Plan amount must be calculated according to Rule 313.06. (7-1-93)

05. Payment Arrangements Following Winter Payment Plan. If a customer who received the protection of this rule has an outstanding balance owed to the utility, the customer must either pay this balance or negotiate a new payment arrangement. (7-1-93)

a. On or after March 1, if the customer has not established a Winter Payment Plan; or (7-1-93)

b. On or after April 1, if the customer has established a Winter Payment plan. Failure of a customer to pay or make payment arrangements on or after these dates may result in termination of service. (7-1-93)

06. Successive Participation In Winter Payment Plan. A customer who participates in a Winter Payment Plan one (1) year must be allowed to participate in succeeding years if the customer has honored the payment arrangements and the balance owing as of November 1 does not exceed seventy-five dollars (\$75) or the customer's utility bill for the previous thirty (30) days, whichever is greater. However, the utility is not required to

connect or reconnect the service of a customer or applicant who does not currently have utility service and owes an unpaid, undisputed bill to the utility. (7-1-93)

~~07. Reporting To The Commission. Written information on accounts actually terminated during the months of November through March must be furnished to the Commission on a regular basis. These reports shall include the following information: (7-1-93)~~

~~a. The customer's name, address, and class of service; (7-1-93)~~

~~b. The reason(s) for termination of service; (7-1-93)~~

~~c. The amount owing, if any; and (7-1-93)~~

~~d. Whether there are children, elderly or infirm persons in the household. The Commission may order reconnection of service when reconnection is determined to be appropriate. (7-1-93)~~

087. Unoccupied Residences, Etc. Nothing in this rule prevents a gas or electric utility from terminating service to unoccupied residences or residences where the occupants have failed or refused to apply for utility service. Nothing in this rule requires the utility to connect service for a customer who owes money on an existing account when that customer moves to a new residence that does not currently have service. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

310. INSUFFICIENT GROUNDS OR TERMINATION OF SERVICE (RULE 310).

No customer shall be given notice of termination of service nor shall the customer's service be terminated if:(7-1-93)

01. Unpaid Bill Less Than Fifty Dollars. The customer's unpaid bill cited as grounds for termination totals less than fifty dollars (\$50) ~~or two (2) months' charges for service, whichever is less. (7-1-93)()~~

02. Unpaid Bill Not Customer's. The unpaid bill cited as grounds for termination is for utility service to any other customer (unless that customer has a legal obligation to pay the other customer's bill) or for any other class of service. (7-1-93)

~~03. Failure To Pay On Written Guarantee. The reason cited for termination is failure to pay on a written guarantee as provided for in Rule 103. (7-1-93)~~

043. Non-Utility Service Or Goods. An unpaid bill results from the purchase of non-utility goods or services. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

313. PAYMENT ARRANGEMENTS (RULE 313).

01. Arrangements Allowed. When a customer cannot pay a bill in full, the utility shall continue to serve the customer if the customer and the utility agree on a reasonable portion of the outstanding bill to be paid immediately, and the manner in which the balance of the outstanding bill shall be paid. For customers who are unable to come to the utility's local office to make payment arrangements, a gas or electric utility must, upon request by the customer, make payment arrangements over the telephone, by mail or at the customer's home. (7-1-93)

02. Reasonableness. In deciding on the reasonableness of a particular agreement, the utility will take into account the customer's ability to pay, the size of the unpaid balance, the customer's payment history, and the

amount of time and reasons why the debt is outstanding. (7-1-93)

03. Application Of Payment. Payments are to be first applied to the ~~oldest undisputed~~ balance owed ~~on by the customer's bill, except in the case of a disputed bill. If the customer disputes a bill, the customer's payments are to be applied to the oldest undisputed amount~~ for utility services and associated installation charges, taxes, franchise fees and surcharges, unless the customer designates otherwise. (7-1-93)()

04. Second Arrangement. If a customer fails to make the payment agreed upon by the date that it is due, the utility may, but is not obligated to, enter into a second such agreement. (7-1-93)

05. When Arrangement Not Binding. No payment arrangement shall be binding upon a customer if it requires the customer to forego any right provided for in these rules. (7-1-93)

06. Level Pay Plans Acceptable Payment Arrangement. Payment arrangements may be in the form of a Level Pay Plan that will equalize monthly payments of all arrears, if any, and anticipated future bill amounts over a period of not less than one (1) year. No customer agreeing to a reasonable payment arrangement is required to choose this plan. (7-1-93)

~~**07. First Payment Due.** The first payment under the arrangement will be due one (1) business day after the arrangement, unless the utility grants an extension. If the initial payment is not made, or if any check not honored by the bank is offered as initial payment, the utility may terminate service upon twenty four (24) hour notice to the customer unless the customer has been provided with a twenty four (24) hour notice in the past seven (7) days, in which case a twenty four (24) hour notice is not required.~~ (7-1-93)

~~**087. Third-Party Contact.** If a utility has been unable to contact a customer concerning termination, but has contacted the customer's third-party designated under Rule 307 and has failed to receive a response from the customer within seven (7) days after the third-party was contacted, the utility may treat the customer as one who has been contacted and has declined to enter into a reasonable payment arrangement.~~ (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

404. RESPONSES TO INFORMAL COMPLAINTS (Rule 404).

Within ten (10) business days of receiving notification from the Commission that an informal complaint involving the company has been filed with the Commission, utilities must either respond orally or in writing to the Commission. A utility will be granted an extension of time to prepare its response if it represents that it is making a good faith effort to resolve the matter in dispute. A full and complete response should be submitted to the Commission no later than thirty (30) days after receipt of notification from the Commission. ()

~~4045.~~ -- 499. (RESERVED).

IDAPA 31 - PUBLIC UTILITIES COMMISSION

31.41.01 - CUSTOMER RELATIONS RULES FOR TELEPHONE CORPORATIONS PROVIDING LOCAL EXCHANGE OR INTRASTATE MTS/WATS SERVICE IN IDAHO SUBJECT TO CUSTOMER SERVICE REGULATION BY THE IDAHO PUBLIC UTILITIES COMMISSION UNDER THE PUBLIC UTILITIES LAW OR THE TELECOMMUNICATIONS ACT OF 1988 (THE TELEPHONE CUSTOMER RELATIONS RULES)

DOCKET NO. 31-4101-0001

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 61-502 and 61-601, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be scheduled only if requested in writing by twenty-five (25) persons, political subdivision, or an agency, no later than October 18, 2000.

The hearing site will be accessible to persons with disabilities. Requests for accommodations must be made no later than five (5) days prior to the hearing, to the Commission's address set out below.

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

The Commission is proposing several changes to its Customer Relations Rule. First, the Commission is proposing to modify Rule 107 to allow deposits to be credited to a customer's account or refunded to the customer. The Commission is also proposing to simplify and clarify the procedures for terminating telephone service. Next, the Commission proposes to eliminate its rule governing the termination of local exchange service for unexplained or large long-distance usage. The Commission is also proposing to reduce the amount of time that telephone records be retained from five (5) years to two (2) years. Finally, the Commission is making other non-substantive changes to delete obsolete references and correct spelling.

FEE SUMMARY: There are no fees associated with this proposed rulemaking. N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.0811, negotiated rulemaking was not conducted because several of the changes were recommended by utilities and the non-substantive nature of other changes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Beverly Barker, Deputy Administrator, (208) 334-0302.

Anyone may submit written comments regarding these proposed rules. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2000.

DATED this 22nd day of August, 2000.

Myrna J. Walters
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
FAX: (208) 334-3762
TDD: (208) 334-3151

Street Address for Express Mail
472 West Washington Street
Boise, ID 83702-5983

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-4101-0001

107. RETURN OF DEPOSIT--LECS (Rule 107).

01. Former Customers. Upon termination of service, the deposit, with accrued interest, must be credited to the final bill. The balance of the deposit remaining, if any, must be returned promptly to the customer. (7-1-93)(____)

02. Existing Customers. ~~Unless the customer has requested that the deposit be credited to future bills,~~ The deposit, with accrued interest, must either be credited to the customer's current bill or be refunded promptly by the local exchange company when: (7-1-93)(____)

- a. The residential customer establishes and maintains good credit; or (7-1-93)
- b. The small business customer maintains good credit and is not delinquent more than once in the previous twelve (12) months. (7-1-93)

03. Retention During Dispute. The local exchange company may retain the deposit pending resolution of a dispute over termination of service. If the deposit is later refunded to the customer, the local exchange company shall pay interest at the annual rates established in Rule 106 for the entire period over which the deposit was held. (7-1-93)

04. Early Return Of Deposit. A local exchange company may refund a deposit plus accrued interest in whole or part at any time before the time prescribed in this rule. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

302. GROUNDS FOR DENIAL OR TERMINATION OF LOCAL EXCHANGE SERVICE, WITH PRIOR NOTICE (Rule 302).

~~Subject to Rule 313, a~~ telephone company may deny or terminate local exchange service to a customer or applicant without the customer's or applicant's permission, but only after adequate notice has been given in accordance with these rules, for one (1) or more of the following reasons: (7-1-95)(____)

01. Customer Did Not Pay Undisputed Delinquent Bills. The customer or applicant did not pay undisputed delinquent bills for local exchange services or paid a delinquent bill for local exchange services with any dishonored check. (1-1-95)

02. Customer Failed To Make A Security Deposit. The customer or applicant failed to make a security deposit or obtain a guarantee, when one is required. (7-1-93)

03. Customer Failed To Abide By Terms. The customer or applicant failed to abide by the terms of a payment arrangement. (7-1-93)

04. Customer Misrepresented Identity. The customer or applicant misrepresented the customer's or applicant's identity for the purpose of obtaining telephone service. (7-1-93)

05. Customer Is Willfully Wasting Or Interfering With Service. The telephone company determines as prescribed by relevant state or other applicable standards that the customer or applicant is willfully wasting or interfering with service through improper equipment or otherwise. (7-1-93)

06. Customer Is Using Service(s) For Which The Customer Or Applicant Did Not Apply. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

304. REQUIREMENTS FOR NOTICE BEFORE TERMINATION OF LOCAL EXCHANGE SERVICE--~~ORDINARY CIRCUMSTANCES~~ (Rule 304).

01. Seven-Day Notice. If the telephone company intends to terminate local exchange service under Rule 302, it must send to the customer written notice of termination mailed at least seven (7) calendar days before the proposed date of termination. This written notice must contain the information required by Rule 306. ~~This seven-day notice does not apply under the conditions described in Rule 304.04.~~ (1-1-95)(____)

02. Twenty-Four Hour Notice. At least twenty-four (24) hours before actual termination, the telephone company must diligently attempt to contact the customer affected to apprise the customer of the proposed action and steps to take to avoid or delay termination. This oral notice must contain the same information required by Rule 306. ~~The twenty-four (24) hour notice does not apply under the conditions described in Subsection 304.04.~~ (7-1-99)(____)

03. Additional Notice. ~~If local exchange service is not terminated within seven (7) calendar days after the proposed termination date and the matter is not the subject of a pending complaint before this Commission, or other arrangements have not been made with the customer, the telephone company shall again make a diligent effort to contact the customer to advise the customer of the proposed action.~~ If the telephone company has not terminated service within ~~twenty-eight one (2&1)~~ twenty-eight (28) days of mailing after the proposed termination date as specified in a written notice of termination, the telephone company must again ~~issue a written~~ provide notice under Rule Subsections 304.01 and 304.02 if it still intends to terminate service. ~~Actual termination is prohibited until a minimum of twenty-four (24) hours after notice or the diligent attempt to notify.~~ (1-1-95)(____)

04. Failure To Pay--Payment With Dishonored Check. ~~The requirement of seven (7) days' written notice within the past twenty-eight (28) days, and upon receipt of a termination notice:~~ No additional notice does not apply of termination is required if, the customer has been provided with a seven (7) day notice within the past twenty-eight (28) days, and upon receipt of a termination notice: (7-1-99)(____)

a. The customer ~~does not~~ make a payment in accordance with an agreed to payment arrangement and subsequently fails to keep that arrangement; or (7-1-99)(____)

b. The customer tenders payment with a dishonored check. (7-1-99)

305. ~~REQUIREMENTS FOR NOTICE BEFORE TERMINATION OF LOCAL EXCHANGE SERVICE--UNEXPLAINED HIGH USAGE (Rule 305) (RESERVED).~~

~~**01. Special Rules Apply.** Rule 304's requirement of seven (7) days' written notice does not apply to exchanges exempted under Rule 313.02 when the reason for termination of local exchange service is related to unexplained, excessive increases in the amounts of usage not flat-rate billed (whether already billed or as yet unbilled) and the risk of nonpayment by the customer is evident.~~ (1-1-95)

~~**02. Contact With Customer.** The telephone company cannot make this determination without first contacting the customer or making a diligent attempt to contact the customer to determine whether the customer is aware of the usage, the reason for the increased usage, and the customer's ability to pay the charges when due.~~ (7-1-93)

~~**03. Termination.** If the telephone company is unable to contact the customer, it may terminate local exchange service not less than three (3) days (excluding days when there is no mail delivery) after mailing a statement explaining its reasons for terminating service. If the customer has been contacted, the telephone company may terminate local exchange service not less than one (1) day after the contact if neither suitable explanation or suitable assurances of payment are given. Termination of local exchange service under this rule is subject to Rule 313.~~ (1-1-95)

- ~~04. **Evidence Of Risk.** Factors indicating a risk of nonpayment include, but are not limited to: (7-1-93)~~
- ~~a. No or inadequate deposit on file; (7-1-93)~~
- ~~b. A past history of nonpayment, payment of less than the total amount due, or payment with dishonored checks; or (7-1-93)~~
- ~~c. Accumulated MTS charges and unbilled charges for local exchange service exceed one hundred dollars (\$100) in a one-month period. (1-1-95)~~
- ~~05. **Prevention Of Fraud.** If the customer is not aware of the usage and evidence of fraud or unauthorized usage exists, the telephone company must take immediate appropriate action to prevent future fraud or unauthorized usage. (7-1-93)~~
- ~~06. **Additional Deposit Or Guarantee.** If the customer is aware of the usage and can provide adequate assurance to the company that present and future bills for that usage will be paid, no further action may be taken by the company. A customer may be asked to pay a deposit, obtain a guarantee, or increase a deposit or guaranteed amount to provide adequate assurance of payment according to the formula for determining a deposit or guarantee amount in Rule 105. (7-1-93)~~

(BREAK IN CONTINUITY OF SECTIONS)

310. INSUFFICIENT GROUNDS FOR TERMINATION OF LOCAL EXCHANGE SERVICE (Rule 310). No customer shall be given notice of termination of local exchange services nor shall the customer's local exchange service be terminated if: (1-1-95)

01. Less Than Fifty Dollars. The customer's unpaid bill cited as grounds for termination is less than fifty (\$50) dollars. (7-1-99)

02. Telephone Service To Any Other Customer Or Former Customer. The unpaid bill cited as grounds for termination is for telephone service to any other customer or former customer (unless that customer has a legal obligation to pay the other bill) or for any other class of service. (1-1-95)

03. Results From The Purchase Of MTS And Other Services. The unpaid bill cited as grounds for termination of service results from the purchase of MTS and other services, including but not limited to: (1-1-95)

- a. Directory advertising; (1-1-95)
- b. Information services, operator services or other services not provided by local exchange companies; (1-1-95)
- c. Leased or purchased customer premises equipment or other merchandise; or (1-1-95)
- d. Inside wire maintenance. ~~(See Rule 313).~~ (1-1-95)(____)

04. Other Person Has An Unpaid Balance For Service. The customer lives at a residence where another person lives and the other person has an unpaid balance for service, except when the customer has a legal obligation to pay the other persons's bill. (1-1-95)

(BREAK IN CONTINUITY OF SECTIONS)

502. RESPONSE TO SERVICE OUTAGE (Rule 502).

01. Receipt And Recording Of Reports. Each telephone company providing local exchange service pursuant to Title 61, Idaho Code, shall provide for the receipt of customer trouble reports at all hours and make a full and prompt investigation of and response to all reports. The telephone company shall maintain an accurate record of trouble reports made by its customers. This record shall include accurate identification of the customer or service affected, the time, date and nature of the report, the action taken to clear the trouble or satisfy the customer, and the date and time of trouble clearance or other disposition. This record shall be available to the Commission or its authorized representatives upon request at any time within ~~five~~ two (2) years of the date of the record. ~~(7-1-93)~~()

02. Repair Commitments. Commitments to customers for repair service shall be set in accordance with Rule 503. Each telephone company shall make every reasonable attempt to fulfill repair commitments to customers. Customers shall be timely notified of unavoidable changes. Failure to meet a repair commitment does not relieve the telephone company of the credit provisions in Rule 503.01, unless the customer fails to keep an appointment the customer agreed to when the original commitment was made. (7-1-93)

IDAPA 33 - REAL ESTATE COMMISSION
33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION
DOCKET NO. 33-0101-0003
NOTICE OF TEMPORARY RULE AND PROPOSED RULE

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

AUTHORITY: In compliance with Section 67-5221(1), and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-20027, Idaho Code.

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

Time: Wednesday, October 25, 2000, at 10:30 a.m.

**Place: The Idaho Real Estate Commission
633 North Fourth Street, Boise, Idaho 83720**

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

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

The identification numbers assigned or approved by the Idaho Real Estate Commission will constitute the user's signature when transmitted as part of an electronic record in the course of business with the commission.

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 rule enables the public to conduct business electronically and thus confers a benefit.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:
No new fees involved.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because time and financial constraints render negotiated rule making here impractical.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed and temporary rule, contact Donna Jones, (208) 334-3285 ext. 232.

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 25, 2000.

DATED this 23rd day of August, 2000.

Donna M. Jones
Executive Director
Idaho Real Estate Commission
633 N. Fourth St., Boise, ID 83702
PO Box 83720, Boise, ID 83720
Phone: (208) 334-3285
Fax: (208) 334-2050

THE FOLLOWING IS THE TEXT OF DOCKET NO. 33-0101-0003

006. ELECTRONIC SIGNATURES.

A person's entry of the identification number assigned by the commission, or approved for the person's use by the commission, shall constitute the person's signature when transmitted as part of or in connection with an electronic document or procedure in the course of business with the commission. Any identification number assigned or approved by the commission shall be unique to the person using it, capable of verification, and conform to all applicable rules, guidelines and policies established by the commission. (10-1-00)T

007. -- 009. (RESERVED).

IDAPA 33 - REAL ESTATE COMMISSION
33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION
DOCKET NO. 33-0101-0004
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 Sections Idaho Code 54-2007 and 54-2020.

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

Time: Wednesday, October 25, 2000, at 10:30 a.m.

**Place: The Idaho Real Estate Commission
633 North Fourth Street, Boise, Idaho 83720**

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

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

The Idaho Real Estate Commission has determined that assessing a reduced license fee for each licensed business entity, rather than issuing the first entity license for free and then charging a maximum fee for the second and subsequent entity license, is fair and necessary to cover the costs associated with issuing and administering such licenses. Currently, no fee is charged for the first entity license, but the broker is assessed an additional "broker license fee" (\$220) for the second and each sequential entity license. Under the proposed rule change, a flat fee of one hundred dollars (\$100) will be charged for each entity license, rather than charging additional broker license fees for multiple entity licenses.

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

The Commission will assess a bi-annual fee of one hundred dollars (\$100) for each new or renewing business entity license. No additional broker license fees will be charged for multiple entity licenses.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because time and financial constraints render negotiated rule making here impractical.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Donna Jones, (208) 334-3285 ext. 232.

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 25, 2000.

DATED this 20th day of August, 2000.

Donna M. Jones
Executive Director
Idaho Real Estate Commission
633 N. Fourth St., Boise, ID 83702
PO Box 83720
Boise, ID 83720
Phone: (208) 334-3285
Fax: (208) 334-2050

THE FOLLOWING IS THE TEXT OF DOCKET NO. 33-0101-0004

101. LICENSING ~~TERM AND FEES.~~

~~Each new or reactivated license shall be for a period of one (1) year plus the months up to and including the next birth date of the licensee, not to exceed a period of two (2) years, and shall expire on a date to coincide with the last day of the month of the birth date of the licensee.~~ License fees are established as follows. (7-1-00)F(____)

01. Fees For Licensed Individuals. The fees for an initial or renewing license for broker, associate broker, or salesperson shall be two hundred twenty dollars (\$220) per license period, which fees include the twenty dollar (\$20) fee prescribed in Section 54-2070, Idaho Code. (7-1-00)F(____)

02. ~~Broker For More Than One Business.~~ ~~When an individual is licensed as designated broker for more than one (1) legal business entity, the Commission shall assess a broker's license fee for the second and each sequential legal business entity.~~ **Fees For Licensed Legal Business Entities.** The fee for an initial or renewing license for each legal business entity shall be one hundred dollars (\$100) per license period. (7-1-00)F(____)

IDAPA 35 - STATE TAX COMMISSION
35.01.01 - INCOME TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0101-0001
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) 63-105 and 63-3039, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 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:

RULE 031 - Aliens - is being amended to add information on what filing status to use on the Idaho return if a married alien files as a nonresident alien and does not elect to be treated as a resident.

RULE 032 - Members Of The Armed Forces - is being amended to correct code citations that were renumbered in 2000 legislation in Section 63-3022, Idaho Code.

RULE 035 - Trusts - Residency Status - is being amended to limit the condition that trust property be located in Idaho to real or tangible property.

RULE 045 - Nonresident - is being amended to correct a citation to another rule that was renumbered in 2000 rulemaking.

RULE 105 - Adjustments To Taxable Income - Additions Required Of All Taxpayers - is being amended to correct references to citations that were amended in 2000 legislation.

RULE 107 - Adjustments To Taxable Income - Additions Required Only Of Corporations And Partnerships - is being deleted and language is being moved to a new Rule 290 to clarify how an entity pays the tax for an electing officer, director, shareholder, partner, member or beneficiary.

RULE 108 - Adjustments To Taxable Income - Additions Required Only Of Estates And Trusts - is being amended to correct a federal code citation and to clarify the taxation of lump sum distributions.

RULE 109 - Adjustments To Taxable Income - Additions Required Only Of Estates And Trusts - is being amended due to legislation that modified the taxation of beneficiaries and to clarify the adjustments to be made in determining Idaho taxable income of a beneficiary of an estate or trust.

RULE 115 - Interest Expense Offset Related To Tax-Exempt Interest Income - is being amended to change the calculation of the offset to add federal tax-exempt interest and subtract foreign dividend gross-up in computing total income.

RULE 121 - Adjustments To Taxable Income - Subtractions Available Only To Individuals - is being amended to add subsections for deductions allowed for college savings programs, health insurance costs for self-employed individuals, to correct code references renumbered, and to modify the calculation of the standard deduction allowed on married filing joint returns due to 2000 legislation. This rule is also being amended to clarify the limitation of itemized deductions and the addback of state income taxes.

RULE 201 - Net Operating Loss Carrybacks And Carryovers - is being amended to modify how a taxpayer makes the election to forego the Idaho net operating loss carryback.

RULE 250 - Nonresident And Part-Year Resident Individuals - Income Subject To Idaho Taxation - is being

amended to add information on when income from an intangible asset is deemed to be received by a part-year resident and how to report it. Rule references are also being updated.

RULE 252 - Nonresident And Part-Year Resident Individuals-Adjustments Allowed In Computing Idaho Adjusted Gross Income - is being amended to add information on how a nonresident and part-year resident calculates the Idaho amount of the deductions for payments to a federal medical savings account and student loan interest payments. The citations to federal regulations and Idaho rules are being corrected.

RULE 254 - Nonresident And Part-Year Resident Individuals - Subtractions Allowed In Computing Idaho Adjusted Income - is being amended to add subtractions for college savings programs, retirement benefits and health insurance costs due to 2000 legislation. Code citations are being corrected because of legislation.

RULE 255 - Nonresident And Part-Year Resident Individuals - Proration Of Exemptions And Deductions - is being amended to correct the calculation for the standard deduction for married individuals filing joint returns due to 2000 legislation.

RULE 264 - Income From Real And Tangible Personal Property - is being amended to add language to allow the Tax Commission to require an alternative method to allocation and apportionment in determining Idaho source income of real and tangible personal property.

RULE 265 - Sole Proprietorships Operating Within And Without Idaho – is being amended to add language to allow the Tax Commission to require an alternative method to specific allocation in determining Idaho source income from a sole proprietorship.

RULE 270 - Idaho Compensation - In General - is being amended to add language to allow the Tax Commission to require an alternative method to the Idaho compensation percentage in determining Idaho source compensation.

RULE 271 - Idaho Compensation - Stock Options - is being amended to add specific references to the Internal Revenue Code regarding stock options.

RULE 290 - Tax Paid By Entities For Officers, Directors, Shareholders, Partners, Members, Or Beneficiaries - is being promulgated to clarify how an entity will report income and pay the tax for the officers, directors, shareholders, partners, members, or beneficiaries, and how the election is made.

RULE 320 - Application Of Multistate Rules - is being amended to identify which rules apply to corporations conducting business within and without Idaho.

RULE 570 - Special Rules - Sales Factors - is being amended to add information contained in the Multistate Tax Commission regulation regarding the sales factor and gross receipts from intangibles that cannot readily be attributed to any particular income producing activity of the taxpayer.

RULE 620 - Attributing Income Of Corporations That Are Members Of Partnerships - is being amended to correct a code reference citation.

RULE 700 - Credit For Taxes Paid Another State Or Territory - is being amended to add rounding rules for calculated percents.

RULE 704 - Credits - Pass-Through Entities - is being amended to address credit carryovers and recapture and recomputations of credits when a pass-through entity pays the tax for an individual owner or beneficiary.

RULE 710 - Idaho Investment Tax Credit - In General - is being amended to add information regarding the carryover period and limitations due to 2000 legislation.

RULE 730 - Credit For Contributions To Idaho Youth Facilities, Rehabilitation Facilities And Nonprofit Substance Abuse Centers - is being amended to modify the title for Idaho youth facilities and substance abuse centers and to clarify that tuition does not qualify. The rule is also amended to add the additional limitation when the credit for qualifying new employees is claimed.

RULE 735 – Credit For New Employees - Revenue-Producing Enterprise - is being deleted because the credit was repealed in 1995 legislation and the carryover period has expired.

RULE 736 - Credit For New Employees - Calculations Used To Determine Jobs Credit And Jobs Credit Carryover - is being deleted because the credit was repealed in 1995 legislation and the carryover period has expired.

RULE 737 – Credit For New Employees – Net Income Of A Revenue-Producing Enterprise - is being deleted because the credit was repealed in 1995 legislation and the carryover period has expired.

RULE 738 - Credit For New Employees - Documentation – is being deleted because the credit was repealed in 1995 legislation and the carryover period has expired.

RULE 745 – Credit For Qualifying New Employees – Revenue-Producing Enterprise - is being promulgated to clarify what qualifies as a revenue-producing enterprise due to 2000 legislation that enacted the credit.

RULE 746 - Credit For Qualifying New Employees - Calculations Used To Determine The Credit And Credit Carryover - is being promulgated to clarify the calculation of qualifying new employees, limitations, and carryovers due to 2000 legislation that enacted the credit.

RULE 747 - Credit For Qualifying New Employees - Net Income Of A Revenue-Producing Enterprise - is being promulgated to clarify the calculation of net income due to 2000 legislation that enacted the credit.

RULE 748 - Credit For Qualifying New Employees - Documentation - is being promulgated to clarify the documentation that the taxpayer must maintain when claiming the credit due to 2000 legislation that enacted the credit.

RULE 760 - Priority Order Of Credits - is being amended to delete the repealed jobs credit and to add the promoter-sponsored event credit enacted last year and the credit for qualifying new employees enacted in 2000.

RULE 855 - Permanent Building Fund Tax - is being amended to conform to 2000 legislation regarding beneficiaries of trusts and estates.

RULE 871 - State Income Tax Withholding Required - is being amended to conform to farmer filing requirements amended in 2000 legislation.

RULE 891 - Notice Of Adjustment Of State Or Territory Tax Liability - is being promulgated to add information on how to report state adjustments that affect the Idaho credit for taxes paid another state or territory.

RULE 895 - Period Of Limitation On Assessment And Collection Of Tax - is being amended to add information regarding a final state or territory determination due to 2000 legislation.

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 rule-making was not conducted because the rule is of a general application rather than applicable to identifiable groups or interests.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Janice Boyd, (208) 334-7530.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2000.

DATED this 23rd day of August, 2000.

Janice Boyd, Tax Policy Specialist
State Tax Commission
800 Park Blvd. Plaza IV
P. O. Box 36
Boise, ID 83722
(208) 334-7530, FAX (208) 334-7844

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0101-0001

031. ALIENS (Rule 031).

Sections 63-3013, 63-3013A, and 63-3014, Idaho Code. (3-20-97)

01. Idaho Residency Status. For purposes of the Idaho Income Tax Act, an alien may be either a resident, part-year resident, or nonresident. The individual's residency status for federal income tax purposes does not determine the Idaho residency status of an alien taxpayer. An alien shall determine his Idaho residency status using the tests set forth in Sections 63-3013, 63-3013A, and 63-3014, Idaho Code. (3-20-97)

02. Computation Of Idaho Taxable Income. (3-20-97)

a. To compute the Idaho taxable income of an alien, the first step is to determine his taxable income. This will depend on whether the alien is a resident, nonresident, or dual status alien for federal income tax purposes. (3-20-97)

b. Once the alien's taxable income has been computed, the amount of income subject to Idaho income tax depends on the alien's Idaho residency status. In general, if the alien qualifies as an Idaho resident, he is subject to Idaho income tax on all his taxable income regardless of its source. If the alien qualifies as a part-year resident or nonresident of Idaho, the amount of his taxable income subject to Idaho income tax is determined pursuant to Section 63-3026A, Idaho Code, and Rules 250 through 259 of these rules. (3-20-97)

c. In the case of a nonresident alien who does not elect to be treated as a resident for federal income tax purposes, the standard deduction is zero (0). However, a nonresident alien who qualifies as a student or business apprentice eligible for the benefits of Article 21(2) of the United States - India Income Tax Treaty is entitled to the standard deduction amount as if he were a resident for federal income tax purposes provided he does not claim itemized deductions. (7-1-99)

03. Filing Status. An alien shall use the same filing status for the Idaho return as used on the federal return. If for federal income tax purposes a married alien files as a nonresident alien and does not elect to be treated as a resident, the married alien shall use the filing status married filing separate on the Idaho return. (~~3-20-97~~)()

032. MEMBERS OF THE ARMED FORCES (Rule 032).

01. Idaho Residency Status. Section 574 of the Soldiers' and Sailors' Civil Relief Act provides that an individual on active duty with the United States Armed Forces is not a resident of or domiciled in Idaho solely as a result of being stationed in Idaho. (3-20-97)

a. A qualifying service member is an Idaho resident only if he is domiciled in Idaho for the entire taxable year. The domicile of a qualified service member is presumed to be that member's military home of record until the qualified service member establishes a new domicile. (3-20-97)

b. A qualified service member who is domiciled in Idaho for less than the entire taxable year is a part-

year resident. (3-20-97)

c. A qualified service member who is not domiciled in Idaho anytime during the taxable year is a nonresident. (3-20-97)

d. A member of the armed forces meeting the safe harbor exception set forth in Section 63-3013(2), Idaho Code, is not considered a resident of Idaho, even though Idaho is the person's military home of record. Any individual meeting the safe harbor exception to residency status is considered either a nonresident or part-year resident. (4-5-00)

e. The Soldiers' and Sailors' Civil Relief Act does not affect the Idaho residency status of a spouse of a qualified service member. The spouse of a qualified service member shall determine his Idaho residency status using the tests set forth in Sections 63-3013, 63-3013A, and 63-3014, Idaho Code. (3-20-97)

02. Active Duty Military Pay. (3-20-97)

a. Section 574 of the Soldiers' and Sailors' Civil Relief Act provides that the active duty military pay of a qualified member of the United States Armed Forces who is not domiciled in Idaho is exempt from Idaho income tax. The active duty military pay is not considered income from services performed within, or from sources within, Idaho. See Section 63-3026A(3)(c), Idaho Code. (3-20-97)

b. The active duty military pay of a service member who is domiciled in Idaho is subject to Idaho income tax. However, Section 63-3022(~~h~~), Idaho Code, provides that compensation paid by the United States Armed Forces for military service performed outside Idaho is deducted from taxable income in determining the member's Idaho taxable income. See Section 63-3022(~~h~~), Idaho Code, for the specific qualifications of this deduction. (~~3-20-97~~)()

03. Military Separation Pay. Military separation pay received for voluntary or involuntary separation from active military service is not considered active duty military pay. Therefore, Subsection 032.02 does not apply. (3-20-97)

a. Military separation pay is included in Idaho taxable income only if the recipient is domiciled in or residing in Idaho when the separation pay is received. (3-20-97)

b. For purposes of this rule, a former active duty service member whose home of record at the time of separation from the military was a state other than Idaho is not deemed to be residing in Idaho if he moves from Idaho within thirty (30) days from the date of separation from active duty. (3-20-97)

04. Nonmilitary Income. All Idaho source income earned by a military service member is subject to Idaho taxation except as expressly limited by the Idaho Income Tax Act and these rules. (3-20-97)

05. Nonmilitary Spouse. Subsection 032.02 does not apply to the income earned by a nonmilitary spouse of a military service member. If the nonmilitary spouse is an Idaho resident, he is subject to Idaho taxation on his income from all sources. If the nonmilitary spouse is a nonresident or a part-year resident, he is subject to Idaho taxation on his income from all sources earned while residing in or domiciled in Idaho, plus his income from Idaho sources earned while not residing and not domiciled in Idaho. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

035. TRUSTS -- RESIDENCY STATUS (Rule 035).

01. Resident Trusts. A trust is treated as a resident trust if three (3) or more of the following conditions exist: (3-20-97)

a. The domicile or residency of the grantor is in Idaho; (3-20-97)

- b. The trust is governed by Idaho law; (3-20-97)
- c. The trust has real or tangible personal property ~~is~~ located in Idaho; (~~3-20-97~~)()
- d. The domicile or residency of a trustee is in Idaho; (3-20-97)
- e. The administration of the trust takes place in Idaho. Administration of the trust includes conducting trust business, investing assets of the trust, making administrative decisions, record-keeping and preparation and filing of tax returns. (3-20-97)

02. Nonresident Trusts. If the trust does not qualify as a resident trust, it is treated as a nonresident trust. The tax liability of a nonresident trust is computed in the same manner as a nonresident individual. (3-20-97)

03. Residency Status Of A Trust. For purposes of determining the residency status of a trust, no distinction is made between inter vivos trusts and testamentary trusts, or between revocable trusts and irrevocable trusts. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

045. NONRESIDENT (Rule 045).

Section 63-3014, Idaho Code. (3-20-97)

01. Traveling Salesmen.

(3-20-97)

a. A nonresident salesman who works in Idaho is subject to Idaho taxation regardless of the location of his post of duty or starting point. (3-20-97)

b. If an individual is paid on a mileage basis, the gross income from sources within Idaho includes that portion of the total compensation for personal services that the number of miles traveled in Idaho bears to the total number of miles traveled within and without Idaho. If the compensation is based on some other measure, such as hours, the total compensation for personal services must be apportioned between Idaho and other states and foreign countries in a manner that allocates to Idaho the portion of total compensation reasonably attributable to personal services performed in Idaho. See Rule ~~26270~~ of these rules. (~~3-20-97~~)()

02. Motor Carrier Employees Covered By Title 49, Section 14503, United States Code.

Compensation paid to an interstate motor carrier employee who has regularly assigned duties in more than one state is subject to income tax only in the employee's state of residence. A motor carrier employee is defined in Title 49, Section 31132(2), United States Code, and includes: (7-1-99)

a. An operator, including an independent contractor, of a commercial motor vehicle; (3-20-97)

b. A mechanic; (3-20-97)

c. A freight handler; and (3-20-97)

d. An individual, other than an employer, who in the course of his employment directly affects commercial motor vehicle safety. Employees of the United States, a state, or a local government are not included. Employer, as used in this rule, means a person engaged in business affecting interstate commerce that owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate it. See Title 49, Section 31132(3), United States Code. (3-20-97)

03. Water Carrier Employees. Compensation paid to a water carrier employee is not exempt from state taxation by Title 49, Section 14503, United States Code. (7-1-99)

04. Air Carrier Employees Covered By Title 49, Section 40116(f), United States Code. Compensation paid to an air carrier employee who has regularly assigned duties on aircraft in more than one state is subject to the income tax laws of only: (7-1-99)

- a. The employee's state of residence, and (3-20-97)
- b. The state in which the employee earns more than fifty percent (50%) of the pay from the air carrier. (3-20-97)

05. Rail Carrier Employees Covered By Title 49, Section 11502, United States Code. Compensation paid to an interstate rail carrier employee who performs regularly assigned duties on a railroad in more than one (1) state is subject to income tax only in the employee's state of residence. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

105. ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED OF ALL TAXPAYERS (Rule 105). Section 63-3022, Idaho Code. (3-20-97)

01. State Taxes. As provided in Section 63-3022(a), Idaho Code, add state income taxes deducted in computing taxable income. This includes taxes paid to states other than Idaho and amounts paid by a pass-through entity. (7-1-99)

02. Net Operating Loss Deduction. As provided in Section 63-3022(b), Idaho Code, add any net operating loss deduction included in taxable income. (7-1-99)

03. Capital Loss Carryover Deduction. As provided in Section 63-3022(ji), Idaho Code: ~~(7-1-99)~~()

a. A corporation shall add a capital loss deducted in computing taxable income if the capital loss occurred during a taxable year when the corporation did not transact business in Idaho, unless the corporation was part of a unitary group with at least one (1) member of the group taxable by Idaho for that taxable year. (7-1-99)

b. An individual shall add a capital loss deducted in computing taxable income if the capital loss was incurred in a business activity not taxable by Idaho at the time it was incurred. (3-20-97)

04. Interest And Dividend Income Exempt From Federal Taxation. As provided in Section 63-3022M, Idaho Code, add certain interest and dividend income that is exempt from federal income tax. For example, add interest income from state and local bonds that is exempt from federal income tax pursuant to Section 103, Internal Revenue Code. (7-1-99)

a. Interest from bonds issued by the state of Idaho or its political subdivisions is exempt from Idaho income tax and, therefore, is not required to be added to taxable income. (3-20-97)

b. If a taxpayer has both Idaho and non-Idaho state and municipal interest income, expenses not allowed pursuant to Sections 265 and 291, Internal Revenue Code, shall be prorated between the Idaho and non-Idaho interest income as provided in Subsections 105.04.b.i. and 105.04.b.ii. The addition to taxable income required for non-Idaho state and municipal interest income shall be offset by the expenses prorated to that interest income. The allowable offset may not exceed the reportable amount of interest income. An unused offset may not be carried back or carried over. A schedule showing the interest and related offsets shall be attached to the return. (4-5-00)

i. Expenses prorated to Idaho state and municipal interest income shall be based on the ratio of Idaho state and municipal interest income to total state and municipal interest income. (7-1-98)

ii. Expenses prorated to non-Idaho state and municipal interest income shall be based on the ratio of non-Idaho state and municipal interest income to total state and municipal interest income. (7-1-98)

05. Interest Expense Attributable To Tax-Exempt Interest Income. As provided by Section 63-3022M, Idaho Code, a taxpayer shall add interest expense on indebtedness incurred to purchase or carry certain obligations that produce tax-exempt interest income. Because this addition serves to offset the tax-exempt interest income, it is often referred to as an interest expense offset related to tax-exempt interest income. See Rule 115 of these rules for the computation of the interest expense offset related to tax-exempt interest. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

107. ~~ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED ONLY OF CORPORATIONS AND PARTNERSHIPS (Rule 107) (RESERVED).~~

~~Section 63-3022, Idaho Code. (3-20-97)~~

~~**01. Income Of Individual Officers, Directors, Shareholders, Partners, Or Members.** As provided in Section 63-3022L, Idaho Code, a C corporation with fifty percent (50%) or more of its income taxable to Idaho, an S corporation, or a partnership may be required to include in its Idaho taxable income the amounts in Subsections 107.01.a. and 107.01.b. (4-5-00)~~

~~a. Compensation Reportable to Idaho. (3-20-97)~~

~~i. Corporations. A corporation described in Subsection 107.01 may be required to add the Idaho compensation paid by the corporation to an individual officer, director, shareholder, or member. (4-5-00)~~

~~ii. Partnerships. A partnership may be required to add the Idaho compensation paid by the partnership to an individual partner or member. (4-5-00)~~

~~iii. Idaho compensation for a part-year resident or nonresident is determined pursuant to Rule 270 of these rules. (4-5-00)~~

~~b. Pass-Through Items Reportable to Idaho. (3-20-97)~~

~~i. S Corporations. An S corporation may be required to add the pass-through items reportable as Idaho source income by an individual shareholder. (4-5-00)~~

~~ii. Partnerships. A partnership may be required to add the pass-through items reportable as Idaho source income by an individual partner or member. (4-5-00)~~

~~**02. Capital Loss.** As provided in Section 63-3022(j), Idaho Code, S corporations and partnerships are required to add a capital loss provided for in Section 1212, Internal Revenue Code, when paying the tax for individual shareholders and partners. (4-5-00)~~

108. ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED ONLY OF INDIVIDUALS (Rule 108).

Section 63-3022, Idaho Code. (3-20-97)

01. Lump Sum Distributions. As provided in Section 63-3022(k), Idaho Code, add the taxable amount of a lump sum distribution ~~deducted pursuant to Section 402(d)(3), Internal Revenue Code~~ excluded from taxable income. (3-20-97)()

02. Withdrawals From An Idaho Medical Savings Account. As provided in Section 63-3022K, Idaho Code, add the amount of a withdrawal from an Idaho medical savings account if the withdrawal was not made

for the purpose of paying eligible medical expenses. See Rule 190 of these rules. (7-1-98)

109. ADJUSTMENTS TO ~~TAXABLE~~ DISTRIBUTABLE NET INCOME — ~~ADDITIONS REQUIRED ONLY~~ OF ESTATES AND TRUSTS (Rule 109).

Section 63-3022, Idaho Code. As provided in Section 63-3022(hg), Idaho Code, an estate or trust ~~may be required to add the distributable net income reportable as Idaho source income by a nonresident beneficiary~~ shall make the adjustments that are required of individuals as provided in Section 63-3022, Idaho Code, in determining the Idaho taxable income of the beneficiary of an estate or trust. ~~(4-5-00)()~~

(BREAK IN CONTINUITY OF SECTIONS)

115. INTEREST EXPENSE OFFSET RELATED TO TAX-EXEMPT INTEREST INCOME (Rule 115).

Section 63-3022M, Idaho Code. (7-1-99)

01. In General. The interest expense offset provided by Section 63-3022M, Idaho Code, is a separate and distinct adjustment from provisions in the Internal Revenue Code that disallow interest expense related to federal tax-exempt interest. (7-1-99)

02. Tax-Exempt Interest Income. For purposes of computing the interest expense offset attributable to tax-exempt interest income, tax-exempt interest income shall mean interest on qualifying obligations of the United States and interest on qualifying obligations of the state of Idaho, its cities, and political subdivisions. (4-5-00)

a. If a taxpayer owns an interest in a pass-through entity, that entity's tax-exempt income shall also be included to the extent of the taxpayer's interest. (7-1-98)

b. Interest income that is only partially exempt for federal purposes is not included. Also, expenses related to tax-exempt interest income such as adjustments provided by Sections 265 and 291, Internal Revenue Code, are not included. (7-1-98)

03. Total Income. For purposes of computing the interest expense offset, total income shall be computed as follows: (7-1-98)

a. Corporations. (7-1-98)

i. Total income shall equal the amount reported as total income on Form 1120, U.S. Corporation Income Tax Return, for domestic corporations, plus the amount reported as total income on Form 1120F, U.S. Income Tax Return of a Foreign Corporation, for foreign corporations engaged in a U.S. trade or business, ~~and plus the amount of tax-exempt interest income not included in total income on Form 1120 and Form 1120F, plus the amount reported as nonexempt foreign trade income on Schedule B of Form 1120-FSC, Income Tax Return of a Foreign Sales Corporation, less the amount of foreign dividend gross-up included in federal income pursuant to Section 78, Internal Revenue Code.~~ (7-1-98)()

ii. If a taxpayer files a return using the worldwide combined reporting method, total income shall also include the amount reported as total income on Schedule C of Form 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations, for each foreign corporation included in the combined report. (7-1-98)

iii. If the corporation is a partner in a partnership, total income shall also include the corporation's distributive share of the partnership's total income as reported on page one (1) of Form 1065, U.S. Partnership Return of Income, to the extent this amount is not included in total income on Form 1120. (7-1-98)

iv. Intercompany amounts shall be eliminated to the extent included in these amounts. (7-1-98)

b. S Corporations. (7-1-98)

i. Total income shall equal the amount reported as total income on Form 1120S, U.S. Income Tax Return for an S Corporation, plus the amounts reported as net income from rental real estate activities, net income from other rental activities, interest income, dividend income, royalty income, net short-term and long-term capital gains, other portfolio income, net gain under Section 1231, and other income as listed on Schedule K, plus the amount of tax-exempt interest income not included on Form 1120S. ~~(7-1-98)~~()

ii. If the S corporation is a partner in a partnership, total income shall also include the appropriate partnership amounts as provided in Subsection 115.03.a.iii. (7-1-99)

c. Partnerships. (7-1-99)

i. Total income shall equal the amount reported as total income on Form 1065, U.S. Partnership Return of Income, plus the amounts reported as net income from rental real estate activities, net income from other rental activities, interest income, dividend income, royalty income, net short-term and long-term capital gains, other portfolio income, net gain under Section 1231, and other income as listed on Schedule K, plus the amount of tax-exempt interest income not included on Form 1065. ~~(7-1-99)~~()

ii. If the partnership is a shareholder in an S corporation, total income shall also include the partnership's distributive share of the S corporation's total income as reported on page one (1) of the Form 1120S, U.S. Income Tax Return for an S Corporation, to the extent this amount is not included in total income on Form 1065. (7-1-99)

d. Individuals. (7-1-99)

i. Total income shall equal the amount reported as total income on Form 1040, U.S. Individual Income Tax Return. (7-1-99)

ii. If the individual is a partner in a partnership, total income shall also include the individual's distributive share of the partnership's total income as reported on page one (1) of Form 1065, U.S. Partnership Return of Income, to the extent this amount is not included in total income on Form 1040. (7-1-99)

iii. If the individual is a shareholder in an S corporation, total income shall also include the individual's distributive share of the S corporation's total income as reported on page one (1) of the Form 1120S, U.S. Income Tax Return for an S Corporation, to the extent this amount is not included in total income on Form 1040. (7-1-99)

iv. Total income shall also include the amount of tax-exempt interest income not included on Form 1040, plus his share of the amount not included on Forms 1065 and 1120S. ()

04. Unitary Taxpayers. The interest expense offset shall be computed at the combined group level, not within each corporate entity. Total income, interest expense, and tax-exempt interest amounts from each member of the combined group are used in computing the interest expense offset. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

121. ADJUSTMENTS TO TAXABLE INCOME -- SUBTRACTIONS AVAILABLE ONLY TO INDIVIDUALS (Rule 121).
Section 63-3022, Idaho Code. (3-20-97)

01. Income Not Taxable By Idaho. As provided in Section 63-3022(f), Idaho Code, subtract the amount of income that is exempt from Idaho income tax if included in taxable income. Income exempt from taxation by Idaho includes the following: (7-1-99)

a. Certain income earned by Native Americans. See Rule 033 of these rules. (3-20-97)

b. Retirement payments received pursuant to the old Teachers' Retirement System. Prior to its repeal on July 1, 1967, the old Teachers' Retirement System was codified at Title 33, Chapter 13, Idaho Code. Teachers who were employed by the state of Idaho and who retired on or after January 1, 1966, generally do not qualify for this exemption. Teachers who were not state employees and who retired on or after January 1, 1968, do not qualify. Teachers receiving benefits pursuant to the Public Employees' Retirement System, Title 59, Chapter 13, Idaho Code, do not qualify for the exemption. No exemption is provided for amounts received from other states, school districts outside Idaho, or any other source if the proceeds do not relate to teaching performed in Idaho. (3-20-97)

02. Military Compensation For Service Performed Outside Idaho. As provided in Section 63-3022(~~h~~), Idaho Code, certain members of the United States Armed Forces may deduct from taxable income their military service pay received for military service performed outside Idaho. See Rule 032 of these rules. (~~7-1-99~~)()

03. Standard Or Itemized Deduction. As provided in Section 63-3022(~~k~~), Idaho Code, deduct either the standard deduction amount as defined in Section 63, Internal Revenue Code, or the itemized deductions allowed by the Internal Revenue Code. If itemized deductions are limited pursuant to the Internal Revenue Code, they are also limited for Idaho income tax purposes. (~~7-1-99~~)()

a. If state income taxes are included in itemized deductions for federal purposes pursuant to Section 164, Internal Revenue Code, they shall be added to taxable income. If itemized deductions are limited pursuant to Section 68, Internal Revenue Code, the amount of state income taxes added back shall be computed by dividing the amount of limited itemized deductions by total itemized deductions before the limitation. This percent shall be rounded to the nearest whole percent. For example, sixty-six and one-half percent (66.5%) shall be rounded to sixty-seven percent (67%). Sixty-six and four-tenths percent (66.4%) shall be rounded to sixty-six percent (66%). This percent is then applied to state income taxes to determine the Idaho state income tax addback. See Rule 105 of these rules. (~~7-1-99~~)()

b. If an itemized deduction allowable for federal income tax purposes is reduced for the mortgage interest credit or the foreign tax credit, the amount that would have been allowed if the federal credit had not been claimed is allowed as an itemized deduction. (7-1-99)

c. ~~#~~ For taxable year 1999 the standard deduction is claimed allowed on a married filing joint return; ~~the standard deduction~~ shall be increased by one hundred fifty dollars (\$150). (~~4-5-00~~)()

d. For taxable years beginning on or after January 1, 2000, the standard deduction allowed on a married filing joint return shall be equal to two (2) times the basic standard deduction for a single individual. Add to this amount any additional standard deduction for the aged or blind allowed for federal income tax purposes. ()

04. Social Security And Railroad Retirement Benefits. As provided in Section 63-3022(~~m~~), Idaho Code, subtract from taxable income the amount of social security and certain railroad retirement benefits included in gross income pursuant to Section 86, Internal Revenue Code. (~~4-5-00~~)()

a. The term social security benefits includes United States social security benefits and Canadian social security pensions received by a United States resident that are treated as United States social security benefits for United States income tax purposes. (7-1-99)

b. The term railroad retirement benefits means Tier I, Tier II, and supplemental benefits paid by the Railroad Retirement Board. Supplemental benefits, for purposes of this rule, include railroad unemployment and sickness benefits. (7-1-99)

05. Self-Employed Worker's Compensation Insurance Premiums. As provided in Section 63-3022(~~n~~), Idaho Code, self-employed individuals may subtract from taxable income the premiums paid to secure worker's compensation insurance for coverage in Idaho if the premiums have not been previously deducted in computing taxable income. The term worker's compensation insurance means "workmen's compensation" as defined in Section 41-506(d), Idaho Code. Premiums paid to secure worker's compensation insurance coverage are those payments made in compliance with Section 72-301, Idaho Code. (~~4-5-00~~)()

06. Retirement Benefits. As provided in Section 63-3022A, Idaho Code, and Rule 130 of these rules, a deduction from taxable income is allowed for certain retirement benefits. (3-20-97)

07. Insulation Of An Idaho Residence. As provided in Section 63-3022B, Idaho Code, and Rule 140 of these rules, a deduction from taxable income is allowed for qualified expenses related to the insulation of an Idaho residence. (3-20-97)

08. Alternative Energy Devices. As provided in Section 63-3022C, Idaho Code, and Rule 150 of these rules, a deduction from taxable income is allowed for qualified expenses related to the acquisition of an alternative energy device used in an Idaho residence. (3-20-97)

09. Household And Dependent Care Services. As provided in Section 63-3022D, Idaho Code, and Rule 160 of these rules, a deduction from taxable income is allowed for certain employment related expenses incurred for the care of qualifying individuals. (3-20-97)

10. Household Deduction For Elderly Or Developmentally Disabled Dependents. As provided in Section 63-3022E, Idaho Code, and Rule 165 of these rules, a deduction from taxable income is allowed for maintaining a household where an elderly or developmentally disabled family member resides. (3-20-97)

11. Reparaions To Displaced Japanese Americans. As provided in Section 63-3022G, Idaho Code, certain individuals are allowed a deduction for amounts included in taxable income relating to reparation payments from the United States Civil Liberties Public Education Fund. (3-20-97)

12. Capital Gains. As provided in Section 63-3022H, Idaho Code, and Rules 170 through 173 of these rules, a deduction from taxable income may be allowed for net capital gains recognized from the sale of qualified property. (3-20-97)

13. Adoption Expenses. As provided in Section 63-3022I, Idaho Code, and Rule 185 of these rules, a deduction from taxable income is allowed for certain expenses incurred when adopting a child. (3-20-97)

14. Idaho Medical Savings Account. As provided in Section 63-3022K, Idaho Code, and Rule 190 of these rules, a deduction from taxable income is allowed for qualifying contributions to and interest earned on an Idaho medical savings account. (4-5-00)

15. College Savings Program. As provided in Section 63-3022[(n)](o), Idaho Code, a deduction from taxable income is allowed for qualifying contributions to a college savings program. ()

16. Health Insurance Costs For Self-Employed Individuals. As provided in Section 63-3022O, Idaho Code, a deduction from taxable income is allowed for qualified medical insurance costs not otherwise deducted for federal income tax purposes pursuant to Section 162(l), Internal Revenue Code. ()

(BREAK IN CONTINUITY OF SECTIONS)

201. NET OPERATING LOSS CARRYBACKS AND CARRYOVERS (Rule 201).
Section 63-3022(c), Idaho Code. (7-1-99)

01. Definitions For Purposes Of Net Operating Loss Carrybacks And Carryovers. (3-20-97)

a. The term net operating loss deduction means the sum of the Idaho net operating losses carried to another taxable year and subtracted in computing Idaho taxable income. (3-20-97)

b. A net operating loss is absorbed when it has been fully subtracted from Idaho taxable income, as modified by Section 63-3021, Idaho Code. (4-5-00)

- 02. Adjustments To Net Operating Losses.** (3-20-97)
- a. Adjustments to a net operating loss shall be determined pursuant to the law applicable to the loss year. (3-20-97)
- b. Adjustments to a net operating loss deduction may be made even though the loss year is closed due to the statute of limitations. (3-20-97)
- 03. Adjustments In Carryback And Carryover Years.** (3-20-97)
- a. Adjustments to income, including modifications pursuant to Section 63-3021, Idaho Code, in a carryback or carryover year shall be made for purposes of determining, how much, if any, of the net operating loss may be carried over to subsequent years. (4-5-00)
- b. Adjustments are made pursuant to the law applicable to the carryback or carryover year. (4-5-00)
- c. Adjustments may be made even though the year is closed due to the statute of limitations. (3-20-97)
- 04. Net Operating Loss Carrybacks.** (3-20-97)
- a. The net operating loss carryback allowed for the entire carryback period shall not exceed one hundred thousand dollars (\$100,000) per taxpayer. Each corporation that has a net operating loss and is included in a unitary group is limited to a maximum carryback of one hundred thousand dollars (\$100,000). (4-5-00)
- b. Except as provided in Subsection 201.04.c., the net operating loss carryback shall be applied as follows: (4-5-00)
- i. For net operating losses incurred in taxable years beginning on and after January 1, 1990, but prior to January 1, 2000, the net operating loss carryback is applied to the third preceding taxable year and if not absorbed, the difference applied to the second preceding taxable year and if not absorbed, the difference applied to the first preceding taxable year. The loss not absorbed in the carryback years is subtracted in the fifteen (15) succeeding taxable years, in order, until absorbed. (4-5-00)
- ii. For net operating losses incurred in taxable years beginning on and after January 1, 2000, the net operating loss carryback is applied to the second preceding taxable year and if not absorbed, the difference applied to the first preceding taxable year. The loss not absorbed in the carryback years is subtracted in the twenty (20) succeeding taxable years, in order, until absorbed. (4-5-00)
- c. If the taxpayer makes a valid election to forego the carryback period as provided in Subsection 210.05, the provisions of Subsection 201.04.b. shall not apply and the net operating loss carryover shall be applied as follows: (~~4-5-00~~)()
- i. For net operating losses incurred in taxable years beginning on and after January 1, 1990, but prior to January 1, 2000, the net operating loss is subtracted in the fifteen (15) succeeding taxable years, in order, until the loss is absorbed. (4-5-00)
- ii. For net operating losses incurred in taxable years beginning on and after January 1, 2000, the net operating loss is subtracted in the twenty (20) succeeding taxable years, in order, until the loss is absorbed. (4-5-00)
- ~~#05.~~ **Timing And Method Of Electing To Forego Carryback.** ()
- a. Net operating losses incurred in taxable years beginning prior to January 1, 2001. The election must be made by the due date of the loss year return, including extensions. Once the completed return is filed, the extension period expires. Unless otherwise provided in the Idaho return or in an Idaho form accompanying a return for the taxable year, the election referred to in this Subsection shall be made by attaching a statement to the taxpayer's income tax return for the taxable year of the loss. The statement must contain the following information:

~~(7-1-99)~~()

- i. The name, address, and taxpayer's social security number or employer identification number; (3-20-97)
 - ii. A statement that the taxpayer makes the election pursuant to Section 63-3022(c)(1), Idaho Code, to forego the carryback provision; and (7-1-99)
 - iii. The amount of the net operating loss. (3-20-97)
- b. Net operating losses incurred in taxable years beginning on or after January 1, 2001. The election must be made by the due date of the Idaho loss year return, including extensions. Once the completed Idaho return is filed, the extension period expires. The election shall be made by either attaching a copy of the federal election to forego the federal net operating loss carryback to the Idaho income tax return for the taxable year of the loss or following the requirements of Subsection 201.05.a. ()
- c. If the election is made on an amended or original return filed subsequent to the time allowed in Subsections 201.04~~5.a~~ and 201.05.b, it is considered untimely and the net operating loss shall be applied as provided in Subsection 201.04.b. ~~(4-5-00)~~()

056. Order In Which Losses Are Applied In A Year. Loss carryovers are deducted before deducting any loss carrybacks applicable to the same taxable year. (3-20-97)

067. Documentation Required When Claiming A Net Operating Loss Deduction. A taxpayer claiming a net operating loss deduction for a taxable year must file with his return for that year a concise statement setting forth the amount of the net operating loss deduction claimed and all material and pertinent facts, including a detailed schedule showing the computation of the net operating loss and its carryback or carryover. (3-20-97)

078. Conversion Of C Corporation To S Corporation. A net operating loss carryback or carryover from a taxable year in which a corporation is a C corporation cannot be carried to a taxable year in which the corporation is an S corporation. However, an S corporation subject to the tax on built-in gains is allowed to deduct a net operating loss carryover from a taxable year in which the corporation was a C corporation against its net recognized built-in gain. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

250. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- INCOME SUBJECT TO IDAHO TAXATION (Rule 250). Sections 63-3026A(1) and (2), Idaho Code. (3-20-97)

01. Tax On Income From Idaho Sources. All income earned or received from sources within Idaho is subject to Idaho income taxation. For nonresidents and part-year residents, income from sources within Idaho shall be determined in accordance with Section 63-3026A(3), Idaho Code, and Rules 260 through 267~~5~~ of these rules. ~~(3-20-97)~~()

02. Tax On Income Received By Individuals Residing In Or Domiciled In Idaho. All income earned or received by an individual who resides in or is domiciled in Idaho is subject to Idaho income taxation without regard to the source of the income. (3-20-97)

03. Receipt Of Income -- Part-Year Residents. For purposes of determining if income is reportable to Idaho by a part-year resident, a cash basis taxpayer's ~~income~~ is considered to have earned or received income when it is actually or constructively received, except as provided in Subsections 250.04 and 250.05. ~~(3-20-97)~~()

04. Receipt Of Intangible Income -- Part-Year Residents. ()

a. If a transaction or activity gives rise to income that must be reported in a subsequent year when the taxpayer is a part-year resident, the income shall be treated as received ratably during that subsequent year. This Subsection shall apply to income that is not received during the year by the taxpayer, but which must be reported in taxable income. See Subsection 250.05 for the receipt of income from a pass-through entity. ()

b. A part-year resident shall report such income to Idaho in the proportion that the number of days during the year that the individual qualified as an Idaho part-year resident bears to total days. ()

c. Example. An individual converts an amount from a traditional IRA to a Roth IRA in year one (1). He elects to have the income taxed over four (4) years. The individual moves to Idaho on August 1, of year two (2). Since the individual was an Idaho resident for one hundred fifty-three (153) days of year two (2), he must report as Idaho income forty-two percent (42%) of his income from the conversion to a Roth IRA for that year. ()

045. Receipt Of Pass-Through Items Of Income And Losses -- Part-Year Residents.

(3-20-97)()

a. For a ~~cash-basis taxpayer~~ part-year resident who is a shareholder in an S corporation, or a partner in a partnership, the income, gains, losses and other pass-through items from the S corporation or partnership are treated as received ratably during the taxpayer's taxable year. If the taxpayer was not a shareholder or partner for the entire taxable year, the pass-through items are treated as received ratably during the period the taxpayer was a shareholder of the S corporation or partner of the partnership. (3-20-97)()

b. For a ~~cash-basis taxpayer~~ part-year resident who is a beneficiary of an estate or trust, the income, gains, losses and other pass-through items from the estate or trust are treated as received ratably during the taxpayer's taxable year. If the taxpayer was not a beneficiary of the estate or trust for the entire taxable year, the pass-through items are treated as received ratably during the period the taxpayer was a beneficiary of the estate or trust. (3-20-97)()

c. A part-year resident shall report such income to Idaho in the proportion that the number of days during the year that the individual qualified as an Idaho part-year resident bears to total days. ()

(BREAK IN CONTINUITY OF SECTIONS)

252. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- ADJUSTMENTS ALLOWED IN COMPUTING IDAHO ADJUSTED GROSS INCOME (Rule 252).

Section 63-3026A(6), Idaho Code.

(3-20-97)

01. Payments To An Individual Retirement Account (IRA). To determine the allowable adjustment, calculate a percentage by dividing the taxpayer's Idaho compensation by the taxpayer's total compensation. Multiply the deduction allowed for federal purposes by the percentage. For purposes of this rule, compensation means "compensation" as defined in Section 219(f)(1), Internal Revenue Code, and ~~Proposed~~ Treasury Regulation Section 1.219(a)-1(b)(3). Idaho compensation is determined pursuant to Rule 26270 of these rules. (3-20-97)()

02. Payments To A Keogh Retirement Plan, Simplified Employee Pension (SEP) Plan, Self-Employment Tax, And Self-Employment Health Insurance. To determine the allowable adjustment, calculate a percentage by dividing the taxpayer's self-employment income from Idaho sources by the taxpayer's total self-employment income. Multiply the self-employment deductions allowed for federal purposes by the percentage. (3-20-97)

03. Penalty On Early Withdrawal Of Savings. To determine the allowable adjustment, calculate a percentage by dividing the interest income of the time savings deposit subject to the penalty that is required to be included as Idaho income by the total interest income of the time savings deposit. Multiply the penalty deduction allowed for federal purposes by the percentage. (3-20-97)

04. Alimony Payments. The deduction for alimony payments allowed for federal purposes is allowed for Idaho purposes in the proportion that Idaho gross income bears to gross income. (3-20-97)

05. Moving Expenses. The deduction for moving expenses allowed for federal purposes is allowed for Idaho purposes in the proportion that Idaho gross income bears to gross income. (3-20-97)

06. Payment To A Federal Medical Savings Account. To determine the allowable adjustment, calculate a percentage by dividing the taxpayer's Idaho compensation by the taxpayer's total compensation. Multiply the deduction allowed for federal purposes by the percentage. For purposes of this rule, compensation means "compensation" as defined in Section 219(f)(1), Internal Revenue Code, and Treasury Regulation Section 1.219-1(c)(1). Idaho compensation is determined pursuant to Rule 270 of these rules. ()

07. Student Loan Interest Payments. The deduction for student loan interest payments allowed for federal purposes is allowed for Idaho purposes in the proportion that Idaho gross income bears to gross income. ()

(BREAK IN CONTINUITY OF SECTIONS)

254. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- SUBTRACTIONS ALLOWED IN COMPUTING IDAHO ADJUSTED INCOME (Rule 254).
Section 63-3026A(6), Idaho Code. (3-20-97)

01. Net Operating Loss Carryover. Subtract the net operating loss carryover allowed by Section 63-3022(c), Idaho Code, to the extent the loss was incurred while residing in or domiciled in Idaho or to the extent the loss was from business activity taking place in Idaho. A net operating loss incurred from a business activity not taxable by Idaho may not be subtracted. (7-1-99)

02. State Income Tax Refund. Subtract state income tax refunds included in Idaho gross income. (3-20-97)

03. Income Not Taxable By Idaho. Subtract income that is exempt from Idaho income taxation by a law of the state of Idaho or of the United States, if that income is included in Idaho gross income and has not been previously subtracted. Income not taxable by Idaho includes: (3-20-97)

a. Interest income from obligations issued by the United States Government. Gain recognized from the sale of United States Government obligations is not exempt from Idaho tax and, therefore, may not be subtracted from taxable income. For the interest expense offset, see Rule 115 of these rules. (7-1-99)

b. Idaho lottery prizes exempt by Section 67-7439, Idaho Code. For prizes awarded on lottery tickets purchased in Idaho after January 1, 1998, a subtraction is allowed for each lottery prize that is less than six hundred dollars (\$600). If a prize equals or exceeds six hundred dollars (\$600), no subtraction is allowed. The full amount of the prize is included in income. (4-5-00)

c. Certain income earned by Native Americans. An enrolled member of a federally recognized Indian tribe who lives on a federally recognized Indian reservation is not taxable on income derived within the reservation. See Rule 033 of these rules. (7-1-98)

d. Certain income earned by transportation employees covered by Title 49, Sections 11502, 14503 or 40116, United States Code. See Rule 045 of these rules. (7-1-99)

04. Military Pay. Subtract qualified military pay included in Idaho gross income earned for military service performed outside Idaho. Qualified military pay means all compensation paid by the United States for services performed while on active duty as a full-time member of the United States Armed Forces which full-time

duty is or will be continuous and uninterrupted for one hundred twenty (120) consecutive days or more. A nonresident does not report his military pay as Idaho gross income and, therefore, makes no adjustment. See Rule 032 of these rules for information regarding the residency status of members of the United States Armed Forces.

(3-20-97)

05. Social Security And Railroad Retirement Benefits. Subtract social security benefits and benefits paid by the Railroad Retirement Board that are taxable pursuant to the Internal Revenue Code, to the extent the benefits are included in Idaho gross income. See Subsections 121.04.a. and 121.04.b. of these rules.

(7-1-99)

06. Household And Dependent Care Expenses. Subtract the allowable portion of household and dependent care expenses that meets the requirements of Section 63-3022D, Idaho Code, if incurred to enable the taxpayer to be gainfully employed in Idaho. To determine the allowable portion of household and dependent care expenses, calculate a percentage by dividing Idaho earned income by total earned income. Multiply the qualified expenses by the percentage. Earned income is defined in Section 32(c)(2), Internal Revenue Code.

(3-20-97)

07. Insulation And Alternative Energy Device Expenses. Subtract expenses related to the installation of insulation or alternative energy devices that meet the requirements of Section 63-3022B or 63-3022C, Idaho Code.

(3-20-97)

08. Deduction For Dependents Sixty-Five Or Older Or With Developmental Disabilities. Subtract one thousand dollars (\$1,000) for each person who meets the requirements of Section 63-3022E, Idaho Code. The deduction may be claimed for no more than three (3) qualifying dependents. If a dependent has not lived in the maintained household for the entire taxable year, the allowable deduction is eighty-three dollars (\$83) for each month the dependent resided in the maintained household during the taxable year. For purposes of this rule, a fraction of a month exceeding fifteen (15) days is treated as a full month.

(3-20-97)

09. Adoption Expenses. Subtract the allowable portion of adoption expenses that meets the requirements of Section 63-3022I, Idaho Code. To determine the allowable portion, calculate a percentage by dividing Idaho gross income by total gross income. Multiply the deduction allowable pursuant to Section 63-3022I, Idaho Code, by the percentage.

(3-20-97)

10. Capital Gains Deduction. Subtract the Idaho capital gains deduction allowed by Section 63-3022H, Idaho Code.

(3-20-97)

11. Idaho Medical Savings Account.

(7-1-98)

a. Subtract contributions to an Idaho medical savings account that meet the requirements of Section 63-3022K, Idaho Code.

(7-1-98)

b. Subtract interest earned on an Idaho medical savings account to the extent included in Idaho gross income.

(7-1-98)

12. Technological Equipment Donation. Subtract donations of technological equipment allowed by Section 63-3022J, Idaho Code. See Rule 180 of these rules.

(3-20-97)

13. Worker's Compensation Insurance. As allowed by Section 63-3022(~~mm~~), Idaho Code, a self-employed individual may subtract the ~~cost of~~ premiums paid for worker's compensation for coverage in Idaho to the extent not previously subtracted in computing Idaho taxable income.

(~~4-5-00~~)()

14. Contributions To College Savings Program. Subtract the allowable portion of contributions to a college savings program that meets the requirements of Section 63-3022(n)(o), Idaho Code. To determine the allowable portion, calculate a percentage by dividing Idaho gross income by total gross income. Multiply the deduction allowable pursuant to Section 63-3022(n)(o), Idaho Code, by the percentage.

()

15. Retirement Benefits. As provided in Section 63-3022A, Idaho Code, and Rule 130 of these rules, a deduction from taxable income is allowed for certain retirement benefits. To determine the allowable portion of the deduction for certain retirement benefits, calculate a percentage by dividing the qualified retirement benefits included

in Idaho gross income by the qualified retirement benefits included in federal gross income. Multiply the deduction allowable pursuant to Section 63-3022A, Idaho Code, and Rule 130 of these rules, by the percentage. ()

16. Health Insurance Costs. As allowed by Section 63-3022O, Idaho Code, a self-employed individual may subtract the allowable portion of health insurance premiums paid to the extent not previously subtracted for federal income tax purposes pursuant to Section 162(l), Internal Revenue Code. To determine the allowable portion of health insurance premiums, calculate a percentage by dividing Idaho self-employment income by total self-employment income. Multiply the qualified premiums by the percentage. ()

255. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- PRORATION OF EXEMPTIONS AND DEDUCTIONS (Rule 255).

Section 63-3026A(4). (3-20-97)

01. In General. The exemptions and deductions allowable for federal purposes, except for the deduction of state income taxes, are allowed in part in computing Idaho taxable income. (3-20-97)

02. Proration Percentage. To determine the portion of exemptions and deductions allowable for part-year and nonresident individuals, multiply the total exemptions and deductions allowed by Section 151, Internal Revenue Code, and Section 63-3022(~~k~~), Idaho Code, by the proration percentage. The proration percentage is calculated by dividing Idaho adjusted income by total adjusted income. The percentage shall be rounded to the nearest whole percent. The percentage may not exceed one hundred percent (100%), nor be less than zero (0). ~~(4-5-00)~~()

a. Idaho adjusted income means the Idaho taxable income of the taxpayer as computed pursuant to Title 63, Chapter 30, Idaho Code, except for any adjustments for the standard deduction or itemized deductions and personal exemptions. Total adjusted income means the Idaho taxable income of the taxpayer computed as if he were a resident of Idaho for the entire taxable year, except no adjustments are made for the standard deduction, itemized deductions, personal exemptions, the deduction for active military service pay as provided in Section 63-3022(~~h~~), Idaho Code, and any deduction for income earned within a federally recognized Indian reservation. ~~(3-20-97)~~()

b. Generally, both Idaho adjusted income and total adjusted income are positive amounts. If Idaho adjusted income is less than or equal to the total adjusted income, the percentage shall be between zero (0) and one hundred percent (100%). If Idaho adjusted income is greater than the total adjusted income, the percentage shall be one hundred percent (100%). If Idaho adjusted income is a positive amount and total adjusted income is a negative amount, the percentage shall be one hundred percent (100%). If Idaho adjusted income is a negative amount and total adjusted income is a positive amount, the percentage shall be zero (0). (3-20-97)

03. Standard Deduction For Married Filing Joint Returns. The proration percentage shall be applied after making the following calculations: ()

~~ea. # For taxable year 1999 the standard deduction is claimed allowed on a married filing joint return; the standard deduction shall be increased by one hundred fifty dollars (\$150). The addition to the standard deduction on a married filing joint return shall be made before prorating the standard deduction.~~ ~~(4-5-00)~~()

b. For taxable years beginning on or after January 1, 2000, the standard deduction allowed on a married filing joint return shall be equal to two (2) times the basic standard deduction for a single individual. Add to this amount any additional standard deduction for the aged or blind allowed for federal income tax purposes. ()

(BREAK IN CONTINUITY OF SECTIONS)

264. INCOME FROM REAL AND TANGIBLE PERSONAL PROPERTY (Rule 264).

Section 63-3026A(3), Idaho Code. (3-20-97)

01. In General. Rents, royalties, profits, gains, losses and other items of income from the ownership or

disposition of real or tangible personal property located in Idaho is Idaho source income. (3-20-97)

02. Property Located Within And Without Idaho. (3-20-97)

a. If the property is located or used within and without Idaho, specific allocation of the income, gain, or loss is appropriate if the gross receipts and related deductions and expenses are readily identifiable from the location or use of the property in Idaho. (3-20-97)

b. To the extent income derived from real property located both within and without Idaho cannot be specifically allocated, the rents, profits, gains, losses or other items of income that constitute Idaho source income are determined by multiplying each item of income by a fraction. The numerator of the fraction is the average value of the property located in Idaho and the denominator is the average value of the property located both within and without Idaho. The value of real property is determined by the original cost of the land and improvements. The average value is determined by averaging the values at the beginning and end of the taxable year. However, the Tax Commission may require the averaging of monthly values during the taxable year if required to properly reflect the average value of the taxpayer's property. (3-20-97)

c. To the extent income derived from tangible personal property used both within and without Idaho cannot be readily allocated, the rents, royalties, gains, losses, and other items of income that constitute Idaho source income are determined by multiplying each item of income by a fraction. The numerator of the fraction is the total number of days the property was used in Idaho during the taxable year, and the denominator is the total number of days the property was used both within and without Idaho during the taxable year. (3-20-97)

03. Alternative Method. If either fraction in Subsection 264.02 does not fairly represent the extent of income derived from the property's use in Idaho, the taxpayer may propose or the Tax Commission may require an alternative method. For example, acres may be a more appropriate measure than average value in some cases. (~~3-20-97~~)(____)

a. The taxpayer shall fully explain the alternative method in a statement attached to his Idaho individual income tax return. (3-20-97)

b. The method proposed by the taxpayer may be used in lieu of the method in Subsection 264.02 unless the Tax Commission expressly denies its use. (3-20-97)

265. SOLE PROPRIETORSHIPS OPERATING WITHIN AND WITHOUT IDAHO (Rule 265). Section 63-3026A(3), Idaho Code. (3-20-97)

01. In General. A sole proprietorship that operates within and without Idaho shall apply the principles of allocation and apportionment of income set forth in Section 63-3027, Idaho Code, and related rules to determine the extent of proprietorship income that is derived from or related to Idaho sources. The use of a combined report, however, is available only to C corporations. (3-20-97)

02. Application Of Rule. This rule also applies to farming activities operated as a sole proprietorship. (3-20-97)

03. Alternative Method. If the method described in Subsection 265.01 does not fairly represent the extent of the business activity in Idaho, the taxpayer may propose or the Tax Commission may require an alternative method. (~~7-1-99~~)(____)

a. The taxpayer shall fully explain the alternative method in a statement attached to his Idaho individual income tax return. (7-1-99)

b. The method proposed by the taxpayer may be used in lieu of the method in Subsection 265.01 unless the Tax Commission expressly denies its use. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

270. IDAHO COMPENSATION -- IN GENERAL (Rule 270).

Section 63-3026A(3).

(4-5-00)

01. In General. If an individual performs personal services, either as an employee, agent, independent contractor or otherwise, both within and without Idaho, the portion of his total compensation that constitutes Idaho source income is determined by multiplying that total compensation by the Idaho compensation percentage.

(3-20-97)

02. Definitions.

(3-20-97)

a. The Idaho compensation percentage is the percentage computed by dividing Idaho work days by total work days.

(3-20-97)

b. The term Idaho work days means the total number of days the taxpayer provided personal services in Idaho for a particular employer or principal during the calendar year.

(3-20-97)

c. Total work days means the total number of days the taxpayer provided personal services for that employer or principal both within and without Idaho during the calendar year. For example, a taxpayer working a five (5) day work week may assume total work days of two hundred sixty (260) less any vacation, holidays, sick leave days and other days off.

(3-20-97)

d. Total compensation means all salary, wages, commissions, contract payments, and other compensation for services, including sick leave pay, holiday pay and vacation pay, that is taxable pursuant to the Idaho Income Tax Act if earned by a resident of Idaho.

(3-20-97)

03. Work Days. Work days include only those days the taxpayer actually performs personal services for the benefit of the employer or principal. Vacation days, sick leave days, holidays, and other days off from work are considered nonwork days whether compensated or not. Total work days must equal Idaho work days plus non-Idaho work days. The taxpayer has the burden of establishing non-Idaho work days. Documentation establishing non-Idaho work days may be required to support the Idaho compensation percentage used by the taxpayer.

(3-20-97)

04. Multiple Employers. If a taxpayer performs personal services both within and without Idaho for more than one (1) employer or principal, he shall determine an Idaho compensation percentage separately for each employer or principal.

(3-20-97)

05. Alternative Method. If the Idaho compensation percentage does not fairly represent the extent of the taxpayer's personal service activities in Idaho, the taxpayer may ~~submit~~ propose or the Tax Commission may require an alternative method. For example, working hours may be a more appropriate measure than work days in some cases.

~~(3-20-97)~~(____)

a. The taxpayer shall fully explain the alternative method in a statement attached to his Idaho individual income tax return.

(3-20-97)

b. The alternative method may be used in lieu of the method in Subsection 270.01 unless the Tax Commission expressly denies its use.

(4-5-00)

271. IDAHO COMPENSATION -- STOCK OPTIONS (Rule 271).

Section 63-3026A(3), Idaho Code.

(4-5-00)

01. In General. The granting of stock options is considered to be compensation for services. Although considered as compensation, in some circumstances the taxpayer may report the compensation on his federal income tax return as capital gain income. The character of the income from the granting of stock options and the timing of reporting it for federal income tax purposes shall apply in computing Idaho taxable income.

(4-5-00)

- 02. Definitions.** For purposes of this rule: (4-5-00)
- a. Work days, Idaho work days, and total work days are defined in Rule 270 of these rules. (4-5-00)
 - b. Compensable period shall mean the period that begins at the date the stock option is granted and ends at the earlier of the date the stock option becomes vested or the date the employee's services terminate. (4-5-00)
 - c. Statutory stock options are options governed by specific Internal Revenue Code sections that impose restrictions on both the employer and the employee. Statutory stock options include incentive stock options as provided in Section 422, Internal Revenue Code, and options issued pursuant to employee stock purchase plans as provided in Section 423, Internal Revenue Code. ~~(4-5-00)~~(____)
 - d. Nonstatutory stock options are options that do not meet the Internal Revenue Code requirements to qualify as statutory stock options or are granted pursuant to a plan or offering that does not qualify. (4-5-00)
- 03. Compensation For Future Services.** The granting of stock options shall be presumed to be intended as compensation for future services. The party alleging otherwise shall bear the burden of proving that the stock options were intended for services rendered before the date of grant. (4-5-00)
- 04. Statutory Stock Options.** (4-5-00)
- a. Compensation. Compensation is realized at the date the option is exercised, but not taxable until the income or gain is recognized for federal income tax purposes. If a taxpayer reports a capital gain for federal income tax purposes from statutory stock options, the amount of Idaho source compensation shall also be reported as capital gain income for Idaho income tax purposes. Idaho source compensation shall be determined as follows: (4-5-00)
 - i. Compensation is equal to the portion of the gain that equals the difference between the option price and the fair market value of the stock at the date the option was exercised. Compensation shall be limited to the gain actually recognized if the stock is sold for less than its fair market value at the time the option was exercised. No compensation shall be reported if the stock is sold at a loss. (4-5-00)
 - ii. Compensation for services performed in Idaho shall equal the compensation determined in Subsection 271.04.a.i., multiplied by the ratio of Idaho work days to total work days during the compensable period. (4-5-00)
 - b. Investment Income. Appreciation in the value of the stock after the date the option was exercised shall be reported as investment income and sourced to the taxpayer's domicile at the date the stock was sold. (4-5-00)
- 05. Nonstatutory Stock Options.** (4-5-00)
- a. Compensation. Compensation is recognized at the date the stock option is exercised. The amount of Idaho source compensation related to the stock option is determined as follows: (4-5-00)
 - i. Compensation for federal income tax purposes is equal to the difference between the option price and the fair market value of the stock at the date the option was exercised. (4-5-00)
 - ii. Compensation for services performed in Idaho shall equal the compensation determined in Subsection 271.05.a.i., multiplied by the ratio of Idaho work days to total work days during the compensable period. (4-5-00)
 - b. Investment Income. Appreciation or depreciation in the value of the stock after the date the option was exercised shall be reported as investment income and sourced to the taxpayer's domicile at the date the stock was sold. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

281. -- 2989. (RESERVED).

290. TAX PAID BY ENTITIES FOR OFFICERS, DIRECTORS, SHAREHOLDERS, PARTNERS, MEMBERS, OR BENEFICIARIES (Rule 290).

Section 63-3022L, Idaho Code. ()

01. Election Provided In Section 63-3022L, Idaho Code. ()

a. The election to have the entity pay the tax as provided in Section 63-3022L, Idaho Code, is available only to an individual who is an officer, director, shareholder, partner, member, or beneficiary. If the individual has Idaho taxable income in addition to income described in Section 63-3022L, Idaho Code, the election is not available. ()

b. The election is not available to corporations, partnerships or electing small business trusts, or to any other person who is not an individual. ()

c. Permission from the Tax Commission to make the election is not required. ()

d. The election is made by the individual. No statement or form is required. If the election is made, the entity shall report and pay the tax on the Idaho taxable income of the individual, as described in Subsection 290.02, on the entity's Idaho return. ()

e. If the individual fails to make the election to have the entity pay the tax, and does not report and pay the tax on the income, described in Subsection 290.02, on an Idaho individual income tax return when such return is required, the entity shall be required to pay the tax on such income. ()

02. Income Reportable To Idaho. ()

a. Compensation reportable to Idaho. ()

i. C Corporations. A C corporation with fifty percent (50%) or more of its income taxable to Idaho may be required to pay the tax on the compensation reportable to Idaho that the corporation paid to an individual who is an officer, director, shareholder, or member. ()

ii. S Corporations. An S corporation may be required to pay the tax on the compensation reportable to Idaho that the S corporation paid to an individual who is an officer, director, or shareholder. ()

iii. Partnerships. A partnership may be required to pay the tax on the compensation reportable to Idaho that the partnership paid to an individual who is a partner or member. ()

iv. Estates and trusts. An estate or trust may be required to pay the tax on the compensation reportable to Idaho that the estate or trust paid to an individual beneficiary. ()

v. Compensation reportable to Idaho for an Idaho part-year resident or nonresident is determined pursuant to Rule 270 of these rules. ()

b. Pass-through items reportable to Idaho. ()

i. S Corporations. An S corporation may be required to pay the tax on the pass-through items reportable to Idaho by an individual shareholder. ()

ii. Partnerships. A partnership may be required to pay the tax on the pass-through items reportable to Idaho by an individual who is a partner or member. ()

iii. Pass-through items reportable to Idaho from an S corporation or a partnership for an Idaho part-year resident or nonresident are determined pursuant to Rule 263 of these rules. ()

c. Distributable net income reportable to Idaho. ()

i. Estates and trusts. An estate or trust may be required to pay the tax on the distributable net income from the estate or trust that is reportable to Idaho by an individual beneficiary. ()

ii. Distributable net income reportable to Idaho from an estate or trust for an Idaho part-year resident or nonresident is determined pursuant to Rule 261 of these rules. ()

03. Capital Loss. As provided in Section 63-3022(i), Idaho Code, S corporations and partnerships are not allowed to carry over or carry back any capital loss provided for in Section 1212, Internal Revenue Code. ()

04. Net Operating Loss. As provided in Section 63-3022(i), Idaho Code, S corporations and partnerships are not allowed to carry over or carry back any net operating loss provided for in Section 63-3022(c), Idaho Code. ()

291. -- 299. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

320. APPLICATION OF MULTISTATE RULES (Rule 320).

Section 63-3027, Idaho Code.

(3-20-97)

01. Prologue. Rules 320 through 699 of these rules are intended to set forth the application of the apportionment and allocation provisions of Section 63-3027, Idaho Code. The only exceptions to these allocation and apportionment rules are those set forth in these rules pursuant to the authority of Sections 63-3027(s) and 63-3027(u), Idaho Code. (3-20-97)

02. Taxpayers Conducting Business Within And Without Idaho. Section 63-3027, Idaho Code, and related rules apply to C corporations conducting business within and without Idaho, and to other taxpayers if required by other provisions of the Idaho Code ~~and related~~ or of these rules. However, only C corporations may use the combined report to determine Idaho taxable income. See Rule 360 of these rules. (~~3-20-97~~)()

(BREAK IN CONTINUITY OF SECTIONS)

570. SPECIAL RULES -- SALES FACTOR (Rule 570).

Section 63-3027(s), Idaho Code.

(3-20-97)

01. De Minimis Gross Receipts. Minimal amounts of gross receipts arising from incidental or occasional transactions or activities may be excluded from the sales factor unless the exclusion would materially affect the amount of income apportioned to Idaho. (3-20-97)

02. Gross Receipts From Intangibles.

a. If the income producing activity in respect to business income from intangible personal property can be readily identified, the income is included in the denominator of the sales factor and, if the income producing activity occurs in Idaho, in the numerator of the sales factor as well. For example, usually the income producing activity can be readily identified in respect to interest income received on deferred payments on sales of tangible property, see Rule 525 of these rules, and income from the sale, licensing or other use of intangible personal property, see Rule 550 of these rules. (3-20-97)

b. If business income from intangible property cannot readily be attributed to any particular income producing activity of the taxpayer, the income cannot be assigned to the numerator of the sales factor for any state and shall be excluded from the denominator of the sales factor. For example, if business income in the form of dividends received on stock, royalties received on patents or copyrights, and interest received on bonds, debentures or government securities results from the mere holding of the intangible personal property by the taxpayer, the dividends, royalties and interest shall be excluded from the denominator of the sales factor. ()

03. Net Gains. If gains and losses on the sale of liquid assets are not excluded from the sales factor by other provisions of this rule, such gains or losses shall be treated as provided in Subsection 570.03. This subsection does not provide rules relating to the treatment of other receipts produced from holding or managing such assets. If a taxpayer holds liquid assets in connection with one (1) or more treasury functions of the taxpayer, and the liquid assets produce business income when sold, exchanged or otherwise disposed, the overall net gain from those transactions for each treasury function for the tax period is included in the sales factor. For purposes of Subsection 570.03, each treasury function shall be considered separately. (4-5-00)

a. For purposes of Subsection 570.03, a liquid asset is an asset, other than functional currency or funds held in bank accounts, held to provide a relatively immediate source of funds to satisfy the liquidity needs of the trade or business. Liquid assets include foreign currency, and trading positions therein, other than functional currency used in the regular course of the taxpayer's trade or business; marketable instruments, including stocks, bonds, debentures, bills, notes, options, warrants, futures contracts; and mutual funds which hold such liquid assets. An instrument is considered marketable if it is traded in an established stock or securities market and is regularly quoted by brokers or dealers in making a market. Stock in a corporation that is unitary with the taxpayer or has a substantial business relationship with the taxpayer is not considered marketable stock. (4-5-00)

b. For purposes of Subsection 570.03, a treasury function is the pooling and management of liquid assets for the purpose of satisfying the cash flow needs of the trade or business, such as providing liquidity for a taxpayer's business cycle, providing a reserve for business contingencies, and providing for business acquisitions. A taxpayer principally engaged in the trade or business of purchasing and selling instruments or other items included in the definition of liquid assets set forth herein is not performing a treasury function with respect to income so produced. (4-5-00)

c. Overall net gain refers to the total net gain from all transactions incurred at each treasury function for the entire tax period, not the net gain from a specific transaction. (4-5-00)

d. Examples. (4-5-00)

i. A taxpayer manufactures various gift items. Because of seasonal variations, the taxpayer must keep liquid assets available for later inventory acquisitions. Because the taxpayer wants to obtain a return on available funds, the taxpayer acquires liquid assets, which are held and managed in State A. The net gain resulting from all gains and losses on the sale of the liquid assets for the tax year will be reflected in the denominator of the sales factor and in the numerator of State A. (4-5-00)

ii. A stockbroker acts as a dealer or trader for its own account in its ordinary course of business. Some of the instruments sold are liquid assets. Subsection 570.03 does not operate to classify those sales as attributable to a treasury function. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

620. ATTRIBUTING INCOME OF CORPORATIONS THAT ARE MEMBERS OF PARTNERSHIPS (Rule 620).
Section 63-3027, Idaho Code. (3-20-97)

01. In General. If a corporation required to file an Idaho income tax return is a member of an operating

partnership, the corporation shall report its Idaho taxable income, including its share of income from the partnership, in accordance with this rule. For purposes of this rule, the term partnership includes a joint venture. (3-20-97)

02. Transacting Business. A corporation is transacting business in Idaho if it is a partner in a partnership that is transacting business in Idaho even though the corporation has no other contact with Idaho. In this case, both the partnership and the corporation have an Idaho filing requirement. (3-20-97)

03. Multistate Partnerships. If a partnership operates in more than one state, its income shall be apportioned and allocated on the partnership return as if the partnership were a corporation. The allocation and apportionment rules of Section 63-3027, Idaho Code, and related rules apply to the partnership. (3-20-97)

04. Partnership Income As Business Income Of The Partner. (3-20-97)

a. **Income.** If the income or loss of a partnership is business income or loss to a corporate partner, its share of this net business income or loss shall be apportioned together with all other net business income or loss of the corporation. Business income or loss is defined by Section 63-3027(a)(1), Idaho Code, and Rules 330 through 334 of these rules. (3-20-97)

b. **Factors.** A corporate partner's share of the partnership property, payroll, and sales after intercompany eliminations, shall be included in the numerators and the denominators of the partner's property, payroll, and sales factors when computing its apportionment formula. The partner's share of the partnership's property, payroll, and sales is determined by attributing the partnership's property, payroll, and sales to the partner in the same proportion as its distributive share of partnership income if reporting net income for the taxable year or in the same proportion as its distributive share of partnership losses if reporting a net loss for the taxable year. Generally, the partnership's property, payroll, and sales includable in the corporation's factor computations is determined in accordance with Section 63-3027, Idaho Code, and related rules. To determine how the sales attribution rules of Section 63-3027, Idaho Code, apply to the sales factor of the corporate partner, the sales of the partnership are treated as if they were sales of the corporation. (~~3-20-97~~) ()

05. Partnership Income As Nonbusiness Income Of Partner. (3-20-97)

a. **Income.** If the partnership income or loss is not business income to a corporate partner, the income is nonbusiness income as defined in Section 63-3027(a)(4), Idaho Code, and Rules 335 through 339 of these rules. The corporate partner shall allocate the nonbusiness income to the state in which it was earned. The corporate partner, on its Idaho corporation income tax return, shall specifically allocate to Idaho its share of the nonbusiness income attributable to Idaho. (3-20-97)

b. **Factors.** If the partnership income or loss is nonbusiness income to the corporate partner, none of the partnership property, payroll, or sales may be included in the computation of the factors of the corporation. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

700. CREDIT FOR TAXES PAID ANOTHER STATE OR TERRITORY (Rule 700).
Section 63-3029, Idaho Code. (7-1-98)

01. Taxes Not Eligible For The Credit. Any tax or portion thereof imposed on capital stock, retained earnings, stock values, or a basis other than income is not eligible for the credit. (7-1-98)

02. Credit Calculated On A State-By-State Basis. The credit and credit limitations shall be calculated on a state-by-state basis. The taxpayer may not aggregate the income taxed by other states or the taxes paid to the other states for purposes of calculating the credit and its limitations. (7-1-98)

03. Income Tax Payable To Another State. The income tax payable to another state shall be the tax

paid after the application of all credits. The tax paid to the other state must be for the same taxable year that the credit is claimed. (7-1-98)

04. Rounding To The Nearest Whole Percent. The percentage calculated under Section 63-3029, Idaho Code, shall be rounded to the nearest whole percent. This percentage may not exceed one hundred percent (100%) nor be less than zero (0). For example, sixty-six and one-half percent (66.5%) shall be rounded to sixty-seven percent (67%). Sixty-six and four-tenths percent (66.4%) shall be rounded to sixty-six percent (66%). ()

(BREAK IN CONTINUITY OF SECTIONS)

704. CREDITS -- PASS-THROUGH ENTITIES (Rule 704).

01. In General. A credit earned by a partnership, S corporation, estate, or trust generally is claimed on the income tax returns of the partners, shareholders, or beneficiaries of the entity. (3-20-97)

a. Partnerships. A credit passes through to a partner based on that partner's distributive share of partnership profits. (3-20-97)

b. S Corporations. A credit passes through to a shareholder based on that shareholder's pro rata share of income or loss. (3-20-97)

c. Estates and Trusts. A credit passes through to a beneficiary in the same ratio that income is allocable to that beneficiary. (3-20-97)

02. Limitations. (3-20-97)

a. In General. Credits claimed on a partner's, shareholder's, or beneficiary's tax return may not exceed the limitations imposed by statute or rule. (3-20-97)

b. Example. Partnership XYZ has three (3) individual partners who each are entitled to a one-third (1/3) share of the partnership profits. The partnership contributed three thousand dollars (\$3,000) to an educational institution. The contribution qualifies for the credit provided by Section 63-3029A, Idaho Code. One-third (1/3) of the contribution, one thousand dollars (\$1,000), passes through to Partner X who files a joint return. He is allowed a credit of fifty percent (50%) of the amount contributed, but is limited to the lesser of one hundred dollars (\$100) or twenty percent (20%) of his total income tax liability. (3-20-97)

c. Example. Assume the same facts as in Subsection 704.02.b., except Partner X also contributed two hundred dollars (\$200) to a qualifying educational institution. Subject to other limitations, the credit is six hundred dollars (\$600) computed as follows: $((\$1,000 + \$200) \times .5)$. (3-20-97)

03. Carryovers. Carryovers of credit are allowed to the partner, shareholder, or beneficiary to the extent provided by statute or rule. (3-20-97)

04. Different Taxable Year Ends. If a pass-through entity has a taxable year end different from that of a partner, shareholder, or beneficiary, the credit is available in the same taxable year that income or loss from that entity is reported. (3-20-97)

05. Information Provided By A Pass-Through Entity. The pass-through entity shall prepare and distribute to each partner, shareholder, or beneficiary a schedule detailing the proportionate share of each credit earned and any recapture that is required. Copies of these schedules shall be attached to the pass-through entity's Idaho income tax return or information return for the taxable year that the credit is earned and to each return on which the credit is claimed. (3-20-97)

06. Pass-Through Entities That Pay Tax. ()

a. A pass-through entity ~~is entitled to~~ may apply and may recapture credits that generally pass through to the ~~nonresident~~ partner, shareholder, or beneficiary for whom the pass-through entity is paying the tax. For example, Idaho investment tax credit earned that would have passed through to the owner or beneficiary could be claimed by the pass-through entity subject to the applicable limitations. Limitations based on the tax liability apply to each owner's or beneficiary's tax liability being paid by the pass-through entity. (3-20-97)()

b. The partner, shareholder or beneficiary is responsible for the recapture or recomputation of credits passed through to the partner, shareholder, or beneficiary. ()

c. Carryovers that exist after a pass-through entity offsets the tax with credit available to that partner, shareholder or beneficiary, remain a carryover of the partner, shareholder or beneficiary. ()

(BREAK IN CONTINUITY OF SECTIONS)

710. IDAHO INVESTMENT TAX CREDIT -- IN GENERAL (Rule 710).

Section 63-3029B, Idaho Code.

(3-20-97)

01. **Credit Allowed.** The investment tax credit allowed by Section 63-3029B, Idaho Code, applies to investments made during tax years beginning on and after January 1, 1982, that qualify pursuant to Sections 46(c), 47, and 48, Internal Revenue Code, as in effect prior to amendment by Public Law 101-508. Investments must also meet the requirements of Section 63-3029B, Idaho Code, and Rules 710 through 717 of these rules. (3-20-97)

02. **Limitations.** The investment tax credit allowable in any taxable year shall be limited by the following: (3-20-97)

a. Tax liability. ()

i. For taxable years beginning on or after January 1, 2000, the credit claimed may not exceed fifty percent (50%) of the tax after credit for taxes paid another state. ()

ii. ~~The total amount of any investment tax credit claimed during a~~ For taxable years beginning on or after January 1, 1995 and before January 1, 2000, the credit claimed may not exceed forty-five percent (45%) of the tax, after credit for taxes paid another state, regardless of whether the investment tax credit results from a carryover earned in prior years, the current year, or both. ()

iii. For taxable years beginning prior to January 1, 1995, the credit claimed may not exceed fifty percent (50%) of the tax, after credit for taxes paid another state. (3-20-97)()

b. ~~If the investment tax credit and the Idaho new jobs credit are claimed or carried over, the investment tax credit is limited further by the provisions of Section 63-3029F, Idaho Code. See Rules 735 through 738 of these rules.~~ Credit for qualifying new employees. If the credit for qualifying new employees is claimed in the current taxable year or carried forward to a future taxable year, the investment tax credit is limited by the provisions of Section 63-3029F, Idaho Code. (3-20-97)()

c. Unitary taxpayers. Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. See Rule 711 of these rules. (3-20-97)()

d. Nonrefundable credits. The investment tax credit is a nonrefundable credit. It is applied to the income tax liability in the priority order for nonrefundable credits described in Rule 760 of these rules. (3-20-97)()

03. **Carryovers.** (3-20-97)

a. Carryovers of investment tax credit for property acquired prior to January 1, 1995, may not include property acquired as replacement for reasons other than technical obsolescence. (3-20-97)

b. Investment tax credit earned on investments made before January 1, 1990, but not claimed against tax in the year earned is eligible for a five (5) year carryover. ()

c. Investment tax credit earned on investments made on or after January 1, 1990, but not claimed against tax in the year earned is eligible for a seven (7) year carryover. If a credit carryover from these years is available to be carried into taxable years beginning on or after January 1, 2000, the credit carryover is extended from seven (7) years to fourteen (14) years. (3-20-97)()

d. For example, a calendar year taxpayer earned investment tax credit in calendar year 1993. The taxpayer was unable to use all the credit in that year and in the subsequent carryover years. Carryover was remaining into the seventh and final carryover year, calendar year 2000. Since the taxpayer had eligible carryover going into a taxable year beginning on or after January 1, 2000, the carryover period changes from seven (7) years to fourteen (14) years. Assuming the carryover is available for the entire carryover period, and that there are no short period years, the last year that the carryover can be used will be calendar year 2007. If the seventh carryover year was a taxable year beginning prior to January 1, 2000, the carryover period has expired and is not extended. ()

e. Investment tax credit earned on investments made in taxable years beginning on or after January 1, 2000, but not claimed against tax in the year earned is eligible for a fourteen (14) year carryover. ()

04. Motor Vehicle. Motor vehicle means a self-propelled vehicle that is registered or may be registered for highway use pursuant to the laws of Idaho. Gross vehicle weight is determined by the manufacturer's specified gross vehicle weight. (3-20-97)

05. Expensed Property. The cost of property that the taxpayer elects to expense pursuant to Section 179, Internal Revenue Code, is not a qualified investment. (3-20-97)()

(BREAK IN CONTINUITY OF SECTIONS)

730. CREDIT FOR CONTRIBUTIONS TO IDAHO YOUTH FACILITIES, REHABILITATION FACILITIES AND NONPROFIT SUBSTANCE ABUSE CENTERS (Rule 730).
Section 63-3029C, Idaho Code. (3-20-97)()

01. Qualified Contributions. Contributions must be made in cash or in kind during the taxable year the credit is claimed. Unpaid pledges do not qualify as contributions. Fees for services provided, room and board, and similar charges are not contributions. (3-20-97)()

02. Limitations -- Individuals. The credit allowed to an individual is fifty percent (50%) of the amount contributed limited to the lesser of: (3-20-97)

- a. Twenty percent (20%) of his total income tax liability; or (3-20-97)
- b. One hundred dollars (\$100) if filing other than a joint return or two hundred dollars (\$200) if filing a joint return. (3-20-97)

03. Limitations -- Corporations. The credit allowed to a corporation is fifty percent (50%) of the amount contributed limited to the lesser of: (3-20-97)

- a. Ten percent (10%) of its total income tax liability; or (3-20-97)
- b. Five hundred dollars (\$500). (3-20-97)

04. Pass-Through Entities. The credit may be earned by a partnership, S corporation, estate or trust and passed through to the partner, shareholder, or beneficiary. For pass-through entities paying tax and the application of limitations on pass-through credits, see Rule 704 of these rules. (3-20-97)

05. Other Limitations. ()

a. This credit is further limited if the credit for qualifying new employees is claimed. See Rule 746 of these rules. ()

b. This credit plus any other nonrefundable credits may not reduce the taxpayer's tax liability below zero (0). See Rule 760 of these rules for the priority of credits. (3-20-97)

06. Effect On Itemized Deductions. The credit allowed does not reduce the amount of charitable contributions that may be included in itemized deductions. (3-20-97)

~~731. 734. (RESERVED).~~

~~735. CREDIT FOR NEW EMPLOYEES -- REVENUE-PRODUCING ENTERPRISE (Rule 735).
Sections 63-3029E and 63-3029F, Idaho Code, as in effect prior to January 1, 1996. (3-20-97)~~

~~01. In General. Only the activities listed in Section 63-3022H(7), Idaho Code, qualify as a revenue-producing enterprise. A revenue-producing enterprise does not include retail sales, professional, managerial or repair services. (3-20-97)~~

~~02. Multistate Businesses. To compute the credit, a business operating both within and without Idaho includes only the employees employed in Idaho in the revenue-producing enterprise. (3-20-97)~~

~~03. Multiple Activities. If a business is engaged in both revenue-producing and nonrevenue-producing activities and at least fifty percent (50%) of the taxpayer's total Idaho employees are employed in the revenue-producing activity, the business as a whole qualifies as a revenue-producing enterprise. If less than fifty percent (50%) of the taxpayer's total Idaho employees are employed in the revenue-producing activity, the business as a whole does not qualify as a revenue-producing enterprise. (3-20-97)~~

~~04. Seasonal Or New Business. An individual employed in a seasonal or new business that was in operation during the taxable year for less than nine (9) months does not qualify as a new employee. (3-20-97)~~

~~736. CREDIT FOR NEW EMPLOYEES -- CALCULATIONS USED TO DETERMINE JOBS CREDIT AND JOBS CREDIT CARRYOVER (Rule 736).
Sections 63-3029E and 63-3029F, Idaho Code, as in effect prior to January 1, 1996. (3-20-97)~~

~~01. In General. The number of new employees is used to compute the credit earned in the taxable year. To compute the credit for new employees, the taxpayer shall first calculate the number of employees in the revenue-producing enterprise. (3-20-97)~~

~~02. Calculating Number Of Employees. (3-20-97)~~

~~a. Number of Employees Clarified. Only employees who meet the qualifications set forth in Section 63-3029E(1)(a), Idaho Code, are included when computing the number of employees for a taxable year. (3-20-97)~~

~~b. Idaho Department of Employment Reports. The taxpayer should begin with his Idaho Department of Employment reports to determine the number of employees. However, all employees reported on these reports do not automatically qualify for the calculation of the number of employees. (3-20-97)~~

~~c. Calculation. To calculate the number of employees for a taxable year, add the total qualified employees for each month and divide that sum by the number of months of operation. (3-20-97)~~

~~03. **Calculating The Number Of New Employees.** The number of new employees is the increase in the number of employees for the current taxable year over the greater of the following: (3-20-97)~~

- ~~a. The number of employees for the prior taxable year; or (3-20-97)~~
- ~~b. The average of the number of employees for the three (3) prior taxable years. (3-20-97)~~

~~04. **Computing The Credit Earned.** The number of new employees shall be rounded to the nearest tenth (.1) and must equal or exceed one (1) or no credit is earned. The credit earned is the lesser of the following: (3-20-97)~~

- ~~a. The number of new employees multiplied by five hundred dollars (\$500); or (3-20-97)~~
- ~~b. The net income of the revenue-producing enterprise, as determined pursuant to Rule 737 of these rules, multiplied by three and one-quarter percent (3.25%). (3-20-97)~~

~~05. **Limitations.** This credit and all other nonrefundable credits may not exceed thirty-three percent (33%) of the income tax liability in the year earned or claimed. The credit for taxes paid to other states is not subject to this limitation. See Section 63-3029H, Idaho Code, and Rule 760 of these rules for the priority order of credits. (3-20-97)~~

~~06. **Carryover.** To claim the carryover, the taxpayer must maintain the employment level on which the credit was computed during the three (3) succeeding taxable years to which the unused credit is carried. If the employment level that generated the credit decreases, the taxpayer is not required to recapture the credit claimed in previous taxable years. However, the taxpayer shall recompute the credit based on the reduced employment level to determine the correct amount of carryover. (3-20-97)~~

~~07. **Pass-Through Entities.** See Rule 704 of these rules for pass-through entities and the calculation of credits. (3-20-97)~~

~~08. **Unitary Taxpayers.** (3-20-97)~~

~~a. A corporation may not use the credit for new employees earned by another member of the unitary group. See Rule 365 of these rules. (3-20-97)~~

~~b. Each corporation in a unitary group that claims the new jobs credit is subject to Section 63-3029H, Idaho Code, and Rule 760 of these rules for the priority order of credits. (3-20-97)~~

~~737. **CREDIT FOR NEW EMPLOYEES — NET INCOME OF A REVENUE PRODUCING ENTERPRISE (Rule 737).** Sections 63-3029E and 63-3029F, Idaho Code, as in effect prior to January 1, 1996. The net income of a revenue-producing enterprise is calculated as follows: (3-20-97)~~

~~01. **Proprietorships Or Farms.** The amount of income from Idaho activities as determined by the Internal Revenue Code that is reported as net profit or net loss on Schedule C or Schedule F on the federal income tax return. (3-20-97)~~

~~02. **Corporations And Combined Corporate Returns.** The amount of Idaho taxable income, reported on Idaho Form 41, modified to restore all net operating loss deductions, and excluding any nonbusiness income and expenses allocable to Idaho. Each corporation included in a unitary combined report shall use its Idaho taxable income as determined pursuant to Section 63-3027, Idaho Code, modified to restore all net operating loss deductions, and excluding any nonbusiness income and expenses allocable to Idaho. (3-20-97)~~

~~03. **S-Corporations.** The amount of Idaho taxable income reported on Idaho Form 41S, modified to restore the deduction of income reported by shareholders on their Idaho income tax returns and before addition of compensation or income attributable to nonresident shareholders who do not report this income on Idaho income tax returns. (3-20-97)~~

04. Partnerships. *The amount of Idaho taxable income reported on Idaho Form 65, modified to restore the deduction of income reported by partners on their Idaho income tax returns and before addition of compensation or income attributable to nonresident partners who do not report this income on Idaho income tax returns. (3-20-97)*

738. CREDIT FOR NEW EMPLOYEES -- DOCUMENTATION (Rule 738).
Section 63-3029E and Section 63-3029F, Idaho Code, as in effect prior to January 1, 1996. (3-20-97)

01. Adequate Records. *The taxpayer must maintain adequate records to document the qualifications of new employees claimed, the computation of the number of new employees, the qualification as a revenue-producing enterprise, the computation of the credit, the continued maintenance of adequate employment levels into carryover years, and the computation of any carryovers. (3-20-97)*

02. Record Retention. *These records must be maintained for as long as the credit may be carried over or until further assessments or deficiency determinations are barred by a period of limitation, whichever is longer. (3-20-97)*

731. -- 739. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

742. -- 75944. (RESERVED).

745. CREDIT FOR QUALIFYING NEW EMPLOYEES -- REVENUE-PRODUCING ENTERPRISE (Rule 745).
Sections 63-3029E and 63-3029F, Idaho Code, as in effect on and after January 1, 2000. ()

01. In General. A revenue-producing enterprise means an Idaho business that begins with a natural resource and produces, assembles, fabricates, manufactures, or processes a value-added product. A revenue-producing enterprise includes a business that conducts or is engaged in the following: ()

- a. Farming activities identified in Section 464, Internal Revenue Code, that result in a value-added product: ()
- b. Mining: ()
- c. Logging: ()
- d. Extracting a natural resource. ()

02. Nonqualifying Activities. Examples of businesses that do not qualify as a revenue-producing enterprise include a business performing the following activities: ()

- a. Retail sales: ()
- b. Professional or managerial services: ()
- c. Repair services or other service related activities: ()
- d. The operation of laboratories or other facilities for scientific, agricultural, animal husbandry, or industrial research, development, or testing: ()
- e. The storage, warehousing, distribution, or sale at wholesale of any products of agriculture, mining, or manufacturing: ()

f. Transportation activities, unless they are an integral part of a qualifying activity; ()

g. Activities that consume a natural resource in a process, but do not add value to the natural resource. ()

03. Examples. ()

a. A taxpayer's Idaho business included buying wool in raw form, processing the wool into yarn, and using the yarn to manufacture articles of clothing. The taxpayer's business activity qualifies as a revenue-producing enterprise. ()

b. A taxpayer's Idaho business includes buying the yarn to manufacture articles of clothing. The taxpayer's activity does not qualify as a revenue-producing enterprise due to the fact the taxpayer did not begin with a natural resource. ()

c. A taxpayer's Idaho business includes cutting lumber in a forest, transporting the logs to a sawmill, processing the logs into plywood, and selling the plywood to a furniture manufacturer. The taxpayer's cutting, transporting and processing activities qualify as a revenue-producing enterprise. The selling activity does not qualify. ()

d. A taxpayer's Idaho business includes buying plywood to manufacture furniture. The taxpayer's activity does not qualify as a revenue-producing enterprise due to the fact the taxpayer did not begin with a natural resource. ()

e. A taxpayer's Idaho business includes training horses. Because the Idaho business does not result in a value-added product, but rather provides a service, the taxpayer's business activity does not qualify as a revenue-producing enterprise. ()

f. A taxpayer's Idaho business includes using water in a process to produce electricity. Because the Idaho business does not begin with a natural resource that is made into a value-added product, but rather uses the natural resource in a process, the taxpayer's Idaho business activity does not qualify as a revenue-producing enterprise. ()

g. A taxpayer's Idaho business includes growing potatoes and operating a long-haul trucking business unrelated to the potato operations. Only the portion of the Idaho business involved in activities necessary to the growing of potatoes qualifies as a revenue-producing enterprise. ()

04. Multiple Activities. ()

a. If a taxpayer is engaged in both a revenue-producing enterprise and other activities, and at least fifty percent (50%) of the taxpayer's total Idaho employees are performing personal services in the revenue-producing enterprise, the taxpayer may treat the entire Idaho business as a revenue-producing enterprise. ()

b. If a taxpayer is engaged in both a revenue-producing enterprise and other activities, and less than fifty percent (50%) of the taxpayer's total Idaho employees are performing personal services in the revenue-producing enterprise, the taxpayer must calculate qualifying new employees and the net income limitation based on that portion of the Idaho business that qualifies as a revenue-producing enterprise. ()

05. Seasonal Or New Business. An individual employed in a seasonal or new business that was in operation during the taxable year for less than nine (9) months does not qualify as a new employee. ()

06. Unitary Taxpayers. The activities of a taxpayer that qualify as a revenue-producing enterprise shall be determined separately for each corporation that is a member of the unitary group. ()

746. CREDIT FOR QUALIFYING NEW EMPLOYEES -- CALCULATIONS USED TO DETERMINE THE CREDIT AND CREDIT CARRYOVER (Rule 746).

Sections 63-3029E and 63-3029F, Idaho Code, as in effect on and after January 1, 2000. ()

01. In General. The number of new employees is used to compute the credit earned in the taxable year. To compute the credit for qualifying new employees, the taxpayer shall first calculate the number of employees in the revenue-producing enterprise. ()

02. Calculating Number Of Employees. ()

a. Number of Employees Clarified. Only employees who meet the qualifications set forth in Section 63-3029E(1)(a), Idaho Code, are included when computing the number of employees for a taxable year. ()

b. Idaho Department of Labor Reports. The taxpayer should begin with his Idaho Department of Labor reports to determine the number of employees. However, all employees reported on these reports do not automatically qualify for the calculation of the number of employees. ()

c. Calculation. To calculate the number of employees for a taxable year, add the total qualified employees for each month and divide that sum by the number of months of operation. ()

03. Calculating The Number Of New Employees. ()

a. The number of new employees is the increase in the number of employees for the current taxable year over the greater of the following: ()

i. The number of employees for the prior taxable year; or ()

ii. The average of the number of employees for the three (3) prior taxable years. ()

b. If the taxpayer treats the entire business as a revenue-producing enterprise under Subsection 745.04.a. of these rules, the calculations in Subsections 746.03.i. and 746.03.ii. shall be made on a consistent basis. The number of employees for the prior taxable year and the average for the three (3) prior taxable years shall be made presuming the entire business was a revenue-producing enterprise for those years. ()

04. Computing The Credit Earned. The number of new employees shall be rounded to the nearest tenth (.1) and must equal or exceed one (1) or no credit is earned. The credit earned is the lesser of the following: ()

a. The number of new employees multiplied by five hundred dollars (\$500); or ()

b. The net income of the revenue-producing enterprise, as determined pursuant to Rule 747 of these rules, multiplied by three and one-quarter percent (3.25%). ()

05. Limitations. This credit and all other credits may not exceed forty-five percent (45%) of the income tax liability in the year earned or claimed. The credit for taxes paid to other states, grocery credit, and the credit for maintaining a home for a family member age sixty-five (65) or older or developmentally disabled dependents are not subject to this limitation. See Section 63-3029H, Idaho Code, and Rule 760 of these rules for the priority order of credits. ()

06. Carryover. To claim the carryover, the taxpayer must maintain the employment level on which the credit was computed during the three (3) succeeding taxable years to which the unused credit is carried. If the employment level that generated the credit decreases, the taxpayer is not required to recapture the credit claimed in previous taxable years. However, the taxpayer shall recompute the credit based on the reduced employment level to determine the correct amount of carryover. ()

07. Pass-Through Entities. See Rule 704 of these rules for pass-through entities and the calculation of credits. ()

08. Unitary Taxpayers. ()

a. A corporation may not use the credit for qualifying new employees earned by another member of the unitary group. See Rule 365 of these rules. ()

b. Each corporation in a unitary group that claims the credit for qualifying new employees is subject to Section 63-3029H, Idaho Code, and Rule 760 of these rules for the priority order of credits. ()

747. CREDIT FOR QUALIFYING NEW EMPLOYEES -- NET INCOME OF A REVENUE-PRODUCING ENTERPRISE (Rule 747).

Sections 63-3029E and 63-3029F, Idaho Code, as in effect on and after January 1, 2000. ()

01. Entire Idaho Business Qualifies As A Revenue-Producing Enterprise. If the entire Idaho business qualifies as a revenue-producing enterprise or the taxpayer treats the entire business as a revenue-producing enterprise under Subsection 745.04.a. of these rules, the net income shall be calculated as follows: ()

a. Proprietorships. The amount of income from Idaho activities that is reported as net profit or net loss on Schedule C or Schedule F. ()

b. C Corporations. The amount of Idaho taxable income, reported on Idaho Form 41, modified to restore all net operating loss deductions, and excluding any nonbusiness income and expenses allocable to Idaho. ()

c. S Corporations. The amount of Idaho taxable income reported on Idaho Form 41S, modified to restore the deduction of income reported by shareholders on their Idaho income tax returns and before addition of compensation or income attributable to individual shareholders who do not report this income on Idaho income tax returns. ()

d. Partnerships. The amount of Idaho taxable income reported on Idaho Form 65, modified to restore the deduction of income reported by partners on their Idaho income tax returns and before addition of compensation or income attributable to individual partners who do not report this income on Idaho income tax returns. ()

02. Idaho Business With Multiple Activities. ()

a. If the Idaho business has multiple activities resulting in only a portion of the business qualifying as a revenue-producing enterprise, and the taxpayer does not treat the entire business as a revenue-producing enterprise under Subsection 745.04.a. of these rules, the net income shall be calculated for the portion of the Idaho business that qualifies as a revenue-producing enterprise based on the number of employees in the revenue-producing enterprise compared to the number of employees in the entire business. The number of employees in the revenue-producing enterprise shall be calculated in accordance with Subsection 746.02 of these rules. ()

b. If the calculation of net income in Subsection 747.02.a. does not fairly represent the net income of the revenue-producing enterprise, the taxpayer may propose or the Tax Commission may require an alternative method. ()

03. Unitary Taxpayers. Each corporation included in a unitary combined group shall use its Idaho taxable income as determined pursuant to Section 63-3027, Idaho Code, modified to restore all net operating loss deductions, and excluding any nonbusiness income and expenses allocable to Idaho. ()

748. CREDIT FOR QUALIFYING NEW EMPLOYEES -- DOCUMENTATION (Rule 748).

Sections 63-3029E and 63-3029F, Idaho Code, as in effect on and after January 1, 2000. ()

01. Adequate Records. The taxpayer must maintain adequate records to document the credit claimed including: ()

a. Idaho Department of Labor reports; ()

- b. The computation of the number of qualifying new employees; ()
- c. The qualification as a revenue-producing enterprise; ()
- d. The computation of the credit; ()
- e. The computation of net income; ()
- f. The continued maintenance of adequate employment levels into carryover years; and ()
- g. The computation of any carryovers. ()

02. Records Retention. These records must be maintained for as long as the credit may be carried over or until further assessments or deficiency determinations are barred by a period of limitation, whichever is longer. ()

749. -- 759. (RESERVED).

760. PRIORITY ORDER OF CREDITS (Rule 760).

Section 63-3029H, Idaho Code. (3-20-97)

01. Tax Liability. Tax liability is the tax imposed by Sections 63-3024, 63-3025, and 63-3025A, Idaho Code. (3-20-97)

02. Nonrefundable Credits. A nonrefundable credit is allowed only to reduce the tax liability. A nonrefundable credit not absorbed by the tax liability is lost unless the statute authorizing the credit includes a carryover provision. Nonrefundable credits apply against the tax liability in the following order of priority: (3-20-97)

- a. Credit for taxes paid to other states as authorized by Section 63-3029, Idaho Code; (3-20-97)
- b. Credit for contributions to Idaho educational institutions as authorized by Section 63-3029A, Idaho Code; (3-20-97)
- c. Investment tax credit as authorized by Section 63-3029B, Idaho Code; (3-20-97)
- d. Credit for contributions to Idaho youth ~~and~~ facilities, rehabilitation facilities, and nonprofit substance abuse centers as authorized by Section 63-3029C, Idaho Code; ~~(3-20-97)~~()
- ~~e. New jobs tax credit as authorized by Sections 63-3029E and 63-3029F, Idaho Code, as in effect prior to January 1, 1996; (7-1-98)~~
- ~~f. Credit for equipment using postconsumer waste or postindustrial waste as authorized by Section 63-3029D, Idaho Code; and (7-1-98)~~()
- ~~g. Natural resource conservation credit as authorized by Section 63-3024B, Idaho Code; (7-1-98)~~()
- g. Promoter-sponsored event credit as authorized by Section 63-3620C, Idaho Code; and ()
- h. Credit for qualifying new employees as authorized by Sections 63-3029E and 63-3029F, Idaho Code, as in effect January 1, 2000. ()

(BREAK IN CONTINUITY OF SECTIONS)

855. PERMANENT BUILDING FUND TAX (Rule 855).

Sections 63-3082 through 63-3087, Idaho Code.

(3-20-97)

01. In General. The permanent building fund tax is an excise tax of ten dollars (\$10) reportable on each income tax return required to be filed unless specifically exempt. The proceeds of this tax are credited to the Permanent Building Fund pursuant to Section 57-1110, Idaho Code. (3-20-97)

02. Pass-Through Entities. The permanent building fund tax does not apply to partnerships, estates, trusts or S corporations if all the income of the entity is distributed to or otherwise reported on the income tax return of another taxpayer. If an election is made under Section 63-3022L, Idaho Code, the entity shall pay the tax for each individual partner, member, ~~or~~ shareholder, or beneficiary making the election. ~~(4-5-00)~~(____)

03. Corporations Included In A Group Return. The permanent building fund tax applies to each member of a unitary group transacting business in Idaho, authorized to transact business in Idaho, or having income attributable to Idaho and included in a group return. (3-20-97)

04. Inactive Or Nameholder Corporations. An inactive or nameholder corporation that files Form 41 to pay the twenty dollar (\$20) minimum tax shall pay the permanent building fund tax. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

871. STATE INCOME TAX WITHHOLDING REQUIRED (RULE 871).

Sections 63-3035 and 63-3036, Idaho Code.

(3-20-97)

01. Employers Other Than Farmers. An employer is required to withhold from all salaries, wages, tips, bonuses, or other compensation paid to an employee for services performed in Idaho if: (7-1-99)

a. The employer is required to withhold for federal purposes; and (7-1-99)

b. The employee is an Idaho resident; or the employee is a nonresident and compensation of one thousand dollars (\$1,000) or more will be paid during a calendar year to the nonresident employee for services performed in Idaho. (7-1-99)

02. Farmer-Employers. An employer who is a farmer is required to withhold from all salaries, wages, tips, bonuses, or other compensation paid to an employee for services performed in Idaho if: (____)

a. The farmer-employer is required to withhold for federal purposes; and (____)

b. eCompensation of one thousand dollars (\$1,000) or more will be paid during a calendar year to ~~an~~ the agricultural employee. ~~(7-1-99)~~(____)

03. Services Performed Within And Without Idaho. An employer is required to withhold only on the portion of the employee's total compensation that is reasonably attributable to services performed in Idaho regardless of his post of duty. Compensation may be allocated to Idaho based on work days, hours, mileage, or commissions. (7-1-99)

04. Exceptions To Withholding Requirements. Withholding is not required if: (3-20-97)

a. The salaries, wages, tips, bonuses, and other compensation paid by an employer are for services performed wholly outside Idaho regardless of the residency or domicile of either the employer or employee. (3-20-97)

- b. The compensation is paid by the United States Armed Forces to a nonresident serving on active duty in Idaho; (3-20-97)
- c. The compensation is paid to an interstate transportation employee of a rail carrier covered by Title 49, Section 11502, United States Code, who is a nonresident of Idaho; or (7-1-99)
- d. The compensation is paid to an interstate transportation employee of a motor carrier covered by Title 49, Section 14503, United States Code, who is a nonresident of Idaho; or (7-1-99)
- e. The compensation is paid to an employee of an interstate air carrier covered by Title 49, Section 40116, United States Code, who is a nonresident of Idaho and earns fifty percent (50%) or less of his compensation in Idaho; or (7-1-99)
- f. The compensation is paid to an employee of an interstate water carrier covered by Title 49, Section 14503, United States Code, who is a nonresident of Idaho and earns fifty percent (50%) or less of his compensation in Idaho; or (7-1-99)
- g. The compensation is exempt from federal withholding. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

891. NOTICE OF ADJUSTMENT OF STATE OR TERRITORY TAX LIABILITY (Rule 891). ()
Sections 63-3069 and 63-3069A, Idaho Code.

01. Final Determination. The term final determination of any deficiency or refund of income tax due to another state or territory as used in Section 63-3069, Idaho Code, shall mean the final resolution of all issues that were adjusted by the other state or territory. ()

02. Written Notice. ()

a. Written notice shall include copies of all reports issued by the other state or territory, and any other documents and schedules required to clarify the adjustments to taxable income of the state or territory. If the final determination results in a refund of Idaho taxes, an amended Idaho income tax return must accompany the written notice to be a valid claim for refund. ()

b. Written notice included with an income tax return for a year or years other than the year subject to the adjustment by the state or territory shall not constitute the required notification. ()

03. Immediate Notification. The Tax Commission may impose negligence penalties on any additional tax due if the taxpayer has not provided the written notice within sixty (60) days of the final determination. ()

892. -- 894. (RESERVED).

895. PERIOD OF LIMITATION ON ASSESSMENT AND COLLECTION OF TAX (Rule 895). ()
Sections 63-3068 and 63-3069A, Idaho Code. (3-20-97)

01. Federal Determination. The additional one (1) year period of limitation provided in Sections 63-3068(f) and 63-3068(j), Idaho Code, does not begin to run if the final federal determination is delivered to the Tax Commission by someone other than the taxpayer or the taxpayer's representative. The Internal Revenue Service and other taxing agencies are not representatives of taxpayers. (3-20-97)

02. State Or Territory Determination. The additional one (1) year period of limitation provided in Section 63-3069A(2)(b), Idaho Code, does not begin to run if the final determination of income tax due to another state or territory is delivered to the Tax Commission by someone other than the taxpayer or the taxpayer's

representative. Taxing agencies of other states or territories are not representatives of taxpayers. ()

023. Protest Of A Notice Of Deficiency. If a taxpayer protests a Notice of Deficiency, the expiration of the period of limitations provided in Section 63-3068, Idaho Code, is suspended. (3-20-97)

034. Waiver Of The Period Of Limitation. If a taxpayer executes a waiver to extend the period of limitation, the waiver shall state the taxpayer's name as shown on the tax return. If a group return is filed, the waiver shall apply to each corporation included in the combined group. (3-20-97)

IDAPA 35 - STATE TAX COMMISSION
35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0102-0001
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) 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 October 18, 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:

Rule 044 - Trade-ins, Trade-downs And Barter - is being amended to clarify the treatment of rental/lease property allowance when it is traded-in.

Rule 063 - Bad Debts And Repossessions - is being amended to remove the provision limiting the credit for bad debts to only the retailer who made the original sale. Third party assignees who actually bear the loss will now be allowed to claim the credit if the purchaser defaults on the obligation to pay. Also, provisions are added restricting the loss when repossessed property is later sold, in accordance with generally accepted accounting principles.

Rule 111 - Records Required And Auditing Of Records - is being amended to delete obsolete language and to define new terminology for new technology for records retention, and to expressly permit storage of records in machine readable format.

Rule 125 - Distribution Of Sales Tax Revenues - is being amended to change a reference to the Property Tax Administrative Rule 635 which is being renumbered.

Rule 130 - Promoter Sponsored Events - Is being amended to make the statutory reporting requirements less burdensome for promoters for promoter sponsored events and to allow different options for promoters to report the required information to the State Tax Commission.

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 changes are 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 October 25, 2000.

DATED this 23rd day of August, 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. 35-0102-0001

044. TRADE-INS, TRADE-DOWNS AND BARTER (Rule 044).

01. Trade-Ins. A trade-in is the amount allowed by a retailer on merchandise accepted as payment for other merchandise. Merchandise is tangible personal property which is, or becomes, part of an inventory held for resale. (7-1-93)

02. Trade-In Allowance. When a retailer sells merchandise from his resale inventory and lets the customer trade in other goods which the retailer places in his resale inventory, the taxable sales price of the merchandise may be reduced by the amount allowed as trade-in. (7-1-93)

~~a. Before July 1, 1990, the deduction applied ONLY if the value allowed for trade-in goods was accepted as partial payment for the merchandise purchased from the retailer. Values allowed on trade-in goods which represented FULL payment, barter, or exceeded full payment, trade-down, could not be used to reduce the taxable sales price of the merchandise purchased from the retailer. (7-1-93)~~

~~b. Effective July 1, 1990, the deduction applies regardless of whether the value allowed for the trade-in goods represents partial or full payment, or exceeds full payment for the merchandise purchased from the retailer. (7-1-93)~~

e Example: A customer buys a car from a dealer for four thousand dollars (\$4,000). A trade-in of one thousand five hundred dollars (\$1,500) is allowed for the customer's used car. Tax is charged on two thousand five hundred dollars (\$2,500). (7-1-93)(_____)

~~d. Example: On July 1, 1990, a dealer agrees to sell a customer a car for four thousand dollars (\$4,000) and allows him a five thousand dollars (\$5,000) trade-in for his car. The dealer gives the customer one thousand dollars (\$1,000) cash. No sales tax is due on this trade-down. When the dealer resells the more expensive car, he must collect sales tax. If this transaction had occurred before July 1, 1990, the dealer would have had to collect sales tax on the four thousand dollars (\$4,000) sales price of the car. (7-1-93)~~

~~e. Example: On July 1, 1990, a car dealer agrees to exchange cars with a customer in a straight-across trade with no other consideration. The car received by the customer is not subject to sales tax, since the retail sales price is completely reduced by the trade-in deduction. The car received by the dealer is put into his resale inventory and, when it is later resold, sales tax will be collected. If this transaction had occurred before July 1, 1990, the dealer would have had to collect sales tax on the retail sales price of the car sold to the customer. (7-1-93)~~

03. Disallowed Trade-In Deductions. Trade-in deductions are not allowed on transactions between individuals because the trade-in property does not become a part of an inventory held for resale. (7-1-93)(_____)

a. Example: Two (2) individuals exchange cars of equal value. No money, property, service, or consideration other than the cars are exchanged. Both parties must pay tax on the fair market value of the vehicle received in the barter. (7-1-93)

b. Example: Two (2) individuals, neither of whom are car dealers, exchange cars of different values. Tom's vehicle, which is worth ten thousand dollars (\$10,000), is transferred to Bill. Bill's car, which is worth eight thousand dollars (\$8,000), is transferred to Tom. Bill pays Tom two thousand dollars (\$2,000). The trade-in allowance is not applicable because neither car is merchandise. Tom pays use tax on eight thousand dollars (\$8,000); Bill pays use tax on ten thousand dollars (\$10,000). (7-1-93)

04. Insurance Settlements. An insurance settlement does not qualify as a trade-in. Example: Tom is involved in a car accident ~~which causes damage beyond reasonable cost to repair~~. His insurance company ~~declares~~ determines the damage ~~his~~ exceeds the value of the car a total loss and settles with Tom on that basis. If Tom buys another car, he must pay sales tax on the entire sales price of the replacement car. (7-1-93)(_____)

05. Core Charges. Parts for cars, trucks, and other types of equipment are often sold with an added core charge. When the used core is returned, the core charge is refunded. This is essentially a trade-in of a used part for a new part. Since the seller cannot be certain that the customer will return a reusable core, such core charges are subject to sales tax. The tax on the core charge will be refunded by the seller at the time credit for the core charge is allowed. (7-1-93)

06. Trade-In For Rental/Lease Property. When tangible personal property is traded in as part payment for the rental or lease of other tangible personal property, sales tax applies to all payments made after the value of the trade-in property has been depleted and the lessor actually begins charging for the lease or rental. The methods of applying the trade-in value to the lease are: (7-1-93)

a. The trade-in value may be subtracted from the value of the leased or rented property, thereby reducing the monthly payments and the sales tax due on those payments. (7-1-93)

b. The trade-in value may be subtracted from the initial lease payments, with no sales tax due on those payments until it is used up. (7-1-93)

c. A combination of the two (2) methods, above. (7-1-93)

d. ~~For e~~Example, a lessor leases a car for thirty-six (36) months at two hundred fifty dollars (\$250) per month. The value on which the lease payments are based is ten thousand dollars (\$10,000). The customer trades in a car worth two thousand dollars (\$2,000). ()

i. Alternative 1: The customer and lessor agree to reduce the value on which the lease is based by two thousand dollars (\$2,000) and reduce the payments to only two hundred dollars (\$200) per month for thirty-six (36) months. Sales tax is due on each two hundred dollar (\$200) payment. ()

ii. Alternative 2: The customer and lessor agree to apply the two thousand dollar (\$2,000) trade-in allowance against the two hundred fifty dollar (\$250) per month payments for the first eight (8) months of the lease. Sales tax is not due until the trade-in value is used up and the lessee is required to begin making monthly payments. ()

iii. Alternative 3: The customer and lessor agree to combine the two methods and apply one thousand dollars (\$1,000) against the value on which the lease is based and use the remaining one thousand dollars (\$1,000) against the monthly payments, reducing the sales tax liability accordingly. ~~(7-1-93)~~()

07. Rental/Lease Property Traded-In. When a person disposes of tangible personal property that is leased and assigns his right to purchase the leased property to the retailer, no trade-in allowance is given for the amount of the residual buyout paid by the retailer. However, if the residual buyout amount which the lessee would pay to purchase the property is less than the amount that would be allowed by the retailer as a trade-in if the lessee had actually owned the vehicle, then the sales price subject to tax may be reduced by the difference between the total trade-in amount and residual buyout. ()

a. Example: A person is the lessee of an automobile. Near the end of the lease term, the lessee enters into an agreement to purchase a new vehicle from an automobile dealer. The residual buyout amount for the leased vehicle is ten thousand dollars (\$10,000). The retailer would allow nine thousand dollars (\$9,000) as a trade-in amount if the lessee actually owned the vehicle. Since the amount the automobile dealer is willing to allow as a trade-in is not greater than the residual buyout amount, there is no reduction in the sales price subject to sales tax. ()

b. Example: A lessee trades in his leased automobile for a new vehicle. The residual amount is ten thousand dollars (\$10,000). The automobile dealer allows twelve thousand dollars (\$12,000) as a trade. In this case, the sales price of the new vehicle is reduced by the difference between the residual amount and the total trade-in, or two thousand dollars (\$2,000). ()

(BREAK IN CONTINUITY OF SECTIONS)

063. BAD DEBTS AND REPOSSESSIONS (Rule 063).

01. In General. Sales tax must be collected on an accrual basis. The tax is owed to the state at the time of sale, regardless of when the payment is made by the customer. (7-1-93)

02. Rules For Unsecured Credit Sales. The following rules apply to unsecured credit sales: (7-1-93)

a. When a seller cannot collect accounts receivable arising from an unsecured credit sale of tangible personal property subject to sales tax, he may make an adjustment on his sales tax return or apply for a refund of taxes according to this rule. (7-1-93)

b. The adjustment or refund may be claimed on the sales tax return for the month in which the bad debt adjustment is made on the books and records of the taxpayer. The tax for which the credit or refund is sought must be included in the amount which is financed and which is charged off as a bad debt for income tax purposes. (6-23-94)

c. A written claim for the refund may also be filed with the State Tax Commission within three (3) years after the due date of the applicable sales tax return. All such claims will be reviewed by the State Tax Commission. See Idaho Sales Tax Administrative Rule 117, Refund Claims. ~~(6-23-94)~~()

03. Rules For Secured Credit Sales. The following rules apply to secured credit sales: (7-1-93)

a. If the collateral is not repossessed, the seller may treat a bad debt the same as an unsecured credit sale. (7-1-93)

b. If the collateral is repossessed and not seasonably resold at a public or private sale, its retention is considered to satisfy the debt and no bad debt adjustment is allowed. (7-1-93)

c. If the collateral is repossessed and seasonably resold at public or private sale, then the seller is entitled to a bad debt adjustment ~~the same as an unsecured credit sale~~. However, before calculating the amount of tax that may be credited or refunded, the taxpayer must reduce the amount claimed as worthless by the amount realized from the sale of the collateral. ~~(7-1-93)~~()

d. If merchandise is repossessed and is subsequently resold at retail, sales tax is computed on the sales price and collected and remitted the same as on other retail sales. (7-1-93)

04. Application To Taxpayers. The following rules apply to taxpayers who remit sales tax on an accrual basis but report income tax on a cash basis or are not required to file income tax returns. (7-1-93)

a. Retailers are required to remit sales tax on an accrual basis, even though their accounting records and income tax returns may be prepared on the cash basis of accounting. (7-1-93)

b. For taxpayers who keep their records and file income tax returns on a cash basis, a worthless account cannot be written off as a bad debt because it has not been recognized as income in the taxpayer's books. These retailers may still claim a bad debt for sales tax purposes. The claim should be made at the same time and in the same way discussed in Subsections 063.02 and 063.03 of this rule, even though the bad debt does not appear on the retailer's income tax return. (7-1-93)

c. For taxpayers who are not required to file income tax returns, the claim should be made the same way discussed in Subsections 063.02 and 063.03 of this rule. (6-23-94)

d. As these claims cannot be verified against the income tax returns of these taxpayers, sufficient evidence must be attached to the sales tax return to prove that the account has become worthless, that the tax was remitted by the retailer, and that the retailer did not receive payment of the tax from the buyer. (7-1-93)

05. Amount Of Credit Allowed. The amount of credit that can be claimed is the amount of sales tax that is uncollectible. If both nontaxable and taxable items are financed, credit may be taken only for that portion of the bad debt which represents unpaid sales tax. (7-1-93)

a. Example: A taxable sale is made of a thirty thousand dollar (\$30,000) forklift, thirty-one thousand five hundred dollars (\$31,500) including sales tax, with a five thousand dollar (\$5,000) down payment, financing the balance on a sixty (60) month contract. The forklift is repossessed by the retailer after twenty (20) months and sold at a public sale for six thousand dollars (\$6,000). The remaining principal balance owed on the contract at the time of repossession is seventeen thousand two hundred forty-five dollars (\$17,245) including the financed sales tax. After the collateral is sold the amount deemed worthless is eleven thousand two hundred forty-five dollars (\$11,245). The sales tax bad debt write off is ~~eight hundred twenty-one~~ five hundred thirty-five dollars (~~\$821535~~).

Total taxable sale	\$30,000
5% sales tax	1,500
Total sale	31,500
Down payment	(5,000)
Total financed	\$26,500
Payment to principal after sale	(9,255)
<u>Amount realized at public sale</u>	<u>\$(6,000)</u>
Total bad debt	\$17,245
Sales tax portion of bad debt \$17,245 $11,245 - (17,245 / 1.05)$	= \$821535
OR	
\$17,245 $11,245 - 16,424$	= \$821535
(\$16,424 $10,710 + 5\%$ tax	= \$17,245 $11,245)$

(7-1-93)()

b. Example: A car dealer makes a taxable sale of an automobile for fifteen thousand dollars (\$15,000) along with an extended warranty for five hundred dollars (\$500) and credit insurance for one hundred dollars (\$100). The customer pays one thousand dollars (\$1,000) cash and trades in a car worth ten thousand dollars (\$10,000) which is pledged as security for an earlier outstanding loan of six thousand dollars (\$6,000). The customer, therefore, has to borrow enough to pay off the old loan on the trade-in. The customer defaults on the new ten thousand eight hundred fifty dollar (\$10,850) loan after paying five hundred dollars (\$500) towards the principal. The customer damages the automobile in an accident leaving the collateral worthless. The car dealer may take an adjustment for only that portion of the bad debt representing the taxable percentage of the total sales price of the car. Only five thousand dollars (\$5,000) of the total fifteen thousand eight hundred fifty dollar (\$15,850) cost was taxable.

Sales price of vehicle	\$15,000
Extended warranty	\$500
Credit insurance	\$100
Trade-in	(\$10,000)
Sales tax	\$250
Subtotal	\$5,850

Down payment	(\$1,000)
Invoice total	\$4,850
Amount financed	\$10,850
Payment to principal after sale	(\$500)
Amount of bad debt	\$10,350
Amount of down payment used to pay sales tax (250 / 5850)	= 4.27%
.0427 x \$1,000	= \$42.70
Amount of sales tax financed \$250 - \$42.70	= \$207.30
Percentage of loan representing sales tax \$207.30 / \$10,850	= 1.91%
Sales tax paid by payments to principal \$500 x .0191	= \$ 9.55
Amount of bad debt write-off \$207.30 - \$9.55	= \$197.75

(7-1-93)()

06. Bad Debt Collected At A Later Date. If a bad debt account is collected later, the retailer must pay tax on the amount collected. (7-1-93)

07. To Claim Credit For A Bad Debt. Credit for bad debts for sales tax purposes may be claimed ONLY by the retailer that made the original sale and paid the sales tax to the state. Financial institutions or other third parties who are the assignees of the retailer may ~~not~~ claim a bad debt for sales tax on property for which they provided financing ~~but did not sell. When a finance company acts as a retailer, making sales and remitting tax to the state, it may claim a bad debt write-off for accounts that become worthless.~~ if the amount financed includes the sales tax remitted on the sale of the property. The person claiming the credit must be the person who ultimately bears the loss if the purchaser of the property defaults on the obligation to repay. (7-1-93)()

08. Cross-Reference. Rescinded Sale. See Idaho Sales Tax Administrative Rule 045. (6-23-94)

(BREAK IN CONTINUITY OF SECTIONS)

111. RECORDS REQUIRED AND AUDITING OF RECORDS (Rule 111).

01. In General. Every retailer doing business in this state and every purchaser storing, using, or otherwise consuming in this state tangible personal property ~~purchased from a retailer~~ shall keep complete and adequate records as may be necessary for the State Tax Commission to determine the amount of sales and use tax for ~~the payment and collection of~~ which that person is liable under Title 63, Chapter 36, Idaho Code. (7-1-93)()

a. Unless the State Tax Commission authorizes an alternative method of record keeping in writing, these records shall show gross receipts from sales or rental payments from leases of tangible personal property, including any services that are a part of the sale or lease, made in this state, irrespective of whether the retailer or purchaser regards the receipts to be taxable or nontaxable; all deductions allowed by law and claimed in filing the return; and the total purchase price of all tangible personal property purchased for sale or consumption or lease in this state. (7-1-93)()

b. These records must include the normal books of account ordinarily maintained by the average prudent businessman engaged in such business, together with all bills, receipts, invoices, cash register tapes, or other documents of original entry supporting the entries in the books of account, together with all schedules or working papers used in connection with the preparation of tax returns. (7-1-93)

c. For taxpayers that maintain the required records in both a machine-sensible and a hard-copy format, that taxpayer shall make the records available to the State Tax Commission in machine-sensible record format upon the State Tax Commission's request. Machine-sensible records must be maintained in the original format for the same time periods as required of hard-copy records outlined in Subsection 111.04. "Machine-sensible record" is a collection of related information in an electronic format. This does not include hard-copy records that are created or recorded on paper or stored in or by an imaging system such as microfilm, microfiche or storage-only imaging systems. ()

02. ~~Microfilm And Microfiche Records~~ Alternative Storage Media. Records, including general books of account, such as cash books, journals, voucher registers, ledgers, and like documents may be microfilmed, ~~or~~ microfiched, ~~as long as such microfilmed and microfiched or retained by a storage-only imaging system and the original hard-copy documents may be discarded when all other conditions of this rule are met. A storage-only imaging system involves computer hardware, software, and other reproduction equipment that provides for the storage, retention, and retrieval of records and documents which were originally created on paper. It does not allow for any manipulation or processing of the documents. These records are~~ must be authentic, accessible, ~~and~~ readable, and ~~meet the following requirements-are fully satisfied:~~ (7-1-93)()

a. Appropriate facilities are to be provided for preservation of the ~~films or fiche~~ storage media for the periods required and open to examination and the taxpayers must agree to provide transcriptions of any information on microfilm, ~~or~~ microfiche, or imaged data which may be required for verification of tax liability. (7-1-93)()

b. All microfilmed, ~~and~~ microfiched, and imaged data must be indexed, cross-referenced, and labeled to show beginning and ending numbers and to show beginning and ending alphabetical listing of documents included, and must be systematically filed to permit ready access. (7-1-93)()

c. ~~The~~ taxpayer must make available upon request of the State Tax Commission ~~a reader/printer facilities and equipment~~ in good working order at the examination site for reading, locating, and reproducing any record concerning sales or use tax liability maintained on microfilm, ~~or~~ microfiche, or other storage-only imaging system. (7-1-93)()

d. ~~The~~ taxpayer must set forth in writing the procedures governing the establishment of its microfilm, ~~or~~ microfiche, or other storage-only imaging system and the individuals who are responsible for maintaining and operating the system with appropriate authorization from the Board of Directors, general partners, or owner, whichever is applicable. (7-1-93)()

e. The microfilm, ~~or~~ microfiche, or other storage-only imaging system must be complete and must be used consistently in the regularly conducted activity of the business. (7-1-93)()

f. ~~The~~ taxpayer must establish procedures with appropriate documentation so that the original document can be followed through the ~~microfilm or microfiche~~ conversion system. (7-1-93)()

g. ~~The~~ taxpayers ~~are~~ is responsible for the effective identification, processing, storage, and preservation of microfilm, ~~or~~ microfiche, or other storage-only imaging system making it readily available for as long as the contents may become material in the administration of any state ~~revenue tax~~ law. (7-1-93)()

h. ~~The~~ taxpayer must keep a record identifying by whom the microfilm, ~~or~~ microfiche, or other storage-only image system was produced. (7-1-93)()

i. When displayed ~~on microfilm or microfiche reader, viewer,~~ or reproduced on paper, the material must exhibit a high degree of legibility and readability. For this purpose, legibility is defined as the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals. Readability is defined as the quality of a group of letters or numerals being recognizable as words or

complete numbers.

(7-1-93)()

j. All production of microfilm or microfiche and processing duplication, quality control, storage, identification, and inspection thereof must meet acceptable industry standards ~~as set forth in the American National Standards Institute, National Micrographics Association, or Nation Bureau of Standards.~~ (7-1-93)()

03. Records Prepared By Automated Data Processing Systems. ADP. An ADP tax accounting system may be used to provide the records required for the verification of tax liability. Although ADP systems will vary from one taxpayer to another, all such systems must include a method of producing legible and readable records which will provide the necessary information for verifying such tax liability. The following requirements apply to any taxpayer who maintains any such records on an ADP system: (7-1-93)

a. Recorded or reconstructible data. ADP records shall provide an opportunity to trace any transaction back to the original source or forward to a final total. If detailed printouts are not made of transactions at the time when they are processed, the systems must have the ability to reconstruct these transactions. (7-1-93)

b. General and subsidiary books of account. A general ledger, with source references, shall be written out to coincide with financial reports for tax reporting periods. In cases where subsidiary ledgers are used to support the general ledger accounts, the subsidiary ledgers shall also be written out periodically. (7-1-93)

c. Supporting documents and audit trail. The audit trail shall be designed so that the details underlying the summary accounting data may be identified and made available to the State Tax Commission upon request. The system shall be so designed that supporting documents, such as sales invoices, purchase invoices, credit memoranda, and like documents are readily available. (7-1-93)()

d. Program documentation. A description of the ADP portion of the accounting system shall be made available. The statements and illustrations as to the scope of operations shall be sufficiently detailed to indicate: The application being performed; the procedures employed in each application, which, for example, might be supported by flowcharts, block diagrams, or other satisfactory descriptions of the input or output procedures; the controls used to insure accurate and reliable processing; and important changes, together with their effective dates, shall be noted in order to preserve an accurate chronological record. (7-1-93)

e. Data storage media. Adequate record retention facilities shall be available for storing tapes and printouts, as well as all supporting documents as may be required by law or this rule. (7-1-93)

04. Record Retention. All records pertaining to the transactions involving sales or use tax liability shall be preserved for a period of not less than four (4) years. If an assessment has been made and an appeal to the State Tax Commission or any court is pending, the books and records relating to the period under appeal by such proposed assessment must be preserved until final disposition of the appeal. (7-1-93)()

05. Examination Of Records. All of the foregoing records shall be made available for examination on request of the State Tax Commission or its authorized representatives. (7-1-93)()

06. Failure Of The Taxpayer To Maintain Or Disclose Complete And Adequate Records. Upon failure by the taxpayer, without reasonable cause, to substantially comply with the requirements of this rule, the State Tax Commission shall: (7-1-93)()

a. Impose any penalty as may be authorized by law. (7-1-93)

b. Subpoena attendance of the taxpayer and any other witness when the State Tax Commission deems it necessary or expedient for examination and compel the taxpayer and witness to produce any documents within the scope of its inquiry relating in any manner to the sales and use tax. (7-1-93)()

c. Enter such other order as may be necessary to obtain compliance with this rule in the future by any taxpayer found not to be in substantial compliance with the requirements of this rule. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

125. DISTRIBUTION OF SALES TAX REVENUES (Rule 125).

Refer to Idaho ~~Administrative~~ Property Tax Administrative Rule 63995 for information on distribution of sales tax revenues to cities, counties and other ~~nonschool~~ special purpose taxing districts. (6-23-94)()

(BREAK IN CONTINUITY OF SECTIONS)

130. PROMOTER SPONSORED EVENTS (Rule 130).

01. Promoter's Responsibility. Promoters at promoter sponsored events, as defined in Section 63-3620C, Idaho Code, shall ~~within ten (10) days following the beginning of the event,~~ obtain a completed copy of a Form ST-124 from each participant at the event. The promoter shall forward a copy of the completed Form ST-124 to the State Tax Commission ~~a completed Form ST-124 for each exhibitor participating in the event. This form shall include:~~ within ten (10) days following the beginning of the event. The promoter shall also maintain a copy in its file. (4-5-00)()

01. Promoter Information. ~~The name of the promoter sponsoring the event, the name of the event, the event location, and the dates of the event.~~ (4-5-00)

02. Exhibitors Participating In Event Period Of Time For Which A Form ST-124 Is Valid. If the Form ST-124 is not used to issue a temporary seller's permit, a Form ST-124 completed by a participant shall be valid until the following June 30, unless the participant information changes. The promoter need only obtain a Form ST-124 from each participant at the first show in which the participant participates after July 1 of any given year. The promoter shall forward to the State Tax Commission ~~the names, addresses, tax identification number and phone numbers, if known, of the exhibitors participating in the event~~ participants who do not complete a new Form ST-124 as described in Subsection 130.03. (4-5-00)()

03. Identification Number. ~~Either the exhibitor's federal employer identification number or social security number.~~ **Participant's Failure To Provide A Form ST-124 To The Promoter.** If a participant does not provide the completed Form ST-124 to the promoter, the promoter will provide to the State Tax Commission within ten (10) days following the beginning of the event, a list of participants who have failed to provide a completed Form ST-124. (4-5-00)()

04. Seller's Permit Number. ~~The exhibitor's seller's permit number or a statement that the exhibitor is not making taxable sales.~~ **Examples.** (4-5-00)()

a. The promoter sponsors events on July 16, September 22, and December 18, of year one (1), and March 4, and July 30 of year two (2). Participant A attends and makes sales at all events. The promoter will need to obtain a copy of the Form ST-124 from Participant A for the July 16, year one (1) event and the July 30, year two (2) event. For the other events, the promoter will only need to include Participant A in the list of participants who did not complete a Form ST-124 and forward this list to the State Tax Commission. ()

b. Participant B attends the July 16, event and completes a Form ST-124 stating it will not be selling any items of tangible personal property. Participant B also attends the September 22, event but in this event it will be selling tangible personal property. The promoter will need to obtain a new Form ST-124 and forward it to the State Tax Commission. ()

05. Use of the Form ST-124. The Form ST-124 must be used every time a promoter issues a temporary seller's permit. A promoter must use the Form ST-124 to issue temporary permits even to those participants who have attended events during the preceding year. The promoter will provide the participant with the Form ST-124 who will upon completing the form, return it to the promoter. The promoter will retain a copy of the Form ST-124 and provide a copy to the State Tax Commission. The Form ST-124 shall include the following: ()

- a. The name of the promoter sponsoring the event, the name of the event, the event location, and the dates of the event. ()
- b. The name, address, and phone number of participant in the event. ()
- c. The participant's federal employer identification number or social security number. ()
- d. Either: ()
- i. The participant's seller's permit number; or ()
- ii. A statement that an Idaho sales tax permit will be obtained before the date of the event; or ()
- iii. A statement from the participant that no taxable retail sales will be made at this event. ()
- g. Other information the State Tax Commission may deem necessary. ()

056. ~~*Copy Of Temporary Seller's Permit Issued By Promoter. Copies of temporary seller's permits assigned by the promoter, if any.*~~ Before a promoter may claim the income tax credit provided for by Section 63-3620C, Idaho Code, the promoter must forward a completed Form ST-124 to the State Tax Commission for each temporary seller's permit the promoter assigns, along with the documentation for the permit. (4-5-00)()

~~**06.** *Other Information. Other information may be required if deemed necessary by the State Tax Commission.*~~ (4-5-00)

07. **Promoter's Sales Tax Liability.** The promoter shall not be held responsible for collecting sales tax on sales made by participants other than sales made by the promoter himself. ()

IDAPA 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-0004
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) 63-105A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 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:

Property Tax Administrative Rules have been in the process of being renumbered the past few years and the rules have become confusing and hard to find rules on the same subject. The following is a brief summary of rules that are being amended to delete obsolete language, update cross references and renumber the rules. Rules that have a substantive changes to them have a brief description after the rule title stating what is being amended.

Rule 114 - Computation of the Idaho Irrigation Exemption is being renumbered to Rule 618.

Rule 125 – Property Exempt From Taxation-Facilities For Water Or Air Pollution Control is being renumbered to Rule 619. The rule is being amended to rewrite the example for clarification purposes. The subsection on water corporation property was clarified to indicate that not all water corporation property is exempt. These changes were not substantive.

Rule 126 – Property Exempt From Taxation – Qualified Equipment Utilizing Post Consumer Or Post Industrial Waste is being renumbered to Rule 629. Obsolete language was deleted with no substantive changes intended.

Rule 127 – Partial Exemption For Remediated Land is being renumbered to Rule 628. This rule is being amended to add clarifying language with no substantive changes.

Rule 131 – Use Of Ratio Study In Equalization is being amended to adopt the 1999 IAAO "Standard on Ratio Studies" as required by Section 63-315, Idaho Code. The rules are being clarified to conform with the new published standards.

Rule 135 – Property Exempt From Taxation-Residential Improvements is being renumbered to Rule 609.

Rule 165 – Land Actively Devoted To Agriculture Defined is being renumbered to Rule 645. Rule references were updated.

Rule 171 – Definitions Of Income, Fatherless Child, Motherless Child, And Partial Ownership is being renumbered to Rule 700. This rule was amended to rewrite definitions to be consistent with statutes and current practice. An example was added for computation of proportional reduction of benefits based on reduction of eligible value in cases of partial ownership.

Rule 175 – Physician Defined For Property Tax Reduction Claims is being deleted. The information in this rule was moved to Rule 700.

Rule 184 – Notices Of Modification Or Disapproval is being deleted as it imposed unnecessary restrictions on County Commissioners regarding disapproval of property tax reduction claims approved by the Assessor.

Rule 188 – Procedure After Claim Approval is being renumbered to Rule 717. This rule is being amended to delete the reference to the "Circuit Breaker Manual".

Rule 204 - Rules Pertaining To Market Value - Duty Of Assessors is being renumbered to Rule 217. This rule is being amended to clarify that the rule pertains to county assessors. Appraisal approaches were clarified to three traditional approaches.

Rule 215 – Cancellation Of Taxes By Board Of County Commissioners is being renumbered to Rule 936.

Rule 225 – Documentation For Taxing Districts Or Urban Renewal Districts Containing Revenue Allocation Areas (Raas) Newly Organized Or Altered is being amended to conform with statutory changes due to 2000 legislation.

Rule 250 – Ratio Studies – School Districts is being renumbered to Rule 315. This rules is being amended to provide procedures that conform to the 1999 IAAO "Ratio Study Standards" required by Section 63-315, Idaho Code.

Rule 260 – Assessor's Plat Book is being renumbered to Rule 218. Rule references were updated.

Rule 274 – Manufactured Home Designated As Real Property is being renumbered to Rule 304. No substantive changes were made.

Rule 300 – Program Of Education is being renumbered to Rule 125. The rule is being amended to delete the section requiring an independent appraiser under contract with the state or county be a 'certified property tax appraiser' as this was too restrictive.

Rule 327 – Equalization By Category-Identification And Reappraisal is being renumbered to Rule 130. This rule is being amended to add more complete definitions to farmland, forestland, and mineral land categories. Also to specify that the land may be inside or outside an incorporated city and the categorization is to be determined annually, based on current use.

Rule 329 – Identification Of Urban Renewal Increment And Partial Exemption Values On County And School District Abstract Of Value is being renumbered to Rule 509. Rule cross-references were updated.

Rule 351 - Extensions Of Statutory Deadlines For Disaster Relief is being renumbered to Rule 230. This rule is being amended to update code and rule references.

Rule 500 – Valuation Of Christmas Tree Farms is being renumbered to Rule 614.

Rule 580 - Valuation Of Mines For Taxation is being renumber to Rule 980.

Rule 655 – Homeowner's Exemption On Occupancy Tax Roll is being renumbered to Rule 625. This rule is being amended to provide for owner, who during any given year, occupies more than one home as a primary resident to be eligible for this exemption on each property.

Rule 709 – Property Tax Reduction Benefit Program- Special Situations is being amended to clarify determination of household income in cases of multiple household members.

Rule 803 – Budget Certification – Dollar Certification Form (L-2 Form) is being amended due to 2000 legislation to provide forgone amount allowance for districts with voter approved permanent overrides. Amended to also clarify additional property tax allowed for fire districts with consent agreements with public utilities pursuant to House Bill 729.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No fee is applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a general application and the Tax Commission is unable to identify representatives of affected interests.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance

on technical questions concerning the proposed rule, contact Alan Dornfest, at (208) 334-7530. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2000.

DATED this 23rd day of August, 2000.

Alan Dornfest, Tax Policy Specialist
State Tax Commission
800 Park Blvd. Plaza IV
P. O. Box 36, Boise, ID 83722
(208) 334-7530 / FAX (208) 334-7844

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-0004

021. -- 1134. (RESERVED).

~~114.~~ **RULE 114 HAS BEEN RENUMBERED TO RULE 618**

(BREAK IN CONTINUITY OF SECTIONS)

~~125.~~ **RULE 125 HAS BEEN RENUMBERED TO RULE 619**

~~300125.~~ **PROGRAM OF EDUCATION (Rule ~~300125~~).**

01. Administration. The education program shall be the responsibility of the State Tax Commission (Commission) through its education director. The assessors' education committee and the Commission's education director shall set the curriculum of classes for the annual education program. This curriculum shall include classes important to providing training to appraise property for assessment purposes. (1-1-98)

02. Education And Certification Requirements. An applicant for certification must have passed Commission Course No. 1, IAAO Course No. 2, or equivalent courses, and must have a minimum of twelve (12) months experience appraising for tax assessment purposes in Idaho or equivalent property tax appraisal experience approved by the examination committee. These requirements must be completed in the five (5) year period immediately preceding application. (1-1-98)

a. Equivalency for Course No. 1 and No. 2 shall be established by the Commission and approved by the examination committee. (7-1-93)

b. Beginning January 1, 1998 and on or before each January 1 thereafter, to maintain certification each "certified property tax appraiser", who became certified on or before December 31, 1995, shall have completed thirty-two (32) hours of appraisal education during the previous two (2) years as described in Subsection ~~300125~~.02.d. of this rule. Beginning January 1, 1998, to maintain certification each "certified property tax appraiser", who became certified during the two (2) year period prior to each January, shall have completed sixteen (16) hours of appraisal education during the calendar year following the year of certification. By January 1 of each year thereafter, said "certified property tax appraiser" shall have completed thirty-two (32) hours of appraisal education during the

previous two (2) years as described in Subsection ~~300125~~.02.d.

~~(1-1-98)~~()

c. The examination committee shall decide which classes meet the requirements for maintaining certification and the hours of appraisal education awarded for each. For Commission administered classes, the Commission's staff will monitor attendance and hours of appraisal education to be awarded to each "certified property tax appraiser" in attendance. For these classes, the education director shall provide certificates of attendance showing the number of hours of appraisal education to be awarded. For those not administered by the Commission, the "certified property tax appraiser" has the responsibility to report education hours completed. The report shall be on a form provided by the Commission and shall be submitted to the education director. To receive education hours for any classes not administered by the Commission, a copy of a record verifying attendance must be submitted with the report of education hours completed. (1-1-98)

d. The Commission shall maintain records to show the number of hours completed during the current year and the previous two (2) years. By June and November each year, the education director shall send an appraisal certification status report to each county assessor. This report will list each "certified property tax appraiser" who is known to be employed by or under contract with said assessor and show the number of hours of appraisal education completed during the previous and current years. (1-1-98)

e. For Commission developed classes in which a test is given, the education director will notify the appropriate county assessor of the grades achieved on the test. (1-1-98)

f. Any "certified property tax appraiser" failing to meet the continuing education requirements shall be placed on six (6) month probation by the examination committee. Any "certified property tax appraiser" failing to meet the continuing education requirements within the probationary period shall forfeit certification or may, on a one (1) time only basis, submit a written petition to the examination committee for a six (6) month extension of probation. This petition must be made at least thirty (30) days prior to the expiration date of the first probationary period. (1-1-98)

g. For recertification, an applicant must apply to the examination committee within five (5) years of the date certification was canceled. An applicant for recertification must satisfactorily complete a written examination approved by the committee. The time and place of the examination are to be decided by the committee. If more than five (5) years have lapsed since certification was canceled, recertification shall not be granted. After the five (5) year period, an applicant must apply for certification under the same conditions as required for initial certification. (1-1-98)

h. The county shall reimburse its employees' expenses for registration, tuition, fees, texts, travel, food, and lodging required to comply with these rules. (1-1-98)

~~i. Any independent appraiser working under contract with state or county governments to appraise for tax assessment purposes must be a "certified property tax appraiser". (1-1-98)~~

~~ji. Each person, except the county assessor, members of the county board of equalization and State Tax Commissioners, making decisions regarding final values for assessment purposes shall be a "certified property tax appraiser". (1-1-98)~~

03. Examination Committee -- Establishment And Procedures. The examination committee shall be composed of three (3) assessors, one (1) member of the Idaho Association of Assessment Personnel, and the Commission's education director. Committee appointments shall be made by the Commission. The committee will operate by majority rule. (1-1-98)

a. Terms. The term of the Commission's education director shall be continuous. The other members shall serve four (4) year terms. The education director shall maintain records of dates of appointments. (7-1-93)

b. If any member fails to serve the full appointed term, the Commission shall appoint another person for the remainder of the unexpired term. The appointee shall be from the same category as the one who failed to serve. (7-1-93)

c. The committee shall elect a chairman each year. (7-1-93)

d. Any applicant may appeal to a review board any complaints concerning matters involving examination structure, grading, or grievances concerning the committee. The review board shall consist of four (4) persons: the president of the Idaho Assessors' Association; a person appointed by the president of the Idaho Assessors' Association; a person appointed by the examination committee; and a person appointed by the Commission. No board member may be an assessor of the applicant's county or a member of the examination committee. (1-1-98)

e. The applicant may request, in writing to the Commission's education director, permission to take the examination for Commission Course No. 1. The director shall set the time and place for the examination. (7-1-93)

04. Incentives For Certification. The legislature and Commission recommend that counties offer pay incentives to encourage employees to obtain prompt certification. These pay incentives should include at least three (3) parts: state certification; successful completion of additional professional appraisal courses or seminars; and designation from a recognized professional appraisal organization. (1-1-98)

~~126.~~ **RULE 126 HAS BEEN RENUMBERED TO RULE 629**

~~127.~~ **RULE 127 HAS BEEN RENUMBERED TO RULE 628**

~~128.~~ -- ~~13029.~~ (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

~~327~~**130. EQUALIZATION BY CATEGORY--IDENTIFICATION AND REAPPRAISAL (Rule 327).**

~~01.~~ **Identification Of Property.** Property shall be identified for assessment purposes in the categories outlined below. These categories are to be used on the current year's assessment notice, assessment roll and on the abstract of assessment. Categories segregate properties into groups of like status and function. (7-1-93)(____)

~~01.~~ **Category 1 - Irrigated Agricultural Land.** Irrigated land and only such irrigated land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) This irrigated land must be capable of and normally producing machine harvestable crops and may be located inside or outside the boundaries of an incorporated city. (3-23-94)(____)

~~02.~~ **Category 2 - Irrigated Pasture Grazing Land.** Irrigated land and only such irrigated land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) This irrigated land must be used for pasture grazing and not normally capable of producing machine harvestable crops and may be located inside or outside the boundaries of an incorporated city. (3-23-94)

~~03.~~ **Category 3 - Non-irrigated Agricultural Land.** Land and only such land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) This non-irrigated land must be capable of and normally producing machine harvestable crops without man-made irrigation and may be located inside or outside the boundaries of an incorporated city. (3-23-94)(____)

~~04.~~ **Category 4 - Meadow Land.** Land and only such land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) This meadow land must be capable of lush production of grass and may be located inside or outside the boundaries of an incorporated city. (3-23-94)(____)

~~¶05.~~ **Category 5 - Dry Grazing Land.** Land and only such land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) This land must be capable of supporting grasses and ~~browse, but not normally~~ ~~incapable~~ of supporting crops on regular rotation and may be located inside or outside the boundaries of an incorporated city. (3-23-94)(____)

~~¶06.~~ **Category 6 - Productivity Forestland.** All ~~Forestland~~ and only such land designated by the owner for assessment appraisal and taxation under Section 63-1703(a), Idaho Code, for the current year's assessment roll. This land must be assessed as forest land under the productivity option and may be located inside or outside the boundaries an incorporated city. Also included is all land assessed under Section 63-1704, Idaho Code. (3-23-94)(____)

~~¶07.~~ **Category 7 - Bare Forestland.** All ~~Forestland~~ and only such land designated by the owner for assessment appraisal and taxation under Section 63-1703(b), Idaho Code, for the current year's assessment roll. This land must be assessed as bare land with the yield tax option and may be located inside or outside the boundaries of an incorporated city. (3-23-94)(____)

~~¶08.~~ **Category 8 - Reforestation Land.** ~~Land for which the owner agrees to carry on specified reforestation practices.~~ Repealed. Effective July 1, 1995, see 1995 Session Laws, Chapter 173. (3-23-94)(____)

~~¶09.~~ **Category 9 - Patented Mineral Land.** All land used solely for mines and mining claims and only the part of such land not used for other than mining purposes for the current year's assessment roll. This land may be located inside or outside the boundaries of an incorporated city. See Section 63-2801, Idaho Code. (3-23-94)(____)

~~¶10.~~ **Category 10 - Homesite Land.** Land being utilized for homesites on categories 1 through 9. (3-23-94)

~~¶11.~~ **Category 11 - Recreational Land.** Land used in conjunction with recreation but not individual homesites. (3-23-94)

~~¶12.~~ **Category 12 - Rural Residential Tracts.** Rural residential land not in a properly recorded subdivision. (3-23-94)

~~¶13.~~ **Category 13 - Rural Commercial Tracts.** Rural commercial land not in a properly recorded subdivision. (3-23-94)

~~¶14.~~ **Category 14 - Rural Industrial Tracts.** Rural industrial land not in a properly recorded subdivision. (3-23-94)

~~¶15.~~ **Category 15 - Rural Residential Subdivisions.** Rural residential land in a properly recorded subdivision. (3-23-94)

~~¶16.~~ **Category 16 - Rural Commercial Subdivisions.** Rural commercial land in a properly recorded subdivision. (3-23-94)

~~¶17.~~ **Category 17 - Rural Industrial Subdivisions.** Rural industrial land in a properly recorded subdivision. (3-23-94)

~~¶18.~~ **Category 18 - Other Land.** Land not compatible with other categories. (4-5-95)

~~¶19.~~ **Category 19 - Waste.** Public Rights-of-Way includes roads, ditches, and canals. Use this category to account for total acres of land ownership. Acres in this category shall be listed on the abstract. (4-5-95)

~~¶20.~~ **Category 20 - Residential Lots Or Acreages.** Land ~~INSIDE~~ inside city limits zoned residential. (3-23-94)(____)

- ~~21~~. **Category 21 - Commercial Lots Or Acreages.** Land ~~INSIDE~~ inside city limits zoned commercial. (3-23-94)(____)
- ~~22~~. **Category 22 - Industrial Lots Or Acreages.** Land ~~INSIDE~~ inside city limits zoned industrial. (3-23-94)(____)
- ~~23~~. **Category 25 - Common Areas.** Land and improvements not included in individual property assessments. (4-5-95)
- ~~24~~. **Category 26 - Residential Condominiums.** Land and improvements included in individual assessments of condominiums in areas zoned residential or in areas zoned commercial or industrial but maintained as residences. (7-1-97)
- ~~25~~. **Category 27 - Commercial Or Industrial Condominiums.** Land and improvements included in individual assessments of condominiums in areas zoned commercial or industrial. (3-23-94)
- ~~26~~. **Category 30 - Improvements.** Other than residential, located on category 20. (3-23-94)
- ~~27~~. **Category 31 - Improvements.** Residential improvements located on category 10 ~~that qualify for~~ circuit breaker programs. (3-23-94)(____)
- ~~28~~. **Category 32 - Improvements.** Other than residential, located on categories 1 through 12 and 15. (3-23-94)
- ~~29~~. **Category 33 - Improvements.** Located on category 11. (3-23-94)
- ~~30~~. **Category 34 - Improvements.** Residential in nature, located on category 12. (3-23-94)
- ~~31~~. **Category 35 - Improvements.** Commercial in nature, located on category 13. (3-23-94)
- ~~32~~. **Category 36 - Improvements.** Industrial in nature, located on category 14. (3-23-94)
- ~~33~~. **Category 37 - Improvements.** Residential in nature, located on category 15. (3-23-94)
- ~~34~~. **Category 38 - Improvements.** Commercial in nature, located on category 16. (3-23-94)
- ~~35~~. **Category 39 - Improvements.** Industrial in nature, located on category 17. (3-23-94)
- ~~36~~. **Category 40 - Improvements.** Located on category 18. (3-23-94)
- ~~37~~. **Category 41 - Improvements.** Residential in nature, located on category 20. (3-23-94)
- ~~38~~. **Category 42 - Improvements.** Commercial in nature, located on category 21. (3-23-94)
- ~~39~~. **Category 43 - Improvements.** Industrial in nature, located on category 22. (3-23-94)
- ~~40~~. **Category 44 - Improvements.** Taxable improvements located on otherwise exempt property under the same ownership. (3-23-94)
- ~~41~~. **Category 45 - Utility Systems.** Locally assessed utility systems not under the jurisdiction of the State Tax Commission. (3-23-94)(____)
- ~~42~~. **Category 46 - Manufactured Housing.** Structures transportable in one (1) or more sections, built on a permanent chassis, for use with or without permanent foundation situated on land under the same ownership as the manufactured home. (4-5-00)
- ~~43~~. **Category 47 - Improvements To Manufactured Housing.** Additions not typically moved with

- manufactured housing. (3-23-94)
- ~~##~~**44. Category 48 - Manufactured Housing.** Manufactured housing on which a statement of intent to declare as real property has been filed. (3-23-94)
- ~~##~~**45. Category 55 - Boats Or Aircraft.** Unlicensed watercraft or unregistered aircraft. (3-23-94)
- ~~##~~**46. Category 56 - Construction Machinery, Tools, And Equipment.** Unlicensed equipment such as cranes, tractors, scrapers, and rock crushers, used in the building trade or road construction. (3-23-94)
- ~~###~~**47. Category 57 - Equities In State Property.** Property purchased from the state under contract. (4-5-95)
- ~~##~~**48. Category 58 - Farm Machinery, Tools, And Equipment.** Unlicensed farm or ranch machinery, shop tools, or equipment not assessed as real property. (3-23-94)
- ~~###~~**49. Category 59 - Furniture, Fixtures, Libraries, Art, And Coin Collections.** Trade articles used commercially for convenience, decoration, service, storage, including store counters, display racks, typewriters, office machines, surgical and scientific instruments, paintings, books, coin collections, and all such items held for rent or lease. (3-23-94)
- ~~##~~**50. Category 60 - Improvements On Railroad Rights-Of-Way.** Improvements located on railroad rights-of-way under separate ownership. (3-23-94)
- ~~##~~**51. Category 61 - Improvements By Lessee Other Than Category 62.** Improvements made by the tenant or lessee to landlord's property. (3-23-94)
- ~~##~~**52. Category 62 - Improvements On Exempt Or Public Land.** Taxable improvements which are owned separately from exempt or public land on which they are located. (3-23-94)
- ~~###~~**53. Category 63 - Logging Machinery, Tools, And Equipment.** Unlicensed logging machinery, shop tools, and equipment not assessed as real property. (3-23-94)
- ~~###~~**54. Category 64 - Mining Machinery, Tools, And Equipment.** Unlicensed mining machinery, shop tools, and equipment not assessed as real property. (3-23-94)
- ~~###~~**55. Category 65 - Manufactured Housing.** Manufactured housing not considered real property located on exempt, rented or leased land. (4-5-00)
- ~~###~~**56. Category 66 - Net Profits Of Mines.** That amount of money or its equivalent received from the sale or trade of minerals or metals extracted from the Earth after deduction of allowable expenses. See as defined in Section 63-2802, Idaho Code, or by Commission and Rule 982 of these rules. ~~(3-23-94)~~(____)
- ~~###~~**57. Category 67 - Operating Property.** Property assessed by the State Tax Commission. ~~(3-23-94)~~(____)
- ~~###~~**58. Category 68 - Other Miscellaneous Machinery, Tools, And Equipment.** Unlicensed machinery, tools, and equipment not used in agriculture, construction, logging, or mining. (3-23-94)
- ~~###~~**59. Category 69 - Recreational Vehicles.** Unlicensed recreational vehicles. (3-23-94)
- ~~###~~**60. Category 70 - Reservations And Easements.** Reservations, including mineral rights reserved divide ownership of property rights. Easements convey use but not ownership. (3-23-94)
- ~~###~~**61. Category 71 - Signs And Signboards.** Signs and signboards, their bases and supports. (3-23-94)
- ~~###~~**62. Category 72 - Tanks, Cylinders, Vessels.** Containers. (3-23-94)

~~##63.~~ **Category 81 - Exempt Property.** For county use in keeping an inventory, including acreage, of exempt real and personal property. (3-23-94)

131. USE OF RATIO STUDY IN EQUALIZATION (Rule 131).

01. Annual Ratio Study. Each year ~~beginning in 1996,~~ the State Tax Commission shall conduct a ratio study to assist in the equalization of assessments of property within and among the categories of property established in Rule ~~327130~~ of these rules. The ratio study shall be conducted in accordance with the "Standard on Ratio Studies" published in 1990~~9~~ by the International Association of Assessing Officers. The annual ratio study shall test assessments as of January 1 of each year. Except when sales or appraisals must be added or deleted to improve representativeness, sales used will be those occurring within each county between October 1 of the year preceding the year for which assessments are to be tested and September 30 of the year for which assessments are to be tested. Each sale price is to be adjusted for time and compared to market value for assessment purposes for the year for which assessments are to be tested, to compute ratios to be analyzed. The State Tax Commission may use sales from extended time periods and may add appraisals when data is lacking. The State Tax Commission may delete sales when necessary to improve representativeness. The study shall be completed in February following the end of the period studied. The appropriate ratio study statistical measure of level shall be determined as follows: ~~(7-1-99)~~()

a. Given a normal distribution sample of ten (10) or fewer observations, the probability that the true mean level of assessment is between ninety percent (90%) and one hundred ten percent (110%) must be at least five percent (5%) or the mean based ninety five percent (95%) (one-tailed) confidence interval must include some part of the range between ninety percent (90%) and one hundred ten percent (110%); or shall be used. ~~(7-1-99)~~()

b. Given a nonnormal distribution sample of eleven (11) or more observations, the median based ninety percent (90%) (two-tailed) confidence interval must include some part of the range between ninety percent (90%) and one hundred ten percent (110%) shall be used. ~~(4-5-95)~~()

02. Tested For Equalization. Categories which will be tested for equalization purposes will include the following, provided that adequate samples can be obtained: (4-5-95)

a. Improved urban residential: Abstract Items 20 and 41; (4-5-95)

b. Unimproved urban residential: Abstract Item 20; (4-5-95)

c. Improved rural residential: Subcategory 1 (tracts): Abstract Items 12, 18, 34, and 40; Subcategory 2 (subdivisions): Abstract Items 15 and 37; (4-5-95)

d. Unimproved rural residential: Subcategory 1 (tracts): Abstract Items 12 and 18; Subcategory 2 (subdivisions): Abstract Item 15; (4-5-95)

e. Commercial: Abstract Items ~~11,~~ 13, 16, 21, 27, 33, 35, 38, and 42. (Urban and rural categories and land and improved categories will be analyzed separately, if adequate samples are available.) ~~(4-5-95)~~()

f. Residential ~~condominiums:~~ Abstract Items ~~26 and 27, which may be analyzed separately, if adequate samples are available.~~ ~~(7-1-98)~~()

g. Manufactured Housing: Abstract Items 46, 47, 48 and 65. (4-5-95)

03. Separate And Combined Analyzations. ()

a. Categories 18 and 40 may be analyzed separately from Categories 12 and 34 if adequate samples are available. If these categories (18 and 40) are not used for residential property, they should not be included in the 12/34 study. ~~(7-1-98)~~()

b. Samples for the categories listed in Subsection 131.02 may be analyzed in combinations designed to produce studies of improved residential property, unimproved residential property, commercial property, and

manufactured housing. Such analysis will be conducted upon request by the county assessor, provided that the assessor provides evidence to the State Tax Commission that the resulting combined category studies will provide results that are more representative of the categories to be equalized. ()

04. Follow Up Ratio Study. When the annual ratio study provided in Subsections 131.01 and 131.02, discloses that assessments in any category of property as defined in Subsections 131.02 and 131.03 in a county are out of compliance with the equalization standards of ~~Subsection 131.03~~ this rule, the State Tax Commission shall conduct a follow up ratio study. The follow up ratio study shall test the assessments for January 1 of the year following the year tested by the annual ratio study and shall be based on property sales occurring during the calendar year immediately preceding that date. The State Tax Commission shall notify the county assessor of the results of the follow up ratio study. The notice shall indicate whether any adjustments will be considered by the State Tax Commission at its next equalization meeting in August based on either the annual or any follow-up ratio study and the reason for the proposed adjustments. (7-1-99)()

05. Use Of Ratio Study Results. The results of the annual ratio study or any follow-up ratio study shall be one source of information upon which the State Tax Commission may rely when equalizing assessments of property by category under Section 63-109, Idaho Code. When the results of any ratio study on any property category as defined in Subsections 131.02 and 131.03 show, with reasonable statistical certainty as defined in Subsection 131.08, that the appropriate measure of level of any category studied is less than ninety percent (90%) or greater than one hundred ten percent (110%), the assessment of property within that category may be considered not equalized. When this occurs, the State Tax Commission may, at its annual meeting commencing on the second Monday in August, order the county auditor to adjust the value of all property in ~~the any~~ any category included in the analysis conducted in an amount the State Tax Commission finds necessary to accomplish equalization of assessments of property ~~in that category~~. If categories have been combined for analysis, adjustment will not be considered for any category that does not have at least one observation in the ratio study conducted for the combined categories. (7-1-99)()

06. Use Of Alternate Ratio Study. When the follow-up ratio study required by Subsection 131.04 does not measure the true assessment level, the State Tax Commission may consider adjustment based on the most recent annually conducted ratio study or other information relevant to equalization. If the State Tax Commission has reason to question the representativeness of the sample used in an annual or follow up ratio study conducted on any category of property, the State Tax Commission may delay implementation of any order to adjust property values until two successive years' ratio studies fail to produce an appropriate ~~ratio study~~ measure of level between ninety percent (90%) and one hundred ten percent (110%). (7-1-99)()

07. Submission Of Additional Information. Any party may petition the State Tax Commission to consider any information or studies relevant to equalization. The petition shall include a description of the information to be presented and the petitioner's conclusions drawn from the information. (4-5-95)

08. Reasonable Statistical Certainty. For the purposes of this section and equalization pursuant to Section 63-109, Idaho Code, "reasonable statistical certainty" that any category is not equalized shall mean that the appropriate measure of level determined by the ratio study for the category must be provably less than ninety percent (90%) or greater than one hundred ten percent (110%) of market value for assessment purposes. Beginning with the ratio study used to test 2000 assessments, such a determination shall occur if: ()

a. The appropriate measure of level for the category(ies) being tested is less than ninety percent (90%) or greater than one hundred ten percent (110%) and a ninety percent (90%) two-tailed confidence interval around the appropriate measure of level fails to include ninety percent (90%) or one hundred ten percent (110%); or ()

b. The appropriate measure of level for the category(ies) being tested has been less than ninety percent (90%) or greater than one hundred ten percent (110%) as determined by the most recent previous two (2) ratio studies on the category(ies) and an eighty percent (80%) two-tailed confidence interval around the appropriate measure of level fails to include ninety percent (90%) or one hundred ten percent (110%). ()

(BREAK IN CONTINUITY OF SECTIONS)

~~135.~~ RULE 135 HAS BEEN RENUMBERED TO RULE 609

~~136.---164.~~ (RESERVED).

~~165.~~ RULE 165 HAS BEEN RENUMBERED TO RULE 645

~~166.---170.~~ (RESERVED).

~~171.~~ RULE 171 HAS RENUMBERED TO RULE 700

~~172.---174.~~ (RESERVED).

~~175. PHYSICIAN DEFINED FOR PROPERTY TAX REDUCTION CLAIMS (Rule 175).~~
Physician shall mean a licensed physician, as defined in Section 54-1803(3), Idaho Code. (7-1-98)

~~176.---183.~~ (RESERVED).

~~184. NOTICES OF MODIFICATION OR DISAPPROVAL (Rule 184).~~ The Board of County Commissioners shall not disapprove claims previously approved by the assessor nor modify the assessor's decision if no appeal has been filed. (7-1-93)

~~185.---187.~~ (RESERVED).

~~188.~~ RULE 188 HAS BEEN RENUMBERED TO RULE 717

~~189.---203.~~ (RESERVED).

~~204.~~ RULE 204 RENUMBERED TO RULE 217

~~135. -- 204.~~ (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

~~211.---214.~~ (RESERVED).

~~215.~~ RULE 215 RENUMBERED TO RULE 936

~~216.1. -- 22216.~~ (RESERVED).

~~20417. RULES AND REGULATIONS PERTAINING TO MARKET VALUE DUTY OF COUNTY ASSESSORS (Rule 20417).~~

01. Market Value Definition. Market value is the most probable amount of United States dollars or equivalent for which a property would exchange hands between a knowledgeable and willing seller, under no compulsion to sell, and an informed, capable buyer, under no compulsion to buy, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment. (7-1-97)

a. The assessor shall value the full market value of the entire fee simple interest of property for taxation. Statutory exemptions shall be subtracted. (7-1-97)

b. Personal property shall be valued at retail level. (7-1-93)

02. Appraisal Approaches. Three (3) approaches to value will be considered on all property. The three (3) approaches to value are: ()

a. ~~The market approach, which includes the comparative sales comparison approach and the stock and debt technique (operating property);~~ ()

b. ~~The cost approach;~~ and ()

c. ~~The income approach.~~ (7-1-97)()

03. Appraisal Procedures. Market value shall be determined through procedures, methods, and techniques recommended by nationally recognized appraisal and valuation associations, institutes, and societies and according to guidelines and publications approved by the State Tax Commission. This includes the use of market rent, not contract rent. (7-1-97)()

260218. ASSESSOR'S PLAT BOOK (Rule 218).

01. Plat Maps. Plat maps for all privately owned land shall be prepared. (7-1-97)

a. Permanent plats shall be drafted on thirty (30) inch by thirty-six (36) inch, 0.003 inch drafting film (minimum thickness). (See Sections 50-1304 and 63-209, Idaho Code.) (7-1-97)

b. Section, aliquot part, subdivision, and parcel boundaries shall be drafted with ink on drafting film and in accordance with the most current, Bureau of Land Management (BLM) "Manual of Instructions for the Survey of the Public Lands of the United States" published by the Government Printing Office. (See Section 50-1304, Idaho Code.) (7-1-97)

c. Parcel numbers, and all other desired information, shall be drafted with ink. Annotative information shall be added as necessary and, if plotted by computer be of appropriate font style and size to be easily readable. The minimum letter height shall be 1.25 millimeters. (See Section 50-1304, Idaho Code.) (7-1-97)

d. Section outlines shall be platted according to: technical descriptions of Bureau of Land Management, formerly the General Land Office (GLO), surveys, (Section 31-2709, Idaho Code); descriptions on recorded surveys (Sections 55-1901 through 55-1911, Idaho Code); recorded corner perpetuation records (Sections 55-1603 through 55-1612, Idaho Code); recorded subdivision plats and assessor's plats (Sections 50-1301 through 50-1330, 63-209, and 63-210(2) Idaho Code); deeds or contracts with metes and bounds descriptions (Section 31-2709, Idaho Code); highway, railroad, and other engineering quality route surveys; relevant court decisions; and unrecorded data from registered land surveyors (Section 31-2709, Idaho Code). (7-1-97)

e. Subdivision of sections shall be platted. (See Sections 31-2709 and 63-209, Idaho Code.) (7-1-97)

02. Map Scales. Non-Computer and computer generated maps shall be scaled. (7-1-97)

a. Non computer generated plats shall be: One (1) township at one (1) inch = fourteen thousand four hundred (14,400) inches (1,200 feet), 1:14,400; four (4) sections at one (1) inch = four thousand eight hundred (4,800) inches (400 feet), 1:4,800; one (1) section at one (1) inch = twenty four hundred (2400) inches (200 feet), 1:2,400; one (1) quarter section at one (1) inch = twelve hundred (1,200) inches (100 feet), 1:1,200. (7-1-97)

b. Mapping done from aerial photographs will have the scale recalculated and shown on the map. (7-1-97)

c. Subdivision, townsite, and metes and bounds parcels shall be platted to include the basis of bearing with monuments and their coordinates relative to the "Idaho Coordinate System". (See Section 31-2709, Idaho Code, Sections 50-1301, 50-1303, and 50-1304, Idaho Code.) (7-1-97)

d. Plat titles, subdivision names, and parcel dimensions shall be drafted with ink, or generated by computer at an appropriate scale. The minimum letter height shall be 1.25 millimeters. (7-1-97)

03. Property Ownership Records. Ownership shall be shown on the property ownership records. (7-1-97)

a. Ownership notations include the reputed owner of the property or note that the owner is unknown, or list other persons with interests of record. Ownership may be ascertained from numerous recorded sources. (See Sections 63-212, and 63-307, Idaho Code.) (7-1-97)(____)

b. Purchasers, agents, guardians, executors, administrators, heirs, and claimants may have their names inserted with the recorded owner's name. (See Sections 63-212 and 63-307, Idaho Code.) (7-1-97)

04. Uniform Parcel Numbering System. Each parcel shall be assigned a parcel number. (7-1-97)

a. The uniform parcel numbering system shall be used for mapping and record keeping. Each parcel's uniform parcel number shall appear on the plat map and on a companion sheet. The assigned parcel number may also be the tax number. (See Sections 63-209 and Section 63-210(1), Idaho Code.) (7-1-97)

b. As long as the property boundary does not change, the new owner's name shall be assigned to the same parcel number on the companion sheet. A parcel number that exists at the time a property is divided or added to shall be canceled and a new number(s) assigned. (7-1-97)

c. Properties contiguous under common ownership but split by county line, section line, or tax code area boundary shall require separate parcel numbers. (7-1-97)

d. Rural land not subdivided shall have the township descriptor minus the "T" in positions 1, 2, and 3 of the parcel number. (7-1-97)

i. Positions 4, 5, and 6 shall be the range descriptor minus the "R". (7-1-97)

ii. Positions 7 and 8 shall be the section number. If the section number is less than 10, the section number is in position "8", preceded by a zero in position "7". (7-1-97)

iii. Positions 9, 10, 11, and 12 shall be the quarter section numbers. To assign the quarter section number, begin numbering in the northeast quarter (NE1/4) of the northeast quarter (NE1/4) and proceed counterclockwise. Starting in the NE1/4 of the section the numbers used range from zero to two thousand three hundred ninety nine (0 to 2399). Continuing counterclockwise, beginning in the NE1/4 of the northwest quarter (NW1/4), the numbers continue from two thousand four hundred to four thousand seven hundred ninety nine (2400 to 4799), thence, starting in the NE1/4 of the southwest quarter (SW1/4), assign numbers from four thousand eight hundred to seven thousand one hundred ninety nine (4800 to 7199), and beginning in the NE1/4 of the southeast quarter (SE1/4), assign quarter section numbers from seven thousand two hundred to nine thousand nine hundred ninety nine (7200 to 9999). (7-1-97)

iv. The following parcel number example denotes Township 10 North, Range 5 East, Section 4 with the parcel being in the NE (7-1-97)

e. Land not subdivided inside the city limits shall have a letter in position 1 of the parcel number. Each city letter designator shall be unique. (7-1-97)

i. Positions 2, 3, 4, 5, and 6 shall be zeros. (7-1-97)

ii. Positions 7 and 8 shall be the section number. Number these positions as required in Subsection 218.04.d. of this rule. (7-1-97)(____)

iii. Positions 9, 10, 11, and 12 shall be the quarter section number. Number these positions as required in Subsection 218.04.d. of this rule. (7-1-97)(____)

iv. When a metes and bounds parcel inside city limits is being numbered, positions 9, 10, 11, and 12

locate the parcel to the nearest quarter section. (7-1-97)

v. If a government lot is within a section, or an extended government lot is an extension of a section, the quarter section numbering shall be assigned as rural land not subdivided. For a government lot within a quarter section, the assigned number shall be a number within the sequence of numbers for the quarter section. For an extended section, the assigned number shall be within the sequence from the extended quarter section. (7-1-97)

vi. The following parcel number example denotes a parcel in the NE1/4 of section 29 in the city identified by the letter "A": A 0 0 0 0 0 2 9 2 1 6 3. (7-1-97)

f. Subdivided land within the county, but not in a city, shall have the number zero, in position 1 of the parcel number. (7-1-97)

i. Positions 2, 3, 4, and 5 shall be the subdivision number. The subdivision number shall not contain alphabetic characters. Each subdivision, whether the original townsite or new subdivision, shall be assigned a four (4) digit number. (7-1-97)

ii. Positions 6, 7, and 8 shall be the block number. (7-1-97)

iii. Positions 9, 10, and 11 shall be the lot number designated on the subdivision plat or an assigned number if characters on the subdivision plat are not acceptable as a parcel number. (7-1-97)

iv. Position 12 shall be a zero (0) if the lot is as originally platted. If a lot has been split once or combined once, then this becomes the letter, "A". If split a second time, the letter becomes a "B", etceteras. These splits or combinations shall be listed on the companion sheet. (7-1-97)

v. The following parcel number example denotes a subdivided parcel not in any city, identified by the number "0", subdivision number 62, block number 200, and lot number 29: 0 0 0 6 2 2 0 0 0 2 9 0. (7-1-97)

g. Subdivided land within the cities shall have the city letter in position 1 of the parcel number. Each city letter designator shall be unique. (7-1-97)

i. Positions 2, 3, 4, and 5 shall be the subdivision number. The subdivision number shall not contain alphabetic characters. Each subdivision, whether the original townsite or a new subdivision, shall be assigned a four (4) digit number. (7-1-97)

ii. Positions 6, 7, and 8 shall be the block number. (7-1-97)

iii. Positions 9, 10, and 11 shall be the lot number designated on the subdivision plat. An assigned subdivision plat number may be used if numbers comply with the parcel numbering system. (7-1-97)

iv. Position 12 shall be a zero (0) if the lot is as originally platted. If a lot has been split once or combined once, then this becomes the letter "A". If split a second time, the letter becomes a "B", etceteras. These splits or combinations shall be listed on the companion sheet. (7-1-97)

v. When one whole lot and part of another adjoining lot are under common ownership, one parcel number may be assigned. That parcel number shall be written using the whole lot's number and position 12 shall be a letter. (7-1-97)

vi. The following parcel number example denotes a parcel in the city identified by the letter "A", in subdivision with number 0062, block number 200, lot number 029, and has been modified once: A 0 0 6 2 2 0 0 0 2 9 A. (7-1-97)

h. Patented mines and patented mining claims shall have the number "9" in positions 1 and 2 of the parcel number. (7-1-97)

i. Positions 3 through 8 shall denote the township and range, as in the land not subdivided format.

(7-1-97)

- ii. Positions 9 through 12 shall be a county assigned sequential account number for individual mines. (7-1-97)
- iii. The following parcel number example denotes a parcel that is a patented mine in township 10 North, Range 36 East, with county assigned number 58: 9 9 1 0 N 3 6 E 0 0 5 8. (7-1-97)
 - i. Condominiums in a city shall have a letter in position 1 of the parcel number. The city designator shall be a unique letter. For condominiums not in any city, position 1 is a zero. (7-1-97)
 - i. Positions 2, 3, 4, and 5 shall be the condominium number and shall be four numbers. To differentiate between condominiums and subdivisions, numbers 0001 through 8999 are to be used for subdivisions, and numbers 9000 through 9999 for condominiums. Fill positions preceding the number with zeros to occupy all four positions. (7-1-97)
 - ii. Positions 6, 7, and 8 shall be the block or building number. Position 6 may be a "C" to differentiate between a typical block or building number and a condominium common area. (7-1-97)
 - iii. Positions 9, 10, and 11 shall be the lot or unit number designated on the condominium plat or an assigned number. An assigned condominium plat number may be used if numbers comply with the parcel numbering system. (7-1-97)
 - iv. Position 12 shall be a zero (0) if the parcel has not been modified since originally platted. If it has been split once or combined once, then this character becomes an "A". If split a second time, the character becomes a "B", etceteras. These splits or combinations shall be listed on the companion sheet. (7-1-97)
 - v. The following parcel number example denotes a parcel that is in the city identified by the letter "A", with condominium number 9062, block or building number 007, lot or unit number 029, and has not been modified since originally platted: A 9 0 6 2 0 0 7 0 2 9 0. (7-1-97)

219. - 222. **(RESERVED).**

(BREAK IN CONTINUITY OF SECTIONS)

225. DOCUMENTATION FOR TAXING DISTRICTS OR URBAN RENEWAL DISTRICTS CONTAINING REVENUE ALLOCATION AREAS (RAAs) NEWLY ORGANIZED OR ALTERED (Rule 225).

Sections 50-2907 and 63-215, Idaho Code. (4-5-00)

01. Documentation To Be Filed For Newly Created Or Altered Taxing Districts Or Urban Renewal Districts Containing Revenue Allocation Areas (RAAs). The following documentation shall be filed with the county assessor, county recorder, and the State Tax Commission no later than ~~ten~~ thirty (~~7~~30) days following the effective date of any action creating, altering, or dissolving a taxing district, urban renewal district, or revenue allocation area (RAA) boundary. (~~4-5-00~~)()

- a. A legal description which plainly and clearly defines the boundary of the new or altered taxing district or RAA contained in an urban renewal district. (4-5-00)
- b. A copy of a map prepared in a draftsman-like manner or a record of survey as defined by Chapter 19, Title 55, Idaho Code, which matches the legal description. (4-5-00)
- c. A copy of the ordinance or order effecting the formation or alteration. (4-5-00)

02. Documentation To Be Filed For Dissolved Taxing Districts, Urban Renewal Districts, And RAAs. No later than ~~ten~~ thirty (~~10~~) days following the effective date of any action dissolving a taxing district, urban renewal district or RAA, a copy of the ordinance or order effecting the dissolution shall be filed with the county assessor, county recorder and the State Tax Commission. (4-5-00)()

03. Legal Description. Legal description means a narrative which describes, by metes and bounds, a definite boundary of an area of land that can be mapped on a tax code area map, and shall include: (7-1-93)

a. Section, township, range, and meridian. (7-1-93)

b. An initial point, being a government surveyed corner, such as a section corner, quarter corner or mineral survey corner. (4-5-00)

c. A true point of beginning, defined by bearings and distances from the initial point, that begins the new or altered taxing district or RAA. (4-5-00)

d. Bearings and distances that continuously define an area boundary with a closure accuracy of at least one (1) part in five thousand (5,000). Variations from closure requirements of this subsection may be approved by the State Tax Commission if the description is sufficiently certain and accurate to ensure that property is assigned to the proper tax code area. Such variations may include: (4-5-00)

i. Boundaries which follow mountain ranges, rivers, highways, lakes, canals, and other physical features that are clearly delineated on published U.S. Geological Survey quadrangle maps at scale 1:24,000; or (4-5-00)

ii. References to cardinal directions, government survey distances, and section or aliquot part corners; or (4-5-00)

iii. References to recorded subdivision or townsite plats, with copies of such plats; or (4-5-00)

iv. Legislatively established boundaries as defined by reference to Idaho Code sections. (4-5-00)

e. The legal description to annex to a taxing district or RAA shall duplicate the existing metes and bounds of the district or RAA, or shall reference the former legal description as, "formerly known as", unless the existing district or RAA can be clearly identified. (4-5-00)

04. Map Prepared In A Draftsman-Like Manner. Map prepared in a draftsmanlike manner means an original graphic representation or precise copy matching the accompanying legal description and drafted to scale using standard mechanical drawing instruments or a computer. The map shall include: (4-5-00)

a. Section, township, range, and meridian identifications. (4-5-00)

b. North arrow, bar scale, and title block. (4-5-00)

c. District name and ordinance number or order date. (4-5-00)

d. Bearing and distance annotation between boundary points. (4-5-00)

e. Clearly defined boundary lines of the newly formed or altered taxing district or RAA together with reference to the existing boundary where contiguous. (4-5-00)

05. Digital Map. Digital map information may be submitted in addition to the hard copy maps in Subsection 225.04. Such information shall be accompanied by metadata that clearly defines map projection, datum and attributes. (4-5-00)

06. Contiguous. Contiguous means being in actual contact or touching along a boundary or at a point. (7-1-93)

07. Deadline For Completion. December 31 of the current year shall be the deadline for completing of any action that creates, alters, or dissolves any taxing district or RAA requiring a revision of the State Tax Commission's tax code area maps for the following year, unless the law provides otherwise. (4-5-00)

08. Approval Of Property Tax Levy Or Revenue Allocation. For the purpose of levying property taxes or receiving revenue allocations no newly formed or altered taxing district, or RAA shall be considered formed or altered by the State Tax Commission if it: (4-5-00)

a. Fails to provide the correct documentation plainly and clearly designating the boundaries of such district; or (4-5-00)

b. Fails to provide the correct documentation in sufficient time for the State Tax Commission to comply with Rule 404 of these rules; or (4-5-00)

c. Has boundaries which overlap with like districts. (4-5-00)

09. Notification Of Approval Or Disapproval. The State Tax Commission shall send a letter of approval or disapproval to the taxing district or municipality. A copy of said letter shall be submitted to the urban renewal agency, auditor and assessor of all involved counties. In the case of disapproval said letter will state the reason(s) for disapproval, the corrective action(s) needed for approval, and the time within which such corrective action(s) must be taken. Such letter shall be sent by the State Tax Commission within thirty (30) days of receipt of the document to which the disapproval relates, but not later than January 24. (4-5-00)

10. One Uniform System. The State Tax Commission will prepare one (1) uniform system of tax code area numbers and maps which shall be used by each county for property tax purposes. (4-5-00)

11. Tax Code Areas. Each tax code area shall have a separate tax code area number which shall be initiated or changed only by the State Tax Commission. (4-5-00)

12. Furnished By The State Tax Commission. The State Tax Commission will furnish annually, without charge, one (1) set of updated tax code area maps, a listing of taxing districts included in each tax code area, and a list of changes in taxing district boundaries to the county assessor, recorder, and treasurer. There shall be a charge for all other tax code area maps. (4-5-00)

226. -- 2429. (RESERVED).

~~354~~230. EXTENSIONS OF STATUTORY DEADLINES FOR DISASTER RELIEF (Rule ~~354~~230).

01. Application By County Officials. A county official who, because of any extension of time authorized by Section 63-220, Idaho Code, is unable to comply with a statutory deadline imposed in Title 63, Idaho Code, may apply to the State Tax Commission for a reasonable delay, not to exceed sixty (60) days, of any such act. (3-23-98)

02. Contents Of Application. The application shall be submitted prior to the statutory deadline in regard to which the approval of delay is sought and shall include: (3-23-98)

a. A description of the nature of the relief granted, or expected to be granted, to taxpayers pursuant to Section 63-220(~~1~~), Idaho Code, by the Board of County Commissioners; and (~~3-23-98~~)()

b. Identification of any statutory deadline in regard to which the delay is sought; and (3-23-98)

c. The date by which the official making the application expects to accomplish the action in regard to which the delay is sought; and (3-23-98)

d. A request that the State Tax Commission approve the delay sought. (3-23-98)

03. Procedure. Within five (5) working days of receipt of the request the State Tax Commission shall respond in writing to the official requesting the delay. The State Tax Commission shall approve any request for extension that complies with Subsections ~~35-230.01~~ and ~~35-230.02~~ of this rule. (3-23-98)(____)

~~250.~~ **RULE 250 HAS BEEN RENUMBERED TO RULE 315**

~~251. -- 259.~~ **(RESERVED).**

~~260.~~ **RULE 260 HAS BEEN RENUMBERED TO RULE 218**

~~261. -- 273.~~ **(RESERVED).**

~~274.~~ **RULE 274 HAS BEEN RENUMBERED TO RULE 304**

~~275. -- 299.~~ **(RESERVED).**

~~300.~~ **RULE 300 HAS BEEN RENUMBERED TO RULE 125**

~~301. -- 313.~~ **(RESERVED).**

~~231. -- 303.~~ **(RESERVED).**

~~274~~**304. MANUFACTURED HOME DESIGNATED AS REAL PROPERTY (Rule 274304).**

01. Statement Of Intent To Declare (SID). To declare a manufactured home real property, the homeowner shall complete a "Statement of Intent to Declare", SID, form as prescribed by the State Tax Commission. (3-23-94)(____)

a. All information and signatures requested on the form shall be provided prior to recordation. (3-23-94)

b. The homeowner shall record the completed form. (3-23-94)

c. The homeowner shall provide the assessor a copy of the recorded SID form and the title or Manufacturer's Statement of Origin, (MSO). If proof of ownership is being provided through the MSO, the buyer's purchase agreement shall be accepted by the assessor pending receipt of the MSO. For the purpose of this rule, the Manufacturer's Statement of Origin and Manufacturer's Certificate of Origin are synonymous. (3-23-94)(____)

d. For new manufactured homes, the assessor shall verify that sales or use tax has been collected or shall collect such tax. Any sales or use tax collected by the assessor shall be remitted to the State Tax Commission. (3-23-94)(____)

e. The assessor shall forward a copy of the SID form and the title or MSO to the Idaho Transportation Department. The Idaho Transportation Department will cancel the title. (3-23-94)

02. Reversal Of Declaration Of Manufactured Home As Real Property. To provide for the reversal of the declaration of the manufactured home as real property, the homeowner shall complete the "Reversal of Declaration of Manufactured Home as Real Property" form as prescribed by the State Tax Commission. The homeowner shall submit this completed form to the assessor within the required time period. (3-23-94)(____)

a. The homeowner shall also submit to the assessor a title report with the appropriate signatures of consent attached. (3-23-94)

b. The assessor shall transmit to the Idaho Transportation Department a copy of the completed reversal form, title report with appropriate signatures of consent, and the application for title to the manufactured home. (3-23-94)

03. Definition Of Permanently Affixed. (3-23-94)

a. For manufactured home installations prior to 1989, permanently affixed means physically attached or connected to a foundation in a manner which will maintain and continue said manufactured home in the same location. (3-23-94)

b. For manufactured home installations from 1989 to present, permanently affixed means complying with Section 44-2205, Idaho Code. (3-23-94)

305. -- 313. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

315. — 316. (RESERVED).

250315. RATIO STUDIES - SCHOOL DISTRICTS (Rule ~~250~~315).

01. Procedures For School District Ratio Studies. The ratio study conducted by the State Tax Commission to comply with the requirements of Section 63-315, Idaho Code, shall be conducted in accordance with the "Standard on Ratio Studies" published in 1990 by the International Association of Assessing Officers. ~~For school district ratio studies completed after January 1, 1998,~~ The following specific procedures will be used. (7-1-98)(____)

a. Information on property sales, which meet the requirements of arm's length and market value sales, will be obtained and assembled into samples representing various categories of property and designations defined in Subsection ~~250~~315.02 in each school district. Except when sales or appraisals must be added or deleted to improve representativeness, sales used will be those occurring within each school district between October 1 of the year preceding the year for which adjusted market value is to be computed and September 30 of the year for which adjusted market value is to be computed. Each sale price is to be adjusted for time and compared to market value for assessment purposes for the year for which adjusted market value is to be computed, to compute ratios to be analyzed. The State Tax Commission may use sales from extended time periods and may add appraisals when data is lacking. The State Tax Commission may delete sales when necessary to improve representativeness. (7-1-99)(____)

b. A ratio will be determined for each sale by dividing the market value for assessment purposes of the property by the adjusted sale price or appraised value. (7-1-98)

c. A statistical analysis is to be conducted for the sales and any appraisals in each property designation defined in Subsection ~~250~~315.02 in each school district and appropriate measures of central tendency, uniformity, reliability, and normality computed. (7-1-99)(____)

d. With the exception of any property designations with extended time frames or added appraisals, if fewer than five (5) sales and appraisals are available, no adjustment to the taxable value of the designation will be made. (7-1-98)

e. If there are five (5) or more sales and appraisals and it is determined with reasonable statistical certainty that the property designation is not already at market value for assessment purposes, an adjusted market value will be computed for the school district by dividing the taxable value for the year for which adjusted market value is to be determined by the appropriate ratio derived from the ratio study. The appropriate ratio to be used ~~is one of the following~~ shall be the weighted mean ratio calculated from the sample for each designation, unless it can be clearly demonstrated that this statistic has been distorted by non-representative ratios. In this case the median may be substituted: (7-1-98)(____)

i. ~~The weighted mean ratio, provided that the distribution of ratios is normal and the Price Related Differential (PRD) is between 0.98 and 1.03;~~ (7-1-98)

ii. ~~The unweighted mean ratio, provided that the distribution of ratios is normal and the PRD is less than 0.98 or greater than 1.03; or~~ (7-1-98)

iii. ~~The median ratio, if the distribution of ratios is not normal.~~ (7-1-98)

f. Within each school district, adjusted market value or taxable value for each category of real, personal and operating property will be summed to produce the total adjusted market value for the school district. The school district taxable value will then be divided by this adjusted market value to produce the overall ratio of assessment in each school district. Statewide totals are to be calculated by compiling county totals. (7-1-98)

g. Urban renewal increment values will not be included in the taxable value or the adjusted market value for any school district. (7-1-98)

h. “Reasonable statistical certainty,” that the property designation in question is not at market value for assessment purposes, is required. Such certainty is tested using ninety percent (90%) confidence intervals about the weighted mean, ~~mean~~ or median ratios. If the appropriate confidence interval includes ninety-five percent (95%) or one hundred five percent (105%), there is not “reasonable statistical certainty” that the property designation is not at market value for assessment purposes. (7-1-98)()

i. Categories of property subject to adjustment following the procedure outlined in this rule and ratio study designations from which measures of central tendency used for adjustments will be derived are:

Category	Property Category	Ratio Study Designation
(41)	Urban Residential Improvements	Residential
(20)	Urban Residential Land	Residential
(37)	Rural Residential Subdivision Improvements	Residential
(15)	Rural Residential Subdivision Land	Residential
(34) & (40)	Rural Residential Tract and Other Rural Improvements	Residential
(12) & (18)	Rural Residential Tracts and Other Lands	Residential
(42)	Urban Commercial Improvements	Commercial
(21)	Urban Commercial Land	Commercial
(35) & (38)	Rural Commercial Tract and Subdivision Improvements	Commercial
(13) & (16)	Rural Commercial Tracts and Subdivision Land	Commercial
(46), (47) & (65)	Manufactured Homes and Attachments	Manufactured Homes and Attachments
(48)	Manufactured Homes Declared to be Real Property	Residential
(26)	Residential Condominiums	Residential
(27)	Commercial Condominiums	Commercial

(7-1-99)

j. For all other property categories not contained in the list in Subsection ~~250315.01.i.~~, adjusted market value will equal taxable value. (7-1-99)()

k. “Appraisal” or “appraised value” refers to any State Tax Commission provided independently conducted property appraisal. (7-1-98)

02. Use Of Property Designations. In computing the ratio for each school district, the State Tax Commission will designate property as residential, commercial, or manufactured housing and shall assign appropriate property categories defined in Rule ~~327~~130 of these rules to these designations. For each school district, adjusted market value shall be computed by dividing the appropriate ratio ascertained for each of these designations into the sum of the taxable values for each category of property assigned to a designation. For the taxable value in any category to be included in said sum, at least one observation (sale or appraisal) from that category must be present in the ratio study. If the ratio for any given designation in a school district indicates that the market value for assessment purposes cannot be determined with reasonable statistical certainty to differ from statutorily required market value, the taxable value shown on the school district abstract(s) required pursuant to Subsection ~~250315~~04 for each of the categories included in that designation shall be the adjusted market value for said designation for said school district.

~~(7-1-99)~~(____)

03. Assessor To Identify School Districts. Each county assessor will provide to the State Tax Commission the school district in which each sale submitted for the ratio study is located.

(7-1-98)

04. Abstracts Of Value By School District. Each county auditor shall provide to the State Tax Commission abstracts of the taxable value of all property within the portion of each school district in each county. These abstracts shall be submitted in the same manner and at the same time as provided for county abstracts of value.

(7-1-98)

05. Urban Renewal Increment And Exemption To Be Subtracted. The taxable value of each category of property within each school district shall not include the value that exceeds the value on the base assessment roll in any urban renewal district pursuant to Chapter 29, Title 50, Idaho Code, and shall not include the value of any exemption pursuant to Sections 63-602P, 63-602AA, 63-602K, 63-602G, 63-602X, 63-602CC, and 63-602BB, Idaho Code.

~~(7-1-97)~~(____)

316. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

~~318. -- 326. (RESERVED).~~

~~327. RULE 327 HAS BEEN RENUMBERED TO RULE 130~~

~~328. (RESERVED).~~

~~329. RULE 329 HAS BEEN RENUMBERED TO RULE 509~~

~~330. -- 350. (RESERVED).~~

~~351. RULE 351 HAS BEEN RENUMBERED TO RULE 230~~

~~352~~18. -- 399. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

~~490. -- 499. (RESERVED).~~

~~500. RULE 500 HAS BEEN RENUMBERED TO RULE 614~~

~~501~~490. -- ~~579~~08. (RESERVED).

~~329~~**509. IDENTIFICATION OF URBAN RENEWAL INCREMENT AND PARTIAL EXEMPTION VALUES ON COUNTY AND SCHOOL DISTRICT ABSTRACTS OF VALUE (Rule ~~329~~**509**).**

01. County And School District Abstracts To Balance. The taxable value of property in each category as shown on the abstracts prepared and submitted pursuant to section 63-509, Idaho Code, shall equal the sum of the taxable value of property in each category as shown on the school district abstracts, required pursuant to Rule ~~250~~**315**, for the portion of each school district located within each given county. (7-1-97)(____)

02. Identification Of Increment. The value that exceeds the value on the base assessment roll in any urban renewal district, pursuant to Chapter 29, Title 50, Idaho Code, and Rule ~~350~~**804** shall be identified as the "increment". (7-1-97)(____)

03. Increment And Exemption Values To Be Indicated. ~~Beginning in 1997, i~~In addition to the value of exemptions required pursuant to section 63-509, Idaho Code, any increment value and the value of any exemption provided under Sections 63-602X and 63-602BB, Idaho Code, shall be indicated and subtracted from the taxable value shown for each category of property on each county and school district abstract. (7-1-97)(____)

510. -- 579. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

601. -- 6098. (RESERVED).

~~435~~**609. PROPERTY EXEMPT FROM TAXATION RESIDENTIAL IMPROVEMENTS (Rule ~~435~~**609**).**

01. Homeowner's Exemption. This exemption shall also be known as the homeowners exemption. (3-23-94)

02. Residential Improvements. Primary dwelling place means the claimant's dwelling place on January 1 of the year for which the claim is made. The primary dwelling place is the single place where a claimant has his true, fixed, and permanent home and principal establishment, and to which whenever the individual is absent he has the intention of returning. A claimant must establish the dwelling to which the claim relates as his primary dwelling place by clear and convincing evidence or by establishing that the dwelling is where the claimant resided on January 1 and: (3-23-94)

- a. At least six (6) months during the prior year; or (3-23-94)
- b. The majority of the time the claimant owned the dwelling if owned by the claimant less than one (1) year; or (3-23-94)
- c. The majority of the time after the claimant first occupied the dwelling if occupied by the claimant less than one (1) year. (3-23-94)

03. Requirements. If these requirements are not met, the property upon which the claimant makes application shall be deemed to be the claimant's primary dwelling place if the claimant is otherwise qualified and resides in a care facility and does not allow the property upon which the claimant has made application to be occupied by persons paying a consideration to occupy the dwelling. A care facility is a hospital, skilled nursing facility, intermediate care facility or intermediate care facility for the mentally retarded as defined in Section 39-1301, Idaho Code, or a facility as defined in Section 39-3302(15), Idaho Code, or a dwelling other than the one (1) upon which the applicant makes application where a claimant who is unable to reside in the dwelling upon which the application is made lives and receives help in daily living, protection, and security. (3-23-94)

04. Owner. "Owner" means a person holding title in fee simple or holding a certificate of motor vehicle title (either of which may be subject to mortgage, deed of trust or other lien) or who has retained or been

granted a life estate. "Owner" shall also include any person who as grantor created a revocable trust and named himself as beneficiary of that trust. "Owner" shall not include any person that otherwise occupies property as beneficiary of a trust. "Owner" includes a vendee in possession under a land sale contract. (3-23-94)

05. Partial Ownership. Any partial ownership shall be considered ownership for determining qualification for the homeowner's exemption, however, the amount of the exemption shall be reduced to a proportion commensurate with the proportion of partial ownership. Partial ownership, for purposes of this section, means any one (1) person's ownership when property is owned by more than one (1) person. The combined community property interests of both spouses shall not be considered partial ownership. The proportional reduction required under this subsection shall not apply to community property interests. (3-23-94)

06. Determination Of Residency. The State Tax Commission may release pertinent information from any Idaho income tax return to the county assessor and the county board of equalization for the sole purpose of providing one indicator of eligibility for the homeowner's exemption. According to Section 63-3077(d), Idaho Code, this information is confidential and is not subject to public disclosure. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

~~614. (RESERVED).~~

~~500614. VALUATION OF CHRISTMAS TREE FARMS (Rule 500614).~~
Christmas tree farms shall be categorized on the tax rolls under the applicable agricultural category. Section 63-1708, Idaho Code, shall only apply to Christmas trees harvested from designated lands. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

~~616. -- 6197. (RESERVED).~~

~~618. COMPUTATION OF THE IDAHO IRRIGATION EXEMPTION (Rule 618).~~

01. Production And Delivery Ratio. This ratio is computed by comparing the Idaho investment in production and delivery property to the investment for all Idaho unitary property. The resulting ratio shall be known as the production and delivery ratio. (4-5-95)

02. Idaho Production And Delivery Value. This is computed by multiplying the allocated Idaho unitary value, before any exemptions, by the production and delivery ratio. (4-5-95)

03. Irrigation Use Ratio. This ratio is computed by comparing Idaho irrigation revenue to the total Idaho revenue from unitary operations. The resulting ratio shall be known as the irrigation use ratio. (4-5-95)

04. Idaho Irrigation Exemption. This is computed by multiplying the Idaho production and delivery value by the irrigation use ratio. (4-5-95)

~~619. PROPERTY EXEMPT FROM TAXATION--FACILITIES FOR WATER OR AIR POLLUTION CONTROL (Rule 619).~~

01. Exempt Property. Only those portions of installations, facilities, machinery, or equipment which are devoted exclusively to elimination, control, or prevention of water or air pollution are exempt. The owner of the property shall annually petition the assessor for exemption. (7-1-97)

02. Calculation Of Partial Exemption. The exemption shall not include the percentage of the value for any portion of the facility which is used for the production of marketable by-products. The exempted value is the

difference between the market value of the pollution control facilities and the present value of the net income from the sale of by-products. Net income shall be determined by subtracting the expenses of sale, raw materials required to produce by-products, and transportation to F.O.B. point from gross sales of recovered by-product.

EXAMPLE For example:

~~(For purposes of this example, assume the industry capitalization rate is 10%).~~

The ~~P~~urchase ~~P~~rice of ~~S~~crubber is \$1 million ~~with a 20 year life~~
 1st Year ~~Calculation of Exemption:~~

Gross sales of precipitate	\$11,000/yr.
Transport to F.O.B. point	\$100/yr.
Lime to precipitate products	\$900/yr.
NET INC OME <u>Income</u>	\$10,000/yr.
<u>Present value of net income</u>	<u>\$85,130</u>
<u>Exempt Value is purchase price minus present value of net income (\$1,000,000-\$85,130)</u>	<u>\$914,870</u>

Present worth of 1 per period (20 years/10%) 8.513

Present value of net income \$85,130

Therefore, exempt value is (\$1,000,000 - \$85,130) \$914,870
or 91.5% exempt

Indirect costs associated with operating the scrubber such as power, maintenance, etc., are not ~~proper deduction to be deducted~~ from gross sales to reach net income. (7-1-97)()

03. Ineligibility. Landfills, toxic waste dumps, or storage facilities deriving revenue from processing or storing pollution or pollution by-products generated by other persons or businesses are ineligible for this exemption. (7-1-97)

04. Filing Procedure. Petition for exemption shall be filed in the following manner: (7-1-97)

a. The property owner may obtain the declaration forms issued by the State Tax Commission from the county assessor or the State Tax Commission. (7-1-97)()

b. The property owner completes the declaration to report an itemized listing of all installations, facilities, machines or equipment qualifying for exemption. Each component part of the system must be identified by a brief description (e.g., Dust Collector), the date of original acquisition, dollar amount of the original cost, and the percentage of the component devoted exclusively to pollution control. The petition must be signed by the owner or duly authorized agent. Lack of required information shall be grounds for denial. (7-1-97)

c. The completed declaration must be filed with the county assessor for locally assessed property or the State Tax Commission for centrally assessed property by March 15th of each year. (7-1-97)()

05. Inspection. The county or State Tax Commission representative may inspect the property or audit the owner's records to identify components petitioned for exemption. Those components listed on the declaration must be identifiable as capital assets of the property. (7-1-97)()

06. Exemption Reported On Abstracts. For locally assessed property, exempt value shall be reported on the real and personal property abstracts. (7-1-97)

07. Exemption For Portion Of Water Corporation Property. A portion of water corporation property may be exempt from taxation. (7-1-97)(____)

a. On or before April 30, each year, the State Tax Commission shall receive a notice from the Idaho Public Utilities Commission listing the value of the investment percentage of the total plant of each water company that is devoted exclusively to the elimination, control, or prevention of water pollution or air pollution. (7-1-97)(____)

b. In estimating the market value of the company for assessment purposes, the State Tax Commission will take into consideration the investment as certified by the Public Utilities Commission that such equipment bears to the total invested plant of the company. (7-1-97)(____)

c. The State Tax Commission will notify the water company of the estimated market value, gross assessed value, and the amount of exemption allowed under Section 63-602P, Idaho Code, on or before July 15 of each current year. (7-1-97)(____)

d. Any person or party wishing to contest the percentage of exemption reported to the State Tax Commission by the Public Utilities Commission may submit a written request for public hearing to the State Tax Commission by August 1 of the current tax year. The request for hearing shall state the petitioner's grounds for contesting the percentage reported by the Public Utilities Commission. ~~The~~ On or before the second Monday of August the State Tax Commission shall notify the petitioner's of the hearing time and place ~~on or before the second Monday of August.~~ (7-1-97)(____)

(BREAK IN CONTINUITY OF SECTIONS)

621. -- 6524. (RESERVED).

655625. HOMEOWNERS EXEMPTION ON OCCUPANCY TAX ROLL (Rule 655625).
Sections 63-317 and 63-602G, Idaho Code. (____)

~~01. Exemption. The exemption granted by Section 63-3905, Idaho Code, applies only to the pro rata improvement value that appears on the Occupancy Roll. (3-23-94)~~

021. Eligibility For Double Multiple Exemptions. Obtaining the exemption in Section 63-~~105DD~~602G, Idaho Code, will not preclude a property owner from eligibility for the exemption granted by Section 63-~~3905~~17, Idaho Code. More than one (1) property may be eligible for this exemption provided that ownership and occupancy of the properties occurs at different times during the year and that each application is made on the owner's primary residence. (3-23-94)(____)

~~03. Limitation To One Exemption. The limitation to one (1) exemption in Section 63-105DD, Idaho Code, is not applicable to newly constructed and occupied residential structures. (3-23-94)~~

042. Separate Applications. The application for this exemption shall not substitute for the application required by Section 63-~~105DD~~602G, Idaho Code. (3-23-94)(____)

~~05. Examples And Procedures. Examples and procedures are addressed in the Idaho Assessor's Manual. (3-23-94)~~

626. -- 627. (RESERVED).

~~127628.~~ **PARTIAL EXEMPTION FOR REMEDIATED LAND (Rule 127628).**

01. Definitions. For the purpose of implementing the partial exemption for remediated land the following terms are defined. (7-1-98)

a. **Application for Partial Exemption.** The “application for partial exemption” is the form, provided by the State Tax Commission, available from the State Tax Commission or the county assessor and used to apply for the exemption provided by Section 63-602BB, Idaho Code. (7-1-98)

b. **Certificate of Completion.** The “certificate of completion” is the document issued by the Department of Environmental Quality after the successful completion of a voluntary remediation work plan pursuant to Section 39-7207(1), Idaho Code. The person receiving the “certificate of completion” shall record a copy of the “certificate of completion” with the deed for the “site” on which the remediation took place pursuant to Section 39-7207(2), Idaho Code. (7-1-98)

c. **Covenant Not to Sue.** The “covenant not to sue” is the document issued by the Department of Environmental Quality pursuant to Section 39-7207(4), Idaho Code, upon request from a person receiving the “certificate of completion”. (7-1-98)

d. **Qualifying Owner.** The “qualifying owner” is the entity identified as the owner on the deed to the property at the time the “certificate of completion” is issued by the Department of Environmental Quality. (7-1-98)

e. **Remediated Land.** The “remediated land” is the “site” on which the remediation, as defined in Section 39-7203(7), Idaho Code, has been completed. (7-1-98)

f. **Remediated Land Value.** The “remediated land value” is the market value for assessment purposes of the land on January 1 of the year following the issuance of the “certification of completion” (after remediation) less the market value for assessment purposes of the land on January 1 prior to the issuance of the “certification of completion” (before remediation). (7-1-98)

g. **Site.** As defined in Section 39-7203(8), Idaho Code, a “site” is a parcel of real estate for which an application has been submitted under Section 39-7204, Idaho Code. The “site” shall be that parcel identified on the application as described in IDAPA 58.01.18, Subsection 020.02.c., “Idaho Land Remediation Rules,” including the assessor’s parcel numbers(s) and on the voluntary remediation work plan as described in IDAPA 58.01.18, Section 022. (7-1-98)

02. Procedures To Qualify For The Exemption. The “qualifying owner”, or agent thereof, must complete the following procedures for the “site” to qualify for the exemption. (7-1-98)

a. Obtain and complete the “application for partial exemption”. (7-1-98)

b. Submit the “application for partial exemption” and copies of the “certificate of completion” and the “covenant not to sue” to the county assessor of the county in which the “site” is located. If the legal description of the “site” and a map identifying the location and size of facilities and relevant features is included in the information supporting the voluntary remediation work plan, pursuant to IDAPA 58.01.18, Subsection 022.03.a.i., “Idaho Land Remediation Rules,” a copy of this information shall be included with the “application for partial exemption”. (7-1-98)

c. File the “application for partial exemption” with the county assessor on or before March 15 of the year for which the exemption is claimed. The “application for partial exemption” must be filed only once, during the first year of seven (7) year exemption period. (7-1-98)

03. Calculation Of The Exemption. The exemption is fifty percent (50%) of the “remediated land value”. This exempt value is constant throughout the term of the exemption. The amount of the exemption shall never exceed the current market value of the land. For example:

Land Value on January 1 (after remediation)	=	\$200,000
Land Value on January 1 (before remediation)	=	-\$125,000

Remediated Land Value	=	\$75,000
Exemption Ratio Percent	=	x 50%
Exempt Value	=	\$37,500

For the example cited, the value of thirty-seven thousand five hundred dollars (\$37,500) would be the exempted value for ~~all~~ each of the seven (7) years. (7-1-98)(____)

04. Exempt Value Subject To Taxation. For any property eligible for the exemption provided by Section 63-602BB, Idaho Code, the exempt value will immediately be subject to taxation when any of the following events occur: (7-1-98)(____)

a. If ~~during any year the exemption is in effect and~~ the “covenant not to sue” is rescinded during any year the exemption is in effect, the exempt value will immediately be subject to taxation for the entire year. Pursuant to IDAPA 58.01.18, Subsection 025.02, the Department of Environmental Quality shall notify the assessor of the county in which the “site” is located that the “covenant not to sue” is rescinded. (7-1-98)(____)

b. If the “site” is transferred to a new owner during any year in which the exemption is in effect, the exempt value will immediately be subject to taxation for the entire year. (7-1-98)

c. The ~~exempt value will immediately be subject to taxation after the~~ seven (7) year exemption period expires. (7-1-98)(____)

~~05.~~ **Sites Previously Granted The Exemption Are Ineligible.** No “site” shall be granted the exemption provided in this section if said “site” had been previously granted this exemption regardless of whether the entire seven (7) years of the exemption had been used. (7-1-98)(____)

~~26629.~~ **PROPERTY EXEMPT FROM TAXATION -- QUALIFIED EQUIPMENT UTILIZING POST CONSUMER OR POST INDUSTRIAL WASTE (Rule ~~26629~~).**

01. Qualified Personal Property. Only that qualified personal property, located in Idaho, which utilizes postconsumer waste or post industrial waste in the production of a “product”, shall be exempt from taxation as personal property. The owner of the equipment shall, annually, petition the assessor for exemption. (7-1-97)

02. Application. The exemption shall be allowed only if the owner files the form prescribed by the State Tax Commission, which reports for the previous calendar year, the actual time each piece of qualified equipment is in use in the production of qualified “product” and non-qualified “product”. (7-1-97)

03. Exempt Petition’s Definitions. Petition for exemption shall be filed in the following manner: (7-1-97)

a. Forms. Declaration forms for the reporting of personal property qualifying for exemption may be obtained from the county assessor or State Tax Commission. (7-1-97)

b. Declaration - qualified equipment. The declaration shall contain an itemized listing of all ~~machines~~ ry or equipment qualifying for exemption. Each component part of the system must be identified by a brief description, the date of purchase and original cost, and the percentage of production time the component is devoted exclusively to the production of “product”. The petition must be signed by the owner or duly authorized agent. Lack of required information shall be grounds for denial. (7-1-97)(____)

c. Declaration - non-qualifying equipment. The declaration shall contain an itemized listing of all non-qualifying ~~machines~~ ry or equipment used in the production of “product”. This declaration shall list all non-qualifying taxable personal property as described in Section 63-302, Idaho Code. ~~Lack of required information shall be grounds for denial.~~ (7-1-97)(____)

d. Timing. The completed declarations must be filed with the county assessor by March 15th of each year. (7-1-97)

e. Inspection. The county or State Tax Commission representative may inspect the property or the owner's records to identify components petitioned for exemption. Those components listed on the declaration must be identifiable as qualifying personal property assets of the claimant. (7-1-97)(____)

630. -- 644. (RESERVED).

~~65645.~~ LAND ACTIVELY DEVOTED TO AGRICULTURE DEFINED (Rule ~~65645.~~).

01. Definitions. The following definitions apply for the implementation of the exemption for the speculative value portion of agricultural land. (7-1-99)

a. Homesite. The "homesite" is that portion of land, contiguous with but not qualifying as land actively devoted to agriculture, and the associated site improvements used for residential and farm homesite purposes. (7-1-99)

b. Associated site improvements. The "associated site improvements" include developed access, grading, sanitary facilities, water systems and utilities. (7-1-99)

c. Speculative value exemption. The "speculative value exemption" is the exemption allowed on land actively devoted to agriculture. (7-1-99)

02. Homesite Assessment. Effective January 1, 1999, each homesite and residential and other improvements, located on the homesite, shall be assessed at market value each year. (7-1-99)

a. Accepted assessment procedures. Market value shall be determined through procedures, methods, and techniques recommended by nationally recognized appraisal and valuation associations, institutes, and societies and according to guidelines and publications approved by the State Tax Commission. Acceptable techniques include those that are either time tested in Idaho, mathematically correlated to market sales, endorsed by assessment organizations, or widely accepted by assessors in Idaho and other states. (7-1-99)

b. Appropriate market and comparable selection. The appropriate market is the market most similar to the homesite and improvements, located on the homesite. In applying the sales comparison approach, the appraiser should select comparables having actual or potential residential use. (7-1-99)

c. Assigning category. The value of the homesite will be listed in Category 10. (7-1-99)

d. Homesite independent of remaining land. The value and classification of the homesite will be independent of the classification and valuation of the remaining land. (7-1-99)

03. Valuing Land, Excluding The Homesite. The assessor shall value the land, excluding the homesite, on the following basis: (7-1-99)

a. Land used for personal use or pleasure. Any land, regardless of size, utilized for the grazing of animals kept primarily for personal use or pleasure and not a portion of a profit making agricultural enterprise, shall be valued at market value using appraisal procedures identified in Subsection ~~65645.02~~ and shall not qualify for the speculative value exemption. (7-1-99)(____)

b. Land in a subdivision with restrictions prohibiting agriculture use. Land in a subdivision with restrictions prohibiting agricultural use shall be valued at market value using appraisal procedures identified in Subsection ~~65645.02~~ and shall not qualify for the speculative value exemption. (7-1-99)(____)

c. Land, five (5) acres or less. Land parcels of five (5) acres or less shall be presumed nonagricultural, shall be valued at market value using appraisal procedures identified in Subsection ~~65645.02~~ of these rules, and shall not qualify for the speculative value exemption. If the owner produces evidence that the land has been devoted to

agricultural use for the last three (3) growing seasons and it agriculturally produced for sale or home consumption fifteen percent (15%) or more of the owner's or lessee's annual gross income or it produced gross revenue in the immediate preceding year of one thousand dollars (\$1,000) or more, the land actively devoted to agriculture, shall qualify for the speculative value exemption. For parcels of five (5) acres or less income is measured by production of crops, grazing, or net income from sale of livestock. Income shall be estimated from crop prices at harvest. The use of the land and the income received in the prior year must be certified with the assessor by March 15, each year.

(7-1-99)(____)

d. Lease income considered. Lease income may be considered in determining income qualifications only if the lease terms are defined, the carrying capacity is shown, and the rent is consistent with market rent.

(7-1-99)

e. Land, more than five (5) acres. Land parcels of more than five (5) contiguous acres under one (1) ownership, producing agricultural field crops, timber, or grazing, or in a cropland retirement or rotation program, as part of a profit making agricultural enterprise, shall qualify for the speculative portion of value of agricultural land exemption. Land not annually meeting any of these requirements shall be valued at market value using appraisal procedures identified in Subsection ~~165645~~.02 and shall not qualify. Application for agricultural classification must be filed with the assessor by March 15. A successful application need only be filed once where the ownership and qualifying conditions remain unchanged in subsequent years.

(7-1-99)(____)

~~655.~~ RULE 655 HAS BEEN RENUMBERED TO RULE 625

~~6546.~~ -- ~~708699.~~ (RESERVED).

~~171700. DEFINITIONS OF INCOME, FATHERLESS CHILD, MOTHERLESS CHILD, AND PARTIAL OWNERSHIP FOR PROPERTY TAX REDUCTION BENEFIT (Rule 171700).~~

~~01. Community Income When Spouse Resides In Medical Care Facility. Where community property is held by spouses either of whom reside in a medical care facility household income includes all income received by both spouses. Both spouses non-reimbursed medical expenses as defined in Section 213(d) of the Internal Revenue Code are deductible from household income. **Blind.** A person for whom there exists the medically documented opinion that the person is functionally blind as defined in Section 67-5402(2), Idaho Code.~~

(7-1-98)(____)

~~02. Community Income When Spouse Does Not Reside In Medical Care Facility. In all cases where community property is held by a household member except Subsection 171.01, one-half (1/2) of both community income and medical care expenses shall be credited to each spouse. Each spouse's separate income, if any, and share of community income shall be included in household income if the spouse is a household member.~~

(7-1-98)

~~062. Burden Of Proof. The claimant has the burden of proof to establish claimant's eligibility for tax reduction benefits. See Rule 610 of these rules.~~

(7-1-98)(____)

~~03. Primary Dwelling Place Terms. For purposes of Section 63-701(9), Idaho Code, the following definitions apply: **Claimant's Income.** All income defined in Section 63-701(5), Idaho Code, that is received by either spouse is included in household income even if one (1) spouse lives in a medical care facility or otherwise lives outside the home.~~

(7-1-98)(____)

~~a. The terms "his home" and "claimant's home" mean primary dwelling place;~~

(7-1-98)

~~b. The terms "a home" and "the home" mean dwelling.~~

(7-1-98)

~~04. Fatherless/Motherless Child. Fatherless/Motherless child for purposes of Section 63-701(1), Idaho Code, means a child judicially determined to be abandoned as defined by Sections 16-1602 or 16-2005, Idaho Code, by the child's male/female parent or a child whose male/female parent has had his parental rights terminated pursuant to court order or is deceased.~~

(7-1-98)(____)

~~05. Motherless Child. Motherless child for purposes of Section 63-701(1), Idaho Code, means a child judicially determined to be abandoned as defined by Sections 16-1602 or 16-2005, Idaho Code, or a child whose~~

~~female parent has had her parental rights terminated pursuant to a court order or is deceased.~~ (7-1-98)

05. Proportional Reduction Of Benefits. Proportional reduction of benefits pursuant to 63-701(8), Idaho Code, is required for partial ownership of otherwise eligible property. ()

a. There is no reduction of benefits for community property with no other interests. ()

b. In other cases, benefits are to be calculated by applying the claimant's property tax reduction benefit to the eligible net taxable value of the claimants property. This value is determined by multiplying gross market value times the claimant's percent of ownership and subtracting the claimant's share of the homeowner's exemption. For example:

Land Market Value	\$ 50,000
Improvement Market Value	\$150,000
Gross Market Value	\$200,000
Maximum Allowable Homeowner's Exemption (Based on Improvement Market Value)	<\$ 50,000>
Percent of Ownership of Claimant	50%
Claimant's Share of Land Market Value (Land Market Value x Percentage of Ownership)	\$ 25,000
Claimant's Share of Improvement Market Value (Improvement Market Value x Percentage of Ownership)	\$ 75,000
Claimant's Share of Homeowner's Exemption (Maximum Allowable Homeowner's Exemption x Percentage of Ownership)	<\$ 25,000>
Claimant's Eligible Net Taxable Value equals Land plus Improvement less Homeowner's Exemption ($\$25,000 + \$75,000 - \$25,000 = \$75,000$)	\$ 75,000

In this example, the claimant's property tax reduction benefit will be applied to the tax on his/her net taxable market value of seventy-five thousand dollars (\$75,000). ()

06. Physician. Physician shall mean a licensed physician, as defined in Section 54-1803(3), Idaho Code. ()

~~**07. Ownership Interest.** Partial ownership interest for purposes of Section 63-701(8), Idaho Code, means property owned by more than one (1) person. A community property interest shall be a single property interest.~~
Widow/Widower. A person who has not remarried after the death of their spouse or whose subsequent marriage has been annulled. ()

701. -- 708. (RESERVED).

709. PROPERTY TAX ~~RELIEF~~ ("CIRCUIT BREAKER") REDUCTION BENEFIT PROGRAM -- SPECIAL SITUATIONS (Rule 709).
~~Section 63-701, Idaho Code.~~ (4-5-00)

01. Scope. This rule addresses issues relating to the "circuit breaker" property tax relief reduction benefit program as it applies to certain unusual factual situations. It states general principles applicable to unusual cases and provides some illustrative examples. The rule cannot address every conceivable situation that may arise, but the principles established may apply to the resolution of situations not addressed in the rule. The following examples apply to qualified property tax reduction claimants. (7-1-99)()

02. General Principles. ~~Relief~~ Benefits under the ~~circuit breaker~~ property tax reduction program ~~is~~ are only available to owners of property which have first qualified for the homeowner's exemption under Section 63-602G, Idaho Code. ~~Rule 610 of these rules addresses when property qualifies for the homeowner's exemption in the special situations discussed in this rule.~~ See Rule 610 of these rules. (7-1-99)(____)

03. Dual Residency Couples. The definition of "dual residency couple" in Rule 610 of these rules applies to this rule. (7-1-99)

a. Example -- Both residences are community property. ~~Circuit breaker relief~~ Property tax reduction is available in regard only to the residential improvement qualifying for the homeowner's exemption. See Rule 610 of these rules. (7-1-99)(____)

b. Example -- One (1) residence is community property, the other is separate property. ~~Circuit breaker relief~~ Property tax reduction is available in regard only to the residential improvement qualifying for the homeowner's exemption. See Rule 610 of these rules. (7-1-99)(____)

c. Example -- Both residences are separate property. ~~Circuit breaker relief~~ Property tax reduction is available in regard to both residential improvements. See Rule 610 of these rules. (7-1-99)(____)

d. Household income. In the three (3) examples in Subsection 709.03, the household income upon which qualification is determined is the total of one-half (1/2) the community income plus any separate income of the spouse residing in the residence plus the income of any other household member. (7-1-99)

04. Apportionment Of ~~Circuit Breaker~~ Property Tax Reduction Benefits By Dual Residency Couples. If a dual residency couple makes the election provided in Subsection 610.07 of these rules, each spouse shall be entitled to one-half (1/2) of the amount of any ~~circuit breaker relief~~ property tax reduction available to that spouse alone. The household income of the spouse shall be one-half (1/2) of the community income plus any separate income of the spouse residing in the residence plus the income of any other household member. The total ~~circuit breaker~~ property tax reduction benefit shall not exceed the amount of benefit available to the individual spouse with the least household income if no election were made. (4-5-00)(____)

05. Multiple Ownerships Including Community Interests As Partial Owners. Example: A deed conveys title to real property to a husband and wife and to an adult child of theirs. The husband and wife hold a community property interest in the improvement and the child is a tenant-in-common. The parents collectively hold a two-thirds (2/3) partial interest and the child holds a one-third (1/3) partial interest in the property. Qualification of the property for the ~~circuit breaker relief~~ property tax reduction is as follows: (7-1-99)(____)

a. If the residential improvement is the primary dwelling of the husband and wife but not of the child, the improvement qualifies for two-thirds (2/3) of the benefits. Household income is the total of the community and separate income of the spouses and the income of any other household member. (7-1-99)

b. If the residential improvement is the primary dwelling of the child, but not of the husband or wife, the improvement qualifies for one-third (1/3) of the benefits. Household income is the total of the child's income and the income of any other household member. (7-1-99)

c. If the residential improvement is the primary dwelling of the husband, wife and child, the improvement qualifies for the full benefits. Household income is the total of the community and separate income of the spouses, the income of the child and the income of any other household member. (7-1-99)

d. If the residential improvement is the primary dwelling of one (1) spouse but of neither the other spouse nor the child, the improvement qualifies for two-thirds (2/3) of the benefits unless the residential improvement of the other spouse has qualified for the homeowner's exemption. Household income is the total ~~of one-half (1/2) the~~ community income ~~plus any separate income of the~~ both spouses ~~residing in the residence~~ plus the income of any other household member. (7-1-99)(____)

e. If the residential improvement is the primary dwelling of one (1) spouse and the child, the

improvement qualifies for the full benefits unless the residential improvement of the other spouse has previously qualified for the homeowner's exemption. Household income is the total ~~of one-half (1/2) the community~~ income ~~plus any separate income of the~~ both spouses residing in the residence plus the income of the child and the income of any other household member. (7-1-99)(____)

710. -- ~~799~~16. (RESERVED).

~~188~~717. PROCEDURE AFTER CLAIM APPROVAL (Rule ~~188~~717).

01. ~~Property Tax Reduction Roll~~ Formatting Requirements. The property tax reduction roll shall be formatted as required by the ~~Tax Commission~~ Section 63-707, Idaho Code. ~~Specific formatting requirements are found in the "Circuit Breaker Procedure Manual".~~ (7-1-93)(____)

02. ~~The~~ Preliminary Property Tax Reduction Roll. The roll, certified by the assessor to the county auditor and the State Tax Commission by the fourth Monday in June, shall be termed the preliminary property tax reduction roll. The preliminary property tax reduction roll shall list property tax reduction claimants in alphabetical order unless the State Tax Commission grants permission for claimants to be listed in an alternate order. Each original claim form shall be submitted to the State Tax Commission in the same order as shown on the preliminary property tax reduction roll. (7-1-93)(____)

03. ~~Completed~~ Final Property Tax Reduction Roll. The completed property tax reduction roll, certified by each county clerk to the State Tax Commission by the fourth (4th) Monday in October, shall be termed the final property tax reduction roll. The final property tax reduction roll shall list property tax reduction claimants in the same order as shown on the preliminary property tax reduction roll, except that all fully disapproved claimants shall be deleted and not shown on the final property tax reduction roll. Erroneous claims which are partially disapproved by the State Tax Commission shall be shown on the final property tax reduction roll after the county clerk has made all adjustments or corrections listed on the notice sent to the county auditor pursuant to Section 63-122(~~6~~)707(6), Idaho Code, termed county change letter. (7-1-93)(____)

718. - 799. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

803. BUDGET CERTIFICATION -- DOLLAR CERTIFICATION FORM (L-2 FORM) (Rule 803).
Section 63-803, Idaho Code. (4-5-00)

01. Definitions. (4-5-00)

a. "Dollar Certification Form" (L-2 Form). The Dollar Certification Form (L-2 Form) is the form used to submit to the State Tax Commission the budget request from each Board of County Commissioners for each taxing district. This form shall be presumed a true and correct representation of the budget previously prepared and approved by a taxing district. The budget will be presumed adopted in accordance with pertinent statutory provisions unless clear and convincing documentary evidence establishes that a budget results in an unauthorized levy provided in Section 63-809, Idaho Code. (4-5-00)

b. "Prior Year's Market Value for Assessment Purposes." Prior year's market value for assessment purposes shall mean the value used to calculate levies during the immediate prior year. This value shall be used for calculating the permanent budget increase permitted for cities, pursuant to Section 63-802(1)(f), Idaho Code, and for fire districts, pursuant to Section 31-1420(3), Idaho Code. (4-5-00)

c. Annual Budget. For the purpose of calculating dollar amount increases permitted pursuant to Section 63-802(1), Idaho Code, the annual budget shall include any amount approved as a result of an election held pursuant to Sections 63-802(1)(f), 63-802(1)(g), or 31-1420(3), Idaho Code, provided that said amount is certified on the L-2 Form as part of the budget request. If the amount certified does not include the entire amount approved as a

result of the election held pursuant to Sections 63-802(1)(f), 63-80291)(g), and 31-1420(3), then the amount not used shall be added to the foregone increase amount determined for the taxing district. See the following example.

CERTIFIED PROPERTY TAX BUDGET LIBRARY DISTRICT*				
	<u>FY 1999</u>	<u>FY 2000</u>	<u>FY 2001</u>	<u>FY 2002</u>
<u>Annual Budget</u>	<u>\$10,000</u>	<u>\$10,000</u>	<u>\$10,700</u>	<u>\$11,621</u>
<u>3% Increase</u>	<u>\$0</u>	<u>\$300</u>	<u>\$321</u>	<u>\$349</u>
<u>Subtotal</u>	<u>\$10,000</u>	<u>\$10,300</u>	<u>\$11,021</u>	<u>\$11,970</u>
<u>1999 Election Amount</u>	<u>\$0</u>	<u>\$400 of \$1000</u>	<u>\$600 of \$1000</u>	<u>\$0</u>
<u>Certified Budget</u>	<u>\$10,000</u>	<u>\$10,700</u>	<u>\$11,621</u>	<u>\$11,970</u>

*The Library District with zero (\$0) new construction and annexation approves an additional budget amount of one thousand dollars (\$1000) in 1999, but only certifies six hundred dollars (\$600) for the year 2000. Note the example does not account for any foregone amount resulting from the district's decision to not increase its budget by three percent (3%) in 1997, 1998 or 1999. ()

02. Budget Certification. The required budget certification shall be made to each Board of County Commissioners representing each county in which the district is located. The certification shall be on a form prescribed by the State Tax Commission. (4-5-00)

03. Budget Requested Documents. Each Board of County Commissioners shall submit to the State Tax Commission a budget request for each taxing district in the county that certifies a budget request to finance the ad valorem portion of its annual budget. The Board shall not submit other documents unless requested to do so by the State Tax Commission. Documents not to be submitted to the State Tax Commission unless requested include newspaper advertisements, school district budget books, entire budget documents, other than the budget request, and similar documents. Each taxing district certifying a budget request to finance the ad valorem portion of its annual budget shall complete the State Tax Commission's L-2 Form. (4-5-00)

04. L-2 Form Contents. Each taxing district or unit completing an L-2 Form shall include the following information on this form. (4-5-00)

a. "Department or fund." Identify the department or fund for which the taxing district is requesting a budget for the current tax year. (4-5-00)

b. "Total approved budget." List the dollar amount of the total budget for each department or fund identified. The amounts must include all money that a taxing district has a potential to spend at the time the budget is set, regardless of whether funds are to be raised from property tax. (4-5-00)

c. "Cash forward." List any money brought forward from a prior year to help fund the approved budget. Cash forward is the difference between the total approved budget and the sum of amounts reported as "state and other funds" and "balance to be levied on". (4-5-00)

d. "State and other funds." List the revenue included in the total approved budget to be derived from sources other than property tax or money brought forward from a prior year. For example, sales tax revenue is included. (4-5-00)

e. "Balance to be levied on." Report the amount of money included in the total approved budget to be derived from property tax. (4-5-00)

f. Other information. Provide the following additional information. (4-5-00)

i. The name of the taxing district or authority; (4-5-00)

- ii. The date of voter approval (if required by statute) and effective period for any new or increased fund which is exempt from the budget limitations in Section 63-802, Idaho Code; (4-5-00)
- iii. The signature, date signed, printed name, address, and phone number of an authorized representative of the taxing district; (4-5-00)
- iv. For a fire district with a population greater than twenty-five hundred (2500), a signature certifying such. (4-5-00)
- v. For a hospital district which has held a public hearing, a signature certifying such action. (4-5-00)

05. Special Provisions For Fire Districts Levying Against Operating Property. To prevent double counting of public utility property values, for any year following the first year in which any fire district increases its budget using the provision of Section 63-802(2), Idaho Code, such fire district shall not be permitted further increases under this provision unless the following conditions are met: ()

- a. The fire district and public utility have entered into a new agreement of consent to provide fire protection to the public utility; and ()
- b. Said new agreement succeeds the original agreement; and ()
- c. In the first year in which levies are certified following the new agreement, the difference between the current year's taxable value of the consenting public utility and public utility value used in previous budget calculations made pursuant to this section is used in place of the current year's taxable value of the consenting public utility. ()

(BREAK IN CONTINUITY OF SECTIONS)

810. -- ~~944~~35. (RESERVED).

~~215~~936. CANCELLATION OF TAXES BY BOARD OF COUNTY COMMISSIONERS (Rule ~~215~~936).
Section 63-1302, Idaho Code authorizes boards of county commissioners to cancel property taxes that for any lawful reason should not be collected. The board may cancel taxes for double payment of taxes or the double or erroneous assessment of any property for the same year or other errors. Additionally, when the canceled taxes have been paid, the board may refund the taxes. The authority to cancel taxes under Section 63-1302, Idaho Code, extends neither to hardship situations nor to cancellation of tax resulting from unequal or excessive valuation by the assessor. Mere unequal or excessive valuation by the assessor does not make the assessment illegal, nor constitute any lawful reason that the taxes should not be collected. A taxpayer who believes the value placed on his property is excessive must file his appeal with the county board of equalization within the time prescribed by law. A taxpayer seeking relief due to hardship must apply pursuant to Section 63-602AA, Idaho Code. (7-1-98)

~~937. - 944.~~ (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

965. -- ~~981~~79. (RESERVED).

~~580~~980. VALUATION OF MINES FOR TAXATION (Rule ~~580~~980).
The prices referred to in Section 63-2801, Idaho Code, for patented lode and placer claims are five dollars (\$5) and two dollars fifty cents (\$2.50), per acre, respectively. (3-23-94)

981. (RESERVED).

IDAPA 35 - STATE TAX COMMISSION
35.01.05 - MOTOR FUELS TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0105-0001
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 Sections, 63-105 and 63-2427 Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 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:

Rule 010 - Definitions - is being amended to delete obsolete financial instruments, update terminology through out the rule, and better define the Tax Commission's requirements for financial instruments that may be accepted as an alternative to a surety bond. Code references are also being updated.

Rule 100 - Use Tax On Gasoline - is being amended to change the reporting period to the taxpayer's fiscal year or calendar year if the taxpayer is not required to file an Idaho income tax return. The due date will be the date the taxpayer's income tax return is due or April 15 for calendar year filers.

Rule 130 - Distributor's Fuel Tax Reports - is being amended to allow all motor fuels to be deducted to comply with a statute change on sales to the Idaho National Guard.

Rule 135 - Alternative Reporting For Persons Who Import Motor Fuels Into Idaho Only For Use In Their Own Aircraft, Motor Vehicles And Equipment - is being amended to change 'state' to 'jurisdiction' and to clarify the reporting of petroleum and petroleum products for use in their own vehicles and equipment.

Rule 230 - Special Fuels Subject To Use Tax-Reporting - is being amended to correct a reference to a subsection in Rule 290.

Rule 310 - Exemption From Requirement For Bonds, Determination Of Financial Responsibility - is being amended to add authority to grant an exemption from bonding when the distributor has provided information to show financial responsibility even when the submission is incomplete.

Rule 420 - Documentation For IFTA Carrier Reporting And Special Fuels Users Claiming Nontaxable Use Of Special Fuel In A Motor Vehicle - is being amended to correct rules references and obsolete language from 2000 rulemaking.

Rule 501 - Petroleum Transfer Fee Suspended - is being promulgated to reflect that the petroleum transfer fee is suspended because the insurance reserve account has reached the statutory limit. The rule will cover the date the fee was suspended, that it may be reinstated at some future date, and transfer fees accrued before the suspension are subject to collection.

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

No fees are applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the amendments to the motor fuels are of a nonsubstantive nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Randy Nilson at (208) 334-7530. Anyone may submit

written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2000.

DATED this 23rd day of August, 2000.

Randy Nilson, 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. 35-0105-0001

010. DEFINITIONS (Rule 010).

The definitions provided by statute, including the definitions in Section 63-2401, Idaho Code, apply to these rules. Additionally, the following definitions shall apply. (6-23-94)

01. Bond. A person required to post a bond may, instead of posting a surety bond, deposit with the State Tax Commission any of the following amounts equivalent to the amount of the bond required: ~~(6-23-94)~~()

~~a. Investment certificates. Investment certificates or share accounts, not exceeding the federally insured amount, issued by a savings and loan association doing business in Idaho and insured by the Federal Savings & Loan Insurance Corporation. Evidence of the insured account, either certificate or passbook, must be delivered to the Commission along with a properly executed assignment form by which the funds on deposit are assigned and made payable to the Idaho State Tax Commission. (6-23-94)~~

~~b. Lawful money. Lawful money of the United States. Cash bonds must be submitted as a cashier's check, money order or other certified funds that are payable to the Idaho State Tax Commission. A cash bond will not accrue interest. The State Tax Commission will cash the funds and hold the money for the duration the taxpayer holds a distributor license. (6-23-94)()~~

c. Letters of credit. Irrevocable standby letters of credit, not exceeding the federally insured amount, issued by a bank doing business in Idaho, and insured by the Federal Deposit Insurance Corporation, made to the benefit of the Idaho State Tax Commission. The terms of the letter of credit must allow the State Tax Commission to make demand directly against the issuer of the letter of credit for any taxes, penalties, and interest due and unpaid, upon which the taxpayer's rights to appeal have expired, and for which the letter of credit was submitted to secure. The letter must include the following items: (6-23-94)()

- i. Issuing institution: ()
- ii. Taxpayer's name: ()
- iii. Effective date: ()
- iv. Expiration date and place: ()
- v. Idaho State Tax Commission as the payee: ()

- vi. Dollar amount covered: ()
- vii. Terms of letter: ()
- viii. Letter number; and ()
- ix. Authorized signatures. ()

~~dc.~~ Time Certificates of Deposit (CD). Automatically renewable time certificates of deposit, not exceeding the federally insured amount, issued by a ~~bank~~ financial institution doing business in Idaho and federally insured by the Federal Deposit Insurance Corporation, made in the name of the depositor, payable to the "Idaho State Tax Commission" and containing the provisions that interest earned shall be payable to the depositor. The State Tax Commission will hold the CD. If the financial institution holds the actual CD or does not issue a certificate, a verification form is required by the State Tax Commission confirming the CD. The form may be obtained from the State Tax Commission. ~~(6-23-94)~~()

d. Joint Savings Account. Joint savings accounts, not exceeding the federally insured amount, at a financial institution doing business in Idaho and federally insured. The joint savings account should be issued in the name of the taxpayer and the "Idaho State Tax Commission." Evidence of the insured account must be delivered to the State Tax Commission. The taxpayer will be notified by the State Tax Commission of any increases in bonding when it becomes necessary. The taxpayer may send a check to cover the difference which will be deposited in the joint savings account. The interest accrued on the account is the taxpayer's. The terms of the joint savings account agreement must include the following: ()

- i. No Automatic Teller Machine (ATM) card may be issued to the account; and ()
- ii. Withdrawals require both signatures of the parties of the joint account or by the Idaho State Tax Commission alone. ()

02. Commercial Motor Boat. A commercial motor boat, as defined in Section 63-2401(4), Idaho Code, includes a motor boat used in a business that rents boats to others who use the boats for pleasure. (6-23-94)

03. IFTA. Means the International Fuel Tax Agreement referred to in the Intermodal Surface Transportation Act of 1991, Public Law 102-240 section 4008, 105 Stat. 1414, codified as 49 USC Sections 31701 through 31708, and in section 63-2442A, Idaho Code. ~~(6-23-94)~~()

04. Pay, Paid, Payable Or Payment. When used in reference to any amount of tax, penalty, interest, fee or other amount of money due to the State Tax Commission, the words pay, paid, payable, or payment mean an irrevocable tender to the Idaho State Tax Commission of lawful money of the United States. As used herein, lawful money of the United States means currency or coin of the United States at face value and negotiable checks that are payable in money of the United States; provided however, acceptance by the State Tax Commission of any check that is subsequently dishonored by the bank upon which it is drawn shall not constitute payment. Additionally, nothing herein shall limit the authority of the State Tax Commission to refuse to accept any check drawn upon the account of a taxpayer who has previously tendered any check that was dishonored by the bank upon which it was drawn. All amounts due the state must be paid by electronic funds transfer whenever the total amount of tax due plus any related fee, interest, penalty or other additional amount is one hundred thousand dollars (\$100,000) or more, according to rules promulgated by the Idaho State Board of Examiners. ~~(6-23-94)~~()

05. These Rules. The term "these rules" refers to this chapter, IDAPA 35.01.05, of rules relating to the Idaho Motor Fuels Tax and the Idaho Petroleum Transfer Fee. (6-23-94)

(BREAK IN CONTINUITY OF SECTIONS)

100. USE TAX ON GASOLINE (Rule 100).

01. Use Tax. The tax imposed by Section 63-2402, Idaho Code, is a use tax complementary to the principal tax imposed by Section 63-2405, Idaho Code. It does not apply to any gasoline upon which the tax has already been paid by a licensed distributor. The tax shall be paid by the user filing with the State Tax Commission a report of the number of gallons used that are subject to this tax and by remitting the amount of tax due under this section. ~~The report shall be filed no later than thirty (30) days after the end of the calendar quarter during which the use occurred.~~ (6-23-94)(____)

02. Reporting. The report shall be made on forms prescribed by the State Tax Commission and may be attached to the taxpayer's Idaho income tax return, if such return is required. The amount of fuels tax due on gasoline will be offset against any refund due from other motor fuels taxes or income tax refund shown on the return. If a person is not required to file an Idaho income tax return, and is subject to the tax imposed by Section 63-2402, Idaho Code, the tax shall be reported annually, on a calendar year basis, in the manner and form required by the State Tax Commission. (____)

03. Due Date. The use tax due for each calendar year shall be due on or before April 15 of the immediately succeeding calendar year. A person may pay any fuels tax due by filing Form 75 annually or for any time period that is not less than one (1) month. (____)

(BREAK IN CONTINUITY OF SECTIONS)

130. DISTRIBUTOR'S FUEL TAX REPORTS (Rule 130).

01. Monthly Reports. Every licensed distributor shall file with the State Tax Commission a monthly tax report and supporting detailed schedules on forms prescribed by the State Tax Commission. The distributor must keep detailed inventory records. All reports which require the reporting of the number of gallons of motor fuels and other petroleum products shall be stated in gross gallons. With respect to the quantity of motor fuels and other petroleum products received during the month, the distributor shall include a listing of each person from inside and/or outside Idaho supplying motor fuels and petroleum products to the distributor during the month and the number of gallons supplied by each supplier, on a load by load basis. Such reports shall contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report shall include the following information together with such other information as the State Tax Commission may require: (7-1-98)(____)

- a. The beginning inventory of motor fuels and other petroleum products on the first day of the month; (7-1-98)
- b. The total quantity of motor fuels and other petroleum products received during the month; (7-1-98)
- c. The total quantity of motor fuels and other petroleum products disbursed to licensed distributors tax not collected or exported, and ~~gasoline and aircraft engine~~ motor fuel sold to the Idaho National Guard during the month; (7-1-98)(____)
- d. The total quantity of motor fuels and other petroleum products transferred or relabeled from one (1) fuel type to another; (7-1-98)
- e. The casualty loss documented with satisfactory written explanation of proof of loss; (7-1-98)
- f. The ending inventory of motor fuels and other petroleum products on the last day of the month; (7-1-98)
- g. The gross taxable gallons of motor fuels and other petroleum products; (7-1-98)

- h. The tax-paid purchases; (7-1-98)
- i. The net taxable gallons; (7-1-98)
- j. The gallons after deduction of a one percent (1%) or two percent (2%) allowance, whichever is appropriate. See Rule 140 of these rules; (7-1-99)
- k. The tax computation; (7-1-98)
- l. The bad debt amounts, refer to Rule 140 of these rules; (7-1-98)
- m. The gaseous fuels permit fees; (7-1-98)
- n. The net tax due; (7-1-98)

02. Report Due And Payment Required. The report shall be due on or before the last day of the month following the month to which the report relates. Supporting detailed schedules required by the State Tax Commission must accompany the report, together with all documentation and the payment of any tax, transfer fee, penalty or interest due. See Rule 010 of these rules relating to method of payment and requirement for payments of one hundred thousand dollars (\$100,000) or more. (7-1-99)

03. Machine Tabulated Data. Machine tabulated data will be accepted in lieu of detailed schedules on State Tax Commission provided forms but only if the data is in the same format as shown on the required schedules. Before any other format may be used, the distributor must make a written request to the State Tax Commission with a copy of the format and must be granted written authorization to use that format. (7-1-98)

04. Supplemental Reports. In addition to the monthly report, a supplemental report may be filed in those cases involving additional shipments of motor fuels and other petroleum products to the distributor. The supplemental report may be filed only when the distributor is diligent in reporting shipments in the monthly report. Only shipments received within the last five (5) days of the month may be reported in a supplemental report. Shipments received before that date will be subject to penalty if reported in the supplemental report. If a supplemental report is filed, the State Tax Commission will impose interest, but the report will not be subject to penalty. The supplemental report must be postmarked on or before the tenth day of the month following the month in which a report from which shipments were omitted was due. (7-1-98)

- 05. Timely Reporting.** Any petroleum product shipments that are: (7-1-98)
- a. Reported on a timely supplemental report shall be subject to interest but are not subject to penalty. (7-1-98)
 - b. Not reported on a timely monthly or supplemental report shall be subject to interest and may be subject to penalty. (7-1-99)

06. Motor Fuels-Receipts. All gasoline, gasohol, aircraft engine fuel, and undyed diesel fuel received by a distributor are subject to the fuels tax and transfer fee. All receipts of dyed diesel fuel and other ~~non-propulsion~~ petroleum products ~~that~~ are not subject to the special fuels tax ~~but~~ are subject to the transfer fee. The special fuels tax is not imposed on gaseous fuels when the fuels are received. Refer to Rule 105 of these rules for the taxation and reporting of gaseous fuels used in motor vehicles. (7-1-99)(____)

(BREAK IN CONTINUITY OF SECTIONS)

135. ALTERNATE REPORTING FOR PERSONS WHO ~~ONLY~~ IMPORT MOTOR FUELS INTO IDAHO ONLY FOR USE IN THEIR OWN AIRCRAFT, MOTOR VEHICLES, AND EQUIPMENT. (Rule 135.)

01. In General. The state of Idaho imposes an excise tax ~~and transfer fee~~ on all motor fuel and transfer fee on all ~~non-motor fuel~~ petroleum and petroleum products, received in Idaho. See Rule 510 of these rules for the definition of petroleum and petroleum products. Motor fuel imported into Idaho is received at the time the fuel arrives in Idaho by the person who is the owner of the motor fuel when the fuel arrives in Idaho. The excise tax and transfer fee due on the motor fuel received in Idaho during a month are normally reported on an Idaho Motor Fuels Distributor Report on a monthly basis. (7-1-99)(____)

02. Alternative To Monthly Reporting For Qualified Consumers. As an alternative to obtaining an Idaho motor fuel distributor license and filing monthly reports, a qualified consumer may file an annual report to remit the motor fuel tax and transfer fee due to the state of Idaho or to receive a refund of excess tax or transfer fee paid. (7-1-99)

03. Qualifications. To be a qualified consumer under this rule, a person must: (7-1-99)

- a. Use the imported motor fuel only in its own aircraft, motor vehicles, or equipment; and (7-1-99)
- b. Import less than one-hundred thousand (100,000) gallons of motor fuel into Idaho in a calendar year. (7-1-99)

04. Documentation Of Export. To claim an export of motor fuel or other petroleum products a qualified consumer must have tax reports or other evidence that will verify that the exported fuel was reported to and any tax due was paid to the ~~state~~ jurisdiction into which the fuel was claimed to have been exported. (7-1-99)(____)

05. Limitations. (7-1-99)

- a. A qualified consumer may not claim an export from Idaho for fuel in the supply tank of a motor vehicle or aircraft. (7-1-99)
- b. A licensed Idaho fuel distributor may not file this report. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

230. SPECIAL FUELS SUBJECT TO USE TAX--REPORTING (Rule 230).

Any person who has purchased tax-exempt special fuels and subsequently uses the special fuels in a licensed motor vehicle, not subject to Rule 400 of these rules, upon highways in Idaho, shall annually report to the State Tax Commission the amount of special fuels tax due. (7-1-98)

01. Reporting. A person who wishes to pay their fuel taxes due more frequently may file Form 75 for any time period that is not less than one (1) month. The report shall be made on forms prescribed by the State Tax Commission and may be made together with the claimant's Idaho income tax return, if such a return is required. The amount of fuels tax due on special fuels may be off-set against any refund due from other motor fuels taxes or income taxes. In the case of persons not required to file an income tax return, the amount of special fuels tax due or any refund claim shall be filed for a time period of not less than one (1) month on forms provided by the State Tax Commission for that purpose. See Rule 250 of these rules. (7-1-98)

02. Lack Of Records To Compute Fuel Consumption Rate. In the event that the special fuels consumer fails to keep sufficiently detailed records to determine special fuels consumed by its motor vehicles, the consumption rates found in Subsection 290.01.e- of these rules shall be presumed to be correct. (7-1-98)(____)

03. Fuel Records. If the special fuels consumer fails to keep sufficiently detailed records to determine taxable gallons, all tax-exempt special fuels purchased will be subject to the fuels tax unless the number of such gallons placed into the supply tank of the licensed or required to be licensed motor vehicle can be determined. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

310. EXEMPTION FROM REQUIREMENT FOR BONDS, DETERMINATION OF FINANCIAL RESPONSIBILITY (Rule 310).

01. Exemption To Bond Requirements For Licensed Distributors. Bonds, as referred to in Rule 010 of these rules are required of all licensed distributors unless the distributor is found to be financially responsible. A licensed distributor seeking exemption from the bonding requirement must apply for the exemption by filing a written petition with the State Tax Commission. The petition must contain information relating to the requirements of Section 63-2428, Idaho Code, for establishing financial solvency and responsibility. Together with the petition, the distributor must submit any information required in the following Subsections 310.01.a. through 310.01.e. ~~(7-1-97)~~(____)

a. If all or any part of the unencumbered property offered to show financial solvency is real property, the petition must include both a title report from an independent title company reporting on the state of the title of the real property as of a time not more than fifteen (15) days before the filing of the petition and a copy of the most recent valuation notice issued by the county assessor for ad valorem property tax purposes. (6-23-94)

b. If all or any part of the unencumbered property is licensed motor vehicles, the petition must include copies of the titles of the vehicles and evidence of the value of the vehicles from a source independent from the distributor. (6-23-94)

c. If all or any part of the unencumbered property is personal property other than motor vehicles, the petition must include a description of the property, evidence of ownership of the property, an independent appraisal of the property, and evidence that the property is unencumbered. Copies of all documents relating to all of the distributor's current and long-term liabilities, including contingent liabilities, lawsuits or potential lawsuits to which the distributor is or may become a party, are required to establish that no security interests or other encumbrances exist. (6-23-94)

d. The petitioner must arrange, at the petitioner's expense, for an established, independent commercial credit rating company to submit directly to the State Tax Commission a current and complete credit report about the licensed distributor; or, the distributor must include with the petition its most recent financial statements, including a current income statement, balance sheet, and statement of cash flows. If the petitioner is a publicly held company, the financial statements must be ~~certified~~ accompanied by an opinion issued by an independent certified public accountant and a responsible company officer must also certify that the financial statements provided present fairly the financial position of the company. If the petitioner is a privately held company, the financial statements must be reviewed by a certified public accountant or licensed public accountant and a responsible company officer must also certify that the financial statements provided present fairly the financial position of the company. ~~(7-1-97)~~(____)

e. The State Tax Commission may require the distributor to supplement its petition with such further information as the State Tax Commission, in its discretion, finds necessary to determine financial responsibility. If incomplete or substitute submissions are received by the State Tax Commission, the information submitted will be reviewed on a case-by-case basis to determine whether an exemption from the bonding requirement will be granted. ~~(6-23-94)~~(____)

02 Conditions For Termination Of Exemption. If granted, the exemption from the bonding requirement shall terminate: (6-23-94)

a. One (1) year after the date on which it was granted. (6-23-94)

b. Upon the occurrence of any delinquency in motor fuels tax. (6-23-94)

c. Upon the occurrence of any encumbrance of any of the property upon which the finding of financial responsibility was based. (6-23-94)

d. Upon the occurrence of any change in the business activity of the distributor that would cause the amount of bond required to be increased to an amount greater than the value of the distributor's unencumbered assets. (6-23-94)

e. Upon the occurrence of any event prejudicing the distributor's solvency or financial responsibility. (6-23-94)

03. Bond Requirement Upon Termination Of Exemption. Immediately upon any termination of the exemption from the requirement for a bond the distributor must supply the required bond according to Section 63-24028, Idaho Code. (~~6-23-94~~)()

04. Pending Application Does Not Excuse The Bond Requirement. Having an application pending for exemption from the requirement for a bond does not excuse the bond. If a bond exemption is due to expire, the distributor must submit a new petition applying for a continuation of the exemption no later than ninety (90) days before the day the exemption is due to expire to prevent a lapse in the exemption. The petition must meet all of the requirements of this rule. (6-23-94)

05. Conditions For Renewal Of Bond Exemption. The following must be submitted to renew a bond exemption: (7-1-97)

a. A written request for renewal of waiver; (7-1-97)

b. The information required in Subsections 310.01.a. through 310.01.e. of this rule. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

420. DOCUMENTATION FOR IFTA CARRIER REPORTING AND SPECIAL FUELS USERS CLAIMING NONTAXABLE USE OF SPECIAL FUEL IN A MOTOR VEHICLE (Rule 420).

01. Records Required For Idaho IFTA Carriers And Special Fuels Users Claiming Nontaxable Use Of Special Fuels In A Motor Vehicle. Records are required to verify the accuracy of any tax report or worksheet filed with the State Tax Commission. The taxpayer displaying, or required to display, an IFTA decal or a ninety-six (96) hour trip permit, or a special fuels user claiming nontaxable use of tax-paid special fuels in a motor vehicle using a Form 75, shall retain originals of all invoices or other documents relating to purchases of special fuels and all records relating to the mileage of the motor vehicles. (7-1-98)

02. Fuel Records. In order for the IFTA carrier or other special fuels user seeking a refund for the nontaxable use of special fuels in its motor vehicle to obtain credit for tax-paid purchases, a receipt or invoice, a credit card receipt, or microfilm/microfiche of the receipt or invoice must be retained by the special fuels user showing evidence of such purchases and tax having been paid. An acceptable receipt or invoice for tax-paid purchases taken as credit must include, but not be limited to, the following: (7-1-98)

a. The date of each receipt of fuel; (7-1-98)

b. The name and address of the person from whom purchased or received; (7-1-98)

c. The number of gallons received; (7-1-98)

d. Both taxable and nontaxable usage of fuel; (7-1-98)

e. The type of fuel; (7-1-98)

f. The specific vehicle or equipment into which the fuel was placed; (7-1-98)

g. Detailed records of all withdrawals from bulk storage tanks, including the date of withdrawal, the number of gallons withdrawn, the fuel type, the unit number, the equipment type, and inventory records; (7-1-98)

h. Documents necessary to substantiate volume, time or weight for ~~off-loading power-take-off and auxiliary engine~~ allowances described in ~~Subsection 290.02.e.~~ Rule 292 of these rules. (7-1-98)()

03. Mileage Records. Non-IFTA carriers who qualify to use one (1) of the “Standard MPG’s” found in ~~Subsection Rule 290.02.g.~~ of these rules need only record and report Idaho taxable miles. All IFTA carriers and all other special fuels users seeking a fuels tax refund for nontaxable special fuels used in a motor vehicle shall maintain detailed mileage records, such as trip logs or trip sheets, on an individual-vehicle basis. Such records shall contain, but not be limited to: (7-1-98)()

a. Total trip miles, including vicinity miles, except for non-IFTA motor vehicle(s) using one (1) of the “standard miles per gallon” (MPG) found in ~~Subsection Rule 290.02.g.~~ of these rules; (7-1-98)()

b. Miles traveled for taxable and nontaxable use. Only taxable miles traveled are required for non-IFTA motor vehicles using one (1) of the “standard miles per gallon” found in ~~Subsection Rule 290.02.g.~~ of these rules; (7-1-98)()

c. Mileage recaps for each vehicle. IFTA carriers are required to keep mileage recaps for each ~~state or~~ jurisdiction in which the IFTA vehicle operated; (7-1-98)()

d. Starting and ending dates of trips; (7-1-98)

e. Trip origin, interim stops and destination; (7-1-98)

f. Hubometer or odometer readings from the beginning and ending of each trip and at the crossing of each jurisdiction’s border. Interstate motor vehicles that, for certain time periods, do not cross jurisdiction borders need only record daily hubometer or odometer readings for those time periods; (7-1-98)

g. Complete routes of travel, including pick up and delivery locations; (7-1-98)

h. Vehicle license number or unit number; (7-1-98)

i. Driver’s name. (7-1-98)

04. Additional Records Requirements. Other records may be required, such as: (7-1-98)

a. Bills of lading or manifest documents; (7-1-98)

b. Vehicle dispatch ledgers; (7-1-98)

c. Accounts payable and receivable; (7-1-98)

d. Lease agreements; (7-1-98)

e. Quarterly mileage returns filed with the Idaho Transportation Department; (7-1-98)

f. Driver pay records; (7-1-98)

g. Driver logs; (7-1-98)

h. Fuel use trip permits; and (7-1-98)

i. Other documents used in preparing fuel tax reports. (7-1-98)

05. Trip Summaries. Individual trips shall be accumulated into monthly, quarterly, or annual

summaries. These summaries shall be used as the basis for the miles submitted on the IFTA quarterly or annual reports, and on the worksheet submitted with the Form 75. (7-1-98)

06. Computer Printout Support. Hard copies of summary computer printouts must be supported by trip sheets or logs verifying mileage traveled. (7-1-98)

07. Mileage Information. Information recorded on trip sheets must be legible and reflect actual miles traveled. Mileage records must include all movement of the vehicle including loaded, empty, and tractor-only (bobtail) miles. Non-IFTA carriers who qualify to use a "Standard MPG" need only record and report taxable miles in Idaho. (7-1-98)

08. Records Retention. The records required in this rule shall be retained for the greater of three (3) years for Idaho special fuels users or the time during which the taxpayer's income tax return is subject to adjustment by either the State Tax Commission or voluntary action by the taxpayer if the refund claim is filed with the taxpayer's Idaho income tax return. Records shall be retained for four (4) years for IFTA license holders. (7-1-98)

09. U.S./Metric Conversion. The following conversion factors must be used, when necessary, to convert fuel and mileage records to U.S. or metric measurement:

One (1) Liter	=	.2642 gallons
One (1) Gallon	=	3.785 liters
One (1) Mile	=	1.6093 kilometers
One (1) Kilometer	=	.62137 miles

(7-1-98)

10. Mileage Disputes. Whenever a mileage dispute arises between the taxpayer and the State Tax Commission, the official mileage map distributed by the appropriate authority in each jurisdiction will be used to resolve the point to point mileage differences. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

501. PETROLEUM TRANSFER FEE SUSPENDED (RULE 501).

The Petroleum Transfer Fee was suspended as of October 1, 1999. Imposition of the Petroleum Transfer Fee may be reinstated pursuant to Section 41-4908(10), Idaho Code. Unpaid petroleum transfer fees imposed for periods before October 1, 1999, are still due and may be subject to audit, assessment and collection. ()

~~502.~~ -- 509. (RESERVED).

IDAPA 35 - STATE TAX COMMISSION
35.01.08 - IDAHO MINE LICENSE TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0108-0001
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 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 October 18, 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:

Rule 040 - Mine License Tax Returns - is being amended to correct a reference to the Tax Commission's Administration and Enforcement Rules.

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

No fee applicable.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Janice Boyd, (208) 334-7530.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2000.

DATED this 23rd day of August, 2000.

Janice Boyd, Tax Policy Specialist
State Tax Commission
800 Park Blvd. Plaza IV
P. O. Box 36, Boise, ID 83722
(208) 334-7530 / FAX (208) 334-7844

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0108-0001

040. MINE LICENSE TAX RETURNS (Rule 040).

Section 47-1203, Idaho Code. In addition to the requirements of a valid return provided in Rule ~~8150~~ of the Tax Commission Administration and Enforcement Rules, a mine license tax return shall include a schedule listing the name, address, and employer identification number or social security number, of each recipient of royalties paid by the taxpayer filing the return. The royalties shall be separately stated for each mining operation. Each mine license tax return shall also include a copy of the depletion expense computation applicable to Idaho mining properties that was included in the taxpayer's federal income tax return. (7-1-97)(_____)

IDAPA 35 - STATE TAX COMMISSION
35.02.01 - TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES
DOCKET NO. 35-0201-0001
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) 63-105 and 63-3039, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 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:

Rule 155 – Tax Returns And Other Documents Filed Electronically – is being amended due to 2000 legislation by deleting obsolete language regarding electronically filed returns.

Rule 310 – Interest On Amounts Of Tax Accruing Or Unpaid – is being amended to add a subsection to the rule identifying the rate of interest for calendar year 2001.

Rule 400 – Penalties-General Rules – is being amended to change the amount charged for dishonored checks from ten dollars to twenty dollars and to correct code references.

Rule 430 – Penalty For Failure To File, Failure To Pay, Or Delinquent Filing – is being amended to conform to 2000 legislation in the calculation of the late payment penalty.

Rule 700 – Disclosure Of Information – is being amended to delete information that was added to the code by 2000 legislation.

Rule 701 – Disclosure Of Information – Information Provided To Law Enforcement Or Prosecutor – is being deleted because the language has been added to code by 2000 legislation.

Rule 704 - Disclosure Of Information - Government Agencies And Officials - is being amended to add the Department of Treasury Financial Management Services and the governing entity of the International Fuels Tax Agreement to the list of agencies with exchange agreements due to 2000 legislation.

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

No fees applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated 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 Janice Boyd, (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 25, 2000.

DATED this 23rd day of August, 2000.

Janice Boyd, Tax Policy Specialist
State Tax Commission
800 Park Blvd. Plaza IV
P. O. Box 36
Boise, ID 83722
(208) 334-7530
FAX (208) 334-7844

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0201-0001

155. TAX RETURNS AND OTHER DOCUMENTS FILED ELECTRONICALLY (Rule 155). (7-1-99)
Sections 63-115, 63-3039, 9-328, 67-2351 through 67-2357, Idaho Code.

01. Tax Returns Filed Electronically. Pursuant to Section 63-115, Idaho Code, a taxpayer may file a tax return with the Tax Commission electronically only when the Tax Commission has established and implemented procedures permitting electronic filing of a specific tax return. A return may only be filed electronically by using the procedures and formats established by the Tax Commission for the particular return. (7-1-99)

02. Signatures. See Rule 150 of these rules. (7-1-99)

~~**03. Return Received.** A tax return is filed with the Tax Commission when it is accessible to the Tax Commission or to a third party service provider used by the Tax Commission to receive such transmissions. To be valid, the tax return must be in the required format and sufficiently free of errors to identify the taxpayer, the tax type, and to calculate any tax due.~~ (7-1-99)

043. Acknowledgment Of Data Transmissions. Persons filing returns by electronic data stream may be sent an acknowledgment of receipt of a successfully transmitted return. An acknowledgment means only that the Tax Commission received the return. An acknowledgment is not a finding by the Tax Commission about the correctness of the return. If any transmission is received in an unintelligible or garbled form and the Tax Commission cannot identify the taxpayer, no acknowledgment will be sent. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

310. INTEREST ON AMOUNTS OF TAX ACCRUING OR UNPAID (Rule 310). (3-20-97)
Section 63-3045, Idaho Code.

01. July 1, 1981, Through December 31, 1993. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of the period from July 1, 1981, through December 31, 1993, subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is twelve percent (12%) simple interest. (3-20-97)

02. Calendar Year 1994. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1994 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is seven percent (7%) simple interest. See Revenue Ruling 93-64. (3-20-97)

03. Calendar Year 1995. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1995 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is nine percent (9%) simple interest. See Revenue Ruling 94-61. (3-20-97)

04. Calendar Year 1996. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1996 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is eight percent (8%) simple interest. See Revenue Ruling 95-67. (3-20-97)

05. Calendar Year 1997. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1997 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is nine percent (9%) simple interest. See Revenue Ruling 96-49. (3-20-97)

06. Calendar Year 1998. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1998 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is eight percent (8%) simple interest. See Revenue Ruling 97-41. (3-19-99)

07. Calendar Year 1999. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1999 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is seven percent (7%) simple interest. See Revenue Ruling 98-50. (4-5-00)

08. Calendar Year 2000. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 2000 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is eight percent (8%) simple interest. See Revenue Ruling 99-41. (4-5-00)

09. Calendar Year 2001. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 2001 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is eight (8) percent (8%) simple interest. See Revenue Ruling 2000-45. ()

(BREAK IN CONTINUITY OF SECTIONS)

400. PENALTIES -- GENERAL RULES (Rule 400). Section 63-3046, Idaho Code. (3-20-97)

01. Penalty Presumed Appropriate. If a taxpayer becomes liable to pay the Internal Revenue Service a penalty similar to one provided in Section 63-3046, Idaho Code, it shall be presumed the penalty is appropriate as part of the related state tax deficiency. (3-20-97)

02. Credits To Be Considered. The penalties referred to in this rule apply to the net amount of the tax due after applicable credits. (3-20-97)

03. Minimum Penalty. A ten dollar (\$10) minimum penalty applies to each penalty imposed by Sections 63-3046(a) through 63-3046(ef), Idaho Code. For example, if a taxpayer fails to file only one (1) withholding tax statement, which generally results in a penalty of two dollars (\$2) pursuant to Section 63-3046(ef), Idaho Code, a penalty of ten dollars (\$10) will be applied. ~~(3-20-97)~~()

04. Dishonored Checks. The charge, provided by Section 63-3046(gh), Idaho Code, ~~is ten dollars (\$10)~~ for each dishonored check or instrument: is: ()

a. Ten dollars (\$10) if dishonored prior to July 1, 2001. ()

b. Twenty dollars (\$20) if dishonored on or after July 1, 2001. ()

c. This charge may be added even if sufficient funds are in the taxpayer's account after the date of dishonor. ~~(3-20-97)~~()

(BREAK IN CONTINUITY OF SECTIONS)

430. PENALTY FOR FAILURE TO FILE, FAILURE TO PAY, OR DELINQUENT FILING (Rule 430).
Sections ~~63-3033~~ and 63-3046(c), Idaho Code. (3-20-97)

01. In General. ()

a. As used in this rule, due date means the date prescribed for filing without regard to extensions. ()

b. A penalty of two percent (2%) of the tax due per month may be imposed on a taxpayer who fails to meet the extension criteria provided in Section 63-3033, Idaho Code. ()

c. A penalty of five percent (5%) of the tax due per month, ~~not to exceed twenty-five percent (25%) of the deficiency amount including subsequent adjustments~~, may be imposed ~~against~~ on a taxpayer who files a delinquent return, ~~who files timely but pays late~~, or who fails to file a return as provided in Section ~~63-3046, Idaho Code.~~ (3-20-97)()

d. If a taxpayer files a return but does not pay the tax due, a penalty of one-half percent (0.5%) of the tax due per month may be imposed. ()

e. The penalties computed in this subsection may not exceed twenty-five percent (25%) of the tax due. ()

f. For purposes of computing the penalties in Subsection 430.01, tax due includes subsequent adjustments. ()

02. Calculations Of Penalty When A Taxpayer Satisfies The Extension Of Time Criteria. ()

a. A taxpayer is entitled to an automatic extension of time for filing the Idaho income tax return if, by the due date, the taxpayer satisfies either of the following extension criteria provided in Section 63-3033, Idaho Code: ()

i. Paying eighty percent (80%) of the total tax due on his income tax return when it is filed; or ()

ii. Paying the total tax due on the income tax return for the prior year if one was filed. ()

b. If the taxpayer satisfies the extension criteria, no penalties apply from the due date of the return to the extended due date unless the taxpayer fails to file the return and pay the tax due on or before the extended due date. In such case a penalty of five percent (5%) of the tax due per month shall apply from the return's due date to the earlier of the date the return is filed or the date the tax is paid. ()

c. If the taxpayer satisfies the extension criteria and files the return on or before the extended due date, but pays the tax after the extended due date, a penalty of one-half percent (0.5%) of the tax due per month shall apply from the return's extended due date to the date the tax is paid. ()

03. Calculations Of Penalty When A Taxpayer Fails To Satisfy The Extension Of Time Criteria. If a taxpayer fails to satisfy the extension criteria, the following penalties may apply: ()

a. If the return is filed by the due date, but the tax is paid after the due date, a penalty of one-half percent (0.5%) of the tax due per month shall apply from the return's due date to the date the tax is paid. ()

b. If the return is filed and the tax is paid on or before the extended due date, a penalty of two percent (2%) of the tax due per month shall apply from the return's due date to the earlier of the date the return is filed or the date the tax is paid. If the tax is paid after the return is filed, a penalty of one-half percent (0.5%) of the tax due per

month shall apply from the date the return is filed to the date the tax is paid. ()

c. If the return is filed after the extended due date but the tax is paid on or before the extended due date, a penalty of two percent (2%) of the tax due per month shall apply from the return's due date to the date the tax is paid. ()

d. If the return is filed after the extended due date and the tax is paid after the extended due date, a penalty of five percent (5%) of the tax due per month shall apply from the due date of the return to the earlier of the date the return is filed or the date the tax is paid. ()

024. Other Penalties. Imposing ~~the~~ a penalty for failure to meet the extension criteria, failure to file a return timely, or failure to pay the tax due timely does not preclude the imposition of another penalty pursuant to Section 63-3046, Idaho Code. (3-20-97)()

035. Insufficient Postage. The proper amount of prepaid postage is required on returns mailed to the Tax Commission. If a tax return is returned to the sender due to insufficient postage, it may result in the return becoming delinquent and subject to the delinquency penalty specified by Section 63-3046(c), Idaho Code. (3-20-97)

046. Month Defined. If the due date falls on the last day of a calendar month, each succeeding calendar month, or fraction of it, during which the failure to file continues constitutes a month. If the due date is not the last day of the calendar month, the period that ends with the same date of the next month constitutes a month. If the succeeding month has no corresponding date, the last day of the month is substituted. Any fraction of a month from the date ending the preceding monthly period to the date of payment constitutes a full month. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

700. DISCLOSURE OF INFORMATION -- SCOPE (Rule 700).
Sections 63-3076 and 63-3077, Idaho Code. (3-20-97)

01. In General. Rules 700 through 709 of these rules provide guidelines for disclosure of information gained by the Tax Commission in administering and enforcing tax laws when the information is confidential pursuant to Sections 63-3076 and 63-3077, Idaho Code. (3-20-97)

~~**02. Application Of Rule.** Tax Commissioners and Tax Commission employees and agents may not disclose returns or return information, as defined in this rule, unless authorized by the taxpayer, statute, or rule.~~ (3-20-97)

~~**03. Definition Of Return.** For purposes of Rules 700 through 709 of these rules, the term return means the following whether required, provided for, or permitted by any statute administered by the Tax Commission that is filed with the Tax Commission by, for, or with respect to any person:~~ (3-20-97)

~~a. Any tax or information return;~~ (3-20-97)

~~b. Declaration of estimated tax;~~ (3-20-97)

~~c. Claim for refund; and~~ (3-20-97)

~~d. Any amendment or supplement thereto, including supporting schedules, attachments, or lists that are supplemental to, or part of, the return.~~ (3-20-97)

~~**04. Definition Of Return Information.** For purposes of Rules 700 through 709 of these rules, the term return information means:~~ (3-20-97)

~~a. A taxpayer's identity;~~ (3-20-97)

- ~~b. The nature, source, or amount of a taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, over-assessments, or tax payments; (3-20-97)~~
- ~~e. The status of the processing or investigation of the taxpayer's return; (3-20-97)~~
- ~~d. Any other data, received by, recorded by, prepared by, furnished to, or collected by the Tax Commission with respect to a return or with respect to the determination of the existence, or possible existence, of liability, or the amount thereof, of any person pursuant to the laws administered by the Tax Commission for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense; (3-20-97)~~
- ~~e. Any part of a written determination, or documents relating to a written determination, that is not open to public inspection; and (3-20-97)~~
- ~~f. Information filed with, or furnished to, the Tax Commission by or for the taxpayer to whom the information relates. (3-20-97)~~

052. Information That Is Not Return Information. The following are examples of information not considered return information for purposes of Rules 700 through 709 of these rules: (3-20-97)

- a. Decisions published pursuant to Section 63-3045B, Idaho Code; (3-20-97)
- b. Data in a form that cannot be associated with or otherwise identify, directly or indirectly, a particular taxpayer. (3-20-97)

063. Auditing Standards. Standards used when selecting returns for examination and data used when determining these standards may not be disclosed. (3-20-97)

701. ~~DISCLOSURE OF INFORMATION -- INFORMATION PROVIDED TO LAW ENFORCEMENT OR PROSECUTOR (Rule 701). (RESERVED)~~
~~Section 63-3076, Idaho Code. (3-20-97)~~

~~**01. Criminal Violation Of Tax Law.** If the Tax Commission believes that a criminal violation of a tax law administered by the Tax Commission may have occurred, the Tax Commission may provide to the appropriate county prosecutor information necessary or useful in the criminal investigation or prosecution. In addition, the Tax Commission may provide assistance in the criminal investigation or prosecution through the use of its employees or agents. (3-20-97)~~

~~**02. Crimes Against The Tax Commission.** The Tax Commission may provide information in its possession to a law enforcement agency or prosecutor if the information is necessary or useful in the investigation or prosecution of a crime or threatened crime against the Tax Commission, the Tax Commissioners, or Tax Commission employees or agents. (3-20-97)~~

(BREAK IN CONTINUITY OF SECTIONS)

704. DISCLOSURE OF INFORMATION -- GOVERNMENT AGENCIES AND OFFICIALS. (Rule 704).
Sections 63-2442, 63-3077, 63-3077A, 63-3077B, and 63-3634A, Idaho Code. (4-5-00)

01. Legislature. The Tax Commission shall disclose returns or return information to the Idaho Legislature on the written request of the chair of any committee of either branch of the Idaho Legislature on behalf of the committee. When authorized by statute, the Tax Commission shall disclose information to the Legislative Council, the Joint Legislative Oversight Committee, or to the Joint Finance and Appropriations Committee.(3-20-97)

02. Government Agencies Or Officials. The Tax Commission shall disclose information necessary to comply with provisions of the Idaho Code requiring reports or information to be provided to government agencies or officials. This includes the disclosure of tax returns and return information for use in enforcing child support obligations pursuant to Section 56-231, Idaho Code. (3-20-97)

03. Exchange Of Information. Information may be exchanged between the Tax Commission and: (4-5-00)

- a. The Internal Revenue Service, as allowed by Section 63-3077(a), Idaho Code; (4-5-00)
- b. Other states, if reciprocal provisions for information exchanges are granted under Section 63-3077(a), Idaho Code; (4-5-00)
- c. County assessors, limited to information relating to the taxpayer's residence or domicile, Section 63-3077(d), Idaho Code; (3-20-97)
- d. Department of Labor, as allowed by Section 63-3077A, Idaho Code; (4-5-00)
- e. Industrial Commission, as limited by Section 63-3077B, Idaho Code; (4-5-00)
- f. Multistate Tax Commission, as allowed by Section 63-3077(a), Idaho Code; ~~and~~ (~~4-5-00~~)()
- g. Department of Transportation, relating to fuels tax as allowed by Section 63-2442, Idaho Code, and relating to residency information as allowed by Section 63-3634A, Idaho Code; (~~4-5-00~~)()
- h. Financial Management Services of the U. S. Department of the Treasury, as allowed by Section 63-3077(a), Idaho Code; and ()
- i. Governing entity of the International Fuels Tax Agreement, IFTA, Inc., as allowed by Section 63-3077(b), Idaho Code. ()

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
39.01.04 - RULES GOVERNING DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
DOCKET NO. 39-0104-0001
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective August 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 rule-making procedures have been initiated. The action is authorized pursuant to Section(s) 40-204, 40-317, and 40-319, Idaho Code, and Code of Federal Regulations (CFR) 49 Part 26 which has replaced CFR 49 Part 23.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 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:

New federal regulations, effective March 4, 1999, have rendered IDAPA 39.01.04, Rules Governing Disadvantaged Business Enterprise Program obsolete. Since all federal requirements are covered under the new regulations and this program is not required by state law or on ITD state funded projects, this rule is unnecessary and is being repealed.

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 code of federal regulations.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the content of this rule has been rendered obsolete by federal code which has precedence.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Julie Caldwell, EEO Contract Compliance Officer, 334-8458.

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 25, 2000.

DATED this 9th day of August, 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

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
39.03.13 - RULES GOVERNING OVERWEIGHT PERMITS
DOCKET NO. 39-0313-0001
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) 40-312 and 49-1004, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 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:

Weight limits on routes within the state highway system are designated by assigning colors to the segments of highway. The previous system used five categories of weight ranges, identified by distinct colors. This rule change adds two additional categories (colors) and restructures the weight ranges. This will allow the assignment of more accurate weight limits on certain routes, reducing the potential for overstressing bridges and other structures on those routes.

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, and at the suggestion of the Office of Administrative Rules, formal negotiated rulemaking was not conducted; however, all concerned Idaho permit holders in the industry were informed of the various proposed options by means of a mass mailing and public meetings were held in Coeur d'Alene, Boise, and Idaho Falls in June, 2000, to gain consensus.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, Vehicle Size & Weight Specialist, 334-8418.

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 25, 2000.

DATED this 9th day of August, 2000.

Linda L. Emry, Management Assistant
Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
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Boise ID 83707-1129
Phone – 208-334-8810
FAX – 208-334-8195

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0313-0001

002. WRITTEN INTERPRETATIONS.

This chapter does not provide for written interpretations. ()

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for administrative appeals. ()

0024. -- 009. (RESERVED).

200. MAXIMUM OVERWEIGHT LEVELS.

01. Allowable Gross Vehicle Weight. The gross vehicle weight allowable by overweight permit is subject to the seasonal stability of the roadway and the capacity of the structures on the route of travel. For the purpose of issuing overlegal permits, ~~five seven~~ (57) levels of overweight are established, based on the weight formula of $W = 500((LN/N-1) + 12N + 36)$ and routes for carrying the various levels of overweight are designated by color coding. (4-5-00)()

a. Red Routes - The red routes contain posted bridges and require approval or analysis from the Department. A vehicle configuration may be issued an annual overweight/oversize permit for travel on red routes only, upon completion of an analysis verifying the requested weights are acceptable. The annual permit will be issued for a specific vehicle configuration, operating on a specific route, at specific weights. All information will be listed on the annual permit and will be subject to revocation at such time the vehicle configuration changes (such as axle spacings), the approved weights change, or a bridge rating changes. Annual permits issued for red routes will be in addition to the annual permit required for other routes. (8-4-95)

b. Yellow Routes - The yellow overweight level is based on a single axle loading of twenty-two thousand five hundred (22,500) pounds, a tandem axle loading of thirty-eight thousand (38,000) pounds, and a tridem axle loading of forty-eight thousand (48,000) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula $W = 560 ((LN/N-1) + 12N + 36)$. (8-25-94)

c. Orange Routes – Orange overweight level is based on a single axle loading of twenty-four thousand (24,000) pounds, a tandem axle loading of forty-one thousand (41,000) pounds, and a tridem axle loading of fifty-one thousand five hundred (51,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula $W = 600 ((LN/N-1) + 12N + 36)$. ()

ed. Green Routes - The green overweight level is based on a single axle loading of twenty-five thousand five hundred (25,500) pounds, a tandem axle loading of forty-three thousand five hundred (43,500) pounds, and a tridem axle loading of fifty-four thousand five hundred (54,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula $W = 640 ((LN/N-1) + 12N + 36)$. (8-25-94)

e. Blue Routes – Blue overweight level is based on a single axle loading of twenty-seven thousand (27,000) pounds, a tandem axle loading of forty-six thousand (46,000) pounds, and a tridem axle loading of fifty-eight thousand five hundred (58,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula $W = 675 ((LN/N-1) + 12N + 36)$. ()

df. Purple Routes - The purple overweight level is based on a single axle loading of ~~twenty-eight~~ thirty thousand ~~five hundred~~ (28,530,000) pounds, a tandem axle loading of ~~forty-eight~~ fifty-one thousand five hundred (48,51,500) pounds, and a tridem axle loading of ~~sixty-one~~ four thousand five hundred (61,64,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula $W = 7455 ((LN/N-1) + 12N + 36)$. (8-25-94)()

eg. Black Routes - The black overweight level is based on a single axle loading of thirty-three thousand (33,000), pounds a tandem axle loading of fifty-six thousand (56,000) pounds, and a tridem axle loading of seventy thousand five hundred (70,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula $W = 825 ((LN/N-1) + 12N + 36)$. (8-25-94)

02. Vehicles Or Loads Exceeding Weights. Vehicles or loads exceeding the axle weights, groups of

axle weights, or total gross weights allowed on any of the overweight levels described in Subsection 200.01 must operate by single trip permits only if approved. (4-5-00)

03. Maximum Weights. The maximum overweight levels shall not exceed eight hundred (800) pounds per inch width of tire nor the maximum weights authorized by Subsection 200.01. (4-5-00)

04. Map Resources. Route capacity maps are available at the Idaho Transportation Department Headquarters Overlegal Permit office, Ports of entry, and all District Offices. A route capacity map will accompany each annual overweight/oversize permit. (4-5-00)

05. Weight Formula. "W" is the maximum weight in pounds (to the nearest five hundred (500) pounds) carried on any group of two (2) or more consecutive axles. "L" is the distance in feet between the extremes of any group of two (2) or more consecutive axles, "N" is the number of axles under consideration and "F" is the load factor most appropriate based on the most critical bridge on the highway route. (8-25-94)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
39.03.16 - RULES GOVERNING OVERSIZE PERMITS FOR
NON-REDUCIBLE VEHICLES AND/OR LOADS

DOCKET NO. 39-0316-0001

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) 40-312 and 49-1004, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 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:

At the request of industry representatives, Subsection 400.01., "Farm Tractors on Interstate Highways," was amended to state that permit requirements for implements of husbandry used in the furtherance of a business do not apply to farm operations. That is how the rule has been interpreted and applied. This change adds that clarification.

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-substantive change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, Vehicle Size & Weight Specialist, 334-8418.

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 25, 2000.

DATED this 9th day of August, 2000.

Linda L. Emry, Management Assistant
Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
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Boise ID 83707-1129
Phone – 208-334-8810
FAX – 208-334-8195

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0316-0001

400. OVERWIDTH PERMITS FOR IMPLEMENTS OF HUSBANDRY.

01. Farm Tractors On Interstate Highways. Farm tractors transported on Interstate Highways are required to have overlegal permit authority if width exceeds nine (9) feet. A farm tractor when attached to an implement of husbandry or when drawing an implement of husbandry shall be construed to be an implement of husbandry and is not required to have a permit. Farmers, equipment dealers or custom operators may be issued single trip or annual permits under this rule for transportation of farm tractors, having a width in excess of nine (9) feet to or from a farm involving Interstate Highway travel. The transportation of farm tractors or implements of husbandry for hire, or not being transported from one farm operation to another, is a common-carrier operation. Exemptions from legal width limitation do not apply to common-carrier operations. Farm tractors or implements of husbandry hauled for hire, or used in the furtherance of a business (not to include farming operations), are subject to the same overlegal permit regulations as other oversize loads when the width of the load exceeds legal-width limitations, and must operate under oversize permits. (~~4-5-00~~)(____)

02. Other Than Farm To Farm. Implements of husbandry exceeding eight (8) feet six (6) inches in width being transported other than from one (1) farm operation to another farm operation shall require overlegal permit authority. (4-5-00)

03. Farm Permits. Single trip permits must be ordered at the permit office and the operator may post a security bond to establish credit (See IDAPA 39.03.21, "Rules Governing Special Permit Fees," Section 300) and thereby qualify to complete an application form, call the overlegal permit office for a permit number, and carry the application form with the overwidth vehicle in lieu of the overlegal permit form. Under provisions of IDAPA 39.03.19, "Rules Governing Annual Overlegal Permits," Section 100, annual permits will be issued to towing units or to self-propelled farm tractors or towed units, or blanket permits may be issued to an Idaho domicile applicant without vehicle identification. Such blanket permits may be transferred from one vehicle to another vehicle but shall be valid only when the permit is with the overwidth vehicle and/or load. A photocopy of the permit is valid provided that the Pilot/Escort Vehicle and Travel Time Requirements Map and Vertical Clearance of Structures Map furnished by the Idaho Transportation Department are included. Such annual permits for implements of husbandry or farm tractors are subject to the same maximum dimensions, travel time exclusions and safety requirements as other overwidth annual permits and are valid for continuous travel for twelve (12) consecutive months. (4-5-00)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
39.03.17 - RULES GOVERNING PERMITS FOR MANUFACTURED HOMES,
MODULAR BUILDINGS, AND OFFICE TRAILERS

DOCKET NO. 39-0317-0001

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) 40-312 and 49-1004, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 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:

The purpose of this rulemaking is to bring the rule into compliance with Idaho Code. In the 1999 Legislative Session, Senate Bill 1141 amended Section 49-422, Idaho Code, to allow manufactured homes being transported either prior to first sale at retail or to the initial setup location of the original purchaser not to be registered. This rule is being amended to reflect that change.

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 since the change was not subject to negotiation.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, Vehicle Size & Weight Specialist, 334-8418. 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 25, 2000.

DATED this 9th day of August, 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. 39-0317-0001

100. REGISTRATION AND LICENSING REQUIREMENTS.

All manufactured homes and office trailers moved on any public highway are required to be licensed, permanently or temporarily, with the exception of, new manufactured homes, being transported either prior to first sale at retail or to the initial setup location of the original purchaser. ~~New and resale units may, if applicable, carry license plates provided by the dealer or transporter. Other units shall be licensed by the owner.~~ The manufactured home and office trailer registration and general property tax receipt shall be made available for inspection upon demand of any enforcement officer. (4-5-00)()

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
39.03.19 - RULES GOVERNING ANNUAL OVERLEGAL PERMITS

DOCKET NO. 39-0319-0001

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) 40-312 and 49-1004, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 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:

Weight limits on routes within the state highway system are designated by assigning colors to the segments of highway. The previous system used five categories of weight ranges, identified by distinct colors. This rule change adds two additional categories (colors) and restructures the weight ranges. This will allow the assignment of more accurate weight limits on certain routes, reducing the potential for overstressing bridges and other structures on those routes.

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, and at the suggestion of the Office of Administrative Rules, formal negotiated rulemaking was not conducted; however, all concerned Idaho permit holders in the industry were informed of the various proposed options by means of a mass mailing and public meetings were held in Coeur d'Alene, Boise, and Idaho Falls in June, 2000, to gain consensus.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, Vehicle Size & Weight Specialist, 334-8418.

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 25, 2000.

DATED this 9th day of August, 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. 39-0319-0001

002. WRITTEN INTERPRETATIONS.

This chapter does not provide for written interpretations. ()

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for administrative appeals. ()

0024. -- 009. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

100. GENERAL.

Overlegal permits may be issued for continuous operation to haul or transport nonreducible loads having specified maximum dimensions of oversize or overweight provided such permits for multiple trips can maintain the same measure of protection to highway facilities and to the traveling public as is provided by single trip permits. (4-5-00)

01. Oversize. Permits for continuous operation, oversize only. (10-2-89)

a. Permits for continuous operation shall be issued to one (1) specified power unit. The permittee may tow various units with the specified power unit, either as towaway vehicles or as trailers hauling oversize loads. Except as provided in IDAPA 39.03.07, "Rules Governing Restricted Routes for Semitrailers," 39.03.16, "Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads," Section 200 and 39.03.22, "Rules Governing Overlegal Permits for Extra-Length Vehicle Combinations," oversize loads shall be nonreducible in width, length, or height. In the case of specially constructed equipment, mounted on a towed vehicle, or if the towed vehicle is only hauling an oversize but not overweight load, the permit may be issued to the towed vehicle. (4-5-00)

b. Maximum size of loads or vehicles transported under authority of an annual oversize permit, for black and interstate routes, shall be limited to a width of fourteen (14) feet six (6) inches (manufactured homes, modular buildings, and office trailers limited as per IDAPA 39.03.17, "Rules Governing Permits for Manufactured Homes, Modular Buildings, and Office Trailers"), a height of fifteen (15) feet six (6) inches, and to a combination length of one hundred ten (110) feet including load overhang. Annual oversize permits for red coded routes shall be limited to a width of twelve (12) feet six (6) inches. A current Pilot/Escort Vehicle and Travel Time Requirements Map shall accompany such permits for extended operations and shall be considered to be a part of the permit. (4-5-00)

02. Overweight/Oversize. Permits for continuous operation involving overweight loads shall be subject to the following conditions and requirements: (10-2-89)

a. Annual permits may not be issued for gross weights in excess of two hundred thousand (200,000) pounds for any colored route. Gross weights in excess of two hundred thousand (200,000) pounds must operate by single trip permit. (4-5-00)

b. Since the fees are now based on the number of axles and gross weight to calculate the fee per mile, annual overweight permits will have to be issued to various combinations including those with a different number of axles and higher gross weights for those axles. You will no longer be able to operate less axles than the number stated on the permit, because the fee per mile (using less axles) would be greater than the fee per mile for the higher number of axles and gross weight. The number of axles in the vehicle configuration may be greater than the number of axles listed on the permit. The gross weight of the vehicle configuration may be less than the gross weight stated for each colored route, but your fee per mile will be based on and reported at the stated gross weight for each colored route on the permit (i.e. black, purple, green and yellow) and the number of axles. (4-5-00)

c. A percent reduction in the total fees may be given when the following requirements are met: (4-5-00)

i. A two percent (2%) reduction per axle group (such as tandem or tridem), to a maximum of ten

percent (10%) per vehicle configuration, for axle groups that are wider than ten (10) feet. (4-5-00)

ii. A two percent (2%) reduction per axle group (such as tandem or tridem), to a maximum of ten percent (10%) per vehicle configuration, for axle groups with sixteen (16) tires per axle. (4-5-00)

iii. If both the above requirements are met for an axle group, a five percent (5%) reduction per axle group, to a maximum of twenty-five percent (25%) per vehicle configuration may be given. This reduction will be taken off of the total roadway use fees charged for the vehicle and will not reduce the administrative fee. (4-5-00)

d. To comply with Section 49-436, Idaho Code, the permittee will make quarterly reports of mileage to the Department at the permitted weight levels separate from the registered weight mileage otherwise required to be reported to that agency. Mileage for single trip overweight permits is charged for and collected at the time of issuance, and need not be reported elsewhere. Unladen miles are reported at the registered weight of a vehicle or combination of vehicles. (4-5-00)

e. Annual permits involving overweight loadings will be available at the following levels: (4-6-92)

i. Red Routes - The red routes contain posted bridges and require approval or analysis from the Department. A vehicle configuration may be issued an annual overweight/oversize permit for travel on red routes, upon completion of an analysis verifying the requested weights are acceptable. The annual permit will be issued for a specific vehicle configuration, operating on a specific route, at specific weights. All information will be listed on the annual permit and will be subject to revocation at such time the vehicle configuration changes (such as axle spacings), the approved weights change, or a bridge rating changes. (8-4-95)

ii. Yellow Routes - The yellow overweight level is based on a single axle loading of twenty-two thousand five hundred (22,500) pounds, a tandem axle loading of thirty-eight thousand (38,000) pounds, and a tridem axle loading of forty-eight thousand (48,000) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula $W = 560 ((LN/N-1) + 12N + 36)$. (4-6-92)

iii. Orange Routes - The orange overweight level is based on a single axle loading of twenty-four thousand (24,000) pounds, a tandem axle loading of forty-one thousand (41,000) pounds, and a tridem axle loading of fifty-one thousand five hundred (51,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula $W = 600 ((LN/N-1) + 12N + 36)$. ()

iv. Green Routes - The green overweight level is based on a single axle loading of twenty-five thousand five hundred (25,500) pounds, a tandem axle loading of forty-three thousand five hundred (43,500) pounds and a tridem axle loading of fifty-four thousand five hundred (54,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula $W = 640 ((LN/N-1) + 12N + 36)$. (4-6-92)

v. Blue Routes - The blue overweight level is based on a single axle loading of twenty-seven thousand (27,000) pounds, a tandem axle loading of forty-six thousand (46,000) pounds, and a tridem axle loading of fifty-seven thousand five hundred (57,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula $W = 675 ((LN/N-1) + 12N + 36)$. ()

vi. Purple Routes - The purple overweight level is based on a single axle loading of ~~twenty-eight~~ thirty thousand ~~five hundred~~ (28,530,000) pounds, a tandem axle loading of ~~forty-eight~~ fifty-one thousand five hundred ~~(48,51,500)~~ (51,500) pounds, and a tridem axle loading of ~~sixty-one~~ four thousand ~~five hundred~~ (61,064,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula $W = 755 ((LN/N-1) + 12N + 36)$. ~~(4-6-92)~~()

vii. Black Routes - The black overweight level is based on a single axle loading of thirty-three thousand (33,000) pounds, a tandem axle loading of fifty-six thousand (56,000) pounds, and a tridem axle loading of seventy thousand five hundred (70,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula $W = 825 ((LN/N-1) + 12N + 36)$. (4-6-92)

viii. Vehicles or loads exceeding the axle weights, groups of axle weights, or total gross weights allowed on any of the overweight levels must operate by single trip permit only. (4-6-92)

ix. Weight Formula. “W” is the maximum weight in pounds (to the nearest five hundred (500) pounds) carried on any group of two (2) or more consecutive axles. “L” is the distance in feet between the extremes of any group of two (2) or more consecutive axles, “N” is the number of axles under consideration and “F” is the load factor most appropriate based on the most critical bridge on the highway route. (4-6-92)

f. The maximum overweight levels shall not exceed eight hundred (800) pounds per inch width of tire nor the maximum weights authorized by IDAPA 39.03.13, “Rules Governing Overweight Permits,” Section 200.01. (4-5-00)

g. Annual overweight permits shall become invalid subject to the conditions of IDAPA 39.03.23, “Rules Governing Revocation Of Special Permits”. (4-5-00)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
39.03.41 - RULES GOVERNING TRAFFIC CONTROL DEVICES

DOCKET NO. 39-0341-9901

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. The action is authorized pursuant to Section(s) 40-313, 49-201(3), and 67-5203A, 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.

We have had no public comment or otherwise negative response to the original proposed changes to this rule. However, immediately after the publication of the original proposed changes, the Federal Highway Administration of the U.S. Department of Transportation issued another revision (No. 7) to the 1988 edition of the Manual on Uniform Traffic Control Devices, which is incorporated by reference in this rule. This revision addresses the Department's Exception No. 3, regarding the need for placement of centerline and edge line striping on highways based on pavement widths and AADT (Average Annual Daily Traffic) counts. Since that concern has been addressed, the exception can be removed. The Board has also proposed another exception (No. 7), which authorizes multi-colored signs for Scenic Byways.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the Idaho Administrative Bulletin, December 1, 1999, Volume 99-12, pages 99 through 101.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Steve Holland, 334-8565.

DATED this 16th day of August, 2000

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129, Boise ID 83707-1129
Phone: 208-334-8810 / FAX: 208-334-8195

39.03.41 - RULES GOVERNING TRAFFIC CONTROL DEVICES

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 99-12, December 1, 1999, pages 99 through 101.](#)

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.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0341-9901

004. INCORPORATION BY REFERENCE.

The "Manual on Uniform Traffic Control Devices for Streets and Highways" is published by the Federal Highway Administration of the U.S. Department of Transportation. The 1988 edition of the Manual and all subsequent amendments, through and including revision number ~~six~~ seven (67) dated ~~June 19, 1998~~ January 3, 2000, are hereby incorporated by reference and made a part of the Rules of the Idaho Transportation Department. The following exceptions to the Manual are adopted by the Idaho Transportation Board: (10-1-99)F(____)

01. Section 2A-23, Height. In the second paragraph revise the fourth sentence as follows: All route markers and warning and regulatory signs on expressways shall be at least six (6) feet above the level of the pavement edge, except "Wrong Way" and "Do Not Enter" signs on interchange ramps which shall be at least four (4) feet above the level of the pavement edge. (5-16-90)

02. Section 2F-16, Vertical Clearance. In the second paragraph revise the second sentence as follows: Notwithstanding the above, all regulatory and warning signs and route markers shall be at least six (6) feet above the level of the pavement edge, except "Wrong Way" and "Do Not Enter" signs on interchange ramps which shall be at least four (4) feet above the level of the pavement edge. (5-16-90)

~~**03. Section 3B-1, Center Lines.** In the next to last paragraph change item one (1) to: In rural districts on two (2) lane pavements twenty (20) feet or more in width and five hundred (500) ADT or more with prevailing speeds of greater than thirty five (35) MPH. (5-16-90)~~

043. Section 4B-5, Meaning Of Signal Indications. In paragraph 3C, substitute the following for the first sentence: Except when a sign is in place prohibiting a turn, vehicular traffic facing any steady red signal may cautiously enter the intersection to turn right, or to turn left from a one (1) way or two (2) way street into a one (1) way street, after stopping as required by Subsections 001.01 and 001.02 above. (5-16-90)

054. Section 7D-5, Meaning Of Signal Indications. On page 7D-3, under the heading, The Steady Circular Red or Red Arrow, shall have the following meanings: In paragraph three (3), substitute the following for the first sentence: Except when a sign is in place prohibiting a turn, vehicular traffic facing any steady red signal may cautiously enter the intersection to turn right, or to turn left from a one (1) way or two (2) way street into a one (1) way street, after stopping as required by Subsections 001.01 and 001.02 above. (10-1-94)

065. Section 6F-6b, Interim Markings. Delete the first sentence under Item 1 and substitute the following two (2) sentences in its place: For federal-aid funded projects, all short term broken line pavement markings shall use the same cycle length as permanent markings and be at least four (4) feet long, except that, half cycle lengths with a minimum of two (2) foot stripes may be used for roadways with severe curvature. For state funded construction and maintenance work, all short term broken line pavement markings shall use the same cycle length as permanent markings and be at least one (1) foot long, except that, half cycle lengths with one (1) foot stripes may be used for roadways with severe curvature. (10-1-94)

076. Section 8B-9, Stop Signs At Grade Crossings (R1-1, W3-1). Delete the first two (2) paragraphs and substitute the following: Under Idaho law, wherever a highway crosses one (1) or more railroads at grade, the

Department or local authorities within their respective jurisdictions shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when, in the determination of the Department or local authorities, the existence of stop signs at a given crossing would constitute a greater hazard than their absence. (12-26-90)

07. Section 2H-8, Color Format. Modify the first sentence to read as follows: Recreational and cultural interest area symbol signs and general guide signs erected in these areas shall have a white symbol or legend and border on a brown background, with the exception of Scenic Byway signs which shall be allowed to use a multi-colored format. ()

005. IDAHO PUBLIC RECORDS ACT. Rules contained herein are promulgated in accordance with Title 67, Chapter 52, Idaho Administrative Procedures Act (IDAPA) and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Idaho Attorney General". ()

0056. -- 099. (RESERVED).

100. AVAILABILITY OF MANUAL.

01. Review Of Manual. Persons wishing to review the Manual and subsequent amendments, through and including revision number ~~seven~~ (67), may do so at the Department's Headquarters in Boise or at a District Office of the Department in Boise, Coeur d'Alene, Lewiston, Pocatello, Rigby, or Shoshone. The Manual and subsequent amendments are also available for review at the Idaho State Library. (~~10-1-99~~) ()

02. Purchase Of Manual. Copies of the 1988 edition of the Manual and all subsequent amendments may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402. (10-1-99)T

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
39.03.42 - RULES GOVERNING USE OF STATE RIGHT-OF-WAY

DOCKET NO. 39-0342-0001

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) 40-310(9), 40-311(1), 40-312(3), 40-313(2), 49-202(19), (23), and (28), 49-221, and 67-5203, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 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:

A section containing definitions explaining various aspects of access management and the Idaho Transportation Department has been added for user clarification. The rule has undergone a major reorganization that includes the addition of substantive steps in the permitting process that follows in sequential order to make it easier for the user to access required information. A section on Access Control Types that addresses the direct relationship of Access Control Type to Functional Classification of the State Highway System, has been added, along with a section on temporary encroachments addressing such issues as political campaign posters. A more detailed and comprehensive appeal process has been added that is consistent with the Idaho Administrative Procedures Act, in accordance with the Idaho Rules of Administrative Procedure of the Attorney General. Idaho Transportation Department Headquarters' and District office addresses are listed to make it easier for anyone with questions on access management to contact the Department.

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

Permit application fees are based on the Department's cost to produce the permit and administer the program. Current fees, as authorized by Section 40-314(3), Idaho Code, and previously approved in rule as a fee schedule available at the Department, have not been reviewed or increased since 1982, and have never been published as part of this rule. Proposed increases are intended to just cover the Department's cost to produce the permit and administer the program.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted. However, all interested parties, including ITD staff, FHWA, local highway jurisdictions, and utilities within the state of Idaho, were consulted and reviewed the information contained in this rule over the five year period during which it was developed.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Steve Holland, 334-8565.

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 25, 2000.

DATED this 22nd day of August, 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. 39-0342-0001

000. LEGAL AUTHORITY.

The Idaho Transportation Board adopts this rule under the authority of Sections 40-310(9), 40-311(1), ~~and~~ 40-312(3), 40-313(2), and 49-202(19), (23) and (28), 49-221, and 67-5203, Idaho Code. ~~(12-26-90)~~()

001. TITLE AND SCOPE.

This rule regulates access to Idaho's state highway system and other non-highway uses of the right-of-way. ~~(12-26-90)~~()

01. Title. This rule shall be known as IDAPA 39.03.42, "Rules Governing Highway Right-of-Way Encroachments on State Rights-of-Way," IDAPA 39, TITLE 03, Chapter 42. ()

02. Scope. It is the purpose of this rule to establish standards and guidelines for encroachments on state highway rights-of-way. ()

~~002. 099. (RESERVED).~~

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19), Idaho Code, the Idaho Transportation Department has written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. The document is available for public inspection and copying at cost at the Office of the Traffic Engineer, 3311 West State Street, P. O. Box 7129, Boise, Idaho, 83707-1129. ()

~~700003.~~ ADMINISTRATIVE APPEAL PROCESS.

01. Commencement. Applicants may appeal denied permits ~~by the District Engineer, may appeal to the State Highway Administrator. If further arbitration is required, the Department Director will be consulted and, if necessary, the appeal may be presented to the Idaho Transportation Board for final decision~~ in writing to the Department's District Traffic office within thirty (30) days of receipt of notification. The appeal process commences on the date the Department's District office receives notification of appeal from the applicant. ~~(12-26-90)~~()

- a. Idaho Transportation Department, District One
600 West Prairie
Coeur d'Alene, ID 83814-8764 ()
- b. Idaho Transportation Department, District Two
2600 North and South Highway
Lewiston, ID 83501-0837 ()
- c. Idaho Transportation Department, District Three
8150 Chinden Blvd
Boise, ID 83714-2028 ()
- d. Idaho Transportation Department, District Four
216 Date Street
Shoshone, ID 83352-0820 ()
- e. Idaho Transportation Department, District Five
5151 South 5th
Pocatello, ID 83205-4700 ()
- f. Idaho Transportation Department, District Six
206 North Yellowstone ()

Rigby, ID 83442-0097 ()

02. Process Hold. If at any time during the appeal process it is determined that insufficient documentation was submitted with the appeal, all parties shall be notified that the appeal process is placed on hold until the necessary documentation is supplied. ()

03. Initial Appeal Process. The District will have fourteen (14) working days to review the appeal. If the District does not overturn the original denial, the appeal shall be forwarded to the State Traffic Engineer who will have fourteen (14) working days to review and prepare it for review by the Department's Chief Engineer. The Department's Chief Engineer will have fourteen (14) working days to review the appeal. The appellant shall be notified by certified mail within seven (7) working days of the Department's Chief Engineer's decision. ()

04. Secondary Appeal Process. If further arbitration is required, the appellant has thirty (30) days following denial notification to contact the Department's legal section and the appeal process will be initiated in accordance with the Idaho Administrative Procedure Act and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". ()

004. IDAHO PUBLIC RECORDS ACT.
Rules contained herein are promulgated in accordance with Title 67, Chapter 52, Idaho Administrative Procedure Act (IDAPA) and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". ()

005. – 009. (RESERVED).

010. DEFINITIONS.

01. Shall/Will, Should, May. The use of "shall" or "will," "should," and "may" denote the following conditions: ()

a. Shall/Will. A mandatory condition. Mandatory requirements are stipulated. ()

b. Should. An advisory condition. Advisable, recommended usage, but not mandatory. ()

c. May. A permissive condition. No requirement is intended. ()

02. Access. The ability to enter or leave a public highway or highway right-of-way from an abutting private property or another public highway. ()

03. ADT. Average Daily Traffic. The total volume of traffic during a given time period in whole days greater than one (1) day and less than one (1) year divided by the number of days within that time period. ()

04. Applicant. Agency, owner, or an authorized representative of the property or utility facility applying for a permit to encroach within State highway rights-of-way. ()

05. Appraisal. A written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of monetary value for a specific property, for a specific use, as of a specific date, supported by the presentation and analysis of relevant market information. ()

06. Approach. A connection between the outside edge of the shoulder or curb line and the abutting property at the highway right-of-way line, intended to provide access to and from said highway and the abutting property. An approach may include a driveway, alley, street, road or highway. ()

07. Approach Flare. The approved radius connecting the edge of the approach to the edge of the highway. The term "approach radius" is interchangeable with "approach flare". ()

08. Approach Transition. The area from the edge of an urban approach sloped to match the curb and border area elevations. The term "approach apron" is interchangeable with "approach transition". ()

- 09. Approach Skew Angle.** For all approaches, the angle of deflection between a line perpendicular to the highway centerline and the approach centerline. ()
- 10. Approach Width.** The distance between the outside edges of the approach measured perpendicular to the approach centerline along the curb line or the edge of pavement, excluding flares, transitions and radii. ()
- 11. Authorized Representative.** Any applicant, other than the owner, having notarized written verification signed by the owner giving authorization to act on the owner's behalf. ()
- 12. Auxiliary Lane.** The portion of the roadway adjoining the traveled way used for speed change, turning, storage for turning, weaving, truck climbing and other purposes supplementary to through-traffic movement. ()
- 13. Board.** The Idaho Transportation Board, as established by Title 40, Chapter 3, Idaho Code. ()
- 14. Border Area.** The area between the outside edge of the shoulder or back of curb and the highway right-of way line. ()
- 15. Boulevard Approach.** A two-way approach intended for high ADT volumes of large commercial vehicles, having a maximum width of twenty-five point six (25.6) meters/eighty-four (84) feet in which opposing traffic is separated by a raised one point two (1.2) meters/four (4) foot wide non-traversable median. ()
- 16. Capacity.** The maximum number of vehicles that can reasonably be expected to travel along a lane of a highway during a given time period under prevailing roadway and traffic conditions. ()
- 17. Chief Engineer.** The administrator of the Division of Highways for the Idaho Transportation Department, or a delegated representative. ()
- 18. Clear Zone.** An area outside the traveled way, auxiliary lanes and shoulders that is constructed and maintained as free from physical obstructions as practical, for use as a recovery area by errant vehicles. ()
- 19. Commercial Approach.** An approach serving a business or businesses. ()
- 20. Conduit.** A tube or trough for receiving and protecting utility-related structures including, but not limited to, electrical wires and fluids. ()
- 21. Congestion.** A restriction or interference to the normal free flow of travel. "Congestion" is directly related to volume such that as traffic volumes increase, congestion increases. ()
- 22. Construction.** Build new or modify existing facilities, other than maintenance. ()
- 23. Controlled Access Highway.** Any highway or roadway where access to or from abutting properties is restricted by the public authority having the jurisdiction. ()
- 24. Corner Clearance.** The distance along the curb line or outside edge of the shoulder measured from the beginning or end of the intersecting roadway flare to the nearest edge of the adjacent approach, excluding flares or transitions. ()
- 25. Department.** The Idaho Transportation Department (ITD). ()
- 26. Distance Between Approaches.** The distance measured along the curb line or outside edge of the shoulder between the nearest edges of adjacent approaches, excluding the flares, transitions or radii. ()
- 27. District.** An administrative and maintenance subdivision of the Idaho Transportation Department encompassing a particular geographical region of the state of Idaho. ()
- 28. District Engineer.** The administrator of an Idaho Transportation Department administrative

district, or a delegated representative. ()

29. Emergency. Any unscheduled work required to correct or prevent a hazardous situation that poses an imminent threat to life or property. ()

30. Encroachment. Any authorized or unauthorized use of highway right-of-way or easements or the air space immediately above the highway right-of-way. ()

31. Exchange Deed. A legal document of title, between the Idaho Transportation Department and the owner of real property, transferring and describing a property right (such as easement, usage, access). ()

32. Farming. Any activity associated with crops, including seed. ()

33. FHWA. The Federal Highway Administration, a division of the U. S. Department of Transportation. ()

34. Fiber Optic Cable. A cable containing one (1) or more glass or plastic fibers that has the ability to transmit light along its axis. ()

35. Field Approach. An approach that serves only non-residential agricultural property, including farmyards. ()

36. Fixture. Any sign, guard rail, bridge, tunnel, or other appurtenances placed with the highway right-of-way. ()

37. Flare Tangent Distance. The distance of the approach radius measured along the edge of pavement. ()

38. Frontage. The distance measured along the highway right-of-way line between the frontage boundary lines of property that is contiguous to highway right-of-way. ()

39. Frontage Road. A road auxiliary to and located to the side of the highway for service to abutting properties and adjacent areas for the purpose of controlling access to the highway. ()

40. Frontage Boundary Line. A line perpendicular to the highway centerline that begins at the point of intersection of the abutting property line and the highway right-of-way line. ()

41. Full Control Of Access. Any section of a highway system where access is prohibited except for interchange connections. ()

42. Functional Classification. A grouping of highways by the character of service (access and mobility) they provide. These include, but are not limited to, a minor collector, major collector, minor arterial, principal arterial, and interstate as defined in the latest edition of the Highway Functional Classification Manual by the U. S. Department of Transportation, FHWA. ()

43. Government Agencies. As used in this manual, includes federal, state, county, city, or local highway jurisdictions. ()

44. Highway Right-Of-Way. Property rights to land generally designated for transportation purposes, open to the public, and under the jurisdiction of a Public Highway Agency. ()

45. Imminent Threat. Includes major traffic control deficiencies or safety situations that are likely to result in serious injury or loss of life. ()

46. Interstate Highway. As identified by federal code, a part of the National System of Interstate and Defense Highway System. An FHWA-approved arterial highway, freeway, or expressway with a fully controlled access, and having medians, grade separations at cross roads and ramp connections for entrance to and exit from the

traveled way. ()

47. Joint-Use Approach. An approach constructed at a common boundary between adjacent properties that abut the highway. A joint-use approach is equally owned and shared as common access by both property owners. ()

48. Landscaping. Any action taken to change the features or appearance of the highway right-of-way or abutting property with plants, soil, rock and related material. ()

49. Loaded Rate. Includes hourly wages plus the cost of associated benefits. ()

50. Local Highway Agency. Any city, county, highway district or other local board or body having authority to enact regulations, resolutions, or ordinances relating to traffic on the highways, highway rights-of-way and streets within their respective jurisdiction. ()

51. Local Road. A city, county or highway district highway whose primary function is to provide access to adjacent properties. ()

52. Major Collector. Any public highway designated as a route to provide traffic circulation and collect traffic from local roads within residential neighborhoods and commercial and industrial areas and channel it into the arterial system. Major collector highway segments are in rural locations and typically have low to medium volumes with high speeds. ()

53. Median. The portion of a divided highway or approach that separates opposing traveled ways. Medians may be raised, flush, or depressed relative to the roadway surface, and may be landscaped or paved. ()

54. Median Opening. A paved area bisecting opposite directions of a divided roadway that is designed to permit traffic to cross at least one (1) direction of travel. ()

55. Minor Arterial. Any rural or urban public highway designated as a route that provides substantial corridor movement with trip length and density suitable for linking cities, counties, states, and other traffic generators. Minor arterial highway segments typically have medium to high traffic volumes with speeds that vary from medium in urban areas to high in rural areas. ()

56. Multiple Family Residential. A single parcel of land containing more than one (1) residence (i.e., duplexes, apartments, trailers). ()

57. MUTCD. The Manual on Uniform Traffic Control Devices for Streets and Highways, latest edition, as adopted by the Idaho Transportation Board in accordance with Section 49-201(3), Idaho Code. A manual written by the Federal Highway Administration that sets national minimum standards for signing, striping, and traffic control devices. ()

58. National Highway System (NHS). The system of federal-aid highways, urban and rural, designated and approved in accordance with the provisions of 23 U. S. C. 103(b). ()

59. Non-Standard Approach. Any approach that does not meet Department standards. ()

60. Partial Control Of Access. Any section of the State Highway System that has restrictions placed on any encroachment within the state highway right-of-way. ()

61. Performance Bond. A statutory bond, issued by a surety company authorized to do business in the state of Idaho, that guarantees performance of work in accordance with permit requirements. ()

62. Permittee. Person or persons, utility facilities, and other agencies granted permission to encroach within the highway right-of-way for authorized purposes other than normal travel. ()

63. Principal Arterial. Any rural or urban highway designated as a route that provides substantial

corridor movement for volumes greater than minor arterial highways. Principal arterial highway segments typically have medium to high volumes with speeds that vary from medium in urban areas to high in rural areas. ()

64. Private Approach. Every privately owned traveled way that is used for ingress to and egress from the highway right-of-way and an abutting property. ()

65. Property Line Clearance. The distance measured along the curb line or outside shoulder edge from the frontage boundary line to the nearest edge of the approach width, excluding flares, transitions and radii. ()

66. Public Approach. Any approach that serves the public without restriction and is maintained by a public agency. ()

67. Public Highway. All highways open to public use in the state, whether maintained by the state or by any county, highway district, city or other political subdivision. ()

68. Public Highway Agency. The state transportation department, any city, county, highway district, or any other state agency, or any federal or Indian reservation, which has jurisdiction over public highway systems and highway rights-of-way. ()

69. Residential Approach. A private approach serving single or multiple single-family residences. ()

70. Roadside. Any area beyond the main traveled way, that may or may not be within the highway right-of-way. ()

71. Roadway. That portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of sidewalks, shoulders, berms and other portions of the rights-of-way. ()

72. Rural Area. All areas outside the boundaries of an urban area. ()

73. Rural Approach. An approach in a non-curb and gutter section of the public highway which may or may not be within a designated rural area. ()

74. Setback. The horizontal distance between the highway right-of-way line and permanent fixtures, including but not limited to gas pump islands, signs, display stands and buildings, measured at right angles to the highway centerline. ()

75. Signal Spacing. The distance between signalized intersections measured from the center of intersection to the center of intersection. ()

76. Slope. Slope is expressed as a non-dimensional ratio between vertical and horizontal distance. For side slopes, the vertical component is shown first, then the horizontal. ()

77. Speed. The rate of vehicular travel as measured in miles per hour. All speeds used in this document shall be the eighty-fifth percentile speed as determined by an engineering study. As it applies to the functional classification of a highway, in urban areas, "high" speeds are equal to or above forty-five (45) mph, and "medium" speeds are thirty-five (35) to forty (40) mph; in rural areas, "high" speeds are equal to or above fifty (50) mph.()

78. State Highway System. The principal highway corridors in the state, including connections and extensions through cities and roads to every county seat in the state, as approved by the Idaho Transportation Board and officially designated as a State Highway. ()

79. State Traffic Engineer. The administrator of the Headquarters' Traffic section for the Idaho Transportation Department, or a delegated representative. ()

80. Structure. Shall consist of, but not be limited to, bridges, culverts, siphons, headwalls, retaining

walls, buildings and any incidental construction not otherwise defined herein. ()

81. Subdivision. A division of real property into three (3) or more separately platted parcels. ()

82. Temporary Encroachment. Any encroachment that is not approved as a permanent placement within the highway right-of-way. ()

83. Traffic. Pedestrians, bicycles, animals, vehicles, streetcars, buses and other conveyances, either singly or together, that use the highway right-of-way for the purpose of travel. ()

84. Traffic Control Device. Any marking or device whether manually, electronically, or mechanically operated, placed or erected by an authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic. ()

85. Traveled Way. The portion of the roadway for the movement of vehicles, exclusive of shoulders. ()

86. Travel Lane. That portion of the traveled way designated for use by a single line of vehicles. ()

87. Trenching. A method in which access is gained by excavation from ground level to the required level underground for the installation, maintenance, removal, or inspection of a cable, casing, conduit or pipe. The excavation is then back filled with approved material and the surface is then returned to a condition specified by the Department. ()

88. Turnouts. Roadside areas immediately adjacent to highways which may be utilized by vehicles for purposes of short-term parking or turning. They are extensions of the mainline roadway. ()

89. Unauthorized Encroachment. Any encroachment that has been placed, modified, maintained, or removed within the highway right-of-way without authorization by the Department. ()

90. Urban Area. Any geographical area within the city limits of any incorporated city having a population of five thousand (5,000) or more inhabitants. Population numbers referred to shall be determined by the latest United States Census. ()

91. Urban Approach. An approach located within a curb and gutter section of a public highway that may or may not be within an urban area. ()

92. Utility Facility. All privately, publicly or cooperatively owned systems used for the production, transmission, or distribution of communications, cable television, power, electricity, light, heat, petroleum products, ore, water, steam, waste, irrigation, storm water not connected with highway drainage, and other similar items, including communication towers, guy wires, fire and police signal systems, and street lighting systems, that directly or indirectly serve the public or comprise part of the distribution systems which directly or indirectly serve the public. ()

93. Utility Locating Service. Any locally or regionally recognized service that locates and maintains records of existing utility facilities. ()

94. Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon rails or tracks. ()

95. Vision Triangle. An area delineated by extending perpendicular lines along the face of curb or edge of pavement from their point of intersection twelve point two (12.2) meters/forty (40) feet in either direction and by a height between point nine (0.9) meters/three (3) feet and three (3) meters/ten (10) feet above the existing centerline highway elevation. ()

96. Volume. As applied to the functional classification of a highway, is the number of vehicles

estimated to use a certain type of travel lane during a twelve-month period. A highway with “high” volumes is at or near capacity; a highway with “medium” volumes is at or near fifty percent (50%) of capacity. ()

97. Warrant. An evaluation of need based on an engineering study. ()

011. ACCESS TYPES.

Access control on all segments of the State Highway System shall be upgraded to match the most current functional classification. ()

01. Type I (Major Collector). Type I access control is applicable to segments of the State Highway System functionally classified as major collectors. All major collectors shall be upgraded to a minor arterial or higher class once located within an urban area. ()

02. Type II (Minor Arterial). Type II access control is applicable to segments of the State Highway System functionally classified as minor arterials and some selected segments classified as major collectors that exhibit characteristics of minor arterials. Public highway connections and new private approaches may be permitted in accordance with Department spacing standards. Joint-use approaches are encouraged. As land uses change, existing approaches should be reviewed to encourage development of frontage roads. ()

03. Type III (Principal Arterial). Type III access control is applicable to segments of the State Highway System functionally classified as principal arterials. Type III can also be applied to selected segments classified as minor arterials but exhibit characteristics of principal arterials. Public highway connections and new private approaches may be permitted in accordance with Department spacing standards. Joint-use approaches are encouraged. As land uses change, existing approaches should be reviewed to encourage development of frontage roads. ()

04. Type IV (Principal Arterial, Multi-Lane, Divided). Type IV access control is applicable to selected segments of the State Highway System functionally classified as principal arterials and have four (4) or more lanes with a median or continuous center turn lane. Public highway connections and new private approaches may be permitted in accordance with Department standards. Joint-use approaches are encouraged. As land uses change, existing approaches should be reviewed to encourage development of frontage roads. ()

05. Type V (Interstate). Type V access control is applicable to State highways accessible only by interchanges (ramps). These highways typically include the interstate system and require FHWA approval for any change in access. ()

012. -- 099. (RESERVED).

100. GENERAL.

01. Access Control. ()

a. The Department shall retain the authority to issue all permits on the State Highway System having access control types II through V or where control of access has been acquired by the Department. ()

b. All rights of access shall be verified by legal documents of title. ()

c. No change may be made to the control of access on the National Highway System (NHS) without the approval by the Idaho Transportation Board and FHWA. ()

02. Safety Requirements.

a. ~~The~~ It is the permittee’s responsibility to provide for safe, efficient passage and protection of vehicles ~~and~~ pedestrians, and workers during any permitted work within the highway right-of-way ~~covered by permit is very important and shall be the responsibility of the permittee.~~ During the progress of the work, barricades, signs and other traffic control devices shall be erected and maintained by the permittee in conformance with the current “Manual on Uniform Traffic Control Devices”. (12-26-90)()

b. The permittee shall submit, for Department approval, a traffic control plan for the installation, maintenance, or removal of any State highway right-of-way encroachment. The permittee shall provide advance notification to the Department prior to implementing any traffic control. ()

c. During the progress of the work, barricades, signs and other traffic control devices shall be erected and maintained by the permittee in conformance with the current "Manual on Uniform Traffic Control Devices". The permittee shall be required to meet the minimum requirements of the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD), as adopted by the Department. (12-26-90)()

d. All flaggers working on the State Highway System shall be certified in or recognized by the state of Idaho. They shall carry on their person a current flagger identification card that is recognized by the state of Idaho. All traffic control devices used on the State Highway System shall comply with current FHWA crash criteria. ()

e. During the progress of the work, all barricades, signs and other traffic control devices shall be erected and maintained by the permittee. ()

f. When required, a striping plan for the placement of temporary and permanent pavement markings shall accompany the approved permit to use the right-of-way. Materials, placement, and removal of all pavement markings shall conform to current Department specifications and standards. ()

043. Maintenance Of ~~Approach~~ Encroachments. ~~Once the new roadway approach an encroachment has been constructed by the permittee to an acceptable Department standards, maintenance of the encroachment, unless otherwise provided, the Department will maintain the approach shall be as follows:~~ (12-26-90)()

a. Paved public approach - State maintains to the right-of-way line. (12-26-90)

b. Paved private approach - State maintains to end of radii, permittee maintains beyond the radii. (12-26-90)

c. Gravel public approach - State installs an asphalt wedge sufficient to protect the roadway pavement edge (three (3) to six (6) feet back from the edge of road for the width of the approach). It is desirable to pave the approach to the right-of-way line when the road is reconstructed. The State maintains to the right-of-way line. (12-26-90)()

d. Gravel private approach. State may install an asphalt wedge sufficient to protect the roadway pavement edge three (3) to six (6) feet back from the edge of road for the width of the approach. The permittee maintains beyond the wedge. (12-26-90)()

e. Gravel turnouts. State maintains turnouts, other than mailbox turnouts, to the right-of-way line. The permittee maintains mailbox turnouts. ()

f. Maintenance of all other encroachments shall be the responsibility of the permittee. ()

(BREAK IN CONTINUITY OF SECTIONS)

200. APPLICATIONS AND PERMITS.

01. Required ~~Application~~. To help preserve the highways as constructed and provide responsible growth where allowed, any ~~person or agency~~ individual, business, or other entity planning to ~~access~~ add, modify, relocate, maintain, or remove an encroachment on the State highway or use highway right-of-way for any purpose other than normal travel, shall obtain an approved "Application and Permit to Use Right-of-Way" a permit to use State highway right-of-way. Use permits approved by the Department are required for private and public approaches (driveways and streets), utilities and other miscellaneous encroachments. (12-26-90)()

032. Work Prior To Approval. No ~~work of any nature~~ activities shall be ~~performed~~ allowed on State highway rights-of-way until an approved permit has been issued by the Department or a delegated local highway agency. In an emergency, that effects highway operations and motorist safety, approval may be given by the ~~District Engineer~~ Department or ~~his~~ a delegated ~~representative~~ highway agency in advance of processing the permit. (12-26-90)()

03. Local Highway Agency Authority. Department may delegate authority to a local highway agency to issue permits to use State highway right-of-way if adequate local ordinances are in place and are enforceable. The Department shall retain final approval for all permits issued by a local highway agency on the State Highway System. ()

054. Headquarters' Coordination. ~~The Traffic Section is responsible for coordinating the processing of applications in the Boise Headquarters.~~ **Administration.** Permitting process shall be administered by the District Engineer Department or their delegated representative, within their respective jurisdiction. Department District offices are located in Coeur d'Alene, Lewiston, Boise, Shoshone, Pocatello and Rigby. (12-26-90)()

05. Application Forms. All applications to use State highway right-of-way shall be made on approved Department forms. ()

06. Prior Approved Access Control. ~~Approach permits on projects for which access control was approved prior to October 18, 1978, require exchange deeds to be executed by either the Idaho Transportation Board or Department Director in accordance with Board policy B-03-01.~~ (12-26-90)

026. Applicant To Be Informed. Applicants shall be informed of Department policies and regulations concerning encroachments and shall pay for any changes or adjustments of highway features or fixtures brought about by actions, operations or requirements caused by the applicant. (12-26-90)()

07. Encroachment Conflicts. Conflicts between proposed encroachments and highway maintenance or construction projects, utilities or other encroachments shall be resolved before an application is submitted. ()

08. Review Process. The review process shall commence on the day the applicant signs the application and makes payment of the initial application fee(s). If the Department determines there is insufficient documentation to process the application, the process will be placed on hold until such documentation has been received. All applications for encroachment permits shall be reviewed and evaluated for current access control requirements, deed restrictions, safety and capacity requirements, design and location standards or an approved variance of these standards, environmental impacts, location conflicts, long-range planning goals and the need for an appraisal of access where the State has acquired access rights. ()

049. Department Held Harmless. In accepting ~~this~~ an approved permit, the permittee, ~~its~~ their successors and assigns, shall agree to hold ~~the Department~~ harmless and defend, regardless of outcome, the State from ~~any liability caused by the installation~~ the expenses of and against all suits or claims, including costs, expenses and attorney fees that may be incurred by reason of any act or omission, neglect or misconduct of the permittee or its contractor in the design, construction, maintenance or operation of the ~~approach(es)~~ encroachment. (12-26-90)()

10. Permit Requirements. All permits shall be accompanied by approved traffic control plans, design details and specifications that address dust control, site reclamation, environmental protection and work site safety. Applicant shall submit for approval construction plans stamped by an engineer licensed in the state of Idaho. ()

11. Void Application. Once an application is submitted, if the permitting process is not completed within one (1) year as a result of inactivity on the applicant's part, the application shall be considered void. ()

12. Denial of Application. Applications for encroachments not allowed shall be verbally denied. If the applicant insists on proceeding with the application, the non-refundable fee shall be accepted and a permit denial issued by certified letter. Upon receipt of the denial letter, the applicant can appeal the Department's action. ()

~~201. -- 299. (RESERVED).~~

201. PERMIT COMPLIANCE AND EXPIRATION.

01. Permitted Work. If work does not begin immediately, the permittee shall notify the Department or local highway agency five (5) working days prior to commencing such work. Local highway agency shall promptly notify the Department, when applicable. ()

02. Work Site Documents. The permittee or contractor for the permittee, shall maintain a copy of the approved permit, all special provisions and any related documents, at the work site while work is in progress. ()

03. Completion Of Work. All permitted work shall be completed and available for final inspection within thirty (30) days after construction begins, unless otherwise stated in the special provisions of the permit. If the permitted work is not completed within one (1) year of permit issuance, the permit shall be considered void. At the discretion of the Department, a one-time extension not to exceed six (6) months may be granted if requested in writing by the permittee prior to permit expiration. New applications shall be required for additional work following permit expiration. ()

04. Temporary Encroachments. Temporary encroachment permits shall have an effective time period not to exceed one (1) calendar year and shall be removed within ten (10) days following permit expiration. ()

~~202. -- 299. (RESERVED).~~

300. ENCROACHMENTS.

~~No signs, billboards or structures other than those authorized and installed by the Idaho Transportation Department, or those which the government entity deems necessary for the regulating, warning and guiding of traffic shall be permitted within, or to overhang, the right-of-way of any State highway, except in accordance with these provisions: (12-26-90)~~

~~**01. Encroachment Exceptions.** Signs or marquees extending over the sidewalk and right-of-way may be installed on a permit basis, in curbed sections subject to the following restrictions: (12-26-90)~~

~~a. No sign or marquee shall be permitted to project over the roadway nor to extend beyond a vertical line located eighteen (18) inches outside the curb face. Signs extending over the sidewalk area shall have no part thereof less than twelve (12) feet above sidewalk or ground level. Marquees extending over the sidewalk area shall have no part thereof less than eight (8) feet above sidewalk or ground level. (12-26-90)~~

~~b. Displays or signs overhanging the right-of-way may be authorized on a permit basis outside of a curbed area when the display is supported by the building and does not extend more than twelve (12) inches into the right-of-way. (12-26-90)~~

~~c. All signs and marquees shall conform to the local building and/or sign code except that minimum clearance requirements as herein specified shall be met. Signs and marquees should be maintained in a neat appearing and structurally safe condition at all times. Existing signs or marquees suspended or projected over any portion of State highway right-of-way which constitute a hazard shall be immediately repaired or removed. (12-26-90)~~

~~d. Signs or displays shall not be permitted which resemble, hide, or because of their color, interfere with the effectiveness of traffic signals and other traffic control devices. Illuminated signs or displays containing red, yellow, or green lights are not permitted to overhang the right-of-way. (Section 49-805, Idaho Code) (12-26-90)~~

~~e. A permit may be issued for installation of temporary decorations or banners over a State highway, if they do not interfere with the visibility and effectiveness of traffic control devices. (12-26-90)~~

~~**02. Encroachment Removal.** Any person maintaining an encroachment of any kind upon State highway right-of-way shall be served, according to law, with a notice to remove the same. If the encroachment is not removed within ten (10) days after the service of such notice, the Department shall institute appropriate legal action~~

~~to have it removed.~~

~~(12-26-99)~~

300. GENERAL REGULATIONS FOR APPROACHES.

01. Required. All new or additional approaches, or the modification in design or use, relocation or removal of existing approaches require an approved State highway right-of-way use permit and shall meet all access control requirements that correspond to the current functional classification for the State highway being affected. ()

02. General. Requests for approaches shall be reviewed and considered for approval based on the needs of the total development, regardless of the number of individual parcels it contains. ()

03. Joint-Use Approach. Only an owner of property abutting the State highway right-of-way, or their designated representative, can apply for access. Applications for a joint-use approach that serves two (2) or more abutting properties sharing common boundary lines shall be accompanied by a legal recorded joint-use access agreement and shall be signed by all deeded owners or authorized representatives. ()

04. Deed Requirement. Relocation of existing approaches and additional approaches shall require a new exchange deed showing the access by highway station, approach width and use type. Removed approaches shall require a correction deed that references the original legal document of title in which access rights were removed. ()

05. Appraisals. An appraisal shall be required on all properties when existing documentation verifies State acquisition of access control. ()

06. Applicable Standards. The location, design and construction of all approaches shall comply with Department's standards. Information regarding applicable standards is available at Department Headquarters and all District offices listed in Subsection 003.01. ()

07. Approach Locations. Approaches shall be located where the highway alignment and profile meet approved geometric standards, where they do not create undue interference with or hazard to the free movement of normal highway or pedestrian traffic, and where they do not restrict or interfere with the placement or proper function of traffic control signs, signals, lighting or other devices. ()

08. Number Of Approaches. All approaches shall be designed to adequately serve the needs of the property and the anticipated traffic volumes. Normally not more than two (2) approaches should be provided to any single property tract or business establishment frontage. ()

09. Denial Of Approach Application. Failure to comply with these requirements may be sufficient cause for the Department to deny an approach application, prohibit specific approach usage, or remove an existing approach. ()

10. Type I Encroachment. The following types of encroachments may be permitted within a Type I access control: ()

a. Change in use from Farm/Field access to Single Family Residential access or from Single Family Residential access to Farm/Field access. ()

b. Change in use from Commercial or Multiple Family Residential access to Single Family Residential or Farm/Field access. ()

c. Relocation of approaches not specified within a deed by specific highway stationing. ()

d. Combining two (2) or more deeded approaches into one (1) joint-use approach, if the use will be for Single Family Residential or Farm/Field access and both existing approaches are not specified on the deeds by specific highway stationing. ()

- e. Construction of a new approach. ()
- f. Construction of additional approaches. ()
- g. Modification in design of an existing approach. ()
- h. Removal of an existing approach. ()
- i. Utilities. ()
- j. All other miscellaneous encroachments. ()

11. Type II Through Type V Encroachment. The following types of encroachments may be processed within Type II through V access control: ()

a. Change in use from Farm/Field access to Multiple Family Residential access or from Farm/Field access to Commercial access. ()

b. Change in use from Single Family Residential access to Multiple Family Residential access or from Single Family Residential access to Commercial access. ()

c. Combining two (2) or more deeded approaches into one (1) joint-use approach both existing approaches are specified on the deeds by specific highway stationing. ()

d. Change in location of an approach specified on a deed by specific highway stationing. ()

e. Construction of a new approach. ()

f. Construction of additional approaches. ()

g. Modification in design of an existing approach. ()

h. Removal of an existing approach. ()

i. Utilities. ()

j. All other miscellaneous encroachments. ()

k. All cases where access control has been acquired by the State. ()

12. New Approaches In Highway Construction. Applications within a State highway construction project shall be processed by the Department. ()

13. Modification Of Approaches By Department. The Department reserves the right to make any modifications, additions, repairs, relocations, or removals to any approach or its appurtenances within the highway right-of-way, when necessary for maintenance, rehabilitation, reconstruction or relocation of the highway and/or to provide proper protection of life and property on, or adjacent to, the highway. ()

14. Modification Of Approaches By Permittee. Modifications of approach construction or design shall include but not be limited to width, grade, surface type, landscaping and drainage. Change in use of an approach shall include but not be limited to changes from a farm approach to a residential or commercial approach, or changes from a single-family residential approach to a multiple-family residential or commercial approach. ()

~~301. 399. (RESERVED).~~

301. APPROACHES FOR MAJOR DEVELOPMENTS.

01. Transportation Impact Study (TIS). To ensure that the State Highway System can satisfactorily accommodate proposed development, a Transportation impact study may be required. A TIS shall be required when a new or an expanded existing development has direct access to the State Highway System and adds a minimal number of trips as described below: ()

a. A “full” TIS shall be required for developments that will generate one hundred (100) or more new trips per hour (total two (2) way traffic) during the highway’s peak hour or when the total added volume will equal or exceed one thousand (1,000) vehicles per day (a lesser volume if required by the Department). ()

b. A “minor” TIS is required for developments that will generate between twenty-five (25) and ninety-nine (99) new peak hour trips or will add from two hundred fifty (250) to nine hundred ninety-nine (999) vehicles per day. ()

c. A TIS shall document the extent of the impact of the proposed development on the State Highway System, including additional trips, resulting level of service during AM and PM peaks, and the need for auxiliary lanes or other special capacity or safety features. Any required changes in traffic control, land use, access, pedestrian, or bicycle usage shall also be addressed. ()

02. Authority. The Department shall make the final decision regarding TIS requirements. ()

03. Required. The developer shall provide and pay for the TIS, and the Department will review the study. ()

302. -- 399. (RESERVED).

~~**400. OLD SECTION 400 HAS BEEN RENUMBERED TO SECTION 801.**~~

400. LOCATION AND DESIGN STANDARDS FOR APPROACHES.

01. Required. Location, design, construction and operations of all approaches shall comply with current Department geometric standards and design principles. ()

02. Guidelines. The following access management guidelines shall be considered on all approach applications: ()

a. Design approaches for current and future property access requirements; and ()

b. Reduce conflicts associated access points through the application of channelization, auxiliary lanes, joint-use approaches, frontage and other local roads, restricted on-street parking and off-street traffic circulation. ()

03. Signal Spacing. In order to maintain system capacity, safety and efficiency, maximize signal progression and minimize delays to the traveling public, all approaches and signals shall be spaced in accordance with the following standards: ()

a. All traffic signal locations shall meet Department signal warrant requirements and a signal operational analysis; ()

b. Location preference shall be given to State highways that meet or may be reasonably expected to meet signal warrants within five (5) years; and ()

c. Minimum recommended distances between approaches and signals are as follows:

<u>ACCESS TYPE</u>	<u>URBAN/ RURAL</u>	<u>TYPE</u>	<u>APPROACHES</u>		<u>SIGNALS</u>	<u>FRONTAGE ROADS</u>
			<u>INTERSECTION SPACING</u>	<u>APPROACH SPACING</u>	<u>SIGNAL SPACING</u>	
I	Urban Sections Shall Be Upgraded To Type II Or Greater					
	R	At-grade	.4 km (.25 miles)	91.4 m (300 feet)	.8 km (.5 miles)	.4 km (.25 miles)
II	U	At-grade	201.2 m (660 feet)	45.7 m (150 feet)	.4 km (.25 miles)	.4 km (.25 miles)
	R	At-grade	.4 km (.25 miles)	.15 km (500 feet)	.8 km (.5 miles)	.4 km (.25 miles)
III	U	At-grade/ Interchange	.4 km (.25 miles)	91.4 m (300 feet)	.8 km (.5 miles)	.4 km (.25 miles)
	R	At-grade/ Interchange	.8 km (.5 miles)	.3 km 1000 feet)	.8 km (.5 miles)	.4 km (.25 miles)
IV	U	At-grade/ Interchange	.8 km (.5 miles)	NA	.8 km (.5 miles)	.4 km (.25 miles)
	R	At-grade/ Interchange	1.6 km (1 mile)	NA	1.6 km (1 mile)	.4 km (.25 miles)
V	U	Interchange	1.6 km (1 mile)	NA	None	NA
	R	Interchange	4.8 km 3 miles)	NA	None	NA
	R	At-grade	.4 km (.25 miles)	.15 km (500 feet)	.8 km (.5 miles)	.4 km (.25 miles)

()

04. Corner Clearance.

()

a. Approaches should be located as far as practical from intersections: to preserve visibility at the intersection, to permit safe vehicle movement, and to accommodate the installation of traffic signs, signals and lighting where required.

()

b. Approach transitions or flares shall not encroach upon curbs or pavement edges forming the corner radii of the intersection.

()

c. Minimum corner clearances between signalized and unsignalized urban and rural intersections shall comply with current Department standards.

()

05. Approach Alignment. Whenever possible, all new or relocated approaches shall intersect the State highway at right angles and shall be aligned on centerline with existing approaches to facilitate highway safety and the development and use of turn lanes and/or signals. Approach skew angles shall be in conformance with current Department standards.

()

06. Width And Radius. ()

a. An approach shall be wide enough to properly serve the anticipated type and volume of traffic. Minimum widths should be used only when space limitations apply. ()

b. An approach that is adjacent to a public alley may include the alley as part of the approach if approved by the local jurisdiction, however, the width of the combined approach shall not exceed twelve point two (12.2) meters/forty (40) feet. ()

c. Commercial approaches with volumes exceeding fifty (50) vehicles per hour during a total of any four (4) hours per day should be designed to public road standards. ()

d. A Boulevard Approach may be required to improve operation and/or aesthetics of commercial approaches and some public highways, when warranted, by a combination of vehicle length and higher traffic volumes. The approach shall be designed to serve the traffic with a right-turn lane, a left-turn lane, a median, and one (1) or more entrance lanes. ()

e. Minimum and maximum recommended approach widths and radii are as follows:

APPROACH USE	< 35 MPH		> 35 MPH		RADII	
	MINIMUM	MAXIMUM	MINIMUM	MAXIMUM	MINIMUM	MAXIMUM
<u>Single Residential, Farmyard, Field</u>	<u>3.7 m (12ft)</u>	<u>12.2 m (40ft)</u>	<u>6.1 m (20ft)</u>	<u>12.2 m (40ft)</u>	<u>6.1 m (20ft)</u>	<u>9.1 m (30ft)</u>
<u>Multiple Residential</u>	<u>8.5 m (28ft)</u>	<u>12.2 m (40ft)</u>	<u>8.5 m (28ft)</u>	<u>12.2 m (40ft)</u>	<u>6.1 m (20ft)</u>	<u>9.1 m (30ft)</u>
<u>Commercial (One-Way)</u>	<u>4.6 m (15ft)</u>	<u>9.1 m (30ft)</u>	<u>6.1 m (20ft)</u>	<u>9.1 m (30ft)</u>	<u>9.1 m (30ft)</u>	<u>12.2 m (40ft)</u>
<u>Commercial (Two-Way)</u>	<u>7.6 m (25ft)</u>	<u>12.2 m (40ft)</u>	<u>7.6 m (25ft)</u>	<u>12.2 m (40ft)</u>	<u>9.1 m (30ft)</u>	<u>12.2 m (40ft)</u>
<u>Boulevard Approach</u>	<u>25.6 m (84ft)</u>	<u>25.6 m (84ft)</u>	<u>25.6 m (84ft)</u>	<u>25.6 m (84ft)</u>	<u>Contact Department</u>	
<u>Joint-Use Residential/Farm</u>	<u>7.6 m (25ft)</u>	<u>12.2 m (40ft)</u>	<u>7.6 m (25ft)</u>	<u>12.2 m (40ft)</u>	<u>6.1 m (20ft)</u>	<u>9.1 m (30ft)</u>
<u>Joint-Use Commercial</u>	<u>3.7 m (12ft)</u>	<u>12.2 m (40ft)</u>	<u>6.1 m (20ft)</u>	<u>12.2 m (40ft)</u>	<u>9.1 m (30ft)</u>	<u>12.2 m (40ft)</u>
<u>Public Highways</u>	<u>8.5 m (28ft)</u>	<u>N/A</u>	<u>8.5 m (28ft)</u>	<u>N/A</u>	<u>9.1 m (30ft)</u>	<u>15.2 m (50ft)</u>

()

07. Property Line Clearance. ()

a. In curbed sections, there shall be a minimum property line clearance of one point two (1.2) meters/six (6) feet to accommodate approach transitions. Approaches shall be constructed so that all approach flares and any extensions of the approach remain within applicant's property. ()

b. In rural or uncurbed sections, property line clearances shall be equal to approach radius. Approaches shall be constructed so that all approach radii remain within applicant's property. ()

c. Approach transitions or radii may be allowed to abut the adjacent property line when required for proper utilization of property. Joint-use approaches shall be required whenever property frontage is insufficient to include full width of the approach, including both radii. ()

08. Setback. ()

a. Improvements on private property adjacent to State highway right-of-way to serve patrons shall be setback from the highway right-of-way line so that stopping, standing, parking or maneuvering of vehicles on the right-of-way is not necessary. A minimum setback of four point three (4.3) meters/fourteen (14) feet from State highway right-of-way line is recommended, unless a greater minimum is established by an engineering study. When an ordinance requires a certain number of parking spaces per square footage of building, the parking spaces shall not be included within State highway right-of-way. ()

b. Traffic movements into and out of a business shall be designed, whenever possible, to utilize existing local roads. Existing approaches along traveled way should serve as exits only from the business onto the State highway. Entrance to the property should be made from a local road. ()

09. Sight Distance. Any encroachment, including but not limited to hedges, shrubbery, fences, walls, or other sight obstructions of any nature, that constitutes a traffic hazard within the "vision triangle" of vehicle operators at the intersection of roads with other roads, private approaches, alleys, bike or pedestrian paths, or railroad crossings shall be removed. ()

10. Transitions And Flares. ()

a. In curb and gutter sections, the transition connecting the edge of the approach to the curb shall meet minimum Department standards. ()

b. In sections not having a curb and gutter, approach flares should connect the outside edge of the approach to the outside edge of the roadway shoulders and shall meet minimum Department standards. The approach flare tangent distance should not exceed six point one (6.1) meters/twenty (20) feet unless a larger radius is warranted by an engineering study. ()

c. The distance between approaches shall be such that the curb approach transition or radii of the one (1) approach does not encroach upon the transition or radii of the adjacent approach. ()

11. Grade. ()

a. If the maximum allowable slope is not great enough to bring the approach to the level of the sidewalk or back of curb, a depressed sidewalk should be installed, when required. If sidewalks exist, the connection between the original sidewalk and the depressed sidewalk shall be made through a transition area with a slope no steeper than one-to-twelve (1:12) from the longitudinal grade of the original sidewalk. All new curbs or sidewalks should be constructed to the line and grade of the existing curb or sidewalk with every effort to construct a sidewalk that is uniformly graded and free of dips. ()

b. To accommodate emergency service vehicles, the Department recommends a maximum approach grade of plus or minus ten percent (+10%). ()

12. Border Area. ()

a. Border area work (including grading, seeding and landscaping) shall insure that adequate sight distance, proper drainage, desirable slopes for maintenance operations, and a pleasing appearance are provided. The border area shall be free of encroachments and designed as needed to prevent vehicular use through the incorporation of appropriate methods such as ditching, special grading, use of concrete or bituminous curbs, fencing, guard rail and guide posts. The design or devices should not impair adequate sight distance or constitute a hazard to pedestrians, bicycle, or vehicles. ()

b. The maximum slope beyond the outside edge of shoulder, back of curb, or back of sidewalk to the

right-of-way line shall meet minimum Department standards. The creation of ponds, pools, or drainage/evaporation swales within the highway right-of-way shall be prohibited. ()

13. Drainage. ()

a. All approaches shall be graded so that private properties abutting the highway right-of-way do not drain onto the traveled way, do not impair the drainage within the right-of-way, alter the stability of the roadway subgrade or materially alter the drainage of areas adjacent to the right-of-way. Post-development drainage flows shall not exceed predevelopment drainage flows. ()

b. Culverts and drop inlets shall be installed where required and shall be the type and size specified by the Department. Where the border area is regraded, landscaped or reclaimed (seeded), it shall have sufficient slope, ditches, culverts, and drop inlets for adequate drainage. Slopes, where practical, should be a one-to-six (1:6)/six-to-one (6:1) maximum. ()

14. Base And Surfacing. ()

a. It shall be the responsibility of the permittee to supply, place and properly compact the approach fill and base material. All base and surfacing materials and compaction requirements shall meet minimum Department design and construction standards. ()

b. All rural private, commercial and public approaches shall be paved to the right-of-way line or to the back of the approach radius. Farmyard and field gravel approach that are occasionally used shall be paved a minimum of one point five (1.5) meters/five (5) feet from the edge of pavement. ()

~~401. 499. (RESERVED).~~

401. MEDIANS.

01. Median Placement. The placement of medians shall meet the following considerations: ()

a. Where a traffic engineering study indicates that medians would be beneficial to control access, maintain street capacity, and improve traffic safety. ()

b. When medians are selected, non-traversable medians are the preferred median type; however, traversable medians in urban areas may be considered to accommodate emergency vehicles. ()

c. Pedestrian/bicycle safety shall be given consideration in the choice and design of medians in areas that are frequently used by pedestrians/bicycles. ()

d. Construction requirements for all new or modified public approaches to the State highway right-of-way, including private approaches to subdivisions and businesses, shall be reviewed for the need to place medians on the State highway. ()

e. Channelization formed by raised curbs, solid painted islands, left turn lanes, or other traffic control installations may be required to create a mandatory right-in/right-out and/or left-in/left-out approach condition. ()

02. Median Openings. Median openings shall be as follows: ()

a. Placed on multi-lane State highways at all signalized intersections, at locations which currently meet the criteria for a signal warrant and fulfill traffic signal coordination requirements, at locations that are anticipated to meet future traffic signal considerations, and at locations where there will be no significant reduction in safety or operational efficiency. ()

b. Designed with a left turn lane and sufficient storage for left turning traffic. ()

c. Median openings allowing U-turns shall be provided only at locations having sufficient roadway width. ()

402. AUXILIARY LANES.

Review Required. Reviews shall be conducted to determine the need to provide turn lanes, deceleration lanes and acceleration lanes on the State highway prior to issuing an approach permit. Consideration of auxiliary lanes shall meet the following conditions: ()

01. Engineering Study. An engineering study shall be made that considers highway operating speed, traffic volumes, projected turning movement volumes, availability of passing opportunities, sight distance and collision history. ()

02. Auxiliary Lanes To Enhance Roadside Business. Auxiliary lanes shall not be constructed to enhance a new roadside business, unless the applicant is willing to pay the full cost. ()

03. Auxiliary Lanes Required By Planned Development. Auxiliary lanes required as a result of a planned development, shall be paid for by the developer. When the need for an auxiliary lane exists prior to an application for a planned development, the developer may not be required to pay for the lane unless such construction precedes the Department's construction schedule. ()

403. -- 499. (RESERVED).

500. GENERAL REGULATIONS FOR APPROACHES.

~~**01. Applicable Standards.** The location, design and construction of all new approaches shall comply with the Idaho Transportation Department's standards. Information regarding applicable standards is available at Transportation Department Headquarters and all Highway District offices. (12-26-90)~~

~~**02. Approach Locations.** Approaches shall be located where they do not create undue interference with or hazard to the free movement of normal highway or pedestrian traffic and so that areas of congestion shall not be created on the highway. (12-26-90)~~

~~**03. Approach Changes.** The Department reserves the right to make any changes, additions, repairs or relocations to any approach or its appurtenances within the highway right-of-way, necessary relocation, reconstruction, widening, or maintenance of the highway and/or to provide proper protection of life and property on, or adjacent to, the highway. (12-26-90)~~

~~**04. Denial Of Approach Application.** Failure to comply with these requirements may be sufficient cause for the Department to deny an approach application, prohibit specific approach usage, or remove an existing approach. (12-26-90)~~

501. DESIGN PRINCIPLES FOR APPROACHES.

~~**01. Base And Surfacing.** (12-26-90)~~

~~a. It shall be the responsibility of the permittee to supply, place and properly compact the approach fill and base material. All base material shall consist of sand gravel, or sand and rock mixtures containing sufficient granular fines to fill the voids between the larger gravel and stone, and to permit compaction. (12-26-90)~~

~~b. In areas without curb and gutter, the approach base and surfacing shall consist of an adequate depth of granular material. When deemed necessary by the Department, for maintenance or operational purposes, the property owner shall be required to furnish and place asphalt surfacing. (12-26-90)~~

~~c. In curb and gutter areas, approaches shall be paved to the back edge of the sidewalk or right-of-way line whichever is the least. (12-26-90)~~

~~**02. Drainage.** All approaches shall either drain away from the traveled way or have sufficient crown to~~

~~cause all drainage to run to the sides of the approach rather than drain onto the highway, except in areas having curb and gutter. Generally, approaches in areas having curb and gutter should be graded so that adjacent private properties would not drain to the highway unless existing storm drain system capacity is demonstrated to be adequate within current design criteria. Culverts and drop inlets shall be installed where required and shall be the type and size specified by the Department. Where the border area is regraded and/or landscaped, it shall have sufficient slope, culverts, and drop inlets for adequate drainage.~~ (12-26-90)

502. ~~GEOMETRIC RESTRICTIONS FOR APPROACHES.~~

~~**01. Number Of Approaches.** The number of approaches provided shall be the minimum number required to adequately serve the needs of the property. Normally not more than two (2) approaches should be provided to any single property tract or business establishment frontage. (12-26-90)~~

~~**02. Width.** An approach shall be wide enough to properly serve the anticipated type and volume of traffic. This width shall be within the following specified limits, except that approaches in speed zones over thirty-five (35) mph shall be a twenty (20) foot minimum. Minimum widths should normally be avoided. (12-26-90)~~

- ~~a. Residential: twelve (12) foot minimum to thirty (30) foot maximum. (12-26-90)~~
- ~~b. Farmyard, Field: twelve (12) foot minimum to fifteen (15) foot maximum. (12-26-90)~~
- ~~c. Commercial (one (1) way): fifteen (15) foot minimum to thirty (30) foot maximum. (12-26-90)~~
- ~~d. Commercial (two (2) way): twenty five (25) foot minimum to forty (40) foot maximum. (12-26-90)~~

~~**03. Corner Clearance.** (12-26-90)~~

~~a. Approaches should be located as far as possible from intersection: to preserve visibility at the intersection; to allow a vehicle leaving an approach to enter the desired traffic lane before entering the intersection; to permit a vehicle crossing the intersection to enter the approach in an orderly, safe manner with a minimum of interference to through traffic; and to facilitate the installation of traffic signs, signals and lighting where required. (12-26-90)~~

~~b. Minimum recommended corner clearances are as follows:~~

With Curb and Gutter	Minimum	Desirable
Entering Side of Intersection	Corner Radius + 20 ft minimum	Corner Radius + 40 ft to 60 ft
Exit Side of Intersection	Corner Radius + 10 ft minimum	
Without Curb and Gutter	Minimum	Desirable
Entering Side of Intersection	Corner Radius + 40 ft minimum	
Exit Side of Intersection	Corner Radius + 20 ft minimum	Corner Radius + 20 ft to 40 ft

(12-26-90)

~~**04. Conduits Under The Roadway.** (12-26-90)~~

~~a. Conduits crossing under the highways carrying water, sewage, chemicals, electrical wire, communications cables, etc., shall be installed by jacking, driving or boring unless trenching can be justified. Justification would only be poor soil conditions, such as rock or boulders, inadequate room for a boring pit, or too many conflicts (gas lines, multiple telephone conduits, etc.). Where gravel or boulders prevent boring or jacking on~~

~~the first try, at least two (2) other attempts should be made at different locations before contacting the District about an alternate installation method. Normally conduit up through twenty-four (24) inches outside diameter should be installed without trenching.~~ (12-26-90)

~~b. The permittee is required to submit for approval details on casing, bulkhead and placement, vertical and horizontal sketches showing dimensions of the pit and shoring, method of installing the conduit, dewatering, void filling, and traffic control devices. Sluicing or jetting shall not be allowed.~~ (12-26-90)

~~e. Conduits under freeways shall not be installed by cutting through the pavement.~~ (12-26-90)

503. APPROACHES FOR NEW DEVELOPMENTS.

~~Before an approach permit is granted, a traffic impact study shall be required of all new developments which will generate over one hundred (100) cars per hour (total two (2) way) during the peak hour or a lesser volume if requested by the Department. The developer shall provide and pay for the study and the Department will review the study.~~

(12-26-90)

504. SUBSTANDARD APPROACHES.

~~If a substandard approach is constructed, the permittee shall be given one (1) month to upgrade the approach to the prescribed standards on the permit or have a plan of action approved by the District Engineer with a completion date. Permits for approaches not upgraded to the prescribed standards shall be revoked and action taken to remove the approach. Unapproved approaches may be removed by the District and legal action initiated to collect the removal cost. (Section 40-120, Idaho Code) The above one (1) month requirement may be reduced if a hazardous situation is created by a permittee or party and immediate corrective work is ordered by the District Engineer when time is of the essence.~~

(12-26-90)

500. LOCATION AND DESIGN STANDARDS FOR UTILITIES.

01. Approved Permit Required. An approved right-of-way encroachment permit shall be required for all utility encroachments, including new utility installation and the relocation, maintenance, modification or removal of existing utility facilities prior to the initiation of any work within the State highway right-of-way. ()

02. Utility Locations. Final utility locations shall be identified on the appropriate roadway and bridge plans. ()

03. Full Control Of Access. All longitudinal placement of utility encroachments are prohibited in areas of full control of access with the exception of telecommunication utilities as addressed in the 1996 Telecommunications Act. A permit approved by the Department for the installation of telecommunication utilities shall be required. ()

04. Utility Maintenance And Emergency Repair. Right-of-way use permits, approved annually by the Department, shall be required for all maintenance or emergency repairs of utility facilities. The utility shall notify the Department in advance of any work that affects the traveling public. ()

05. Conduits Under The Roadway. (12-26-90)

a. Conduits crossing under highways that carry utility structures including, but not limited to, water, sewage, chemicals, electrical wire, and communications cables, shall be installed by jacking, driving or boring unless trenching can be justified. Acceptable justification would only be poor soil conditions, such as rock or boulders, inadequate room for a boring pit, or conflicts with other utility lines which cannot be located accurately (gas lines, multiple telephone conduits. If gravel or boulders prevent boring or jacking on the first attempt, at least two (2) other documented attempts should be made at different locations before contacting the District about an alternate installation method, unless the utility can provide documentation from a qualified agency or engineer that indicates the strata is not conducive to boring, driving or jacking. Normally installation of conduit point six (0.6) meters/ twenty-four (24) inches or less outside diameter should be attempted by jacking, driving or boring before consideration of trenching as an alternative. ()

b. The applicant is required to submit for review and approval a set of construction plans stamped by an engineer licensed in the state of Idaho. The plans shall show all details on casing, conduits, and bulkhead and placement, showing vertical and horizontal dimensions of the pit and shoring, method of installing the conduit, drainage, void filling, and traffic control devices. Sluicing or jetting shall not be allowed. Casings should be installed from highway right-of-way line to highway right-of-way line to allow for servicing with minimal disruption to traffic flows. Casings should be installed to allow for placement of multiple conduits. ()

c. Conduits under interstate highways shall not be installed by cutting through the pavement under any circumstance. ()

06. Conduits Attached To Structure. Conduits attached to any structure shall meet the following requirements: ()

a. A set of construction plans showing all details and calculations of a crossing or proposed attachments, stamped by an engineer licensed in the state of Idaho, shall be submitted to the Department for review and approval at the time of permit application. A copy of the existing structure plans shall also be submitted that are marked to show the proposed structure modifications. ()

b. Reinforcement shall be located prior to the placement of threaded inserts to suspend utilities using a method approved by the Department. ()

c. All attaching hardware shall be galvanized or coated as directed by the Department. ()

d. Bolts for the attachment clamps shall be a minimum of twelve point seven (12.7) mm/one-half (1/2) inches in diameter. ()

e. Slip joints shall be installed as directed by the Department. ()

f. Drilling of any bridge structural element shall be prohibited without approval from the Department. ()

g. Utilities shall be attached to bridges in an interior bay, unless interior attachment is not practical due to the bridge diaphragm or end beam construction. ()

h. Placing brackets along or around the structure rail is prohibited. ()

i. The installing utility shall relinquish exclusive rights to future use of a hanger system, once installed. However, the responsibility for required maintenance shall remain with the installing utility until the hanger system is placed into a joint-use system. At that time, the responsibility for maintenance shall become a shared responsibility. ()

j. A set of "as-built" plans for all conduit or utility crossings and structure attachments shall be submitted to the Department and the local utility locating service with all details of construction within thirty (30) days of the work completion. All "as-built" plans are required to be stamped by an Engineer licensed in the state of Idaho. ()

5051. -- 599. (RESERVED).

~~**600. OLD SECTION 600 HAS BEEN RENUMBERED TO SECTION 700.**~~

600. LOCATION AND DESIGN STANDARDS FOR OTHER ENCROACHMENTS.

01. Approved Permit Required. An approved right-of-way encroachment permit shall be required for all portable objects or signs, memorials, urban improvements, landscaping, farming, irrigation or drainage, mailbox stands or turnouts, recreational parking facilities, park-and-ride lots, school bus turnouts, or structures within the State highway right-of-way other than those authorized or installed by the Department, or those which the government entity deems necessary for regulating, warning and guiding of traffic. ()

02. Benches, Planters, And Other Urban Structures. Structures, including protrusions and overhangs, shall be a minimum of point five (0.5) meters/eighteen (18) inches behind the face of curb. When a structure is within a sidewalk area, at least one point two (1.2) meters/four (4) feet of unobstructed space shall be available for pedestrians. ()

03. Overhanging Displays, Canopies And Marquees. In a curb section, encroachments shall not extend closer than point five (0.5) meters/eighteen (18) inches behind face of curb. In a non-curb section, encroachments supported by a building shall not extend more than point three (0.3) meters/twelve (12) inches into right-of-way. Signs or displays shall be no lower than three point seven (3.7) meters/twelve (12) feet above the sidewalk or ground level. Canopies and marquees shall be no lower than two point four (2.4) meters/eight (8) feet. ()

04. Landscaping, Farming And Associated Irrigation. Repair of landscaping in the State highway right-of-way shall be the responsibility of the permittee, and the Department will not be responsible for, or participate in, any repair or maintenance costs. All requests for landscaping, farming and irrigation shall require a review of current access control records for restrictive covenants. Applications may be approved provided the following conditions are met: ()

a. Landscaping, farming, and irrigation systems shall maintain the structural integrity of the State highway right-of-way. No undercutting of the present highway fill and ballast section nor unprotected bare soil for access from the State highway shall be allowed. ()

b. Unless otherwise specified, the degree of landscaping will be limited to what is necessary to insure that the appearance of the State highway right-of-way is compatible with the appearance of the surrounding area and shall not interfere with public safety and overall maintenance operations. ()

c. Landscaping, farming, and irrigation systems shall not disturb, obstruct, or add to the normal drainage patterns of the State highway right-of-way. No new ditches shall be constructed without prior approval. ()

d. Landscaping, farming, and irrigation systems shall not interfere with utility installations, removals, or operations. ()

e. Provisions shall be established for the responsibility of future maintenance. ()

f. Only planting of forage plants, grasses, flowers, and shrubs with a mature height not to exceed point nine (0.9) meters/three (3) feet will be allowed within the clear zone of the State highway right-of-way. Type and size of grasses, flowers, and shrubs will be determined by the Department. ()

g. No trees shall be allowed within nine (9) meters/thirty (30) feet of the edge of the traveled way. ()

h. No rocks over one hundred (100) mm/four (4) inches maximum size will be allowed within nine (9) meters/thirty (30) feet of the edge of the paved roadway. ()

i. Irrigation systems shall be no closer than one point five (1.5) meters/five (5) feet from the pavement edge and shall be adjusted so water does not cover any part of the highway pavement. ()

j. No grading, excavation or other ground disturbing activities will be performed during rainy periods. If work cannot be avoided during rainy periods, the permittee will install check dams or other approved device(s) or structure(s) in drainage channels and provide a sediment retention basin to avoid discharging sediment containing runoff into the drainage system, or any wetlands, or water bodies (streams, rivers, lakes and ponds). No work shall be performed in or adjacent to any wetland or water body without providing the Department with copies of the appropriate permits from the Army Corps of Engineers, Idaho Department of Water Resources, and the Idaho Division of Environmental Quality. ()

k. All areas within the State highway right-of-way disturbed by construction shall be returned to its original condition and reclaimed (re-seeded, fertilized and mulched) as directed by the Department or delegated local highway agency. ()

l. Appropriate Best Management Practices to temporarily control erosion and resulting sediment shall be used. Typical soil surface protection practices include erosion control blankets, taced mulches of straw, wood fiber, paper fiber, soil amendments, or rock mulch. Typical sediment control practices may include silt fences, fiber wattles, rock check dams, sediment basins/ponds, inlet culvert risers, and inlet rock filters. For further information on Best Management Practices, contact the Department. ()

m. Travel lanes shall be kept reasonably free of dirt, rocks and other debris resulting from construction or maintenance of landscaping, farming, or irrigation. ()

05. Recreational Parking And Park-And-Ride Lots. ()

a. Parking areas shall be designed to safely accommodate an adequate number of parking spaces as determined by the Department. ()

b. Access points shall be located so that adequate sight distance is maintained for the safety of approaching traffic and so that minimal interference with the normal flow of traffic on the traveled way results. ()

c. No commercial-sized approaches shall be permitted. ()

d. Installation of fencing and delineation should be considered to restrict ingress and egress locations and widths. ()

e. Unrestricted drainage shall be provided and shall comply with minimum Department standards. ()

f. Construction and maintenance of parking areas, including snow removal shall be the responsibility of the permittee. ()

06. Mailbox Turnouts. ()

a. Mailbox turnouts in rural areas may be combined with an adjacent approach or may be independent of the approach. For safety reasons, the mail carrier should be able to stop out of the traveled way whenever possible. The applicant should be required to construct a mailbox turnout at the same time a mailbox is installed. ()

b. Mailbox turnouts and supports shall be constructed in accordance with minimum Department standards. The box-to-post attachments shall resist separation when struck by a vehicle. No massive metal, concrete, stone or other hazardous supports shall be allowed. Owners of mailboxes that do not meet minimum installation requirements shall be notified that correction is required. ()

07. School Bus Turnouts. ()

a. School bus turnouts shall be constructed with sufficient length and width to accommodate bus length and turning maneuvers as determined by the Department. ()

b. Turnouts shall be located so adequate sight distance is maintained for the safety of approaching traffic and so that minimal interference with the normal flow of traffic on the traveled way results. ()

c. All permitted school bus turnouts shall include approved advance warning signs installed at Department expense. ()

(BREAK IN CONTINUITY OF SECTIONS)

~~700.~~ OLD SECTION 700 HAS BEEN RENUMBERED TO SECTION 003.

~~6700.~~ APPLICATION FEES.

01. **Fee Administration.** Fees for applications for permits shall be based on the ~~Idaho Transportation~~ Department's cost to produce the permit and administer the program. Fees for permits are not refundable in the event of denial of the permit by the Transportation Board or in the event the permittee fails to ~~construct the approach~~ comply with the permit. Applications shall not be processed until all applicable permit fees are received.

~~(12-26-90)~~()

02. **Availability Of Fee Schedule.** ~~A current schedule of fees is available at the Idaho Transportation Department Headquarters Office or any Highway District Office.~~ The permit application fees shall be as follows:

~~(12-26-90)~~()

- a. Approaches and Other Encroachments: ()
 - i. Single Family Residential, Type I Access Control - fifty dollars (\$50). ()
 - ii. Multiple-Family Residential, Type I Access Control - one hundred dollars (\$100). ()
 - iii. Farm or Field, Type I Access Control - fifty dollars (\$50). ()
 - iv. Single Family Residential, Type II – IV Access Control - one hundred dollars (\$100). ()
 - v. Multiple-Family Residential, Type II – IV Access Control - one hundred dollars (\$100). ()
 - vi. Farm or Field, Type II – IV Access Control - one hundred dollars (\$100). ()
 - vii. Commercial, Type I – IV Access Control - five hundred dollars (\$500). ()
 - viii. Subdivision, Type I – IV Access Control - five hundred dollars (\$500). ()
 - ix. Other Encroachments - fifty dollars (\$50). ()
- b. Utility Permits: ()
 - i. Type I – V: new, modify, relocate with no prior easement rights - seventy-five dollars (\$75). ()
 - ii. Type I – V: maintenance or emergency repairs with no prior easement rights - No Charge. ()
 - iii. Type I – V: new, modify, relocate with prior easement rights within an ITD State highway project) - No Charge. ()
 - iv. Fees for the longitudinal placement of telecommunication utilities in full control of access (Type V), will be addressed at the time of application. ()

03. **Studies Miscellaneous Costs.** In addition to the application fee, the Department may require payment of ~~the estimated cost of any studies or appraisals when,~~ costs associated with the following:

~~(12-26-90)~~()

- a. ~~Large development plans must be reviewed and/or extensive Department time is expended on a traffic s~~Study or appraisal review; or ~~(12-26-90)~~()
- b. ~~Appraisals must be made to determine the fee to be paid the Department in a controlled access~~

~~section if an additional approach is authorized. These fees may be charged at the discretion of the District Engineer. Estimated costs would include wages (loaded rate), travel, subsistence and other expenses incurred. The intent is to recover only Department costs fees required to establish the value of property for new, additional, modification in design or use to, or relocation of approaches or other encroachments in a controlled access highway.~~ (12-26-90)()

~~04c. **Inspection Fees.** Inspection fees may be charged at the discretion of the District Engineer when substantial inspection time will be required to monitor and accept work done within the right-of-way. The fee would This includes wages, travel, subsistence and other expenses incurred. The intent is to recover only Department costs. When the inspection fee is to be assessed, it shall be stipulated under the application's special provisions. Travel time in excess of one (1) hour, a loaded payroll rate, vehicle rental cost, subsistence and other expenses incurred. If additional inspections are required, the permittee will be billed a flat fee as determined by the Department at the time the permit is issued~~ (12-26-90)()

~~05d. **Performance Bond.** A performance bond may be required of an applicant at the discretion of the District Engineer Department. The purpose of this bond is to guarantee completion of the work in accordance with the requirements of the permit. The bond amount would should be large enough to cover costs to correct potential damage to the highway system the permittee might cause that might be caused by the permittee. The bond must shall be executed by a surety company authorized to conduct business in Idaho.~~ (12-26-90)()

~~e. Construction of highway modifications or improvements, including but not limited to signals, illumination, signs, pavement markings, delineation, guardrail and culverts; ()~~

~~f. Changes or adjustments made to highway features or fixtures; or ()~~

~~g. Expenses relating to photocopying highway plans, permits or related documents. ()~~

~~064. **Waivers.** Permit fees shall may be waived and the justification included with the application for:~~ (12-26-90)()

~~a. Approaches resulting from right-of-way negotiations; that are included in plans and completed during construction of a highway project. (12-26-90)()~~

~~b. Future approaches shown on construction plans; Government agencies. (12-26-90)()~~

~~c. Agricultural uses of the right-of-way as included in the right-of-way agreement; and. (12-26-90)()~~

~~d. Approaches and other uses encroachments where direct benefit to the Department is gained. (12-26-90)()~~

~~e. Utility adjustments or relocations per project utility agreement, or requested by the Department, or utility maintenance and emergency repairs. ()~~

701. --9799. (RESERVED).

800. UNAUTHORIZED AND NONSTANDARD ENCROACHMENTS.

01. Compliance. District Engineers shall ensure compliance with all applicable laws and Department policies relating to the removal or correction of unauthorized and non-standard encroachments in accordance with Department rules and policies. ()

02. Prohibition. Approaches and other encroachments on State highway rights-of-way that are installed without an approved State highway right-of-way permit, or not constructed in accordance with the Department requirements as stated in the permit, or are naturally occurring adjacent to the State highway right-of-way line and create a hazard, are prohibited, may be removed or their use may be suspended until corrective action is taken. The application process shall be immediately initiated when applicable or the encroachment removed when

such a permit cannot be approved. ()

03. Nonstandard Encroachment. When a permitted encroachment does not meet Department standards, the applicant or permittee shall be given one (1) month to upgrade the encroachment to the encroachment standards. Encroachments may be removed by the Department and legal action initiated to collect the removal cost. (Section 40-2319, Idaho Code) The one (1) month period may be shortened if an imminent or immediate threat to the safety of the traveling public is present. Time extensions may be granted by the Department or delegated local highway agency. However, if the permittee does not comply, the permit shall be revoked and the encroachment removed. ()

04. Encroachment Removal. Any person or entity maintaining an unauthorized encroachment of any kind upon State highway right-of-way shall be served, according to law, with a notice to remove the same. Failure to remove the encroachment within forty-eight (48) hours shall be followed by a certified letter from the Department requesting removal ten (10) days. If the encroachment is still not removed, the Department shall institute appropriate legal action to have it removed. The Department may take immediate corrective action if an imminent or immediate threat to the safety of the traveling public is present. ()

05. Liability Of Applicant. The applicant may be held liable for injury or damages caused by the unauthorized or non-standard encroachment. The Department shall make no reimbursement for removal of unauthorized or non-standard encroachments nor shall compensation be made for any losses that may arise from their removal. The Department may initiate legal action to recover costs for the removal of unauthorized or non-standard encroachments. ()

400801. PROHIBITIONS.

01. Prohibited Uses. The use of the highway right-of-way or any portion thereof for any of the following uses or purposes shall be prohibited: (12-26-90)

a. Mobile stores, mobile lunch wagons or ~~any other similar businesses of like nature when such vehicles that stop vehicles to offer for sale or sell their wares on any portion of any State highway right of way.~~ (12-26-90)()

b. ~~Fruit, vegetable, produce or lunch stands or any other business, temporary or permanent, offering for Solicitation or sale or selling of any item or product, including motor fuels, or service or goods or services, attempting to serve, distribute, petition or recruit, and all associated stopping, standing or parking of vehicles standing or parked on State highways (except Department-approved vending privileges in safety rest areas.~~ (12-26-90)()

c. The storage of any substance, equipment or material, including but not limited to logs, lumber, supplies or aggregates. (12-26-90)()

d. The abandonment of vehicles or other large objects. ()

e. Servicing, refueling and repairing of vehicles, except for emergencies. ()

~~df. Any private~~ The placement of portable objects or signs (material or copy), advertising displays, structure or political poster, provided that political posters on utility poles shall be governed by Section 18-7029, Idaho Code or other unapproved highway fixtures. (12-26-90)()

g. Permanent, temporary or mobile structures, manned or unmanned. ()

h. Any obstruction that creates a traffic hazard, including trees, shrubbery, fences, walls, non-standard mailbox stands or other appurtenances. ()

i. Signs or displays that resemble, hide or because of their color, interfere with the effectiveness of traffic signals and other traffic control devices. ()

02. Modification Of Rule. The ~~District Engineer of any district with the approval of the State Highway Administrator~~ Department may modify this rule for emergency, temporary installations ~~which are in the interest of road operational emergency needs of~~ for the benefit to the highway user. (12-26-90)()

03. Encroachment Hazards. Encroachments over a State highway if they do shall not interfere with the safety of the highway or the visibility and effectiveness of traffic control devices, form a wall or building support, obstruct crosswalks or wheelchair ramps, or force pedestrians into the highway. ()

034. Board Jurisdiction. The Board, by and through the ~~State Highway Administrator~~ Department, may consummate agreements with cities and villages whereby they may exercise their police powers on those matters within their jurisdiction. (12-26-90)()

802. -- 999. (RESERVED).

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
39.03.47 - RULES GOVERNING CERTIFICATION OF LOCAL IMPROVED ROAD MILEAGE

DOCKET NO. 39-0347-0001

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective August 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) 40-312 and 40-709, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 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:

Senate Bill 1408, 2000, repealed Section 40-2320, Idaho Code, which prohibited the gating of public highways, with certain exceptions. Local roads that were gated and did not meet the exception criteria were not included in the statewide inventory of improved roads. Since the distribution of highway funds is based on this inventory, the local jurisdiction did not receive a share of funding for those roads. The repeal of this section of code, mandates the removal of Section 200 of this Administrative Rule which was based on the 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:

Compliance with Idaho Code.

NEGOTIATED RULEMAKING: 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 Gary Sanderson, Planning Services Manager, 334-8211.

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 25, 2000.

DATED this 11th day of August, 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. 39-0347-0001

001. TITLE AND SCOPE.

This rule sets out standards to be followed in determining which roads in counties are improved roads. (12-26-90)

01. Title. This rule shall be known as IDAPA 39.03.47, "Rules Governing Certification of Local Improved Road Mileage." IDAPA 39, Title 03, Chapter 47. (8-1-00)T

02. Scope. This rule sets out standards to be followed in determining which roads in counties are improved roads. (8-1-00)T

002. WRITTEN INTERPRETATIONS.

This chapter does not provide for written interpretations. (8-1-00)T

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for administrative appeals. (8-1-00)T

0024. -- 009. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

100. DETERMINATION OF AN IMPROVED ROAD.

01. Status Of Improvement. Highways laid out and marked to include four (4) or more travel lanes shall be considered as two (2) roadways and mileage for each roadway will be eligible for inclusion in the inventory dependent on Status of Improvement as provided below. (12-26-90)

02. Road Inventory Determination Of An Improved Road. The "Road Inventory Determination of an Improved Road" sets forth standards for an improved road and gives examples and illustrations of roadways that are eligible and are not eligible for inclusion in the inventory. (A copy of "The Road Inventory Determination of an Improved Road" can be obtained at the Idaho Transportation Department.) ~~(12-26-90)~~(8-1-00)T

101. -- ~~199~~200. (RESERVED).

~~200. GATED ROADS.~~

~~Section 40-2320, Idaho Code, specifies that: "No gates shall be allowed on any public highway, except on highways running through land subject to overflow to an extent as to remove the fences." If local officials choose not to remove gate obstructions from locally administered roads on which there is no overflow of water, the road cannot be classified as an "improved road," and the mileage cannot be included in certification to the State Controller.~~ (12-26-90)

IDAPA 45 - HUMAN RIGHTS COMMISSION
45.01.01 - RULES OF THE IDAHO HUMAN RIGHTS COMMISSION
DOCKET NO. 45-0101-0001
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 67-5906(12), Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held on:

Saturday, October 21, 2000 from 9:30 a.m. to 11:30 a.m.
Idaho Human Rights Commission,
1109 Main Street, Suite 400, Boise, Idaho, 83720.

Members of the public may offer comments at the public hearing in person or by telephone. The telephone numbers for the Idaho Human Rights Commission are (208) 334-2873 and (888) 249-7025.

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

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

Presently, the Commission has no rule regulating who may represent a party in proceedings before the Commission. The Commission proposes a new rule identifying who may represent a party in proceedings before the Commission. Currently, the Commission rules state an exception to the general rule prohibiting discrimination based on disabilities not presently job-related. The exception as stated is inconsistent with the Americans with Disabilities Act (42 U.S.C. Section 12113) and recent case law (*Echazabal v. Chevron USA, Inc.*, 2000 WL 669137 (9th Cir. 2000)). The Commission proposes deleting reference to the exception.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the nature of the changes being made.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jo-Ann Bowen at (208) 334-2873.

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 27, 2000.

DATED this 10th day of August, 2000.

Leslie R. Goddard, Director
Idaho Human Rights Commission
1109 Main Street, Suite 400
P.O. Box 83720, Boise, Idaho 83720
(208) 334-2873 / fax: (208) 334-2664

THE FOLLOWING IS THE TEXT OF DOCKET NO. 45-0101-0001

011. REPRESENTATION OF PARTIES.

In proceedings before the Commission, Complainants, Respondents, witnesses and any other persons authorized by

the Commission to intervene must be represented as follows: ()

01. Natural Person. A natural person must represent himself or herself or be represented by an attorney, or a family member. ()

02. Natural Partnership. A partnership must be represented by a partner, a duly authorized employee, or an attorney. ()

03. Natural Corporation. A corporation must be represented by an officer, a duly authorized employee, or an attorney. ()

04. Other Entity. A municipal corporation, state, federal, tribal, or local government agency, or entity, incorporated association, or non-profit organization must be represented by an officer, a duly authorized employee or an attorney. ()

(BREAK IN CONTINUITY OF SECTIONS)

200. MEDICAL ISSUES.

01. Medical Examinations And Inquiries. Medical examinations and inquiries are permitted as follows: (7-1-97)

a. A covered entity may require a medical examination or inquiry after making an offer of employment to an applicant and before he/she begins employment duties, and may condition an offer of employment on the results of such examination or inquiry, if all entering employees in the same job category are subjected to such an examination or inquiry regardless of disability. Medical inquiries or examinations conducted in accordance with this section do not have to be job-related and consistent with business necessity. If certain criteria are used to screen out an applicant, however, the exclusionary criteria must be job-related and consistent with business necessity. (7-1-97)

b. A covered entity may require a medical examination or make an inquiry of an employee that is job-related and consistent with business necessity. Inquires may be made into the ability of an employee to perform job-related functions. (7-1-93)

c. A covered entity may conduct voluntary medical examinations and activities, including voluntary medical histories, which are part of an employee health program. (7-1-93)

02. Disabilities Not Presently Job-Related. An employer shall not discriminate against an applicant or employee because of a disability which is not presently job-related but which may worsen and become job-related in the future. *A narrow exception to this rule exists when, in light of the individual's work history and medical history, employment of that person would pose a reasonable probability of substantial harm. See Mantolite v. Bolger, 767 F.2d 1416 (9th Cir. 1985).* (7-1-93)()

03. Confidentiality; Exceptions. Information about the medical condition or history of an applicant or employee should be considered confidential except that: (7-1-93)

a. Supervisors and managers may be informed regarding restrictions on the work or duties of persons with a disability and regarding any accommodations or health or safety precautions; (7-1-97)

b. First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and (7-1-93)

c. Enforcement agencies shall be provided relevant information upon request when investigating complaints under state or federal law. (7-1-93)

IDAPA 47 - DIVISION OF VOCATIONAL REHABILITATION

47.01.01 - GENERAL ADMINISTRATION

DOCKET NO. 47-0101-0001

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 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) Title 33-031, Idaho Code, and the Rehabilitation Act of 1973 and all subsequent Amendments.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 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:

To add a section on "Incorporation by Reference" to clarify where the Idaho Division of Vocational Rehabilitation Field Services information is referenced. Modifications made to the Client Appeals Process section.

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 add a section on "Incorporation by Reference" and clarification of the Rehabilitation Act of 1973 and all subsequent Amendments and to be in compliance with deadlines in amendments to governing law or federal programs.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:
Non-applicable

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because rules have been implemented through the Rehabilitation Act of 1973 and all subsequent Amendments.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Sue Payne (208) 334-3390.

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 October 25, 2000.

DATED this 30th day of August, 2000.

Barry J. Thompson
Interim Administrator
Idaho Division of Vocational Rehabilitation
650 W. State Street, Room 150
P.O. Box 83702
Boise, ID 83720-0096
(208)334-3390, Fax: (208)334-5305

THE FOLLOWING IS THE TEXT OF DOCKET NO. 47-0101-0001

000. LEGAL AUTHORITY.

Section 33-2301, Idaho Code and ~~the 1998 Amendments of~~ the Rehabilitation Act of 1973 and all subsequent Amendments. ~~(4-5-00)~~(11-1-00)T

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

01. General. Unless provided otherwise, any reference in these rules to any document identified in Subsection 004 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term "documents" includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (11-1-00)T

02. Availability Of Reference Material. Copies of the documents incorporated by reference into these rules are available at the following locations: (11-1-00)T

a. Central Office, Idaho Division of Vocational Rehabilitation, 650 W. State Street, Room 150, Boise, Idaho 83720, (208) 334-3390. (11-1-00)T

b. Regional Offices, Idaho Division of Vocational Rehabilitation, located at: (11-1-00)T

i. 1010 Ironwood Drive, Suite 101, Coeur d'Alene, Idaho 83814, (208) 769-1441. (11-1-00)T

ii. 1118 F. Street, P.O. Box 1368, Lewiston, Idaho 83501, (208) 799-5070. (11-1-00)T

iii. 3350 Americana Terrace, Suite 210, Boise, Idaho 83706, (208) 334-3560. (11-1-00)T

iv. 10200 W. Emerald Street, Suite 101, Boise, Idaho 83704, (208) 327-7411. (11-1-00)T

v. 245 3rd Avenue North, Twin Falls, Idaho 83301, (208) 736-2156. (11-1-00)T

vi. 1070 Hiline, Suite 200, Pocatello, Idaho 83201, (208) 236-6333. (11-1-00)T

vii. 1825 Hoopes Avenue, Idaho Falls, Idaho 83404, (208) 525-7149. (11-1-00)T

viii. 3110 Cleveland Blvd. #A5, Caldwell, Idaho 83605, (208) 454-7606. (11-1-00)T

ix. This document is also available at website <http://www.state.id.us/idvr/idvrhome.htm>. (11-1-00)T

03. Documents Incorporated By Reference. The following documents are incorporated by reference into these rules: (11-1-00)T

a. All federal publications through the Rehabilitation Services Administration: (11-1-00)T

b. Idaho Division of Vocational Rehabilitation Field Services Manual, 2000. (11-1-00)T

c. State Plan for Vocational Rehabilitation 2001-2003. (11-1-00)T

d. Public Law 105-220. (11-1-00)T

e. Federal Register, Department of Education, 34 CFR Part 361. (11-1-00)T

f. The Rehabilitation Act, as amended 1998. (11-1-00)T

~~0045.~~ -- 009. (RESERVED).

010. DEFINITIONS.

01. CFR. Code of Federal Regulations. (7-1-93)

02. Client. Any individual who has applied for or is eligible for Vocational Rehabilitation services.
(~~4-5-00~~)(11-1-00)T

03. Designated State Unit. The Idaho Division of Vocational Rehabilitation. (7-1-93)

04. IDVR. The Idaho Division of Vocational Rehabilitation. (4-5-00)

05. IPE. Individualized Plan for Employment. (4-5-00)

06. Method Of Written Notification. The written notification of findings and conclusions arising from an Administrative Review, Mediation, Fair Hearing, ~~or as a result of the designated person review of the Fair Hearing~~ shall be served to the client via the U.S. Postal Service by means of certified mail. Durational requirements for appeals shall commence on the day received by the client as noted by the certified mail records.
(~~4-5-00~~)(11-1-00)T

07. P.L. Public Law. (7-1-93)

08. RCR. Running Case Record. (7-1-93)

09. RSA. Rehabilitation Services Administration. (7-1-93)

10. State Administrator. The Chief Executive Officer of the Idaho Division of Vocational Rehabilitation. (4-5-00)

11. Impartial Hearing Officer. A due process hearing shall be conducted by an impartial hearing officer who shall issue a decision based on the provisions of the approved State Plan, the Rehabilitation Act, and State regulations and policies. The Designated State Unit shall maintain a list of qualified impartial hearing officers who are knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation services.
(4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

100. CLIENT APPEALS.

01. Client Of Vocational Rehabilitation - Internal Appeals Procedure To Contest A Disputed Action, Failure To Act, Or Decision Of The Division. A client of Vocational Rehabilitation services may file a request for an Administrative Review, Mediation or Fair Hearing ~~and~~ and for a re-determination of any and all actions, or lack thereof, concerning determination of eligibility or the provision (or lack thereof) of services.
(~~4-5-00~~)(11-1-00)T

02. Administrative Review. Within ~~thirty ten~~ (30) calendar days of notification of the contested action, lack of action or decision, the client may request that an Administrative Review be held. The request shall be made in writing to the Regional Manager ~~who has direct supervisory authority over the involved Vocational~~

~~Rehabilitation Counselor handling the client's case with the Division.~~ The written request should state the reason for the requested review. ~~(4-5-00)(11-1-00)T~~

a. The Regional Manager shall inform the client in writing as to the time, place, and date of the Administrative Review. The client may choose to represent himself/herself or may have a representative(s) speak on his/her behalf. The Regional Manager will insure complete familiarity of the case and will call for testimony from any and all parties to the case that he/she feels is relevant to the review. (4-5-00)

b. The Regional Manager will make a decision regarding the specifics of the Administrative Review. This decision will be in written form and it will be sent to the client. It will also be included in the pertinent case file. Since the Administrative Review is an informal problem resolution process, the form of the written decision may be in standard business letter format. (4-5-00)

03. Mediation. The client will be informed of the availability of mediation and the process for such to settle disputes. Mediation is voluntary and is not intended to replace a request for a fair hearing. The request shall be made in writing to the Regional Manager. A written request should state the reason for the requested review. ~~(4-5-00)(11-1-00)T~~

a. The division will make available a list of qualified mediators from which the client may choose. (4-5-00)

b. ~~The division will be responsible for any costs associated with the mediation process.~~ The cost of the mediation process is paid for by the Idaho Division of Vocational Rehabilitation. The division is not required to pay for any costs related to the representation of the client. ~~(4-5-00)(11-1-00)T~~

c. Reference: The Mediation must take place within the forty-five (45) day requirement for a Fair Hearing. ~~(4-5-00)(11-1-00)T~~

i. ~~34 CFR Part 361 et al.~~ (4-5-00)

ii. ~~P.L. 105-220.~~ (4-5-00)

iii. ~~State Plans for Vocational Rehabilitation.~~ (4-5-00)

iv. ~~Section 33-2301, Idaho Code.~~ (4-5-00)

04. Fair Hearing. A Fair Hearing can be held without an Administrative Review or Mediation or if the client is dissatisfied with the result of the Administrative Review or Mediation, he/she may ask for a Fair Hearing. The Administrative Review or Mediation process may not be used as a means to delay a more formal hearing before an impartial ~~H~~hearing ~~O~~fficer unless the parties jointly agree to a delay. The Fair Hearing will deal with the issues involved in the original Administrative Review or Mediation, if one took place. The request for a Fair Hearing will be made in writing to the Administrator of the Division. It must be made within ~~thirty ten (310)~~ thirty ten (30) calendar days subsequent to receipt of official notification of the Regional Manager's decision from the Administrative Review or the Mediation Agreement from Mediation. A fair hearing can be held without an Administrative Review but must occur within thirty (30) calendar days from the disputed action, lack of action, or a decision of the Division. The hearing by an impartial ~~H~~hearing ~~O~~fficer must be held within forty-five (45) days of a request by the client unless both parties agree to a specified delay. ~~(4-5-00)(11-1-00)T~~

~~a. An Impartial Hearing Officer will be selected to hear a particular case, on the following basis:~~ (4-5-00)

~~i. By agreement between the administrator and the individual with a disability;~~ (4-5-00)

~~ii. In an appropriate case the administrator and the individual's representative;~~ (4-5-00)

~~iii.a.~~ The impartial ~~H~~hearing ~~O~~fficer shall be selected from a pool of qualified persons identified jointly by the Division and members of the State Rehabilitation Council. The impartial ~~H~~hearing ~~O~~fficer shall

inform all relevant parties, in writing, as to the time, date, and place of the ~~F~~air ~~H~~earing. The client may represent himself/herself or may choose to be represented by any person(s) of his/her choice. ~~(4-5-00)~~(11-1-00)T

b. The hearing is a more formal proceeding than the Administrative Review or Mediation. Upon its completion, the Impartial Hearing Officer shall make a decision. This decision shall be rendered into writing and provided to all parties involved in the Fair Hearing. The decision shall be the final *internal* action, ~~unless the State Administrator of the Division decides to review such decision in whole or in part. Within twenty (20) calendar days of the mailing of the decision to the client (or in appropriate cases, such individual's parent or guardian), a person identified by the division shall notify such individual of the intent to review the decision.~~ ~~(4-5-00)~~(11-1-00)T

~~i. If the designated person(s) decides to review the decision, the client shall be provided an opportunity for the submission of additional evidence and information relevant to a final decision. The designated person(s) may not delegate responsibility to make such final decision to any other officer or employee of the designated state unit.~~ ~~(4-5-00)~~

~~ii. A final decision shall be made in writing by the designated person(s) and shall include a full report of the findings and the grounds for such decision.~~ ~~(4-5-00)~~

~~iii. Upon making a final decision, the designated person(s) shall provide a copy of such decision to all parties involved in the Fair Hearing.~~ ~~(4-5-00)~~

~~e. The designated person(s) may not overturn or modify a decision of an Impartial Hearing Officer or part of such a decision that supports the position of the individual unless the designated person(s) concludes, based on clear and convincing evidence, that the decision of the Impartial Hearing Officer is clearly erroneous on the basis of being contrary to federal or state law, including policy.~~ ~~(4-5-00)~~

IDAPA 47 - DIVISION OF VOCATIONAL REHABILITATION

47.01.02 - FIELD SERVICES

DOCKET NO. 47-0102-0001

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 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) Title 33-031, Idaho Code, and the Rehabilitation Act of 1973 and all subsequent Amendments.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 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:

To add a section on "Incorporation by Reference" to clarify where the Idaho Division of Vocational Rehabilitation Field Services information is referenced. Modifications made to the record keeping section and client services.

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 add a section on "Incorporation by Reference" and clarification of the Rehabilitation Act of 1973 and all subsequent Amendments and to be in compliance with deadlines to amendments to governing law or federal programs.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:
Non-applicable

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because rules have been implemented through the Rehabilitation Act of 1973 and all subsequent Amendments.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Sue Payne (208) 334-3390.

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 October 25, 2000.

DATED this 30th day of August, 2000.

Barry J. Thompson
Interim Administrator
Idaho Division of Vocational Rehabilitation
650 W. State Street, Room 150
P.O. Box 83702
Boise, ID 83720-0096
(208)334-3390
Fax: (208)334-5305

THE FOLLOWING IS THE TEXT OF DOCKET NO. 47-0102-0001

000. LEGAL AUTHORITY.

Section 33-2301, Idaho Code and the ~~1998 Amendments~~ of the Rehabilitation Act of 1973 and all subsequent Amendments. (11-1-00)T

004. ~~009.~~ (RESERVED) INCORPORATION BY REFERENCE.

01. General. Unless provided otherwise, any reference in these rules to any document identified in Subsection 004 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term "documents" includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (11-1-00)T

02. Availability Of Reference Material. Copies of the documents incorporated by reference into these rules are available at the following locations: (11-1-00)T

a. Central Office, Idaho Division of Vocational Rehabilitation, 650 W. State Street, Room 150, Boise, Idaho 83720, (208) 334-3390. (11-1-00)T

b. Regional Offices, Idaho Division of Vocational Rehabilitation, located at: (11-1-00)T

i. 1010 Ironwood Drive, Suite 101, Coeur d'Alene, Idaho 83814, (208) 769-1441. (11-1-00)T

ii. 1118 F. Street, P.O. Box 1368, Lewiston, Idaho 83501, (208) 799-5070. (11-1-00)T

iii. 3350 Americana Terrace, Suite 210, Boise, Idaho 83706, (208) 334-3560. (11-1-00)T

iv. 10200 W. Emerald Street, Suite 101, Boise, Idaho 83704, (208) 327-7411. (11-1-00)T

v. 245 3rd Avenue North, Twin Falls, Idaho 83301, (208) 736-2156. (11-1-00)T

vi. 1070 Hiline, Suite 200, Pocatello, Idaho 83201, (208) 236-6333. (11-1-00)T

vii. 1825 Hoopes Avenue, Idaho Falls, Idaho 83404, (208) 525-7149. (11-1-00)T

viii. 3110 Cleveland Blvd. #A5, Caldwell, Idaho 83605, (208) 454-7606. (11-1-00)T

ix. This document is also available at website <http://www.state.id.us/idvr/dvrhome.htm>. (11-1-00)T

03. Documents Incorporated By Reference. The following documents are incorporated by reference into these rules (11-1-00)T

a. All federal publications through the Rehabilitation Services Administration: (11-1-00)T

b. Idaho Division of Vocational Rehabilitation Field Services Manual, 2000. (11-1-00)T

c. State Plan for Vocational Rehabilitation 2001-2003. (11-1-00)T

d. Public Law 105-220. (11-1-00)T

e. Federal Register, Department of Education, 34 CFR Part 361. (11-1-00)T

f. The Rehabilitation Act, as amended 1998. (11-1-00)T

005 -- 009. (RESERVED).

010. DEFINITIONS.

01. Authorization To Purchase. *An authorization to purchase is a purchase order issued on behalf of the Division (IDVR Form R-37).* ~~(4-5-00)~~(11-1-00)T

02. Client. Any individual who has applied for or who is eligible for Vocational Rehabilitation services. ~~(4-5-00)~~(11-1-00)T

03. Core Vocational Rehabilitation Services. Services that reduce the impact of functional limitations on the ability to achieve an employment outcome (i.e. medical restoration services, training services, assistive technology, job placement, etc.). (2-1-95)

04. ~~Division, Designated State Unit.~~ The Idaho Division of Vocational Rehabilitation ~~(or where it is self-evident, officers, employees, or agents of the same).~~ ~~(2-1-95)~~(11-1-00)T

05. Extended Period Of Time. An anticipated six (6) or more months within which time rehabilitation services are being provided on an active and ongoing basis. (2-1-95)

~~**06. HEW.** *Health, Education and Welfare.* ~~(2-1-95)~~(11-1-00)T~~

~~**07. FNNA.** *Individualized Financial Needs Assessment.* ~~(2-1-95)~~(11-1-00)T~~

07. IPE. *Individualized Plan for Employment.* (11-1-00)T

08. MSD. *Most Significantly Disabled Disability. An individual who m*Meets the criteria of significantly ~~disabled~~ disability and is further defined as: ~~(4-5-00)~~(11-1-00)T

a. Having a severe physical, mental, cognitive or sensory impairment which seriously limits two (2) or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance or work skills) in terms of an employment outcome; and (2-1-95)

b. Whose vocational rehabilitation can be expected to require multiple core vocational rehabilitation services (as opposed to supportive services) over an extended period of time. (2-1-95)

09. OJT. *On-the-job training.* (2-1-95)

~~**10. PA.** *Public Assistance.* ~~(2-1-95)~~~~

~~**10. Representative.** The client's parent, legal guardian, spouse, legal representative, or an individual who has the Power of Attorney to represent the client in legal situations or another person designated by the individual. (4-5-00)~~

~~**12. RSA-PI.** *Rehabilitation Services Administration - Program Instruction.* ~~(2-1-95)~~~~

~~**13. RSA-PQ.** *Rehabilitation Services Administration - Policy Question.* ~~(2-1-95)~~~~

14. SD. *Significantly Disabled Disability. For purposes of this rule, t*The definition of significantly ~~disabled~~ disability is found at *Public Law 105-220 Sec. 7 (6)(21)(A) (i) through (iii) in the Rehabilitation Act of 1973 as Amended.* ~~(4-5-00)~~(11-1-00)T

~~**15. SSDI.** *Social Security Disability Insurance.* (2-1-95)~~

~~**16. SSI.** *Supplemental Security Income.* (2-1-95)~~

17. Supportive Services. Services that compliment the provision of core services and are provided

only to insure that the client can benefit. (4-5-00)

185. VRC. Vocational Rehabilitation Counselor. (2-1-95)

(BREAK IN CONTINUITY OF SECTIONS)

100. RECORD KEEPING.

01. Confidentiality Of Client Records. All personal information (regarding individuals who apply for, are a client of, or who are past clients of the Division) which is given to the Division or its agents in the course of the administration of the Vocational Rehabilitation program is confidential. The use of such information and records will be limited to purposes directly connected with the administration of the Vocational Rehabilitation program and may not be disclosed directly or indirectly unless the informed consent of the individual is obtained through a signed release. Exceptions to this general rule are noted ~~below and relate to the proper and legal administration of the Vocational Rehabilitation program as required by P.L. 105-220, the CFR, and relevant Idaho law. These policies and procedures prevail over less stringent state laws~~ in the Rehabilitation Act of 1973 as Amended. ~~(4-5-00)(11-1-00)T~~

02. Policies For Storage And Release Of Confidential Client Information. (7-1-93)

~~a. Confidential client information shall be stored in such a manner so that it is not casually available for public scrutiny during official work hours of the Division. It shall be stored under lock and key when not being directly used or during non-working hours. (7-1-93)~~

~~b. All clients, and their representatives, service providers, cooperating agencies, and interested persons shall be informed of the confidential nature of said information and of the conditions for accessing and releasing this information. (4-5-00)~~

~~c. The client will be informed as to the principle purposes for which the state unit intends to use the information. (4-5-00)~~

~~d. The client shall be informed as to the voluntary or mandatory nature of this information gathering request(s) and the effects of not providing requested information to the state unit. (4-5-00)~~

~~e. In those instances where the client information will be routinely released without their consent, the state unit will so inform the client. (See at "Exceptions to Release of Information Requirements"). (4-5-00)~~

~~f. Persons who are unable to communicate in English or who use special modes of communication will be provided explanations about the state unit policies and procedures in a manner which can be adequately understood by them. (7-1-93)~~

~~g. Release of Information: To the client: the request must be made in writing by the individual or his representative. The state unit will release all requested information which is in the client's case file upon receipt of written request (see exceptions). Medical, psychological, or other information which the state unit believes may be harmful to the individual will not be released directly to the individual, but can be provided through his representative, a physician, or a licensed or certified psychologist. In this case, the state unit may release the medical or psychological information only after receiving assurance from the receiving organization, agency, or individual that the material will be used only for the purpose covered by the written request and that it will not be further released to the involved client. (4-5-00)~~

03. Exceptions To Release Of Information Requirements. ~~Prior written approval will not be required for release of personal data under the following circumstances: (7-1-93)~~

~~a. Release for legal audit, evaluation, and research efforts. The data may be released only for purposes directly connected with the administration of the Vocational Rehabilitation program, or for purposes that~~

~~would significantly improve the quality of life for people with disabilities, and only if the organization, agency, or individual assures that:~~ (7-1-94)

- ~~i. The information be used only for the purposes for which it was provided;~~ (7-1-93)
- ~~ii. The information will be released only to persons officially connected with the audit, evaluation, or research;~~ (7-1-93)
- ~~iii. Confidentiality will be safeguarded; and~~ (7-1-93)
- ~~iv. The final product will not reveal any personal identifying information without the written consent of the client or his representative.~~ (4-5-00)
- ~~b. Release required by Law:~~ (7-1-93)
 - ~~i. Under court subpoena or judicial order;~~ (7-1-93)
 - ~~ii. In response to investigations in connection with law enforcement, fraud, or abuse (except where expressly prohibited by Federal or State law); and~~ (7-1-93)
 - ~~iii. In order to protect the individual or others when the individual poses a threat to his safety or the safety of others.~~ (4-5-00)
- ~~e. Information that may not be released.~~ (7-1-93)
 - ~~i. Information requested by verbal, telephonic, or personal request regardless of the source of the request, i.e., client, law enforcement, and credit agencies. All releases (with exceptions noted previously) must be cleared by receipt of a written authority by the client or his representative;~~ (4-5-00)
 - ~~ii. Information received from the Social Security Administration or the state's Disability Determinations Service for any purposes other than rehabilitation of the individual;~~ (7-1-93)
 - ~~iii. Third party information. The requesting party will be referred to the primary source;~~ (7-1-93)
 - ~~iv. Information received from the Veterans Administration that is marked or otherwise designated as confidential. The requesting party shall be referred to the Veterans Administration; and~~ (7-1-93)
 - ~~v. Client shall never be allowed to act as couriers of confidential information about themselves to other agencies, organizations, or individuals.~~ (4-5-00)
- ~~d. Retention and Destruction of Personal Data on Division Clients. All data not stored in the client case file shall be maintained under lock and key. Discarded notes, carbons, mimeograph or ditto materials which may have personal identifying client data on them shall be destroyed by shredding or burning or otherwise disposed of appropriately to insure confidentiality. Official records will be maintained in a secure fashion for as long as required by State and Federal law after closure. Ultimate destruction shall be by a process guaranteed to protect the confidentiality of the materials being destroyed. The state unit may establish such reasonable fees as necessary to cover the extraordinary cost of duplicating records or making extensive searches. Such fee shall be established under the Administrative Procedures Act.~~ (4-5-00)
- ~~e. References:~~ (4-5-00)
 - ~~i. P.L. 105-220.~~ (4-5-00)
 - ~~ii. 34 CFR Part 361 et al.~~ (4-5-00)
 - ~~iii. State Plans for Vocational Rehabilitation.~~ (4-5-00)

~~iv. Section 33-2301, Idaho Code. (4-5-00)~~

(BREAK IN CONTINUITY OF SECTIONS)

200. ORDER OF SELECTION.

01. Order Of Selection. The following order of selection will be used if the Idaho Division of Vocational Rehabilitation finds that it cannot serve all eligible clients due to a lack of either personnel and/or financial resources. The priority listings progress downward with priority number one (1) being the most restrictive and priority number ~~five~~ four (~~54~~) being the least restrictive. (~~4-5-00~~)(11-1-00)T

a. Priority #1: At the time that a decision to move to an order of selection is made, it is determined that only those consumers who already have an existing individualized plan for employment (IPE) will continue to be served. (4-5-00)

b. Priority #2: At the time that a decision to move to an order of selection is made, it is determined that only those consumers in Priority Number 1 above and current and future, otherwise eligible, clients rated to this or a more restrictive priority can be served. Consumers meeting this priority rating are those individuals ~~who are defined as~~ with most significantly ~~disabled~~ disabilities. (~~4-5-00~~)(11-1-00)T

c. Priority #3: At the time that a decision to move to an order of selection is made, it is determined that only those consumers in Priorities Numbers 1 and 2 above and current and future, otherwise eligible, clients rated to this or a more restrictive priority can be served. Consumers meeting this priority rating are those individuals ~~who are defined as~~ with significantly ~~disabled~~ disabilities. (~~4-5-00~~)(11-1-00)T

d. Priority #4: All eligible clients for Vocational Rehabilitation services (no order of selection in place). (4-5-00)

~~e. Reference. (4-5-00)~~

~~i. P.L. 105-220, Section 100(a)(5)(A) through (D). (4-5-00)~~

~~ii. 34 CFR Part 361 et al. (4-5-00)~~

~~iii. State Plan for Vocational Rehabilitation. (4-5-00)~~

~~iv. RSA-PQ 273. (4-5-00)~~

~~v. RSA-PI 83-3, January 26, 1983. (4-5-00)~~

(BREAK IN CONTINUITY OF SECTIONS)

300. CLIENT SERVICES.

01. Provision Of Purchased Services Contingent Upon Financial Need Of The Recipient. (7-1-93)

a. ~~There is no Federal requirement that the financial need of a person with a disability be considered in the provision of any vocational rehabilitation services. It is allowed at state discretion.~~ The Idaho Division of Vocational Rehabilitation will apply a Financial Needs Assessment ~~in all cases where projected services are expected to be purchased by the Division with some exceptions.~~ Financial need will not be a consideration in the determination of eligibility for Vocational Rehabilitation, but ~~only~~ only will be a consideration in allocating the cost of ~~specific~~ specific VR services, with some exceptions. ~~In all cases the client of Vocational Rehabilitation shall be encouraged to expend~~

~~their own funds on planned services if they choose to do so — even in those cases where there is no law, or rule, requiring that they do so.~~ (4-5-00)(11-1-00)T

02. Authorization To Purchase. The Division requires that when purchasing services from a vendor, an authorization must be issued prior to, or ~~in concert with~~ on, the beginning date of service. If services are provided without a Division approved authorization to purchase, the Division reserves the right to not honor the vendor's invoice. (4-5-00)(11-1-00)T

- ~~α. Reference:~~ (4-5-00)
- ~~i. 34 CFR Part 361 et al.~~ (4-5-00)
- ~~ii. P.L. 105-220.~~ (4-5-00)
- ~~iii. State Plans for Vocational Rehabilitation.~~ (4-5-00)
- ~~iv. Section 33-2301, Idaho Code.~~ (4-5-00)

03. Provisions. Computation of budget limits is by family size for allowable monthly cost of housing, utilities, food and miscellaneous. (11-1-00)T

(BREAK IN CONTINUITY OF SECTIONS)

500. SERVICES FOR WHICH IDAHO DIVISION OF VOCATIONAL REHABILITATION FINANCIAL PARTICIPATION WILL NOT BE AVAILABLE.

01. General Provisions. ~~The client will not be eligible for financial participation through the Division of Vocational Rehabilitation for any diagnostic, evaluation, or remedial service that does not clearly, directly or indirectly, Idaho Division of Vocational Rehabilitation will not pay for any services that do not contribute to the determination of eligibility or to employment achieve an employment outcome.~~ (4-5-00)(11-1-00)T

02. Private Pilot's License. The Division of Vocational Rehabilitation will not financially participate in the securing of a private pilot's license ~~for an otherwise eligible recipient.~~ The Division may, ~~subject to constraints imposed by sound career counseling and its Financial Needs Assessment financially~~ assist ~~an otherwise eligible recipient~~ in securing a Commercial Pilot's License. (7-1-93)(11-1-00)T

03. Graduate Or Advanced Degree. ~~It is the policy of the state unit that financial assistance to secure an Advanced or Graduate Degree for an otherwise eligible recipient will not be available. The sole exception to this rule is when it can be conclusively demonstrated that the only possible way to re-enter employment is through the securing of this Advanced or Graduate Degree, and that barriers to achieving the Advanced Degree rest solely upon barriers created by the recipient's disability(ies). The Idaho Division of Vocational Rehabilitation may assist with an advanced degree if it is the only means available for an individual with a significant disability to achieve an employment outcome.~~ (7-1-94)(11-1-00)T

04. Vehicular Purchase. ~~State unit f~~Financial assistance will not be available for the purchase of a vehicle ~~for the private use of an otherwise eligible recipient.~~ For the purpose of this rule, "vehicle" is defined as any conveyance that must be licensed by the state of Idaho in order to be operated on state highways, roads, streets, and waterways. (Included within this definition are: cars, trucks, vans, motorcycles, and boats of various sizes and description). ~~Nothing in this rule should be construed as ruling out the possible use of Division funds to enable the otherwise eligible recipient may be utilized~~ to render an already owned vehicle accessible for their use (i.e., hand controls, van conversions, and installation of lifts.). ~~However, such add-on equipment which does not become an integral part of the vehicle shall remain under the ownership of the state unit until such time as the state unit determines that it is prudent to release its interest.~~ (7-1-93)(11-1-00)T

05. Medical Restoration. Financial participation will not be available for a surgery if it is the sole service needed for a client to ~~return to~~ achieve an employment outcome. Surgery may be provided if it is part of a comprehensive VR plan for employment and if it is needed to alleviate a problem diagnosed during the provision of VR services under an IPE. ~~(4-5-00)(11-1-00)T~~

06. Organ Transplantation. ~~With the exception of Renal Transplantation as authorized by Sections 33-2307 and 33-2308, Idaho Code, all other forms of transplantation shall be reviewed as it relates to Subsection 500.05.~~ The Idaho Division of Vocational Rehabilitation will not pay for organ transplantation with the exception of Renal Transplantation. ~~(4-5-00)(11-1-00)T~~

07. Services To Non-Residents Of The State. Financial participation will not be available to non-residents of Idaho. ~~However, with the exception of the Renal Disease Program, no durational requirements will be placed upon individuals who move into the state.~~ Citizenship is not a requisite for financial assistance; however, the individual must have legal resident status (i.e., illegal aliens will not be eligible for the Vocational Rehabilitation programs ~~or for the Renal Disease Program~~). ~~To be eligible for and receive financial assistance under the state's End Stage Renal Disease Program, applying individuals must live within the state for twelve (12) consecutive months, or be on record as having been a permanent resident of the state and their reason for current external residency is a function of military obligation or temporary business assignments, or they, their spouse, parent or guardian must show proof of employment or an offer thereof in the state prior to moving to the state.~~ ~~(7-1-94)(11-1-00)T~~

(BREAK IN CONTINUITY OF SECTIONS)

600. POLICY ON PROVISION OF CRP (COMMUNITY REHABILITATION PROGRAM) SERVICES. ~~Purchase of Work Evaluation, Work Adjustment, Community Based Job Placement and Community Based Work Evaluation, Community Based Work Adjustment, Job Site Development, Job Coaching, and Placement and Follow-Along Services, are services the Idaho Division of Vocational Rehabilitation purchases from CRPs which are accredited by CARF (Commission on Accreditation of Rehabilitation Facilities) or RSAS (Rehabilitation Services Accreditation System.~~ ~~(7-1-93)(11-1-00)T~~

01. General Provisions. ~~The Idaho Division of Vocational Rehabilitation will purchase services only from duly certified, licensed, or accredited firms, businesses, community rehabilitation programs, or individuals. The definition of services will be those established by CARF or RSAS. Community rehabilitation programs, businesses or firms wishing to sell the services to the Division must show appropriate certification, accreditation, or licensure. Those community rehabilitation programs, businesses holding CARF or RSAS, (or comparable) accreditation will receive priority recognition.~~ ~~(4-5-00)~~

IDAPA 47 - DIVISION OF VOCATIONAL REHABILITATION

47.01.03 - MANAGEMENT SERVICES

DOCKET NO. 47-0103-0001

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 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) Title 33-031, Idaho Code, and the Rehabilitation Act of 1973 and all subsequent Amendments.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 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:

Changes in Rates of Payment Section due to increased costs.

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:

Clarification of the Rehabilitation Act of 1973 and all subsequent Amendments and to be in compliance with deadlines in amendments to governing law or federal programs.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:
Non-applicable

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because rules have been implemented through the Rehabilitation Act of 1973 and all subsequent Amendments.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Sue Payne (208) 334-3390.

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 October 25, 2000.

DATED this 30th day of August, 2000.

Barry J. Thompson
Interim Administrator
Idaho Division of Vocational Rehabilitation
650 W. State Street, Room 150
P.O. Box 83702
Boise, ID 83720-0096
(208)334-3390
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 47-0103-0001

100. RATES OF PAYMENT.

01. **Authorization to Purchase.** ~~Authorization to purchase services IDAPA 47.01.02, "Field Services," Section 300, Client Services.~~ The Vocational Rehabilitation staff will negotiate rates of payment in the best interest of the organization. We will always encourage the pursuit of comparable benefits. ~~(4-5-00)(11-1-00)T~~

02. **Policy.** It is the policy of the Division to pay the "usual and customary" charges for services provided to itself or to its clients by providers of goods or services. The only exception to the "usual and customary" considerations is listed in the fee chapter of the ~~Divisions Manual of Operations~~ Idaho Division of Vocational Rehabilitation Field Services Manual, 2000 or addressed as a result of state purchasing rules or superseding Idaho Statute. Exceptions may be required for geographical considerations. ~~(4-5-00)(11-1-00)T~~

03. **Private Public In-State Colleges, Vocational Technical Schools, And Universities, And Other Education And Training Institutions.** Maximum educational expenses (fees and tuition charges) will be based upon the current maximum cost set for resident students by the Idaho State Board of Education for the colleges and universities under their jurisdiction. ~~The exception is if the course of study is not available at the public institution.~~ A book and supply allowance may be provided. ~~(4-5-00)(11-1-00)T~~

04. **Private In-State Colleges, Vocational Technical Schools, Universities, And Other Education And Training Institutions.** Maximum educational expenses (fees and tuition charges) will be based upon the current maximum cost set for resident students by the Idaho State Board of Education for the colleges and universities under their jurisdiction. The exception is if the course of study is not available at the public institution. A book and supply allowance may be provided. ~~(11-1-00)T~~

045. **Out-Of-State Colleges, And Universities, Vocational Technical Schools And Other Education And Training Institutions.** ~~Maximum educational expenses (fees and tuition charges) will be based upon the maximum current cost set for resident students by the Idaho State Board of Education for the colleges and universities under their jurisdiction. A book and supply allowance may be provided. An exception to this maximum will exist when the student must attend an out-of-state college or university or other education and training institute if the course of study he is involved in is not offered within the State of Idaho.~~ ~~(4-5-00)(11-1-00)T~~

a. If the VR client must attend an out-of-state institution because the course of study is not offered within the state of Idaho, then VR can pay the "usual and customary" charges for fees and tuition. ~~(11-1-00)T~~

b. If the course of study is available in the state of Idaho, but the client chooses to attend an out-of-state institution, then VR will only pay the public in-state maximum cost (fees and tuition charges) set by the Idaho State Board of Education. ~~(11-1-00)T~~

c. A book and supply allowance may be provided. ~~(11-1-00)T~~

056. **Medical Exams And Written Report.** (7-1-93)

a. Specialist Exams (those addressing a specialty area and provided by an M.D. ~~or licensed psychologist~~) ~~One hundred fifty dollars (\$150) maximum plus actual cost of related procedures (e.g., x-rays).~~ ~~(7-1-93)(11-1-00)T~~

b. Psychological Exams by a Licensed Psychologist. One hundred fifty dollars (\$150) maximum plus the actual cost of tests conducted. ~~(4-5-00)(11-1-00)T~~

c. ~~Ophthalmologist/Optomestrist - Table. The following allowable costs will be the maximums for general visual exam and accompanying test for ophthalmologist/optometrist. The maximum also includes frames and glasses. Tinted glasses require a prescription for IDVR payment. The allowable cost for the ophthalmologist will be~~

~~authorized when diseases of the eye are prevalent and cannot be dealt with by an optometrist.~~ Optometrist – Visual Exam. Eighty-five dollars (\$85) maximum.

ALLOWABLE COSTS FOR SERVICES	
Procedure	Costs
Visual Exam	\$70
Tonometry	\$25
Visual Fields	\$48
Fundus Photos	\$40
Spectacle Frames	\$60
Single Vision Lenses (per pair)	\$60
Bifocals (per pair)	\$85

~~(4-5-00)~~(11-1-00)T

d. Glasses. Frames - sixty dollars (\$60) maximum. Single Vision Lenses - seventy dollars (\$70) per pair. Bifocal Lenses - One hundred dollars (\$100) per pair. (11-1-00)T

~~de.~~ Audiologist. ~~Seventy~~ Eighty-five dollars (\$85) maximum. ~~(7-1-98)~~(11-1-00)T

ef. General Basic Medical. Fifty-five dollars (\$55) maximum. (7-1-93)

~~06. Provisions. Provision of purchased services contingent upon financial need of the recipient; computation of budget limits by family size for allowable monthly cost for utilities, clothing/food, transportation, and entertainment.~~ ~~(4-5-00)~~

~~07. Medicaid Allowable. The Division will only pay the Medicaid rate for kidney related services.~~ ~~(4-5-00)~~

~~087. Transportation. Transportation is not a primary supportive service. It will be considered only to support and to insure the success of diagnostic, evaluation, or rehabilitation services leading to an employment outcome.~~ ~~(4-5-00)~~(11-1-00)T

a. Public Conveyance - Actual Cost (7-1-93)

b. Private Vehicle - not to exceed maximum ninety six dollars (\$96) in-town commuting, or one hundred twenty dollars (\$120) out-of-town commuting per month. ~~(4-5-00)~~(11-1-00)T

~~098. Maintenance. The maximum allowable monthly maintenance payment will not exceed the monthly maximums allowed for individual SSI payments as established by the Social Security Administration. Maintenance is not a primary service. Maintenance is a supportive service. The cost of maintenance may not exceed the amount of increased expenses that the rehabilitation program causes for the individual or his family. It is not intended to pay for those living costs that exist irrespective of the individual's status as a vocational rehabilitation client. Maintenance may be provided. Maintenance is for the additional costs incurred by the participant in the VR plan or during diagnosis and evaluation when cost of food and shelter represent out-of-ordinary or extra cost imposed~~

by ~~reason of~~ the diagnostic or evaluative services.

~~(4-5-00)~~(11-1-00)T

~~109.~~ **Copy Fees.** ~~The Division will pay a m~~Maximum of fifteen dollars (\$15) ~~per incident to agencies, organizations, or individuals providing copies of records to be used for Division purposes.~~ ~~(7-1-93)~~(11-1-00)T

~~110.~~ **Community Rehabilitation Program Fees Costs.** Negotiated on an annual basis.

~~(4-5-00)~~(11-1-00)T

~~12.~~ **Sandimmune.** ~~The Idaho Division of Vocational Rehabilitation will not cover the cost of Sandimmune (anti-rejection) drug for post-transplant clients in the State Kidney program. The Idaho Division of Vocational Rehabilitation in its General State Federal Program will continue the pursuit of comparable benefits.~~

~~(4-5-00)~~

IDAPA 48 - DEPARTMENT OF COMMERCE
48.01.01 - IDAHO COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (ICDBG)
DOCKET NO. 48-0101-0001
NOTICE OF TEMPORARY AND PROPOSED RULE

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

AUTHORITY: In compliance with Section 67-5224 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) of Housing and Community Development Acts of 1974, as amended, (42 USC. Sec. 5301), and Department of Housing and Urban Development Rules 24 CFR. Pt. 570, Subpart I.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 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:

The proposed rule changes will require more information from ICDBG applicants on proposed projects. This information will allow evaluators to better assess need and impact, planning activities and management practices as they impact proposed project activities. Proposed changes reward local cash investment by increasing the competitive value of each dollar committed to the proposed project. Youth Centers, which can be applied for under the Public Facilities category must primarily benefit at-risk youth through health, education, leadership, recreation and other services and programs.

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: Temporary rule justification is to confer a benefit by having program criteria and procedures in place by the beginning of the 2001 ICDBG application cycle, which is September 2000.

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 need for temporary rulemaking (see justification above).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Gloria Mabbutt, Idaho Department of Commerce at 208-334-2470.

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

DATED this 16th day of August, 2000.

Gloria Mabbutt, Program Manager
Idaho Department of Commerce
700 West State Street
PO Box 83720
Boise, Idaho 83720-0093
208-334-2470 (Phone)
208-334-2631 (Fax)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 48-0101-0001

053. GRANT APPLICATION PROCESS.

01. Grant Application. The Grant Application generally consists of a Notice of Intent to apply, the Application, and an Addendum. These are submitted to the Department at different times in the application process. (7-6-94)

a. Notice of Intent. A one (1) page letter sent to the Department as soon as a community decides to submit a grant application. This is an optional, but strongly recommended, step. It allows the Department to assist the community with eligibility and structuring of the proposed project. (7-6-94)

b. Application. The major required document which describes and documents the applicant's proposed project. It contains the information required to document that the proposed project will meet a national objective and consists of eligible activity(ies). The Application is the basis of the Department's and the EAC's review and ranking of the project. (7-6-94)

c. Addendum. Additional information required by the Department to further document the project or to fulfill additional federal requirements once the Application has been selected by the Economic Advisory Council. (7-6-94)

02. Project. A project shall address a single need and may consist of one (1) or more eligible activities which are to be undertaken with the ICDBG funds and any other funds committed to the project. A project also includes all the benefits which are to result from the related activities and from compliance with all federal and state laws and regulations which are conditions of the grant. The principal activity which directly addresses the problem area shall represent a majority of funds requested; other activities must be incidental to, and in support of, the principal activity. For example, a program which addresses a housing need might include housing rehabilitation as the principal activity. Support activities such as street improvements or demolition must be incidental and clearly in support of the principal activity. (7-6-94)

03. Funding. In addition to ICDBG funds, the other funds committed to a project are divided into other government funds, local matching funds, and private funds. Other government funds are from state, federal, or foundation sources provided to the grantee for the project. Local matching funds are defined as cash donations, capital reserves, program income (Section 171), cash resulting from debt financing, local improvement districts, general obligation or revenue bonds, tax levies, land sales or miscellaneous revenue. Local matching funds are generally those funds and contributions raised by the residents of the grantee. Local cash the community has raised prior to submittal of the application, i.e. cash reserves, cash donations, program income and capital improvement funds, which is not debt financing, will be calculated at a higher rate than other contributions of local match. Also to be considered as local matching funds are; the time of local government crews (force account) working on the project, donations of land, materials, and equipment for the project, waiver of local fees, and volunteer labor. Private funds are from individuals, businesses, or corporations which are spent on private property, but are necessary to the completion of the project and the generation of the benefits. Direct loans to individuals on housing projects will not be considered local match. (~~3-19-99~~)(9-1-00)T

04. Documentation. Firm evidence of in-kind contributions of equipment or materials will be considered as cash. The value of land may be considered as local match if the value of the real estate is documented. Architectural or engineering estimates of labor, materials and equipment should be prepared to determine value of these items. Other documentation such as Bills of Sale, catalogue price lists, retail prices, etc. should be used. The value of a donation or a commitment of land should be documented by appraisals or fair market value. Volunteer labor should be estimated by man hour, types of skills needed and wage rates. Documentation of insurance coverage for volunteers should be included in the application. This documentation should be a letter from the insurance agent of the community or civic group. (7-6-94)

(BREAK IN CONTINUITY OF SECTIONS)

074. SECTIONS.

The Application shall consist of the following sections: (7-6-94)

01. Cover. The cover shall contain "An application for an Idaho Community Development Block Grant by the _____ (City/County) of _____ (Name) _____ Date: _____". (one (1) page) (7-6-94)

02. Cover Letter. A cover letter signed by the Mayor or the Chairman of the Board of County Commissioners on official stationery. This is the official letter of application for a grant. (one (1) page) (7-6-94)

03. Table Of Contents. (one (1) page) (7-6-94)

04. ICDBG Application Information Form. Fully completed and signed by the applicant. (one (1) page) (7-6-94)

05. Threshold Factors. The first four (4) factors must all be answered in the affirmative before an Application is to be reviewed and ranked. An Application shall include only Subsections 074.05.a. through 074.05.d. An Addendum shall include Subsections 074.05.e. through 074.05.g. (3-19-99)

a. The applicant must be an eligible applicant (Section 012). Describe how the applicant meets the eligibility criteria. If this is a joint or in-behalf-of application, describe agreements and arrangements for managing the grant and the project. (7-6-94)

b. The project shall be an eligible activity(ies). Describe why the project and the various activities are eligible according to the rules in Section 022. (7-6-94)

c. The applicant shall adopt a citizen participation plan and shall conduct a public participation process. Applicants shall submit a copy of the Citizen Participation Plan and results of citizen involvement in developing the project. A copy of the Citizen Participation Plan must be submitted with the Application. An ICDBG may be awarded only if the grantee certifies that it is following a detailed citizen participation plan which: provides for and encourages citizen participation, with particular emphasis on participation of persons of low and moderate income who are residents of slum and blight areas or provides for participation of residents in low and moderate income neighborhoods as defined by the applicant; provides citizens with reasonable and timely access to local meetings, information, and records relating to the grantee's proposed use of funds; provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including, at least, the development of needs, the review of proposed activities, and review of program performance. Hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for persons with disabilities; provides for a timely written answer to written complaints and grievances, within fifteen (15) working days where practicable; and identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate. (3-19-99)

d. At least one (1) public hearing is required to permit public examination and appraisal of the Application. Public hearings shall be scheduled in ways and at times to provide for full participation of citizens. The building or facility must be accessible to persons with disabilities. All information presented in the hearings shall also be available, upon request, in a form usable by persons with disabilities. Proper notification shall be given by a public advertisement in a local newspaper no less than seven (7) days prior to the meeting date. The seven (7) days shall be counted beginning the date the advertisement appears and ending the day before the date of the hearing. The notice shall include: a brief description of the proposed project; the amount of funds being requested; the time and place of the public hearing, including a statement that the hearing will be held in a handicapped accessible facility; notification that both written and verbal comments will be accepted; and a description of the availability of services for persons with disabilities, upon request. It is recommended the applicant also post notification of the public hearing at various public locations and use other media notices of the hearing. At a minimum, applicants shall provide in the minutes of the meeting, evidence the following occurred at the public hearing: The Application and Application Handbook were available for review; the amount of funds available for local community development and housing activities was

discussed; the range of activities to be undertaken was presented including community impact and benefit to low and moderate income (LMI) persons; verification that citizen's comments and views on the proposed Application were considered prior to submittal and, if determined appropriate, a description of how the Application was modified; a copy of the public notice, minutes and a list of those attending the public hearing(s); a description of any plans for the project regarding citizen participation, i.e., the formation of a citizen's advisory committee; and a description of any assistance for persons with disabilities requested and provided. (3-20-97)

e. The applicant shall have the administrative capacity to administer the grant. This means having completed the procurement process for a Department-approved grant manager in accordance with the Section 212. The grant manager shall be included in project development and Application writing efforts. (3-20-97)

f. The applicant shall have adopted a Fair Housing Ordinance or resolution. This ordinance or resolution must have been adopted and publicly advertised within the twelve (12) month period preceding the Addendum deadline date. Once the Fair Housing Resolution or Ordinance has been adopted, applicants do not have to re-adopt the Resolution or Ordinance. The applicant will be required to show documentation the Resolution or Ordinance was published within the previous twelve (12) month period. (3-19-99)

g. The applicant shall have adopted an Anti-Displacement and Relocation Plan. This ordinance or resolution must have been publicly advertised within the twelve (12) month period preceding the Addendum deadline date. Once the Anti-Displacement and Relocation Plan has been adopted, applicants do not have to re-adopt the Plan. The applicant will only be required to show documentation the Plan was published within the previous twelve (12) month period. (3-19-99)

06. General Project Description. This is the critical section of the Application. It should include enough information for the reviewer to clearly understand the community, its needs, the project, and how the grant will help to solve the community problem. The information in each ranking section should substantively expand upon the project description. The narrative should, in three (3) pages, succinctly describe the following items: a description of the community as to size, location and economy; a thorough assessment of all the community's needs and how the proposed project is a priority in comparison with the other needs addressed. The applicant should also include a description which discusses how the existing condition came about, the number of people affected, and the seriousness of the problem(s); the particular project that is being proposed shall be described in detail. Describe the project, the various components, anticipated costs, schedule of activities, maps showing the location of the project to the community (detailed enough to locate it by car) and a map of the boundaries of the project area. This description shall be detailed enough that it can be used to write a contract scope of work; describe the benefits of the project, how it solves the identified need, and how it will enhance the community and its economy. Provide a demographic profile of the persons to benefit. This shall include gender, minority status, persons with disabilities, and female head of household. Describe how the project meets the state objectives of the ICDBG program (see Sections 000, 010, and 011); and if program income is expected to be generated, a re-use plan must be developed according to Section 175. (3-19-99)

07. ICDBG Budget Form Fully Completed By The Applicant. (one (1) page) (7-6-94)

08. Assurances. The applicant shall sign the Assurances Form certifying that it will comply with the following federal laws and regulations: National Environmental Policy Act of 1969; Civil Rights Act of 1964 Pub.L 88-352; Civil Rights Act of 1968 Pub.L 90-284; Age Discrimination Act of 1975; Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 as amended and the implementing regulations at 49 CFR Part 24; Rehabilitation Act of 1973, Section 504 "Handicapped Accessibility"; Housing and Community Development Act of 1974 as amended Pub. L 93-383; Davis-Bacon Act (40-USC 276a--5); Historic Preservation Act; Anti-Lobbying Certification; Excessive Force Certification; and Section 106 of the Housing and Urban Recovery Act of 1983, certifying they will: minimize displacement and follow a residential anti-displacement and relocation assistance plan, affirmatively further fair housing, provide citizen participation, not use assessments or fees on low and moderate income owner occupants to recover capital costs of ICDBG-funded public improvements; Prohibition of Use of Assistance For Employment Relocation, Section 588 of the Quality Housing and Work Responsibility Act of 1998 Pub. L 105-276. (one (1) page). ~~(7-6-94)~~(9-1-00)T

09. Review And Ranking Narrative. The applicant shall address each point category in the order given in the review and ranking section of the applicable grant category, referenced below. If a particular point

- category is not applicable or not selected, it should be indicated. (7-6-94)
- a. Economic Development Grants: (ten (10) pages) (7-6-94)
 - i. Infrastructure (Section 096). (7-6-94)
 - ii. Downtown Revitalization (Section 097). (7-6-94)
 - b. PFH (Sections 083 through 087) and SR (Section 101) Grants: (7-6-94)
 - i. Program Impact and Eligible Activity Point Form. (two (2) pages) (7-6-94)
 - ii. National Objectives. (one (1) page) (7-6-94)
 - iii. Project Categories. (one (1) page) (7-6-94)
 - iv. Advisory Council Points Narrative. (one (1) page) (7-6-94)
- 10. Additional Information From Applicant (Appendix).** Maps, letters of support, technical studies and appropriate background documentation should be placed in this section and bound into the Application (no page limit). (7-6-94)

(BREAK IN CONTINUITY OF SECTIONS)

084. PROGRAM IMPACT.

Three hundred twenty (320) points. Some or all of the points may be granted in each subcategory. The local financing factors, which represents the largest portion of the total number of points each applicant may receive, is intended to ensure that the best overall proposals are selected for funding. The score on this factor is determined by evaluating how effectively local funds are used in comparison with other applicants. The Department may require an applicant to provide supplemental financial information to clarify the local ability to finance all or a portion of a proposed ICDBG project. The applicant should provide evidence or documentation of the nature, amount and/or value of match committed to the project. Housing projects should (if match is not committed) provide the names of the agency, staff person and program(s) which may provide match, a description of the program and a time table for the match approval process. (7-6-94)

01. Percentage Of ICDBG Dollars In Total Project (fifty (50) points). All Applications will be ranked by percentage of Community Development funds requested divided by total project costs. Total project costs are the total funds committed from all sources - federal, state, local and private funds. The applicant must clearly identify the other funding sources with dollar amounts from each. The rankings shall be divided into four (4) equal categories. The lowest ICDBG percent (%) receives the most points and the highest ICDBG percent (%) receives the least points. Points will be assigned according to the following schedule: (3-19-99)

- a. First Quartile - fifty (50) points. (3-19-99)
- b. Second Quartile - thirty (30) points. (3-19-99)
- c. Third Quartile - fifteen (15) points. (3-19-99)
- d. Fourth Quartile - zero (0) points. (7-6-94)

02. Percentage Of Local Matching Funds (sixty (60) points). All Applications will be ranked by the percentage of local matching funds divided by the total of local match and ICDBG funds. The highest percentage of local dollars will receive the highest points. See Subsection 053.03 for definition of local match. The rankings shall be divided into four (4) equal categories. The highest local match percent (%) receives the most points and the lowest

local match percent (%) receives the least points. A one dollar and fifty cent (\$1.50) cash value shall be calculated for every one dollar (\$1) of local cash match committed to the project. Points will be assigned according to the following schedule: ~~(7-6-94)~~(9-1-00)T

- a. First Quartile - sixty (60) points. (7-6-94)
- b. Second Quartile - forty (40) points. (7-6-94)
- c. Third Quartile - twenty (20) points. (7-6-94)
- d. Fourth Quartile - zero (0) points. (7-6-94)

03. ICDBG Dollars Per Person (fifty (50) points). The ratio of total persons directly benefited by the project, compared to ICDBG funds requested (ICDBG dollars per person) shall be ranked and divided into quartiles. The lowest ICDBG dollars receives the most points and the highest ICDBG dollars receives the least points. The points shall be assigned to the ratio of ICDBG dollars per person as follows: (7-6-94)

- a. First Quartile - fifty (50) points. (7-6-94)
- b. Second Quartile - thirty (30) points. (7-6-94)
- c. Third Quartile - fifteen (15) points. (7-6-94)
- d. Fourth Quartile - zero (0) points. (7-6-94)

04. Local Matching Funds Per Person (sixty (60) points). The ratio of total persons directly benefited by the project, compared to local matching funds shall be ranked and divided into quartiles. The Department may request supplemental financial data from any applicant to determine local ability to finance a proposed project or clarify a community’s financial situation. The Department may take into consideration a community’s ability to contribute local matching funds in determining all rating and ranking points. The highest local funds per person receives the most points and the lowest local funds per person receives the least points. A one dollar and fifty cent (\$1.50) cash value shall be calculated for every one dollar (\$1) of local cash match committed to the project. The points shall be assigned to the ratio of local matching funds per person as follows: ~~(3-19-99)~~(9-1-00)T

- a. First Quartile - sixty (60) points. (3-19-99)
- b. Second Quartile - forty (40) points. (3-19-99)
- c. Third Quartile - twenty (20) points. (3-19-99)
- d. Fourth Quartile - zero (0) points. (7-6-94)

05. Eligible Activity Priority Ranking (one hundred (100) points). Each eligible activity (Sections 022 through 051) is assigned a priority point factor. The applicant should list the activities and the ICDBG funds budgeted to each. These points shall be assigned to an Application based upon the percentage of the total ICDBG funds committed to each activity and multiplied by the priority points assigned to each. The total of the priority points so calculated is the total of the priority points for the Application. Health and safety-related projects are defined as sewer, water, fire protection facilities, medical facilities, nursing homes, streets, and other similar projects. Social service facilities are defined to include community centers, senior centers, libraries, assisted housing, shelter care, senior housing, auditoriums, cultural facilities, recreation facilities, and parks. (7-6-94)

TABLE 1 -- “Eligible Activity Priority Ranking”	
Acquisition of Real Property	twenty-five (25) points
Acquisition of Real Property for Housing Projects	fifty (50) points

TABLE 1 -- "Eligible Activity Priority Ranking"	
Public Facilities and Improvements - Health and Safety Related	one hundred (100) points
Public Facilities and Improvements - Housing Related	seventy-five(75) points
Public Facilities and Improvements - Social Service Related	fifty (50) points
<u>Engineering</u>	<u>seventy-five (75) points</u>
Code Enforcement	fifty (50) points
Clearance and Demolition	ten (10) points
Removal of Architectural Barriers	fifty (50) points
Rental Income Payments	zero (0) points
Disposition of Property	ten (10) points
Public Services	zero (0) points
Completion of Urban Renewal Projects	zero (0) points
Relocation Payments	twenty-five (25) points
Planning Activities	zero (0) points
Administration Activities	one hundred (100) points
Grants to Nonprofit Community Organizations	zero (0) points
Grants to Nonprofit Community Organizations for Housing Projects	seventy-five (75) points
Energy Planning	zero (0) points
Housing Rehabilitation	seventy-five (75) points

~~(7-6-94)(9-1-00)T~~

085. NATIONAL OBJECTIVES

Two hundred sixty (260) points. The Application must qualify in one (1) of two (2) national objective categories: benefit to low and moderate income persons or the prevention or elimination of slum and blight. If the Application does not qualify in at least one (1) category it will be declared ineligible for review and ranking. The Application will not be considered further. The applicant must choose only one (1) of the two (2) categories in which to compete.

(7-6-94)

01. Benefit To Low And Moderate Income (LMI) Persons (two hundred sixty (260) points). To qualify in the LMI category the applicant shall demonstrate at least fifty-one percent (51%) benefit to LMI persons.

(3-20-97)

a. The applicant shall show that the project shall principally benefit a majority of LMI residents of the project area. Benefit is shown only if it meets one (1) of the following criteria: the activity shall be carried out in a neighborhood consisting of fifty-one percent (51%) LMI persons and provide services to such persons; the activity shall involve facilities designed for use predominantly by persons of LMI; or the activity shall improve permanent, residential structures which will be occupied by LMI households upon completion. See Section 016 for more information.

(7-6-94)

b. All benefits shall be verified by an appropriate source(s). Numbers shall be documented either by census data or a reliable survey. This material shall be verifiable by the Department of Commerce. Multiplier effects or ratios shall not be considered in assigning benefit points because these numbers do not show direct benefit. The cost of planning, management, and administration shall not be included in calculating benefit of LMI persons.

(7-6-94)

c. Applicants shall provide additional documentation that low and moderate income persons are receiving direct benefits of the program as determined by the following: (7-6-94)

i. A narrative description with maps showing the location of the project area (census tract or enumeration districts must also be included when identifying these areas); (7-6-94)

ii. The total number of households and persons in the project area; (7-6-94)

iii. The total number of persons shown to be LMI in the project area; (7-6-94)

iv. The percentage of LMI persons in the project area. (7-6-94)

v. Identification of all the needs of LMI persons in the project area including the scope and magnitude of these needs; (7-6-94)

vi. The map(s) must also outline the area where there is a concentration of these needs; (7-6-94)

vii. The total number of "minority households" in the project area and their needs, ie. The term "minority household" is defined as one where one (1) or more adults are Black, Hispanic, Asian and Pacific Islanders, American Indian, or other non-white. If minority household information is not available from a survey, then Census data on the number of minority persons sixteen (16) years and over is acceptable; (7-6-94)

viii. The total number of households where persons with disabilities reside in the project area. "Household" is defined as one in which there are one (1) or more persons who are physically or mentally disabled. If information is not available from a survey, then Census data on the number of disabled persons sixteen (16) years and over is acceptable and a description of LMI citizen participation during the data gathering process. (3-19-99)

d. LMI Need points for Public Facility projects will be determined according to the following standards. Critical Need receives the full eighty (80) points. Critical is defined as existing (officially identified) violations of federal or state health or safety regulations. Moderate Need is an officially identified problem related to health and safety regulations, but the situation is not in violation of any regulation. Moderate Need receives sixty (60) points. Potential Need is related to solving a current situation that would become a violation if left uncorrected. Potential Needs receives forty (40) points. Community Need is a general improvement not related to health and safety, but is a major improvement in community services and infrastructure. Community Need receives twenty (20) points. Applicants for fire safety projects can receive up to eighty (80) points in the need category if they can document how the proposed project is directly related to efforts to comply with the state's currently adopted fire code or National Fire Protection Association Standards - fifty (50) points; maintenance and personnel training is conducted and documented - fifteen (15) points; the community participates in the Fire Incident Reporting System to the State Fire Marshal's office - fifteen (15) points. ~~(7-6-94)~~(9-1-00)T

e. Identification of Impact (eighty (80) points). The applicant shall submit the following: specific identification of the project activities that will be undertaken to meet identified LMI needs. A distinction must also be made regarding direct and indirect benefits; a discussion of project impact in providing long-term permanent solutions to alleviate the need(s) identified above; identify procedures that are or will be developed to measure impact throughout the project; and describe and provide documentation of the process used to identify the LMI needs. Documented health and safety needs are awarded higher points. Applicants for fire safety projects can receive up to eighty (80) points in the impact category if they document; ~~(7-6-94)~~(9-1-00)T

i. How the proposed project addresses elements in their Fire Suppression Rating Schedule affecting their fire insurance rating - eighty (80) points; (9-1-00)T

ii. Bonus points shall be given to applicants whose fire inspectors have completed the certification program and have current certification status through the State Fire Marshal's office - five (5) points; and (9-1-00)T

iii. If the applicant documents a fire safety education program is implemented in the community - five (5) points. (9-1-00)T

02. Housing Need And Impact. (7-6-94)

a. Identification of Need (eighty (80) points). An applicant shall develop a housing needs assessment to determine the need for a housing grant. Information to be collected about the community shall include population and growth, family size, the number of elderly, persons with disabilities, minority persons, and family income. Housing information collected shall be total number of units, number of rental units, age of housing, vacancy rates, overcrowding, number of substandard units in the community, and the number of each type of housing, i.e. owner, rental, institutional and seasonal. The applicant shall address how the proposed housing project will meet the needs outlined in the housing conditions study. The maximum points will be assigned to those housing projects meeting the most need as outlined in the housing needs assessment. (3-19-99)

b. Identification of Impact (eighty (80) points). (3-19-99)

i. In the housing impact area, points would be awarded on the level of income the proposed project would target, based on the following formulas: (3-19-99)

(1) Percent of eighty percent (80%) of medium income x forty (40) = (3-19-99)

(2) Percent of fifty percent (50%) of medium income x sixty (60) = (3-19-99)

(3) Percent of thirty percent (30%) of medium income x eighty (80) = (3-19-99)

ii. Applicants will be required to submit a written management plan showing how the housing units would be allocated to the different income levels and show how the proposed housing matches the needs outlined in the need category. Housing market data will also be required for this category. (3-19-99)

c. Low and Moderate Income Percentage Points (one hundred (100) points). Points will be assigned according to the percentage of LMI in the project area. They are:

TABLE 2 -- "Percentage of LMI in Project Area"	
Percentage	Points
0 - 50.00%	zero (0)
51.00 - 60.00%	twenty (20)
60.01 - 70.00%	forty (40)
70.01 - 80.00%	sixty (60)
80.01 - 90.00%	eighty (80)
90.01 - 100.00%	one hundred (100)

(7-6-94)

03. Prevention Or Elimination Of Slum And Blight (two hundred sixty (260) points). To qualify in the Slum and Blight category, the applicant shall receive at least one hundred (100) total points by demonstrating that the proposed project will have a direct impact on the elimination or prevention of slum and blight conditions. In evaluating impact, the information described below shall be considered (see Slum and Blight definition, Section 020). (7-6-94)

a. Provide the following community data: location of the project area including a narrative description and map(s) showing the boundaries of the area; and an official declaration by the governing body that the area is an "Area of Slum and Blight". (7-6-94)

b. Identify need (one hundred thirty (130) points). Describe the nature and seriousness of existing conditions/needs in the project area. References to published engineering studies or surveys or letters from appropriate local agencies shall be included. Use maps to locate the conditions and their relationship to each other. The applicant shall describe the nature and seriousness of the need as it exists in the following areas: the number, location, and type of deteriorating structures present in the project area; the unsafe/unsanitary conditions that exist in the structures and area; the infrastructure and site improvements that are deteriorating (i.e., streets, sidewalks, parking lots, utilities, driveways, fences and landscaping); the danger to life and/or property that exists from fire, hazards or other causes; or the condition of the property that impairs economic growth in the community by being an economic or social liability. (7-6-94)

c. Identify Impact (one hundred thirty (130) points). Specify how project activities will eliminate or prevent conditions of slum and blight. Identify the impact of the proposed project in providing permanent solutions to alleviate the identifiable conditions. Identify the procedure that is or will be developed to measure impact throughout the project. (7-6-94)

(BREAK IN CONTINUITY OF SECTIONS)

090. PROJECT CATEGORIES.

Two hundred and twenty (220) points. PFH Applications shall address each of the categories below. The project description and its benefits should be discussed in previous sections. This section is a measure of the preparedness of the project and the community to undertake the project. To earn points, the applicant must demonstrate that the appropriate actions, procedures, agencies, permits, financing and inspections to initiate and complete the project were discovered and show how much has been completed. The object is to have well thought out projects which will then be quickly executed if funded. The items identified in the following ~~five (5)~~ categories must be related to each other. *For example: if a building permit is required, it should be described in the Planning section; what has been done to secure the permit should be described in the Previous Action section; a date should be assigned to receiving the permit in the Schedule section and any costs associated with securing the permit should be described in the Cost section; Any efforts by the Gem team to assist in the process should be described in the Gem Community section.* (3-20-97)(9-1-00)T

01. Planning, Previous Actions And Schedule (one hundred and sixty (160) points). The applicant shall describe the process used to plan the project and describe the components of the project. The completeness of the process and project detail earn more points. Describe the problem identification process, the public involvement, the appropriate agency(s) involvement. Describe the steps and actions necessary to implement or construct the project, including, but not limited to, permits, approvals, easements and property acquisition, demolition, relocation, other funding needed and the process to secure it, zoning, environmental problems, historic preservation, preliminary architectural or engineering, construction period, service hookups, fees and special assessments, program income, grant administration, accounting and audits by completing the schedule in Exhibit 11, pages 211 and 212 of the application form. All activities needed to successfully administer and construct a project are carefully scheduled to advance the project to completion rapidly and smoothly. All activities that have not yet been accomplished are considered planning. These activities shall receive one (1) point each. Activities that have been accomplished are considered previous actions. These activities shall receive three (3) points each. (3-19-99)(9-1-00)T

~~**02. Previous Actions (sixty (60) points).** This is a measure of how prepared the applicant is to undertake the project and how much of the planning described above has actually been accomplished. The faster a project can be implemented and completed (given the nature of the project), the more points the Application will earn. Also to be considered is all the other related actions a community has accomplished to prepare to undertake the project. For example, if a community wishes to improve its water storage capacity, other related actions might include water conservation, energy efficiency, other water system improvements, and water rate review. For fire stations, applicants must also provide information on annual building inspections, fire hydrant inspection and maintenance, current equipment inventory, current pump tests, reported incidents and current number of engines and staff.~~ (3-19-99)

a. For street and street related projects, applicants ~~must~~ shall also provide a maintenance record for the

project area for eighteen (18) months, prior to submittal of the application or addendum and a method of how the project was prioritized over other needs. ~~(3-19-99)~~(9-1-00)T

b. Applicants ~~For water and sewer projects, ten (10) bonus points will be assigned to applicants having~~ shall conducted a rate study and complete the Financial Viability Profile included in Exhibit 11 of the Application Handbook. ~~(3-19-99)~~(9-1-00)T

c. Applicants for fire safety projects must provide information on the community's efforts to comply with the Uniform Fire Code, inspection, testing and maintenance activities, fire inspection certification, efforts to address the fire insurance rating factors, community fire safety education and fire incident inspections and reporting. (9-1-00)T

d. Youth center projects shall be modeled after the Boys and Girls Club of America in that they shall provide services and programs for at-risk youth, ages six (6) to eighteen (18). These programs shall assist disadvantaged youth in developing the skills to overcome challenges and become responsible leaders by focusing on character and leadership, education and career, health and life styles, the arts, fitness and recreation and other specialized programs such as family support and intervention. Applicants shall provide information on the management and operation of the center and community outreach activities. Applicants requesting ICDBG funds for new construction must show the cost of rehabilitation exceed new construction costs, or the construction of a youth center facility will be in a community where no facility now exists, and if local operating funds are committed. (9-1-00)T

032. Cost Analysis (forty (40) points). Cost estimates for the project should be an accurate and realistic analysis of the administrative, legal, accounting, engineering or architectural services, property acquisition, construction and closeout costs. The various sources of funding should be assigned to the appropriate parts of the project. The source of the cost estimate should be described and documented. (3-19-99)

~~**04. Schedule (forty (40) points).** All of the activities needed to successfully administer and construct a project should be carefully scheduled to advance the project to completion rapidly and smoothly. The following items must be included in the schedule along with any additional necessary items. The schedule should include compliance activities such as asbestos, historic preservation and permits.~~

<i>SCHEDULE</i>	<i>DATE</i>
<i>Grant Award</i>	
<i>Administrative Contract</i>	
<i>Engineering/Architectural Contract</i>	
<i>Environmental Review Begins</i>	
<i>Environmental Release</i>	
<i>Adoption and Publication of 504 Policy on Nondiscrimination</i>	
<i>Establish 504 Review Committee</i>	
<i>Bid Document Approval</i>	
<i>Bid Opening</i>	
<i>Preconstruction Conference</i>	
<i>Acquisition Completed</i>	
<i>Second Public Hearing</i>	
<i>Civil Rights Report Completed</i>	

<i>SCHEDULE</i>	<i>DATE</i>
<i>Start Construction</i>	
<i>Adoption and Public Notification of Grievance Procedures</i>	
<i>Twenty-Five Percent (25%) Complete</i>	
<i>Fifty Percent (50%) Complete</i>	
<i>Complete 504 Self Evaluation</i>	
<i>Seventy-Five Percent (75%) Complete</i>	
<i>Construction Completed and Accepted</i>	
<i>Complete 504 Transition Plan (if needed)</i>	
<i>Monitoring Visit</i>	
<i>Final Report</i>	
<i>Closeout</i>	
<i>Audit</i>	

(7-6-94)

053. Certified Gem Communities (twenty (20) points). Applicants which are “Certified Gem Communities” will receive twenty (20) points. A Certified Gem Community is one which has been certified for the first time or recertified, according to the Department’s records as of the deadline date for Application or Addendum submission and is actively involved in the Gem Community Program. To receive Gem Community points, applicants shall make certain the most current Gem Community Action Plan is filed with the Department. At a minimum, the action plan shall include planned priorities, a completion schedule and responsible key Gem Community team members. Applicants must also provide a brief description of Gem Community activities accomplished six (6) months prior to the application deadline. If the applicant community is not active, but located in an active county, the community is not entitled to Gem Community points. (3-19-99)(9-1-00)T

(BREAK IN CONTINUITY OF SECTIONS)

096. REVIEW AND RANKING NARRATIVE FOR BUSINESS EXPANSION PROJECTS.

The following are the review and ranking narrative requirements for those projects which assist business expansion through the provision of infrastructure and creation of jobs. The following minimum criteria must be included in the application by the application deadline in order for staff to review and rank the project and recommend it to the Economic Advisory Council for consideration. (7-6-94)(9-1-00)T

01. Minimum Criteria.

(7-6-94)

a. The project must meet the national objective of benefiting LMI persons through job creation. Fifty-one percent (51%) of all the new jobs created or retained must be held by or made available to a member of a low and moderate income family. (LMI as defined in Section 016). Family income must be certified by the employee at time of hire and must be able to be verified or may be documented through a Department of Labor screening referral agency. (3-19-99)

b. The applicant and the business must certify compliance with applicable federal circulars A-87, A-102, A-110, and A-122 and meet the necessary assurances as listed in Subsection 074.08 as applicable. (7-6-94)

- c. A public hearing shall be held on the Application in accordance with Subsection 074.05.d. (7-6-94)
- d. The project may qualify as a Special Economic Development Project under Subsection 040.02.a. If the project qualifies under Subsection 040.02.b., a determination of Necessary or Appropriate is required. (7-6-94)
- e. Attach an eight and one-half inch (8-1/2") by eleven inch (11") map showing the location of the proposed project in the community. Attach a site plan of the proposed project showing existing and proposed improvements both business and infrastructure; existing and proposed land uses in the surrounding area and natural features and conditions on the site and nearby. (3-20-97)
- f. (Attachment) A brief analysis of the business to be assisted, including the market for the product/services to be produced, the business' position in the market, and the financial and managerial capabilities of the business(es) to be assisted. This should also include financial statements and balance sheets for the business(es) to be assisted indicating sales, income, and net position for the prior three (3) years, and the names and experience of senior managers of the business. (3-20-97)
- g. (Attachment) A letter of commitment from the business(es) stating their agreement to be part of the grant project, their ability to accomplish their expansion, their understanding of and compliance with all applicable federal regulations, their understanding of and compliance with the payback liability if the jobs creation does not meet federal standards; and their willingness to make available all records and information necessary to document all jobs created by completing and signing the Grant Assistance Agreement and Certification of Compliance with Grant Conditions. (~~3-20-97~~)(9-1-00)T
- h. (Attachment) A description of the type and number of all the jobs to be created, a calculation of fulltime equivalents (FTE), and a beginning payroll of the business(es) at the location of the proposed project, a detailed description of the hiring process and any training to be provided. The information should include both current job information and the job creation projected for two (2) years beyond the completion of the grant funded construction. If training is necessary, a training plan and schedule outlining the responsibilities must be included in the application. A description of the quality of new and retained jobs shall be included. A description of the median annual income and fringe benefits package for new or retained jobs shall be provided. (3-19-99)

02. Ranking Criteria (one thousand (1,000) points possible). (7-6-94)

- a. Direct new or retained jobs, in fulltime equivalents (FTE's), created within two (2) years of grant construction completion. Direct new jobs are those jobs created as a result of the ICDBG grant, over and above employment at the project site prior to the grant, and which do not displace any other employment in the same labor market area. A job creation cost of more than ten thousand dollars (\$10,000) ICDBG per job will not be considered. Points are assigned by the formula: (Number of jobs) X (two hundred fifty thousand dollars (\$250,000)) divided by (the requested ICDBG funds), up to ninety (90) points. (3-19-99)
- b. Quality of New or Retained Jobs (ninety (90) points). Points in this category are assigned based upon a comparison of the full time equivalent (FTE) wages or salaries created (excluding benefits, and the average county salary as determined by the most recent quarterly Idaho Department of Labor survey. To convert part time or seasonal positions, take the total number of hours of employment created for a given pay rate and divide by one thousand ~~nine~~ five hundred ~~twenty~~ sixty (1,~~925~~560). If the average county wage exceeds the state average wage; comparison with the state average will be used. The grantee will be awarded points based upon the percentage of FTE's exceeding the state or county average salary. The formula is: Percentage of jobs above state or county average salary x ninety (90) = Wage Quality Points. (~~3-19-99~~)(9-1-00)T
- c. Fringe Benefits (twenty (20) points). The businesses creating or retaining jobs as a result of ICDBG assistance shall document their fringe benefit plans for low and moderate income employees. Ten (10) points will be given for a comprehensive employer paid health program and ten (10) points for an employer paid pension program, 401 K matching program, or equivalent. If health or pension benefits are not offered, applicants may receive ten (10) points in this category if the employer provides training or education courses, daycare and paid vacation and sick leave are offered. All three (3) benefits must be available to receive the ten (10) points. (3-19-99)
- d. Business Risk and Management. The probability of achieving the projected jobs and payroll within

one (1) and two (2) years, as determined by the Department. The determination may be made on the basis of: the business plan and schedule, the financial position and a credit analysis of the business; the performance record of senior management of the business project; and other criteria reasonably required by the Department. Projects receiving less than seventy-five (75) points in this category will be eliminated from further consideration. (zero (0) to one-hundred (100) points). (3-20-97)

e. Planning, Schedule and Cost (one hundred and fifty (150) points possible). Describe planning efforts to enhance economic development. A detailed and reliable cost estimate and a project construction schedule is required of all Applications. Cost analysis and schedule will receive equal emphasis. Because of the priority the Department and Economic Advisory Council places on project costs and schedule, applicants are advised to seek experienced construction management counsel for their Application. (Subsection 090.04) (3-19-99)

i. Planning. Fifty (50) points. Describe planning efforts to identify and detail all steps related to the implementation of the entire project. Identify all participants in the process. Describe all the partnerships and relationships involved in implementing the project. This will include local government actions, the business actions, other agency and utility actions, real estate, environmental, legal, financial and grant considerations. (3-19-99)

ii. Schedule. Fifty (50) points. A detailed and reliable schedule of all actions identified in the plan. Also a separate grant funded project construction schedule is required of all Applications. (3-19-99)

iii. Cost. Fifty (50) points. Detailed cost estimates of all actions, permits, construction, real estate etc. should be prepared by an engineer or architect. Because of the priority the Department and Economic Advisory Council places on project costs and schedule, applicants are advised to seek experienced construction management counsel for their Application. (Subsection 090.04) (3-19-99)

f. Minority Benefit. Fifteen (15) points. Applicants for job creation projects *can receive minority benefit points if their employment goals, for minorities, are comparable to the U.S. Department of Labor (DOL). The DOL has established employment goals for minorities based on demographic characteristics of each area. Full points can also be given if businesses hire minorities for management or supervisory positions or if minority or women owned businesses benefit from the ICDBG project that are for business expansion or retention shall receive minority points if the business documents minority hiring on their current payrolls. If the percentage of minority participation is equal to or greater than the county in which they are locating, they shall receive full points.* (~~3-19-99~~)(9-1-00)T

g. Local Investment Leverage. (one hundred (100) points) *The percentage of ICDBG funds in the total of local matching funds plus ICDBG funds in the project. The amount of local cash match shall be multiplied by one point five (1.5) to determine a total for local cash match. This total local cash match will then be added to other local match, i.e. revenue bonds, in-kind match, etc. The total of all local match will then be divided by the total of all local match plus the ICDBG amount requested to determine the percentage of local match in the project. This percentage will then be multiplied by one hundred (100) to determine the point value.* Applicants shall state if there is a Revolving Loan Fund (RLF) available in their region and, if so, describe what attempts have been made to secure funds from the RLF for the project. Program Income from previous grants to be used in this project may be considered as local match. (one hundred (100) minus ICDBG percentage). (~~3-19-99~~)(9-1-00)T

h. Distressed Areas. A maximum of thirty (30) points will be given to distressed areas: Fifteen (15) points if the project is located in a county which has an average annual unemployment that is one and one-half percent (1.5%) above the state average and fifteen (15) points if the per capita income is below the statewide average. (3-19-99)

i. Rural Impact. Jobs created in smaller communities have a greater stabilizing influence than in larger communities. The points shall be assigned as follows:

TABLE 4 - "Rural Impact On Jobs" Community Population	
Population (latest census estimates)	Points 25 Total
0 - 1,000	25

Population (latest census estimates)	Points 25 Total
1,001 - 3,000	15
3,001 - 10,000	5
10,001 - 50,000	0

(7-6-94)

j. Gem Community. Applicants which are "Certified Gem Communities" will receive thirty (30) points. Certified Communities must be currently certified or recertified and actively participating in the Gem Community Program as of the quarterly deadline date to be eligible for these points. To receive Gem Community points, applicants must make certain the most current Gem Community Action Plan is filed with the department. At a minimum, the Action Plan shall include planned priorities, a completion schedule and responsible Gem Community team members. Applicants must also provide a brief description of Gem Community activities and accomplishments six (6) months prior to the application deadline. If the applicant community is not active, but located in an active county, the community is not entitled to Gem Community points. ~~(3-19-99)~~(9-1-00)T

k. Private Leverage. (one hundred (100) points) This is the percentage of ICDBG funds in the sum of total private investment plus ICDBG funds in the project. This includes the business' private investment in the capital facilities, real estate and site development costs. Applicants shall provide documentation on the status of private investment, i.e. financing approvals. Payroll and start-up costs are not included in this calculation. (one hundred (100) minus ICDBG percentage). ~~(3-20-97)~~(9-1-00)T

l. Activities. Points will only be awarded for the percentage of ICDBG dollars committed to the acquisition, construction, or reconstruction of public infrastructure (Section 024); and for publicly-owned commercial building rehabilitation for the purpose of assisting a business or businesses. (Percentage of twenty-five (25) points). (7-6-94)

m. Grant Management. If the grant funded activities are managed by the grantee, twenty-five (25) points will be awarded. Grantee management includes management under contract with a Department approved Grant Manager. (3-20-97)

n. Economic Advisory Council Evaluation. The EAC will evaluate each Application on the basis of overall value, including its ability to make a significant impact on the Idaho economy and the commitment of the community to the project. (two hundred (200) points). (7-6-94)

097. REVIEW AND RANKING OF DOWNTOWN REVITALIZATION.

01. Introduction. Downtown Revitalization occurs only as merchants and landowners and other community representatives implement a series of actions which take advantage of community strengths and the economic and market forces operating in their community. An Idaho Community Development Block Grant program is only one (1) of the resources which can assist a downtown revitalization process. Therefore, the grant Application must be reviewed against the background of the total revitalization efforts. The following areas are reviewed by staff to evaluate the project. (3-19-99)

02. Organization (one hundred (100) points). This is a measure of the strength and depth of the local commitment to downtown revitalization. Obvious problems and lack of cooperation will detract from the points. The Application should describe how the community is actively organized to plan and implement a downtown revitalization process. At the center of the process there should be a take-charge steering committee representing the major community actors, such as merchants, city officials, local economic development organizations, utilities, and banks. Active subcommittees shall undertake components of the process in promotion, design, and economic restructuring. Other areas include infrastructure, finance, historic preservation, architecture, and various regulations. The process will be unsuccessful without the participation of, communication with, and cooperation from, various

local, state and federal governmental agencies, such as the Department of Transportation, Health and Welfare, Post Office, BLM, Forest Service, City Hall, County Courthouse, School Board, Highway Districts, Sewer, Water, and Fire Districts and Irrigation Districts. Participation of major companies, particularly those which drive the local economy, along with the utilities and banks, is also critical to the process. (3-19-99)

03. Assessments (one hundred (100) points). This is a measure of the accuracy, completeness and comprehensiveness of each of the assessments which underlie the implementation plan. Knowing and understanding the market forces which support a community's downtown is the foundation of any revitalization effort. Consequently, an analysis of the local economy's market or trade area is critical to determine the effort's direction. Only with this information can plans be made to select the mix of goods and services that can be supported and to decide the nature of the improvements to infrastructure, regulations, buildings, and promotional campaigns. The downtown area may no longer be a retail center and maybe some other use is appropriate. This should be identified and the plans accordingly developed around this activity. Therefore, the Application must contain the background studies that were conducted to assess the local economic forces, market conditions, demographics, and sales volumes; the present conditions of streets and sidewalks, sewers, water and storm drain systems, and traffic patterns; the mix of land uses, conditions of buildings and vacancy rates, physical design, including accessibility for persons with disabilities, and environmental conditions. To receive full points, a community assessment must include market analysis which includes a survey of the primary trade areas, customer market and business and property owner information. (3-19-99)

04. Implementation (two hundred (200) points). The Implementation Plan, by its very nature, needs to be action-oriented, with resources, time frames, and assigned responsibilities for each activity. The Plan should begin with an estimate of the economic potential of the downtown and the effect that revitalization will have upon the businesses and services. Next should be the goal statement(s) of the revitalization effort. Goals should be stated in general terms with implementation activities in specific, measurable terms. Suggested goal statements include marketing, promotion, regulatory, cleanup, and infrastructure. The Implementation Activities should be set out in detail with the responsible party(ies) identified, a completion time frame established, and the needed resources identified. Since revitalization will take a partnership of the public and private sectors to accomplish the goals, the activities may be divided into public and private categories. Points will be assigned to the Implementation Plan as follows: (7-6-94)

a. Action plan (fifty (50) points). This is a measure of the detail of the implementation plan. The detail should include specific actions with assigned responsibilities and time frames for completion. (7-6-94)

b. Architectural/engineering plans (fifty (50) points). This will measure the extent of architectural design or engineering undertaken to determine the scope of the grant project and estimate costs. (7-6-94)

c. Implementation time frame (fifty (50) points). This will measure whether reasonable time frames have been determined for the grant project and that all the major actions and accomplishments have been identified, including those necessary for the implementation of the grant. (7-6-94)

d. Previous amount accomplished (fifty (50) points). This is a measure of all other action items in the implementation plan, how many have been started, and the progress towards completion. (7-6-94)

05. Slum And Blight (two hundred (200) points). This is a threshold which shall be met for the Application to be eligible for review. An Application will be disqualified if, in the opinion of the Department, the project does not meet the definition of Slum and Blight, (Section 020) or does not receive more than one hundred twenty-five (125) points in this category. The geographic boundaries of the downtown area shall be reasonable and officially designated. The conditions within the area shall be described and shall include the condition of all the infrastructure, the conditions of buildings and structures, and the economic forces which are causing the conditions of slum and blight. The Application shall describe the need for the proposed ICDBG project and the impact the project will have on the conditions of slum and blight. This will include the overall impact on the downtown revitalization efforts and the long-term impact on the community. Some project activities may, more appropriately, meet another national objective. If so, it should be described in detail and documented according to the standards for that national objective. (7-6-94)

a. Need and impact (one hundred (100) points). This is a measure of the proposed area's need to

prevent or eliminate conditions of slum and blight. It is also a determination of the project's impact on the conditions of slum and blight. A project must address the critical need of the slum and blighted area, have an impact on the economics of the downtown area, and have a measurable impact. The criteria for measuring the impact of the project on the conditions of slum and blight must be described in measurable terms, such as increase in private investment, establishment of new businesses or business expansions, sales growth, improvement in the appearance and value of property, reduction in vacancy rates and increase in housing units. This includes the economic impact and community impact. (7-6-94)

b. Relationship to overall plan (one hundred (100) points). This is a measure of: how the proposed grant project is related to the other actions and needs of the Implementation Plan; whether it is foundational to the revitalization of the downtown economy or it is peripheral to the needs of the economy; and how logically sequenced the activities being proposed are in relation to the other activities. If another national objective is included in the justification for some of the activities, include the description here and it will be judged upon its need and impact as described in this section. (7-6-94)

06. The ICDBG Project (three hundred (300) points). The Application shall generally describe the eligible activities being proposed for funding. Any combination of eligible activities may be considered in designing the project. The eligible activity(ies) should be located on a detailed map. The relationship of the block grant project to the other implementation activities must be clear. Any matching funds shall be committed with the sources and schedules identified. All the other collateral implementation activities should be discussed and the funds expended documented. The Application shall describe the following items: (7-6-94)

a. Project Local Match (seventy-five (75) points). The amount and percentage of "local match" firmly committed to the grant project shall be described. Evidence of commitment shall be provided by letter or agreements. The percentage shall be calculated by dividing the local match by the sum of local match plus the ICDBG request. Applicants shall state if there is a Revolving Loan Fund (RLF) available in their region and, if so describe what attempts have been made to secure funds from the RLF for the project. Program income from previous grants to be used in this project may be considered as local match. The amount of local cash match shall be multiplied by one point five (1.5) to determine a total for local cash match. This total local cash match will then be added to other local match i.e. revenue bonds, in-kind match, etc. The total of all local match will then be divided by the total of all local match plus the ICDBG amount requested to determine the percentage of local match in the project. This percentage will then be multiplied by one hundred (100) to determine the point value. The percentage times the points (seventy-five (75)) will determine the amount of points assigned. (~~7-6-94~~)(9-1-00)T

b. Project Other Match (seventy-five (75) points). The percentage of other funds committed to the proposed ICDBG project from private and other state and federal sources. The percentage shall be calculated by dividing the total of the other sources by the sum of total project costs which is all match plus the ICDBG request. The percentage times the points (seventy-five (75)) will determine the amount of points assigned. (3-19-99)

c. Gem Community (fifty (50) points). In order to promote the ongoing planning process and to more directly relate the grant funding to local economic development efforts, a proposed project should be identified as a priority in the One (1) Year Gem Community Plan. Certified Communities which generally include the proposed project in their One (1) Year Gem Community plan are awarded the full fifty (50) points. The proposed project must be identified in the current one (1) year plan on file with the Department at the date of application. The project must also be related to the goals and objectives of the plan. Applicants which are "Certified Gem Communities" will receive fifty (50) points. Certified communities must be currently certified or re-certified and active in the program as of the quarterly deadline date to be eligible for these points. If the applicant community is not active, but located in an active county, the community is not entitled to claim Gem Community points. (~~3-19-99~~)(9-1-00)T

d. Related Implementation Expenditures (fifty (50) points). The percentage of private investment or other funds spent on the other implementation plan action items compared to the ICDBG funds being requested. Amounts spent within one (1) year prior to the grant Application submittal and those committed to be spent during the year following the submittal of the Application may be counted for this section. The percentage shall be calculated by dividing the total of the other funds by the sum of other funds plus the ICDBG request. The percentage multiplied by the points (fifty (50)) will determine the amount of points assigned. (7-6-94)

e. Long-term Program Involved (fifty (50) points). The use of grant funds to leverage a payback

mechanism so that funds will sustain the downtown redevelopment efforts over the long term. For example, this can be done through various types of loans, fees, bonds and tax increment financing. The pool of funds is to be dedicated to the downtown area. (7-6-94)

07. Advisory Council Points (one hundred (100) points). The Economic Advisory Council, after hearing the community’s presentation and reviewing the staff’s ranking and recommendation, shall award its points based upon both the information presented and the Application. The Council may award all or some of the points depending upon its opinion that the grant will promote the revitalization of the downtown economy. Projects which only fix a problem but do not leave the downtown in a better economic condition would receive fewer points. (7-6-94)

(BREAK IN CONTINUITY OF SECTIONS)

101. REVIEW AND RANKING PROCESS.

The Application shall be reviewed according to the following point categories and shall be based upon the information submitted and any additional information requested by the Department. (one thousand (1,000) points possible). (7-6-94)

01. Physical Conditions (three hundred fifty (350) points). Points will be assigned to the needs of the center based upon the number of needs and the urgency of the needs. Department staff shall, upon review of the documentation and descriptions in the application, determine a rating from one (1) to three (3) based upon the criticalness and urgency of each of the following problems. The ratings will be totaled and ranked. Those Applications ranking the highest will receive the most points. (The number of Applications divided into three hundred fifty (350) points equals the points per rank.)

TABLE 5 -- “CRITICALNESS AND URGENCY OF PROBLEMS”				
		Problem or Need Rating		
		Violation of Laws/Bldg. Codes/Health and Safety Concerns	Health and Safety Problems	No Violations or Health and Safety Concerns
Identified in Project Description Narrative	Identification of Problem	Critical 1	Urgent 2	Nice to Have 3
	Physical Conditions:			
	Structural Problems			
	Roof			
	Walls			
	Foundation			
	Floors			
	Weatherization			
	Expansion for adult day care			
	<u>New Center</u>			
	Other			
	Interior Problems:			

TABLE 5 -- "CRITICALNESS AND URGENCY OF PROBLEMS"				
Identified in Project Description Narrative	Identification of Problem	Problem or Need Rating		
		Violation of Laws/Bldg. Codes/Health and Safety Concerns	Health and Safety Problems	No Violations or Health and Safety Concerns
		Critical 1	Urgent 2	Nice to Have 3
	<u>Asbestos/lead based paint</u>			
	Bathrooms			
	<u>Handicapped Access for persons with Disabilities</u>			
	Electrical/plumbing/lighting			
	Heating/air conditioning			
	Fire safety			
	<u>Unusable space</u>			
	<u>New Center</u>			
	Unusable space			
	Other			
	Kitchen and Food Storage:			
	Health inspection			
	Capacity of dry storage			
	Capacity of cold storage			
	Equipment			
	<u>New Center</u>			
	Other			
	<u>Handicapped Accessibility for Persons with Disabilities</u>			
	Parking			
	Entry			
	Bathrooms			
	<u>New Center</u>			
	Other			
	TOTALS:			
		ASSIGNED RANKING		

(7-1-98)(9-1-00)T

02. Planning And Schedule (two hundred (200) points). Points will be assigned according to the

apparent effort made to determine the needs of the center, the nature of the problems, the solutions, and the costs of the project and a realistic schedule for implementing the project. (7-6-94)

a. Pre-planning (fifty (50) points). This is a measure of the effort made to quantify the problems through building code inspections, health inspections, and architectural and engineering review. (7-6-94)

b. Project planning (fifty (50) points). This is a measure of the effort made to coordinate all of the various agencies that may be involved in funding and planning the project. Also included is all relevant information that all grant responsibilities and requirements have been included in the planning. (7-6-94)

c. Schedule (fifty (50) points). This is a measure of the effort to schedule all the project activities, including the different grant requirements and contractors that may be involved. (7-6-94)

d. Costs (fifty (50) points). This is a measure of the effort to determine reasonable cost estimates for the various elements of the project. (7-6-94)

03. Benefits (one hundred fifty (150) points). (7-6-94)

a. Activities Provided (one hundred (100) points). This is a measure of how well the center is meeting the needs of its members, neighborhood, or community. It is based upon the number and quality of activities and services the center is providing on an annual basis. Service days will be calculated by taking the number of days an activity or service is offered during the course of the month multiplied by twelve (12). Activities can include health, recreational, social, educational, and transportation services. Quartile points will be assigned to this area.

TABLE 6 - "Ranking By Quartiles"	
Highest Quartile	One hundred (100) points
Second Quartile	Sixty (60) points
Third Quartile	Thirty (30) points
Fourth Quartile	zero (0) points

~~(7-1-98)~~(9-1-00)T

b. Low and moderate income and minority outreach activities (fifty (50) points). This is a measure of existing or proposed efforts made to include low and moderate income and minority participation in the center's activities. (7-1-98)

04. Match (one hundred (100) points). Cash and in-kind donations which are committed to the project shall receive points according to the percentage committed up to the total points in the category of match. A one dollar and fifty cent (\$1.50) value shall be calculated for every one dollar (\$1) of local cash committed to the project. (9-1-00)T

a. The sixty (60) points for cash match shall be ~~multiplied~~ assigned on a quartile basis by taking the percentage resulting from the division of cash match divided by the total project cost. Quartile points will be assigned to this area in a descending order based upon the percentage of cash match in the project. (9-1-00)T

i. First Quartile - sixty (60) points. (9-1-00)T

ii. Second Quartile - thirty (30) points. (9-1-00)T

ii. Third Quartile - fifteen (15) points. (9-1-00)T

iv. Fourth Quartile - zero (0) points. (9-1-00)T

- b. The forty (40) points for in-kind match shall be ~~multiplied by~~ assigned on a quartile basis by taking the percentage resulting from the in-kind match divided by the total project costs. Quartile points will be assigned to this area in a descending order based upon the percentage of in-kind match in the project. (9-1-00)T
- i. First Quartile - forty (40) points. (9-1-00)T
- ii. Second Quartile - twenty (20) points. (9-1-00)T
- iii. Third Quartile - ten (10) points. (9-1-00)T
- iv. Fourth Quartile - zero (0) points. ~~(7-6-94)~~(9-1-00)T

(BREAK IN CONTINUITY OF SECTIONS)

161. PROFESSIONAL SERVICES.

01. Small Purchase Procurement. If the cost of the grant management, does not exceed one-hundred thousand dollars (\$100,000), or twenty-five thousand dollars (\$25,000) for engineering or architectural services, then a "small purchase" method or informal method of procurement can be used. The grantee should write or call two (2) or more potentially qualified professionals and request written qualifications. Verbal requests for qualifications must be clearly documented in the grantee's file. This documentation shall, at a minimum, be date, person's name, company name, services discussed, dollar amounts or basis of rates quoted. Once qualifications have been reviewed, the grantee shall inform the proposers of the selection and provide the reasons the professional was selected or rejected. (3-19-99)

02. Competitive Negotiation Procurement. If the amount of grant management, exceeds one-hundred thousand dollars (\$100,000) or twenty-five thousand (\$25,000) for engineering or architectural services, then a formal competitive negotiation method of procurement shall be utilized. The appropriate procedures for the competitive negotiation procurement method are as follows: (3-19-99)

a. Prepare request for proposals (RFP). RFP must include all factors that will be used to evaluate submissions. Evaluation factors must be outlined and the weight of each factor must be identified. (7-6-94)

b. ~~Cities must publish~~ the RFP in local newspaper of general circulation. The RFP must be published at least ~~once twice~~. The proposal due date must be at least two (2) weeks after the ~~publishing date~~ first publication. Counties must publish the RFP in a newspaper of general circulation. The RFP must be published at least twice, not less than three (3) weeks apart. The proposal due date must be at least thirty (30) days from the first publication date. The RFP must also be sent to the Disadvantaged Resource Center. It is advisable to send a copy of the Request to local and area firms that may be qualified to respond. ~~(7-6-94)~~(9-1-00)T

c. Establish a selection committee. This may be the governing body, a citizen review committee, or a combination of members of both. (7-6-94)

d. Evaluate all submitted RFPs for completeness and appropriateness. Review and rank the proposals according to the review criteria. All grant managers selected must be certified by the Department. Check with the Department for certification before awarding grant management contracts. Notify, in writing, all proposers about the decision and the reasons for the committee's selection or rejection. (7-6-94)

e. Draft a services contract and send the draft, a copy of the RFP, the minutes of the selection committee decision, and a sample of the ranking document to the Department for approval. Do not execute the contract until Department approval is received. All contracts for professional services must be submitted to the Department for review and approval thirty (30) days before the intended effective date. (7-6-94)

IDAPA 52 - IDAHO STATE LOTTERY COMMISSION
52.01.02 - GAMING RULES OF THE IDAHO STATE LOTTERY COMMISSION
DOCKET NO. 52-0102-0001
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(s) Title 67, Chapter 77, Idaho Code, and the specific authority of Section 67-7714 Idaho Code.

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

Tuesday, October 10th at 9:30 a.m.
Idaho State Lottery Headquarters
1199 Shoreline Lane, Suite 100
Boise, Idaho 83702.

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

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

The primary focus of changes to existing rules is to bring rules into line with recent legislative changes to Idaho Code (House Bill 650) guiding bingo raffle games.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because we needed to make the changes in the rules to be compliant with recently revised Idaho Code (House Bill 650, 2000 Session of the Idaho Legislature) and tighten regulation of charitable gaming consistent with the Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Clinton Miner, Deputy Attorney General, Attorney General's Office at (208)334-2400.

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 25, 2000.

DATED this 21st day of August, 2000.

Robert W. Ginkel, Director
Idaho State Lottery
1199 Shoreline Lane, Suite 100
Boise, ID 83702
Phone: (208) 334-2600
Fax: (208) 334-2610

THE FOLLOWING IS THE TEXT OF DOCKET NO. 55-0102-0001

010. DEFINITIONS (Rule 10).

As used in these rules, the following words have the following definitions: (7-1-97)

01. Audit. The review of any or all documents pertaining to the operating of bingo or raffles, including, but not limited to ledgers, bank statements, nightly logs recording transactions, receipts, register tapes, computer records, and tax records, by representatives of the Idaho State Lottery, the Attorney General, other law enforcement agencies, or independent auditors. (7-1-97)

02. Autodaubing Features Or Autodaubing. Electronic bingo card daubers, including software or equipment interfaced with such, which without requiring the player to input the number called, automatically daubs the numbers as called. ()

023. Bingo. (see Section 67-7702(1), Idaho Code): (7-1-97)

a. Bingo cards, regular. The traditional game of chance played for a prize determined prior to the start of the game. Bingo includes games using cards (reusable or disposable) containing five (5) rows of five (5) squares, each imprinted with randomly placed numbers, one (1) through seventy-five (75), except for the center squares, which may be a free space, and a set of designators, similarly numbered, that are contained in a selection device. The letters "B-I-N-G-O" must also be imprinted on the card in order above each of the five (5) columns. Upon approval of the Bingo-Raffle Advisory Board there may be other forms of Bingo games allowed, such as Blackouts, Bonanza, and "U Pick Em" games. (7-1-97)()

b. Play Method. Players who have paid consideration for the cards they are holding compete for prizes by covering numbers on their cards when similarly numbered designators are randomly drawn and called. The winner is the first player to cover a predetermined arrangement of numbers on the players cards. The game begins when the first number is called and ends when a player has covered the previously designated arrangement and declares a bingo on the last number called. The winning card shall be independently verified by a floor worker and another player by calling back the winning combination of numbers in the accepted pattern or by entering the serial number printed on the bingo card into an electronic verification system. (7-1-97)

c. Exclusions from Bingo. Bingo shall not include "instant bingo" which is a game of chance played by the selections of one (1) or more prepackaged cards, with the winner determined by the appearance of a preprinted winning designation on the card. (7-1-97)

034. Bingo-Raffle Advisory Board Or Board. ~~A~~ ~~The~~ board ~~established in 1995,~~ consisting of six (6) persons chosen by the Governor to make advisory recommendations regarding bingo and raffle operations and regulation in Idaho and to determine which Bingo games are allowable in Idaho. See Section 67-7702(2), Idaho Code. (7-1-97)()

045. Blackout. A game where all numbers are covered on a card. This game is also referred to as coverall. (7-1-97)

056. Bonanza. A game of bingo that is played on a prefolded card. Wherein a designated number of balls are emitted from the machine in the usual manner and displayed. If there is no "Bingo" called on these numbers the game continues until there is a winner. (7-1-97)

067. Card Minding Machines. Individual computers that allow players to monitor multiple bingo cards through a centralized "caller" computer. (7-1-97)

08. Charitable Contribution Acknowledgement Report Form Or CCARE. A form, prepared by the Director, upon which the recipient of a donation for a charitable purpose shall indicate the charitable purpose for which the donation will be used; the name, address, and phone number of the person receiving the donation; and acknowledgement that the recipient will provide any and all information necessary in order for the Director or his representatives to verify that the donation was used for a charitable purpose, as well as any other information needed by the Director to assure that the donation is used for a charitable purpose. ()

~~079.~~ **Charitable Organization.** Any organization that meets the criteria established by Section 67-7702(3), Idaho Code. (7-1-97)

~~10.~~ **Charitable Purpose.** For purpose of supporting a charitable, civic, religious, fraternal, patriotic, or veterans organization or as a non-profit volunteer fire department, or as a non-profit volunteer rescue squad, or as a non-profit volunteer educational booster group, non-profit youth organization, non-profit sports league organization, non-profit parent-teacher organization or association, non-profit private and public schools to include but not be limited to organizations exempt from taxation under Sections 501(c)(3), (4), (6), (8), (10), (19) or 501(d) of the Internal Revenue Code of the United States of America. ()

~~0811.~~ **Commission.** The Idaho State Lottery Commission as defined in Section 67-7404, Idaho Code. See Section 67-7702(4). (7-1-97)

~~0912.~~ **Concessions.** Food items offered to players at bingo games. (7-1-97)

~~103.~~ **Director.** The director of the Idaho State Lottery. See Section 67-7407, Idaho Code. (7-1-97)

~~134.~~ **Disposable Paper Card.** A non-reusable, paper bingo card. Such cards must be manufactured with pre-printed serial numbers and may be assembled in multiple card sheet, single sheet, pad or packet form. A sequential series and serial number must be printed on each individual card. (7-1-97)

~~145.~~ **Distributor.** Any person who purchases or otherwise obtains a completed piece of equipment and/or supplies for use in authorized gaming activities, including but not limited to bingo or raffles, from any person or entity, and sells or otherwise furnishes such equipment and/or supplies to any person or entity. (7-1-97)

~~126.~~ **Duck Race.** A charitable raffle as defined in Section 67-7704(5), Idaho Code. (7-1-97)

~~147.~~ **Electronic Gambling Devices.** Gaming or gambling devices electronically operated by inserting a coin or token and then pulling a handle or pushing a button to activate the game. Devices can generate points or payout slips for accumulated wins. (7-1-97)

~~158.~~ **Gaming.** Gaming means gambling as defined in Section 18-3801, Idaho Code. (7-1-97)

~~169.~~ **Gross Revenues.** All moneys paid by players during a bingo game or session for the playing of bingo or raffle and shall not include money paid for concessions. See Section 67-7702(6), Idaho Code. Gross revenues for raffle events (or other gaming) mean the monetary value that would be due to any operator of a gaming activity for any chance taken or other fees for participation. Gross revenues are calculated before any deductions for prizes or other expenses. (~~7-1-97~~)()

~~1720.~~ **Hard Cards.** Reusable bingo cards with sliding windows to cover the numbers on the cards. Hard cards are legal in sessions with less than ten thousand dollars (\$10,000) annual gross revenue or for special occasions. (7-1-97)

~~21.~~ **Instant Bingo.** The use of premarked cards which, when opened, are, by the premarking, determined to be winners without any player participation. ()

~~1822.~~ **License.** A permission issued by the director of the Idaho State Lottery to: (7-1-97)

a. Game Operator. A person, business, or organization that qualifies as a nonprofit or charitable organization operating bingo games or raffles; or (7-1-97)

b. Suppliers. Vendors, distributors or manufacturers of gaming supplies. (7-1-97)

~~1923.~~ **Manufacturer.** Any person who fabricates or assembles, from raw materials or subparts, a completed piece of equipment or pieces of equipment, or supplies for use in authorized gaming activities, including but not limited to bingo and raffles, and who sells or otherwise furnishes the same to any distributor, operator, or retail outlet. (7-1-97)

204. Net Proceeds Of A Charitable Raffle. The receipts less the cost of prizes awarded. In the case of a duck race, net proceeds of a duck race mean receipts less the cost of prizes awarded and the rental cost of the ducks used in the race. See Section 67-7710(4), Idaho Code. Donated prizes are considered to have no cost and do not reduce amount of receipts when calculating net proceeds. (7-1-97)

215. Nonprofit Organization. An organization incorporated under Chapter 3, Title 30, Idaho Code, or an unincorporated association recognized under Chapter 7, Title 53, Idaho Code. See Section 67-7702(7), Idaho Code. (7-1-97)

226. Organization. A charitable organization or a nonprofit organization. See Section 67-7702(8), Idaho Code. (7-1-97)

237. Raffle. An event in which prizes are won by random drawings of a name or number of one (1) or more persons purchasing chances. See Section 67-7702(9), Idaho Code. Duck races are forms of raffles. (7-1-97)

248. Reusable Cards. Reusable or hard bingo cards constructed similar to the non-reusable paper cards, by utilizing sliding windows or chips to cover the numbers. (7-1-97)

259. Separate Account. A bank account established strictly for ~~the funds generated from bingo activities~~ gross revenues. See Section 67-7709(1), Idaho Code. (7-1-97)(____)

2630. Sessions. A period of time not to exceed eight (8) hours in any one (1) day in which players are allowed to participate in bingo games operated by a charitable or nonprofit organization. (7-1-97)

27. Special Committee. Persons (including officers and directors, if so designated) listed on an organizations application for a license who ~~will be among the persons authorized to be in attendance at~~ shall be responsible to insure that a bingo game or bingo session, ~~and supervise the game or session to see that the game or session conducted by that organization,~~ is run according to the requirements of statute and of these rules. See Section 67-7711(3), Idaho Code. (7-1-97)(____)

32. Special Permit. A permit that can be obtained by a charitable organization that is not licensed but qualifies to operate an exempt bingo operation. This permit allows a qualified organization to operate bingo games at a state or county fair for the duration of the fair. (____)

2833. Tracking. The documentation of sales by sequentially numbered paper in bingo games or numbered tickets in raffles. (7-1-97)

2934. U-Pick Ems. A game where players select their own numbers on a two (2) part duplicated card. One (1) copy is retained by the player and used as a bingo card. Numbers are called until there is a winner. The winner is determined by the first player to cover their numbers. (7-1-97)

305. Vendor. Any ~~applicant, licensee, manufacturer, or distributor, as defined in these rules or supplier licensed or unlicensed that furnishes or supplies bingo or raffle equipment, disposable or non disposable cards and any and all related gaming equipment.~~ (7-1-97)(____)

(BREAK IN CONTINUITY OF SECTIONS)

102. POSTING OF LICENSE AND HOURS (Rule 102).

The organizations current Charitable Gaming License issued by the Idaho State Lottery ~~License~~ must be displayed during bingo games and bingo sessions in plain view for all players and interested persons. Idaho Lottery Gaming Rules must be kept on site and available during all sessions. Days/hours of operation must be posted in plain view for all players and interested persons. If days or times change, it is the responsibility of the organization to provide written notice to the State Lottery. House rules pertaining to bingo must be posted in plain view for all players and

interested persons.

(7-1-97)()

(BREAK IN CONTINUITY OF SECTIONS)

105. MINORS (Rule 105).

Persons under the age of eighteen (18) years are prohibited from playing bingo ~~during a licensed session for in a game in which a cash prize is offered, or where the prize exceeds twenty-five dollars (\$25) in value for merchandise, exceeding twenty-five dollars (\$25) in value or where any merchandise is redeemable, in whole or in part, for cash, or in a game operated by a licensed charitable or non-profit organization. Minors may play in games operated by an unlicensed charitable or non-profit organization that offer a merchandise prize with a value under twenty-five dollars (\$25).~~ See Section 67-7707(2), Idaho Code. Bingo operators may allow minors to work in a bingo game or session as per local house rules. (7-1-97)()

106. TRACKING REQUIREMENTS (Rule 106).

01. Bingo Paper--For Whom Required. All licensed organizations operating bingo sessions and all non-licensed organizations with an annual gross revenue from bingo exceeding ten thousand dollars (\$10,000) must track their bingo sales per session by using sequentially numbered/colored bingo paper. Each such organization shall keep a ledger of the numbers of all such papers used. The non-reusable colored paper cards must have a series and serial number on each card. (7-1-97)()

02. Tracking By Game. The tracking will vary according to games sold at each session (packets, specials, singles, six (6) ons, three (3) ons, etc.) and may be designated by game name or color of paper. (7-1-97)

03. Tracking By Packet. If sales are completed by packet, then those packets must not be separated to be sold as singles. Individual games or packets sold must be recorded sequentially for effective tracking. The tracking records need only be retained with permanent records; tracking records are not submitted with the Annual Bingo Report form. (7-1-97)

04. Late Players. Packets sold to late players must have the previously played games sheets removed and voided. (7-1-97)

05. Designation Of Color For Games. Each game is assigned a particular color of paper card. Other colors will not be accepted. (7-1-97)

06. Documentation. All paper must be tracked as either sold, damaged, donated, or omitted from the original distributor or manufacturer. Invoices from the distributor or manufacturer and other documentation of transactions involving bingo funds must be kept with the permanent records for that bingo operation. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

108. DETERMINING WINNERS (Rule 108).

01. Winning Cards. Winners are determined when the announced pattern of squares is covered on a player(s)' card. (7-1-97)

02. Players Responsibility. It is the players responsibility to notify the game operator or caller that the player has a winning bingo combination ~~before the next number is called or the bingo win may not be honored.~~ The player(s) must yell "bingo" loud enough for the caller to hear them. (7-1-97)()

03. Game Stops To Verify Winner. When a player declares a winning card, the winner verification should includes stopping the game before the next number is selected. The game shall be secured so that it can be

continued if the bingo be invalid.

(7-1-97)

04. Verification Of Winner. To verify a win, a game employee or volunteer must call back the winning combination of numbers in the assigned pattern and color of paper card. The caller must verify the call back. Electronic verifying devices may be used by entering the serial number of the winning card. A monitor must reveal the card and the winning pattern to verify its status as a valid bingo or an invalid bingo. If it is invalid, the game proceeds until a winner is declared. Once a winner is declared the caller must announce “one (1) good winner” or “two (2)” or more if it applies to the game. (7-1-97)

05. Prizes For Multiple Winners. If more than one (1) winner is declared, cash prizes must be divided equally and merchandise prizes of equal value must be awarded. (7-1-97)

109. CARDS (Rule 109).

01. Hard Cards. Charitable or nonprofit organizations with an annual gross bingo revenue of ten thousand dollars (\$10,000) or less may use hard cards. ~~This rule will generally apply to small religious and other charitable or nonprofit organizations that usually provide bingo as entertainment to their members.~~ A licensed organization may request a special one (1) time use of hard cards for community fund-raising projects that it is sponsoring. No hard cards shall be reserved for any players, with the exception of Braille cards. (7-1-97)()

02. Braille Cards. Braille cards are allowed in any bingo game for use by individuals who need them. (7-1-97)()

03. Two Part Disposable Cards. Two (2) part disposable cards may be used in “U-Pick-Em” games, if: (7-1-97)

a. Original and duplicate copies. The cards are printed on two (2) part, self-duplicating paper that provides for an original and duplicate copy; (7-1-97)

b. Operating controls. Players mark their numbers on each card in a distinct, clear and legible manner before separation of the duplicate and original card, and operators establish and set forth in plain view house rules setting out any conditions by which an entry may be added, deleted or changed before separation, and changes are verified by a worker authorized by the bingo manager; and (7-1-97)

c. Retention and play of duplicate copy. The player retains and plays the duplicate copy, and all winning cards and their duplicate copies are retained by the operator as part of the operators daily bingo records. (7-1-97)

04. Card-Minding Devices. Card-minding devices are prohibited. ()

05. Autodaubing Features. Autodaubing features are prohibited. ()

(BREAK IN CONTINUITY OF SECTIONS)

111. PAYMENT OF EXPENSES, WINNINGS, AND CHARITABLE CONTRIBUTIONS (Rule 111).

All charitable payments for expenses and donations for charitable purposes must be paid by check from the ~~separate~~ bingo a Account and recorded in the bingo ledger. See Section 67-7709(1), Idaho Code. (7-1-97)()

112. MINIMUM CHARITABLE OR NONPROFIT DONATION (Rule 112).

A minimum of twenty percent (20%) of annual gross revenues of a bingo operation must be paid to a charitable or nonprofit organization(s) to be used for charitable purposes. See Section 67-7709(1), Idaho Code. Organizations are permitted and encouraged to donate more than twenty percent (20%) of their gross revenues from bingo operations to charitable or nonprofit organization(s) to be used for charitable purposes. (7-1-97)()

(BREAK IN CONTINUITY OF SECTIONS)

121. SEPARATE BANK ACCOUNT AND LIMITATIONS ON USE (Rule 121).

01. **Establishment Of Account.** All ~~funds~~ net proceeds received in connection with a bingo game required to be licensed under Chapter 77, Title 67, Idaho Code, and by these rules must be placed in a separate bank account. See Section 67-7709(1), Idaho Code. Only bingo funds generated from bingo games may be distributed as prizes, administrative expenses, or charitable/nonprofit donations. (7-1-97)()

02. **Disbursements Use Of Funds.** All disbursements must be documented as defined in Section 67-7709(1), Idaho Code, and by these rules. (7-1-97)

122. GENERAL LEDGER (Rule 122).

01. **Establishment Of General Ledger.** A general ledger must be established to account separately for the bingo operation. Ledgers must track all ~~cash and check~~ transactions for the funds generated from bingo. (7-1-97)()

02. **Documentation.** The accounting of revenues from sales of bingo cards or other entry fees and all disbursements must be documented. The accounting should include, but not be limited to total prize payouts per session, and bingo related expenses per session, charitable contributions per session, wages, date and purpose or payee for each entry. (7-1-97)

03. **Annual Report.** Copies of general ledgers must accompany the Annual Bingo Report filed with the Idaho State Lottery. Copies of the Charitable Contribution Acknowledgement Report Form shall also accompany Annual Bingo Report. ~~If a~~ All disbursements ~~are~~ shall be recorded in the general ledger, ~~no other documents need to be submitted with the Annual Bingo Report.~~ (7-1-97)()

04. **Retention Of Records.** An accounting of all gross revenues and disbursements required by statute and these rules must be retained in permanent records with the organization, including the date and amount of each transaction ~~and, as well as~~ the name and address of each payee for all prize payments exceeding one hundred dollars (\$100). A copy of each CCARF shall be retained in permanent records of the organization. (7-1-97)()

123. ANNUAL REPORT (Rule 123).

01. **When Due.** Every licensed charitable or nonprofit organization conducting bingo games shall prepare an annual report within thirty (30) days after the close of its license year and shall file the annual report with the Idaho State Lottery. See Section 67-7709(2), Idaho Code. (7-1-97)()

02. **Information Required By Forms.** The nightly reports, receipts, winner records, and payouts must be documented and kept with the organization's permanent records for three (3) years. Any further information required by the forms prescribed by the State Lottery pursuant to statute and rule. (7-1-97)

03. **Independent Audit.** Organizations that exceed ~~one two~~ two hundred ~~fifty~~ thousand dollars (~~\$15200,000~~) in annual gross revenue from bingo games, raffle events, or bingo games and raffles combined must submit an independent audit from a public accountant or accounting firm. This independent audit must be submitted within ninety (90) days of the end of the licensed organizations license year. (7-1-97)()

(BREAK IN CONTINUITY OF SECTIONS)

201. LIMITATION ON ANNUAL NUMBER OF RAFFLES (Rule 201).

Charitable or non-profit organizations are limited to conducting twelve (12) raffle events per year, provided that this

limitation shall not apply to public or private elementary or secondary schools located in the State. See Section 67-7710(2), Idaho Code. (7-1-97)(____)

202. MAXIMUM PRIZES (Rule 202).

The maximum aggregate value of cash prize that may be offered or paid for any single raffle event, which is not a duck race, is one thousand dollars (\$1,000). For duck races, there shall be no limit on the maximum amount of the value of the cash prize if the cash prize is underwritten by insurance. There is no limit on the maximum value of merchandise that may be offered as a raffle prize so long as the merchandise is not redeemable for cash. See Section 67-7710(3), Idaho Code. (7-1-97)(____)

203. REQUIREMENTS FOR DONATION TO CHARITY--LIMITATION ON EXPENSES (Rule 203).

At least ninety percent (90%) of the net proceeds from sales of raffle tickets or chances and duck races must be donated to a charitable or nonprofit organization to be used for a charitable purpose. (Net proceeds are defined in Subsection 010.21) The name and address of the charitable or nonprofit organizations awarded these funds must be listed on the annual raffle report submitted to the Idaho Lottery. The annual raffle report shall also include the charitable purpose for which the charitable donation was used by the charitable organization or non-profit organization. A maximum of ten percent (10%) of net proceeds is allowed for expenses. (7-1-97)(____)

(BREAK IN CONTINUITY OF SECTIONS)

206. INDEPENDENT AUDIT OF LARGE RAFFLES (Rule 206).

Every charitable or non-profit organization whose gross annual revenues exceed ~~one~~ two hundred ~~fifty~~ thousand dollars (~~\$1,500,000~~) from the operation of raffles shall provide the State Lottery Commission with a copy of an annual report of raffle events. The audit shall be performed by an independent public accountant and submitted within ninety (90) days after the end of the organizations license year. (7-1-97)(____)

(BREAK IN CONTINUITY OF SECTIONS)

307. EXEMPTION FROM LICENSING AND LICENSING FEES (Rule 307).

See Section 67-7713, Idaho Code. (7-1-97)

01. Low-Stakes Bingo. A charitable or nonprofit organization conducting a bingo game does not need to obtain a license ~~or pay a license fee where the maximum prize offered or paid for any one game of bingo does not exceed two hundred fifty dollars (\$250) cash and the maximum amount of prizes, in cash and/or merchandise, at fair market value, offered in one (1) session of bingo does not exceed~~ if the gross annual bingo sales are less than ten thousand dollars (\$10,000) and/or if the aggregate total amount for prize(s) offered, in cash or merchandise for any one (1) session, is less than one thousand dollars (\$1,000). (7-1-97)(____)

02. Low-Stakes Raffle. A charitable or nonprofit organization does not need to obtain a license or pay a license fee for a raffle, if the ~~aggregate cash prize does not exceed one thousand dollars (\$1,000) and gross annual raffle sales are less than ten thousand dollars (\$10,000) and/or the maximum aggregate fair market value of merchandise does not exceed five~~ one thousand dollars (~~\$51,000~~). (7-1-97)(____)

03. Exemption From Licensing Not Exemption From Rules. Organizations exempt from licensing under this rule must still comply with applicable requirements of statute and bingo/raffle rules. This information is available by contacting the Idaho Lottery. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

401. LICENSE FEES (Rule 401).

Each initial application for a vendors license must be accompanied by a ~~two~~ five hundred dollar (\$2500) non-refundable annual license fee that shall be due upon submission of the application. An application approved by the Idaho State Lottery, complete with all required information, must be submitted along with the appropriate fee to the Idaho State Lottery Security Division. See Section 67-7715(3)-(4), Idaho Code. (7-1-97)()

(BREAK IN CONTINUITY OF SECTIONS)

406. CARD MANUFACTURERS STANDARDS (Rule 406).

Card manufacturers shall follow these recommended standards for paper cards: (7-1-97)

01. Quality Of Paper. The paper shall be of sufficient weight and quality to allow for clearly readable numbers and to prevent ink from spreading or bleeding through a packet thereby obscuring other numbers or cards. (7-1-97)

~~**02. Free Space.** Manufacturer's perm numbers shall be displayed in the free space square.~~ (7-1-97)

032. Random Assignment Of Numbers. Numbers printed on the card should shall be randomly assigned. (7-1-97)

043. Serial Numbers. Each set of cards shall be comprised of cards bearing the same serial number. No serial number shall be duplicated by a manufacturer in a given year. (7-1-97)

054. Packet Assembly. Cards assembled in books or packets shall be glued, not stapled. (7-1-97)

065. Labeling. A label shall be placed on the exterior of each carton of bingo paper listing the type of product, number of packets or loose sheets, serial numbers, per (series) numbers, number of cases, cut of paper, and color of paper. (7-1-97)

076. Packing Slips. A packing slip inside each case shall list the same information as listed on the label. (7-1-97)

407. NUMBER SELECTORS (Rule 407).

All number selectors must ~~conform with manufacturers standards~~ be approved by the Lottery Commission after review and advice by the Bingo-Raffle Advisory Board. Electronic random selectors must interact with players. Auto daubing systems are prohibited. (7-1-97)()

IDAPA 55 - DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION

55.01.03 - RULES OF PROFESSIONAL-TECHNICAL SCHOOLS

DOCKET NO. 55-0103-0002

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 Sections 33-2211, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rule making is scheduled for:

October 13, 2000, 3:00 p.m. - 5:00 p.m. MT (2:00 p.m. - 4:00 p.m. PT)

via the distance learning network. Participants may attend the public hearing at any one of the following six sites. Maps of the schools can be viewed on-line at www.isu.edu/id.dln.

Boise State University *
Engineering Technology Building
Room 108
1910 University Drive, Boise, Idaho

College of Southern Idaho
Evergreen Building
Room C95
315 Falls Avenue, Twin Falls, Idaho

North Idaho College
Library Computer Center (LCC) Room 270
1000 West Garden Avenue
Coeur d'Alene, Idaho

Idaho State University *
Library Room B30
6th Avenue and East Carter Street
Pocatello, Idaho

Lewis Clark State College
Sam Glenn Room 50
500 8th Avenue
Lewiston, Idaho

Idaho Falls Center For Higher Education Building
Room 313
1776 Science Center Drive
Idaho Falls, Idaho

* Parking at BSU and ISU may be difficult. Please plan ahead if attending.

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: Dr. Cliff Green, Idaho Division of Professional-Technical Education, P.O. Box 83720, Boise, ID 83720-0095. Phone: 208-334-3216/Fax: 208-334-2365.

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

Section 33-1002G, Idaho Code, provides school districts an opportunity to establish professional-technical schools that qualify for funding appropriated for the specific purpose of supporting the added cost of professional-technical schools. The funds are appropriated to the State Board for Professional-Technical Education to be expended by the Division of Professional-Technical Education.

IDAPA 55.01.03. "Rules of Professional-Technical Schools," is being promulgated to identify and set forth the criteria and requirements for the establishment and operation of a professional-technical school in Idaho that qualifies for funding under Section 33-1002G, Idaho Code.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this proposed rule, contact Mike Rush at (208) 334-3216.

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 October 25, 2000.

DATED this 16th day of August, 2000.

Mike Rush, State Administrator
Idaho Division of Professional-Technical Education
650 West State St.
P.O. Box 83720, Boise, Idaho 83720-0095
E-mail: mrush@pte.state.id.us
(208)334-3216 / Fax (208)334-2365

THE FOLLOWING IS THE TEXT OF DOCKET NO. 55-0103-0002

55.01.03 - RULES OF PROFESSIONAL-TECHNICAL SCHOOLS

000. LEGAL AUTHORITY.

The State Board of Education is designated as the State Board for Professional-Technical Education and is responsible to execute the laws of the state of Idaho relative to professional-technical education, administer state and federal funds, and through the administrator of the State Division of Professional-Technical Education, coordinate all efforts in professional-technical education (Section 33-2202 through 33-2212, Idaho Code). ()

001. TITLE AND SCOPE.

01. Title. The rules shall be cited as IDAPA 55.01.03, "Rules Of Professional-Technical Schools". ()

02. Scope. These rules serve the administration of Professional-Technical Education in Idaho and define the duties of the State Division of Professional-Technical Education. ()

002. WRITTEN INTERPRETATIONS.

Written interpretations of these rules, if any, are on file at the office of the State Division of Professional-Technical Education. ()

003. ADMINISTRATIVE APPEALS.

All appeals under these rules shall be conducted pursuant to the procedures set forth by the State Board of Professional-Technical Education. ()

004. (RESERVED).

005. DEFINITIONS.

01. Attendance Zones. For purposes of Section 33-1002G, Idaho Code, each high school is classified as an attendance zone. The attendance zone requirement can be met by having students from at least two (2) high school zones within a district or two (2) high school zones in different districts participate in the professional-technical school. ()

02. Dual Credit. Pursuant to Section 33-5109, Idaho Code, dual credit may be granted for Advanced Placement, College Level Examination Program, or Tech Prep class offerings that are approved through an accredited institution of higher education. This does not have to be a one (1) credit for one (1) credit articulation. Competencies

from multiple classes can count toward postsecondary credit/credits. ()

03. Field Experience. Paid or unpaid work experience such as business/industry internship, clinical experience, supervised occupational experience, job placement, school-based enterprise, or similar work experience setting. The field experience must be of sufficient duration and depth to add to the technical competencies of the student. ()

04. Professional-Technical Schools. Schools designed to provide high-end, state-of-the-art technical programs that foster quality technical education at the secondary level. Programs and services are directly related to the preparation of high school students for employment in current or emerging occupations that require other than a baccalaureate or advanced degree. These schools are closely linked to postsecondary education, thereby avoiding redundancy and maintaining rigor. They are also closely linked to current business and industry standards to ensure relevance and quality. ()

006. -- 099. (RESERVED).

100. STATEMENT OF PURPOSE.

The purpose of this rule is to clearly define general implementation criteria, the criteria for approval for funding, the added cost unit calculation, the procedure to follow in calculating average daily attendance (ADA), the process to follow for fund distribution, and program accountability for Idaho Professional-Technical Schools. ()

101. PROFESSIONAL-TECHNICAL SCHOOL GENERAL APPROVAL CRITERIA.

For approval, applying districts/consortiums must meet at least four (4) of the five (5) criteria listed in Section 33-1002G, Idaho Code. Approval criteria: ()

01. High School Attendance Zones. Two (2) or more high school attendance zones. ()

02. Dual Credit. ()

03. Field Experience. ()

04. Funded As A Separate School. ()

05. Separate Site Or Cooperative Service Agency. Located at a separate site or approved by the State Board of Education as a cooperative service agency. ()

102. PROFESSIONAL-TECHNICAL COMPONENT CRITERIA.

01. Program Criteria. Professional-technical schools are intended to deliver high-end technical education programs that go beyond the scope of traditional professional-technical education. The lab should be appropriately designed for the type of program and the number of students enrolled. The program should have state-of-the-art equipment, current technology and strong links to business and industry. ()

02. Professional-Technical School Program. Each program of a professional-technical school shall: ()

a. Be based on industry standards that are measurable using a competency-based evaluation system. ()

b. Demonstrate a responsiveness to students' needs and to labor market needs. ()

c. Contain a sequence of instruction that follows a set of industry competencies. ()

d. Reinforce basic and advanced academic skills. ()

e. Have at least one (1) dual credit technical course or be approved for postsecondary credit as part of a Tech Prep agreement. ()

- f. Promote access and equity for all students and school personnel. ()
- g. Incorporate active input from an appropriately qualified business/industry technical advisory committee. ()
- h. Ensure that all programs implement instructional delivery methods that use current teaching and industry technologies. ()
- i. Employ instructors who hold professional-technical certification to teach the occupation and who also hold a related industry-based credential or equivalent. ()
- j. Promote the development of leadership, interpersonal and other cross-functional workplace skills through professional-technical student organizations or other appropriate means. ()
- k. Ensure that the instructional setting is appropriate and effective regarding:
 - i. Student-teacher ratios. ()
 - ii. Number of lab work stations. ()
 - iii. Number of quality work-experience sites. ()
 - iv. Safety. ()
 - v. Work-experience agreements. ()
 - vi. Facility maintenance. ()

103. APPLICATION PROCESS.

Applications for professional-technical school funding must be received by the Division of Professional-Technical Education on or before the first Friday in July for the following fiscal year. ()

104. PROFESSIONAL-TECHNICAL SCHOOL ADDED COST UNIT FUNDING.

Section 33-1002G, Idaho Code, provides school districts an opportunity to establish professional-technical schools that qualify for funding appropriated for the specific purpose of supporting the added cost of professional-technical schools. The funds are appropriated to the State Board for Professional-Technical Education to be expended by the Division of Professional-Technical Education. Funding is based on the average daily attendance (ADA) of students enrolled in the professional-technical school. ()

105. PROFESSIONAL-TECHNICAL SCHOOL AVERAGE DAILY ATTENDANCE.

The Division of Professional-Technical Education shall use the enrollment reports sent to the State Department of Education to calculate professional-technical school average daily attendance (ADA) in accordance with applicable laws and rules (Section 33-1002, Idaho Code). Students in attendance at a qualifying professional-technical school shall be reported as aggregate hours and/or aggregate attendance. The aggregate hours and aggregate attendance will be combined to calculate the ADA for the professional-technical school. ()

01. Aggregate Hours. The daily hours of all students who attend less than two and one-half (2.5) hours per day shall be added together and reported as weekly aggregate hours. ()

02. Aggregate Attendance. Students attending more than two and one-half (2.5) hours per day are to be reported as aggregate attendance. ()

106. PROFESSIONAL-TECHNICAL SCHOOL ADDED COST UNIT CALCULATION.

The Division of Professional-Technical Education shall use the professional-technical school average daily attendance (ADA) as the basis for added cost unit funding. ()

01. State Support Unit Value. The added cost support unit value shall be based on state salary-based apportionment, state paid employee benefits (less state unemployment), base support, and safe environment distribution factors found in the Public School Support Program. ()

02. Support Unit Divisor. Added cost support units for professional-technical schools shall be calculated by using the secondary support unit attendance divisor of eighteen point five (18.5) as shown in Section 33-1002(6), Idaho Code. ()

03. Added Cost Support Factor. The added cost support factor for professional-technical schools shall be calculated by multiplying point thirty-three (.33) times the added cost support units generated in the professional-technical school. ()

04. Estimated Reimbursement. The estimated reimbursement shall be calculated by multiplying the state support unit value by the added cost support factor. ()

107. PROFESSIONAL-TECHNICAL SCHOOL ADDED COST UNIT FUND DISTRIBUTION. Once the professional-technical appropriation is made, the per unit value will be determined by dividing the total units into the appropriation. ()

01. Payment Distribution. Added cost support unit funds shall be distributed by the Division of Professional-Technical Education in two (2) payments: ()

a. Seventy percent (70%) of the total estimated funds for which a professional-technical school is eligible shall be distributed each year following receipt of first-period enrollment data from the Department of Education. ()

b. Based on actual support units generated during the year, the balance shall be distributed each year by July 15th. ()

02. Reduced Funding. In the event that the legislature does not appropriate enough funds to cover at least ninety percent (90%) of the calculated per unit value, preference will be given to existing schools and funding will not be reduced to less than ninety percent (90%) of the previous year's level. ()

03. Adjusted Distribution. In the event that program growth exceeds the amount of the requested appropriation on a given year, the distribution of funds to each professional-technical school will be based on the projected ADA from the Annual Application or the actual ADA from the enrollment reports, whichever is smallest. ()

108. ACCOUNTABILITY.

01. Assessment Process. The Division of Professional-Technical Education shall develop an assessment process that includes measures and standards for professional-technical school programs. ()

02. Administrator Responsibility. The administrator of each professional-technical school shall be responsible to provide a complete report for each program on the measures and standards at the end of each fiscal year. ()

03. Accreditation. Each professional-technical school shall be accredited following Department of Education guidelines. This accreditation shall be appropriate for the individual type of professional-technical school that is developed. ()

04. School Improvement Plan. The administration, faculty and staff at each professional-technical school shall be responsible to develop and implement a local school improvement plan based on the assessment process. ()

109. -- 999. (RESERVED).

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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 02 – DEPARTMENT OF AGRICULTURE PO Box 790, Boise, ID 83701-0790

Docket No. **02-0301-0001**, Rules Pertaining to Idaho Commercial Fertilizer Law. Repeal of chapter. Comment By: 10/25/00.

Docket No. **02-0303-0001**, Rules Governing Pesticide and Chemigation Use and Application. Adds required section and deletes obsolete one; defines record keeping and licensing requirements for dealers providing consistency with FIFRA; clarifies required worker protection standard records; imposes temperature restrictions on phenoxy herbicide; clarifies restrictions to protect pollinators in crops with blooming weeds; increases pesticide registration fees. Comment By: 10/25/00.

Docket No. **03-0403-0001**, Rules Governing Animal Industry. Specifies testing, identification and certification requirements, relative to tuberculosis, for entry of cattle, bison and domestic cervidae into Idaho; defines Chronic Wasting Disease (CWD); relative to CWD, provides requirements for importation of domestic cervidae, specifies approved tests, provides for surveillance, quarantine and management of herds, provides for qualification and certification of herds and for condemnation and depopulation of CWD infected and exposed animals and herds. Comment By: 10/25/00.

Docket No. **02-0415-0001**, Rules Governing Beef Cattle Animal Feeding Operations. Regulates the design, construction and management practices for wastewater storage and containment facilities, and nutrient management practices on beef cattle animal feeding operations; requires new feeding operations to have an approved nutrient management plan before beginning operations; requires existing feeding operations to submit a nutrient management plan to the Director of the Dept. of Agriculture by 1/1/05; provides for inspections of feeding operations and for penalties for violations. Comment By: 10/25/00.

Docket No. **02-0612-0001**, Quarantine Order No. 8-1962 Pertaining to European Pine Shoot Moth. Repeal of chapter. Comment By: 10/25/00.

Docket No. **02-0612-0002**, Idaho State Department of Agriculture Rules Pertaining to the Idaho Fertilizer Law. Prescribes definitions not covered by law; incorporates by reference certain manuals; requires registration and lists guarantees covering nutrients other than nitrogen, phosphate, and potash; describes required warning statements; prescribes proper labeling, labeling of slow release nutrients, use of investigational allowances, sampling, and guarantees concerning organic nitrogen. Comment By: 10/25/00.

Docket No. **02-0622-0001**, Noxious Weed Rules. Designates Eurasian watermilfoil as a noxious weed; adds required Sections. Comment By: 10/25/00.

IDAPA 07 – DIVISION OF BUILDING SAFETY PO Box 83720, Boise, ID 83720

Docket No. **07-0104-0001**, Rules Governing Electrical Specialty Licensing. Authority to grant waivers to qualifying applicants is being delegated to the staff. Comment By: 10/25/00.

Docket No. **07-0109-0001**, Rules Governing Readoption of Rules of Electrical Division. Repeal of chapter. Comment By: 10/25/00.

**IDAPA 08 – DEPARTMENT OF EDUCATION/BOARD OF EDUCATION
PO Box 83720, Boise, ID 83720-0037**

Docket No. **08-0102-0001**, Personnel Rules of the State Board of Education. Repeal of chapter. Comment By: 10/25/00.

Docket No. **08-0103-0001**, Financial Affairs of the State Board of Education. Repeal of chapter. Comment By: 10/25/00.

Docket No. **08-0104-0001**, Rules Governing Residency Classification. For tuition purposes, a person separated under honorable conditions from the U.S. Coast Guard who designates Idaho as his intended domicile is considered an Idaho resident. Comment By: 10/25/00.

Docket No. **08-0109-0001**, Intellectual Property and Conflict of Interest. Repeal of chapter. Comment By: 10/25/00.

Docket No. **08-0202-0001**, Rules Governing Uniformity. Incorporates by reference the 2001 version of the Idaho Department of Education Professional School Personnel Certification Standards Manual. Comment By: 10/25/00.

Docket No. **08-0202-0002**, Rules Governing Uniformity. Changes the official vehicle for the approval of teacher education programs to the National Council for Accreditation of Teacher Education (NCATE) approved Idaho Standards for Initial Certification of School Personnel. Comment By: 10/25/00.

Docket No. **08-0203-0002**, Rules Governing Thoroughness. Changes the name from “exiting” to “achievement” standards; incorporates by reference the K-8 Achievement Standards. Comment By: 10/25/00.

**IDAPA 11 – IDAHO STATE POLICE
PO Box 700, Meridian, ID 83680-0700**

Docket No. **11-1002-0001**, Rules Establishing Fees for Services – Idaho Criminal Justice Information System. Corrects the statutory authority citation; increases the name check fee. Comment By: 10/25/00.

Docket No. **11-1102-0001**, Rules of the Idaho Peace Officer Standards and Training Council for Juvenile Detention Officers. Establishes minimum standards for employment and certification of juvenile detention officers. Comment By: 10/25/00.

**IDAPA 13 – IDAHO DEPARTMENT OF FISH AND GAME
PO Box 25, Boise, ID 83707**

Docket No. **13-0104-0001**, Rules Governing Licenses. Adds required sections to the rule; removes obsolete rules; allow residents to purchase unsold nonresident tags as allowed by statutory amendment. Comment By: 10/25/00.

Docket No. **13-0104-0002**, Rules Governing Licenses. Authorizes license and tag refunds or exchanges for fire closure. Comment By: 10/25/00.

Docket No. **13-0108-0001**, Rules Governing the Taking of Big Game Animals in the State of Idaho. Amends methods of take, hunting boundaries, and controlled hunt descriptions for 2000 seasons; allows sales of leftover controlled hunt tags; creates a new nonresident deer, bear, or mountain lion tag. Comment By: 10/25/00.

Docket No. **13-0109-0001**, Rules Governing the Taking of Game Birds in the State of Idaho. Adds required sections; removes obsolete rules; makes corrections after statutory amendment. Comment By: 10/25/00.

Docket No. **13-0111-0001**, Rules Governing Fish. Adds required sections; biannual update of fishing seasons, bag limits, and possession limits; removes obsolete rules. Comment By: 10/25/00.

Docket No. **13-0115-0001**, Rules Governing the Use of Dogs. Adds required sections; increases number of nonresident permits to encourage hunting in certain areas; clarifies requirements for a hunting license and hound

hunter permit. Comment By: 10/25/00.

Docket No. **13-0116-0001**, Rules Governing the Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals. Adds required sections and biennial update for setting seasons, bag, and possession limits; removes obsolete rules. Comment By: 10/25/00

Docket No. **13-0117-0001**, Rules Governing the Use of Bait for Taking Big Game Animals. Clarifies restrictions on locating bear bait near water. Comment By: 10/25/00.

Docket No. **13-0119-0001**, Rules Governing Operating, Discontinuing, and Suspending Vendors. Adds required sections; corrects obsolete language regarding military personnel obtaining resident licenses and tags. Comment By: 10/25/00.

**IDAPA 15 – OFFICE OF THE GOVERNOR - IDAHO COMMISSION ON AGING
PO Box 83720, Boise, ID 83720-0007**

Docket No. **15-0101-0002**, Rules Governing Senior Services Program. Changes definition of Case Manager to allow for a degree or equivalent and definition of Case Management to include disabled adults; deletes definition of PCS and adds definition of Medicaid HCBS Services; adds section pertaining to the conduct of in-home service workers. Comment By: 10/25/00.

Docket No. **15-0102-9902**, Rules Governing Area Agency Adult Protection Programs. Clarifies resident-to-resident abuse investigations. Comment By: 10/25/00.

Docket No. **15-0102-0001**, Rules Governing Area Agency Adult Protection Programs. Adds definition for “serious physical injury”. Comment By: 10/25/00.

Docket No. **15-0120-0001**, Rules Governing Area Agency on Aging (AAA) Operations. Changes due date for area plans and plan amendments; removes unnecessary language. Comment By: 10/25/00.

**15 – DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION
PO Box 83720, Boise, ID 83720-0066**

Docket No. **15-0401-0001**, Rules of the Division of Human Resources and Personnel Commission. Changes conform to statutory changes; adds definitions of “earned administrative leave” and “involuntary transfer”; clarifies veterans preference; adds voluntary probation period for certain transfers and reinstatements; clarifies use of leave for medical or optical appointments and for use of Employee Assistance Program; clarifies and makes changes in deadlines for problem-solving procedure and for enhancing consistency of performance evaluation system. Comment By: 10/25/00.

**IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
PO Box 83720, Boise, ID 83720-0036**

Docket No. **16-0203-0001**, Rules Governing Emergency Medical Services. Updates the Incorporation by Reference; adds pediatric emergency medicine representative to EMS Advisory Committee; changes office address. Comment By: 10/25/00.

Docket No. **16-0301-0002**, Rules Governing Eligibility for Medicaid for Families and Children. Reinstates a methodology for income eligibility in which income is converted to a monthly amount and prospective budgeting is used for determining eligibility for future months. Comment By: 10/25/00.

Docket No. **16-0304-0001**, Rules Governing the Food Stamp Program in Idaho. Changes gross and net income limits, maximum monthly allotments, and Standard Utility Allowance (SUA). Comment By: 10/25/00.

Docket No. **16-0305-0002**, Rules Governing Eligibility for Aid to Aged, Blind, and Disabled. Counts a veteran's aid, attendance, and unusual medical expense payments from the VA as income in computing the participant's share in the cost of his nursing home care or HCBS. Comment By: 10/25/00.

Docket No. **16-0309-0008**, Rules Governing the Medical Assistance Program in Idaho. Deletes text referencing the maintenance of a mailing list for Medical Assistance manual updates and adds the reference for Internet access.

Comment By: 10/25/00.

Docket No. **16-0309-0009**, Medical Assistance. Conforms to HB 797 by reducing the number of unauthorized visits for Physical Therapy to 25 per calendar year and requires authorization for any visits over 25 by the Department; changes technical terminology. Comment By: 10/25/00.

Docket No. **16-0309-0010**, Medical Assistance. Implements SB 1365 by requiring that all PCS and Attendant providers be employees of an agency; modifies CNA requirements to allow other training; PCS supervision by MD and RN expanded; makes numerous technical changes to standardize terminology. Comment By: 10/25/00.

Docket No. **16-0309-0011**, Medical Assistance. Implements SB 1530 by limiting reimbursement for commercial and non-commercial transportation providers for Medicaid clients when the vehicle contains five or more clients; provides for a waiver based on undue hardship; declares an emergency; provides a sunset clause of 6/20/01; discontinues payment to non-commercial providers for unloaded miles; sets reimbursement rate per mile per passenger at \$.33 cents for up to five passengers per vehicle. Comment By: 10/25/00.

Docket No. **16-0309-0012**, Medical Assistance. Generic drugs will be dispensed by the pharmacy unless prior authorized by the Department; technical changes clarify language. Comment By: 10/25/00.

Docket No. **16-0314-0001**, Rules Governing Hospitals in the State of Idaho. Revises requirement, that prescribers be physically present within 24 hours to sign an order, to allow for greater flexibility. Comment By: 10/25/00.

Docket No. **16-0410-0001**, Rules Governing Community Services Block Grant Program. Repeal of chapter. Comment By: 10/25/00.

Docket No. **16-0410-0002**, Rules Governing Community Services Block Grant Program. Rewrite complies with federal law changes in the 1998 Federal Community Services Block Grant Re-authorization. Comment By: 10/25/00.

Docket No. **16-0414-0001**, Rules Governing the Low Income Home Energy Assistance Program. Adds "catastrophic illness costs" to program eligibility criteria; revises formula for computing program benefits. Comment By: 10/25/00.

Docket No. **16-0503-0001**, Rules Governing Contested Cases Proceedings and Declaratory Rulings. Repeal of chapter. Comment By: 10/25/00.

Docket No. **16-0503-0002**, Rules Governing Contested Cases Proceedings and Declaratory Rulings. Rewrite of chapter simplifies and streamlines the hearing process; corrects program references. Comment By: 10/25/00.

**IDAPA 17 – IDAHO INDUSTRIAL COMMISSION
PO Box 83720, Boise, ID 83720-0041**

Docket No. **17-0405-0001**, Accreditation of Asbestos Professionals Employed in School Projects. Repeal of chapter. Comment By: 10/25/00.

Docket No. **17-0701-0001**, Safety Rules for Elevators and Escalators-General Requirements. Updates state's safety standards for elevators, escalators, and moving walkways to comply with changes in the national elevator standards which are adopted by reference. Comment By: 10/25/00.

Docket No. **17-0702-0001**, Safety Standards for Construction and Operation of Elevators-Administration. Repeal of chapter. Comment By: 10/25/00.

Docket No. **17-0703-0001**, Safety Rules for Elevators and Escalators-Inspections. Repeal of chapter. Comment By: 10/25/00.

Docket No. **17-0704-0001**, Safety Rules for Elevators and Escalators-Construction, Repairs, Alterations, or Dismantling. Repeal of chapter. Comment By: 10/25/00.

**IDAPA 18 – DEPARTMENT OF INSURANCE
PO Box 83720, Boise, ID 83720-0043**

Docket No. **18-0130-0001**, Individual Accident and Sickness Disability Insurance Minimum Standards Act. Sets forth prohibited policy provisions, minimum standards for benefits, disclosure requirements, and replacement requirements for various types of individual disability insurance policies and group supplemental disability insurance policies sold in Idaho. Comment By: 10/25/00.

Docket No. **18-0130-0002**, Individual Accident and Sickness Disability Insurance Minimum Standards Act. Repeal of chapter. Comment By: 10/25/00.

Docket No. **18-0144-0001**, Schedule of Fees, Licenses, and Miscellaneous Charges. Payor must request in writing overpayments in excess of \$200; extraordinary exam costs will not be considered part of the continuation fee and director may pass them on to a company; a continuation fee will be imposed on domestic risk retention groups only; continuation fee for purchasing groups will be \$100. Comment By: 10/25/00.

Docket No. **18-0160-0001**, Long-Term Care Insurance Minimum Standards. Adds requirements for disclosure to consumers by long-term care insurance sellers of rating practices, including rate increase history; sets forth information to be included in disclosures to consumers and requires signed acknowledgement by consumer; amends loss ratio standards; sets forth additional filing requirements; adds standards governing premium rates and rate increases; provides for reimbursement of unnecessary rate increases; sets forth requirements for actuarial certifications. Comment By: 10/25/00.

**IDAPA 21 – DIVISION OF VETERANS SERVICES
320 Collins Road, Boise, ID 83702**

Docket No. **21-0101-0001**, Rules Governing Eligibility for Admission, Residency, and Maintenance Charges in Idaho

State Veterans Homes - Domiciliary Care. Repeal of chapter. Comment By: 10/25/00.

Docket No. **21-0101-0002**, Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure. Rewrite conforms to amendments to state law and complies with federal regulations regarding veterans affairs and includes provisions for the Division's administrative procedures and contested cases. Comment By: 10/25/00.

Docket No. **21-0102-0001**, Rules Governing Eligibility for Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes – Residential Care. Repeal of chapter. Comment By: 10/25/00.

Docket No. **21-0102-0002**, Rules Governing Emergency Relief for Veterans. Rewrite of chapter provides for accepting, evaluating, granting, and denying requests for emergency relief and provisions related to Veterans Service Officers. Comment By: 10/25/00.

Docket No. **21-0103-0001**, Rules Governing Eligibility for Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes – Nursing Care. Repeal of chapter. Comment By: 10/25/00.

Docket No. **21-0103-0002**, Rules Governing Medicaid Qualified Units in Idaho State Veterans Homes. Changes conform to state law requiring the Idaho State Veterans Homes to become Medicaid-certified. Comment By: 10/25/00.

Docket No. **21-0104-0001**, Rules Governing Emergency Relief for Veterans. Repeal of chapter. Comment By: 10/25/00.

**IDAPA 22 – IDAHO STATE BOARD OF MEDICINE
PO Box 83720, Boise, ID 83720-0058**

Docket No. **22-0101-0001**, Rules of the Board of Medicine for Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery. Changes remove standard of care violation that define sexual relations with patients; adds rule relating to physical or mental illness to comply with ADA requirements; allows for 2 year licensure instead of annual license issue and renewal; removes obsolete language and changes interview language. Comment By: 10/25/00.

IDAPA 23 – IDAHO STATE BOARD OF NURSING

PO Box 83720, Boise, ID 83720-0061

Docket No. **23-0101-0001**, Rules of the Idaho Board of Nursing. Clarifies rules for temporary licensure, license renewal and reinstatement, graduates of nursing schools located outside the United States or its territories, and apprentices and others exempted from licensure by the Board; changes fees and adds provision for a returned check fee; creates framework for issuance of licenses and wallet certificates; clarifies that, with the exception of advanced practice professional nurses, one individual may hold only one license at any time; removes obsolete rules. Comment By: 10/25/00.

**IDAPA 24 – BUREAU OF OCCUPATIONAL LICENCES
1109 Main Street, Suite 220, Boise, ID 83702**

Docket No. **24-0101-0001**, Rules of the Board of Architectural Examiners. Adds required sections; changes application photograph size; adopts qualifications outlined in 2000-2001 NCARB Handbook for Interns and Architects; establishes exam qualifications based on experience in lieu of architectural degree. Comment By: 10/25/00.

Docket No. **24-0301-0001**, Rules of the State Board of Chiropractic Physicians. Changes peer review compensation schedule from number of document pages to dollar amount of claim. Comment By: 10/25/00.

Docket No. **24-0401-0001**, Rules of the Idaho Board of Cosmetology. Waives 30 day application deadline for applicants who fail examination on the first attempt; provides for nail technology and esthetics instructors; allows instructor applicants who fail examination on the first attempt to re-examine without additional training. Comment By: 10/25/00.

Docket No. **24-0401-0002**, Rules of the Idaho Board of Cosmetology. Clarifies definitions and changes terminology; separates esthetics from electrolysis; clarifies action resulting from student loan default; clarifies endorsement requirements; requires jurisprudence exam for endorsement applicants; eliminates work permits; changes reference to education requirement; clarifies application requirement; clarifies electrolysis instruction hour requirements; increases esthetics and nail technology instruction hour requirements; allows applicants who fail exam on first attempt to re-examine without additional training; specifies uses of human models and mannequins during exam; deletes monthly requirement for student records, and outlines requirements; defines attendance policy and student probationary period; clarifies student records and instructor training requirements. Comment By: 10/25/00.

Docket No. **24-0501-0001**, Rules of the Board of Environmental Health Specialist Examiners. Sets original license fee and a trainee certificate fee; deletes redundancy in reexamination fee and references to certificate fee. Comment By: 10/25/00.

Docket No. **24-1001-0001**, Rules of the State Board of Optometry. Updates exam requirements; gives board discretion to require exam for reinstatement of license canceled over 5 years; adds certificate to obtain and use pharmaceutical agents fee; updates name of national organization administering the exam. Comment By: 10/25/00.

Docket No. **24-1501-0001**, Rules of the Idaho Counselor Licensing Board. Modifies the supervised experience requirements; changes required credentials of those seeking to provide qualified counseling supervision; adds definition of direct client contact; and replaces Board's scope of practice letter with a rule requiring counselors to practice only within the boundaries of their competence. Comment By: 10/25/00.

Docket No. **24-1701-0001**, Rules of the State Board of Acupuncture. Clarifies and adds definitions and removes obsolete references; defines requirements for and establishes fee for licensure, certification, and technician; adds to inactive license or certification fee; includes expiration and reinstatement for certificates and process; adds certification under scope of practice; extends change of business notice provision. Comment By: 10/25/00.

Docket No. **24-1801-0001**, Rules of the Real Estate Appraiser Board. Increases fees for application for qualification, reciprocity application, original certification/license, original certification/license via reciprocity; and annual renewal fee. Comment By: 10/25/00.

**IDAPA 26 – IDAHO DEPARTMENT OF PARKS AND RECREATION
2103 Lanark, Meridian, ID 83642**

Docket No. **26-0120-0001**, Rules Governing the Administration of Park and Recreation Areas and Facilities.

Regulates operation of vehicles within state parks; prohibits interfering with state park employees duties; makes park facilities smoke free; defines liquid waste as it relates to camping; includes current Fish & Game rules on bag/creel limits. Comment By: 10/25/00.

Docket No. **26-0130-0001**, Idaho Safe Boating Rules. Specifies that persons on personal watercraft and being towed by boats must wear a personal flotation device to be considered having it readily available. Comment By: 10/25/00.

**IDAPA 27 – IDAHO BOARD OF PHARMACY
PO Box 83720, Boise, ID 83720-0067**

Docket No. **27-0101-0002**, Rules of the Idaho Board of Pharmacy. Allows transfer of prescriptions via facsimile; removes requirement for placing transfer information on original prescription for pharmacies that maintain the same information in a computer prescription database. Comment By: 10/25/00.

Docket No. **27-0101-0003**, Rules of the Idaho Board of Pharmacy. Adds the substance carisoprodol to the list of Schedule IV controlled substances. Comment By: 10/25/00.

**IDAPA 31 – IDAHO PUBLIC UTILITIES COMMISSION
PO Box 83720, Boise, ID 83720-0074**

Docket No. **31-0101-0001**, Rules of Procedure of the Idaho Public Utilities Commission. Recodifies an omitted section regarding withdrawal of pleadings. Comment By: 10/25/00.

Docket No. **31-1101-0001**, Safety and Accident Reporting Rules for Utilities Regulated by Idaho Public Utilities Commission. Updates documents incorporated by reference. Comment By: 10/25/00.

Docket No. **31-2101-0001**, The Utility Customer Relations Rules. Eliminates “guarantees” in lieu of service deposits; requires that bills be issued monthly and that utilities list their mailing addresses and toll-free telephone numbers on bills; prohibits billing for services or merchandise not ordered or authorized by consumer and specifies how partial payments are to be applied to bills; notice procedures for terminating service are clarified and simplified; eliminates reporting requirements of terminated service during winter months; allows utilities to collect reasonable deposits rather than two months’ usage as a minimum threshold billing; requires utilities to respond within 10 business days to a customer’s informal complaint. Comment By: 10/25/00.

Docket No. **31-4101-0001**, The Telephone Customer Relations Rules. Allows deposits to be credited to a customer’s account or refunded to customer; simplifies procedures for terminating telephone service; eliminates the termination of local exchange service for unexplained or large long-distance usage; reduces time telephone records are retained to 2 years; deletes obsolete references. Comment By: 10/25/00.

**IDAPA 33 – IDAHO REAL ESTATE COMMISSION
PO Box 83720, Boise, ID 83720**

Docket No. **33-0101-0003**, Rules of the Idaho Real Estate Commission. Identification numbers assigned or approved by Commission will constitute user’s signature when transmitted as part of an electronic record in the course of business with the commission. Comment By: 10/25/00.

Docket No. **33-0101-0004**, Rules of the Idaho Real Estate Commission. A flat fee of \$100 will be charged for each entity license, rather than charging additional broker license fees for multiple entity licenses. Comment By: 10/25/00.

**IDAPA 35 – IDAHO STATE TAX COMMISSION
PO Box 36, Boise, ID 83722**

Docket No. **35-0101-0001**, Income Tax Administrative Rules. Renumbers sections; corrects citations to federal and state codes; makes changes to conform to statutory changes; deletes obsolete language; changes calculation of the offset to add federal tax-exempt interest and subtract foreign dividend gross-up in computing total income; clarifies limitation of itemized deductions and addback of state income taxes and deductions allowed for college savings programs and health insurance costs for self-employed individuals; corrects calculation for the standard deduction for married individuals filing joint returns; requires an alternative method to allocation and apportionment in determining Idaho source income of real and tangible personal property and from a sole proprietorship; clarifies how an entity will report income and pay tax for officers, directors, shareholders, partners, members, or beneficiaries, and how the election is made; clarifies what qualifies as a revenue-producing enterprise due; and others. Comment By: 10/25/00.

Docket No. **35-0102-0001**, Idaho Sales and Use Tax Administrative Rules. Clarifies rental/lease property allowance when it is traded-in; removes provision limiting the credit for bad debts to only the retailer who made the original sale; deletes obsolete language and defines terminology for new technology for records retention; makes the statutory reporting requirements easier and provides options for promoters. Comment By: 10/25/00.

Docket No. **35-0103-0004**, Property Tax Administrative Rules. Renumbers sections; corrects citations to federal and state codes; makes changes to conform to statutory changes; deletes obsolete language; rewrites some definitions to be consistent with statutes and current practice; appraisal approaches, used by county assessors, were clarified to three traditional approaches; makes changes in determining eligibility for exemptions, clarifies determination of household and other taxable income. Comment By: 10/25/00.

Docket No. **35-0105-0001**, Motor Fuels Tax Administrative Rules. Adds and deletes definitions; changes reporting period to taxpayer's fiscal year or calendar year if not required to file an Idaho income tax return; allows all motor fuels to be deducted on sales to the Idaho National Guard; adds authority to grant an exemption from bonding when the distributor has provided information to show financial responsibility even when the submission is incomplete; suspends petroleum transfer fee because the insurance reserve account has reached the statutory limit. Comment By: 10/25/00.

Docket No. **35-0108-0001**, Idaho Mine License Tax Administrative Rules. Corrects a reference to the Tax Commission's Administration and Enforcement Rules. Comment By: 10/25/00.

Docket No. **35-0201-0001**, Tax Commission Administration and Enforcement Rules. Deletes obsolete language; identifies the rate of interest for calendar year 2001; changes amount charged for dishonored checks; adds Department of Treasury Financial Management Services and the governing entity of the International Fuels Tax Agreement to the list of agencies with exchange agreements. Comment By: 10/25/00.

**IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT
PO Box 7129, Boise ID 83707-1129**

Docket No. **39-0104-0001**, Rules Governing Disadvantaged Business Enterprise Program. Repeal of chapter. Comment By: 10/25/00.

Docket No. **39-0313-0001**, Rules Governing Overweight Permits. Adds 2 additional categories and restructures weight ranges for state highways. Comment By: 10/25/00.

Docket No. **39-0316-001**, Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads. Clarifies that permit requirements for implements of husbandry used in the furtherance of a business do not apply to farm operations. Comment By: 10/25/00.

Docket No. **39-0317-0001**, Rules Governing Permits for Manufactured Homes, Modular Buildings, and Office Trailers. Conforms to state law to allow manufactured homes being transported, either prior to first sale at retail or to the initial setup location of the original purchaser, not to be registered. Comment By: 10/25/00.

Docket No. **39-0319-0001**, Rules Governing Annual Overlegal Permits. Adds 2 additional categories and restructures weight ranges for assigning more accurate weight limits on certain state highway routes. Comment By: 10/25/00.

Docket No. **39-0342-0001**, Rules Governing Use of State Right-of-Way. Adds a definition section for access management; adds sequentially ordered steps in permitting process; adds section on Access Control Types and on temporary encroachments addressing such issues as political campaign posters; adds a more detailed and comprehensive appeal process; adds Headquarters' and District office addresses. Comment By: 10/25/00.

Docket No. **39-0347-0001**, Rules Governing Certification of Local Improved Road Mileage. Conforms to statutory change by removing rule that prohibited the gating of public highways, with certain exceptions. Comment By: 10/25/00.

**IDAPA 45 – HUMAN RIGHTS COMMISSION
PO Box 83720, Boise, ID 83720**

Docket No. **45-0101-0001**, Rules of the Idaho Human Rights Commission. Identifies who may represent a party in proceedings before the Commission; and removes language prohibiting discrimination based on disabilities not presently job-related. Comment By: 10/27/00.

**IDAPA 47 – IDAHO DIVISION OF VOCATIONAL REHABILITATION
PO Box 83720, Boise, ID 83720-0096**

Docket No. **47-0101-0001**, General Administration. Adds incorporation by reference section and modifies the client appeals process section. Comment By: 10/25/00.

Docket No. **47-0102-0001**, Field Services. Adds incorporation by reference section and modifies record keeping section and client services. Comment By: 10/25/00.

Docket No. **47-0103-0001**, Management Services. Allows staff to negotiate rates of payment for services due to increased costs. Comment By: 10/25/00.

**IDAPA 48 – IDAHO DEPARTMENT OF COMMERCE
PO Box 83720, Boise, ID 83720-0093**

Docket No. **48-0101-0001**, Idaho Community Development Block Grant Program. Requires more information from ICDBG applicants on proposed projects; rewards local cash investment by increasing the competitive value of each dollar committed to proposed project; and youth centers, which can be applied for under the Public Facilities category must primarily benefit at-risk youth through various services and programs. Comment By: 10/25/00.

**IDAPA 52 – IDAHO STATE LOTTERY COMMISSION
1199 Shoreline Lane, Suite 100, Boise, ID 83702**

Docket No. **52-0102-0001**, Gaming Rules of the Idaho State Lottery Commission. Conforms to statutory changes regulating bingo raffle games. Comment By: 10/25/00.

**IDAPA 53 – DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION
PO Box 83720, Boise, ID 83720-0095**

Docket No. **55-0103-0002**, Rules for Professional-Technical Schools. Identifies and sets forth the criteria and requirements for establishment and operation of a professional-technical school in Idaho that qualifies for funding under Section 33-1002G, Idaho Code. Comment By: 10/25/00.

PUBLIC HEARINGS – Public Hearings have been scheduled for the following dockets. Please refer to the Notices of each docket for scheduling information.

Department of Agriculture

Docket No. **02-0403-0002**, Rules Governing Animal Industry.

Docket No. **02-0415-0001**, Rules Governing Beef Cattle Animal Feeding Operations.

State Board of Education

Docket No. **08-0102-0001**, Personnel Rules of the State Board of Education.

Docket No. **08-0103-0001**, Financial Affairs of the State Board of Education.

Docket No. **08-0104-0001**, Rules Governing Residency Classification.

Docket No. **08-0109-0001**, Intellectual Property and Conflict of Interest.

Docket No. **08-0202-0002**, Rules Governing Uniformity.

Docket No. **08-0203-0002**, Rules Governing Thoroughness.

Division of Human Resources and Personnel Commission

Docket No. **15-0401-0001**, Rules of the Division of Human Resources and Personnel Commission.

Division of Veterans Services

Rules Governing Eligibility for Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes Idaho State Veterans Homes:

Docket No. **21-0101-0001**, Domiciliary Care (Repeal),

Docket No. **21-0102-0001**, Residential Care (Repeal),

Docket No. **21-0103-0001**, Nursing Care (Repeal).
Docket No. **21-0101-0002**, Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure.
Docket No. **21-0102-0002**, Rules Governing Emergency Relief for Veterans.
Docket No. **21-0103-0002**, Rules Governing Medicaid Qualified Units in Idaho State Veterans Homes.
Docket No. **21-0104-0001**, Rules Governing Emergency Relief for Veterans (Repeal).

Real Estate Commission

Docket No. **33-0101-0003** & **33-0101-0004**, Rules of the Idaho Real Estate Commission.

Human Rights Commission

Docket No. **45-0101-0001**, Rules of the Human Rights Commission.

Idaho State Lottery Commission

Docket No. **52-0102-0001**, Gaming Rules of the Idaho State Lottery Commission.

Division of Professional-Technical Education

Docket No. **55-0103-0002**, Rules of Professional-Technical Schools.

Please refer to the Idaho Administrative Bulletin, **October 4, 2000, Volume 00-10** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact names.

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