

IDAHO ADMINISTRATIVE BULLETIN

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January 3, 2001 -- Volume 01-1

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02.02.02 - CONTROLLED ATMOSPHERE STORAGE RULES

DOCKET NO. 02-0202-9901

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) 22-702, 22-802, and 22-803, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the November 3, 1999 Idaho Administrative Bulletin, Volume 99-11, pages 20 and 21.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Lee Stacey, Bureau Chief Shipping Point Inspection, (208) 332-8670.

DATED this 20th day of November, 2000.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
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IDAPA 02, TITLE 02, Chapter 02

CONTROLLED ATMOSPHERE STORAGE RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-11, November 3, 1999, pages 20 and 21.

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 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.02.16 - IDAHO DEPARTMENT OF AGRICULTURE RULES GOVERNING ORGANIC LIVESTOCK
DOCKET NO. 02-0216-0001
NOTICE OF PENDING FEE RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 22, Chapter 11, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the January 5, 2000 Idaho Administrative Bulletin, Volume 00-1, pages 24 through 35.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 22-1106, Idaho Code. The fee structure imposes the same fees and charges as are currently being assessed and provided under IDAPA 02.02.15, "Idaho Organic Food Products Rules". The fees reflect the costs of providing necessary certification services.

Because of the fee being imposed or increased through this rulemaking, this pending rule will not be adopted as final nor will it become effective until it has been approved, amended, or modified by concurrent resolution of the legislature.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule or temporary rule, contact Dr. Roger Vega, Administrator, Idaho State Department of Agriculture, at (208) 332-8620 or Margaret Misner, Program Manager, Idaho State Department of Agriculture, at (208) 332-8673.

DATED this 17th day of November, 2000.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
P.O. Box 790, Boise, Idaho 83701-0790
(208) 332-8500 / (208) 334-2170 - FAX

IDAPA 02, TITLE 01, Chapter 15

IDAHO DEPARTMENT OF AGRICULTURE RULES GOVERNING ORGANIC LIVESTOCK

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 00-1, January 5, 2000, pages 24 through 35.

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 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.03.01 - RULES PERTAINING TO IDAHO COMMERCIAL FERTILIZER LAW
DOCKET NO. 02-0301-0001 (REPEAL)
NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 22, Chapter 6, 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.

To repeal the rule in its entirety. The authority for this rule has been transferred to the Division of Plant Industries. A new revised rule will be promulgated as IDAPA **02.06.12**.

The pending rule is being adopted as proposed and the chapter is being repealed in its entirety. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume 00-10, page 21.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Roger Vega, Administrator, Division of Plant Industries, at 332-8620 or Michael E. Cooper, Bureau Chief, Division of Plant Industries, at 332-8620.

DATED this 15th day of November, 2000.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8500 / Fax: (208) 334-2170

IDAPA 02, TITLE 03, Chapter 01

RULES PERTAINING TO IDAHO COMMERCIAL FERTILIZER LAW

This rule is being repealed in its entirety.

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 00-10, October 4, 2000, page 21.

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 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.03.03 - RULES GOVERNING PESTICIDE AND CHEMIGATION USE AND APPLICATION

DOCKET NO. 02-0303-0001

NOTICE OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2001 Idaho State Legislature for final adoption. When 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) 22-3421 and 22-3402, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume 00-10, pages 22 through 31.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 22-3402(6), Idaho Code. This section provides for payment of a pesticide registration fee as prescribed by rule. IDAPA 02.03.03.200 currently sets this pesticide registration fee at \$120. This proposed rule would increase this pesticide registration fee from \$120 per product to \$145 per product.

Because of the fee being imposed or increased through this rulemaking, this pending rule will not be adopted as final nor will it become effective until it has been approved, amended, or modified by concurrent resolution of the legislature.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Rodney Awe, Agricultural Program Manager, at (208) 332-8615.

DATED this 27th day of October, 2000.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
P.O. Box 790, Boise, Idaho 83701-0790
(208) 332-8500 - Telephone
(208) 334-4623 - Fax

IDAPA 02, TITLE 03, Chapter 03

RULES GOVERNING PESTICIDE AND CHEMIGATION USE AND APPLICATION

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 00-10, October 4, 2000, pages 22 through 31.

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 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.04.15 - RULES OF THE DEPARTMENT OF AGRICULTURE GOVERNING
BEEF CATTLE ANIMAL FEEDING OPERATIONS

DOCKET NO. 02-0415-0001

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is November 15, 2000. The pending 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 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section(s) 22-101 and 22-4903, Idaho Code.

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

The pending rule adopts by reference the 1999 publication by the United States Department of Agriculture, Natural Resource Conservation Service, Conservation Practice Standard, Nutrient Management Code 590. Additionally the pending rule amends the definition of 007.02 Animal Feeding Operation; 007.05 Compost; 007.07 Discharge; 007.15 Operator; 007.17 Process Wastewater; 007.20 Unauthorized Discharge; and 007.21 Wastewater Storage And Containment Facility. The pending rule also deletes the definition of "Owner". Amendments were made to the following Sections: 010, Unauthorized Discharges; 011, Notification Of Discharge; 020, Wastewater Storage And Containment Facilities; 030, Nutrient Management; 080, Compliance Orders; and 090, Penalties.

The proposed rules have been amended in response to testimony received at three public hearings, public comments and to make typographical, transcriptional, and clerical corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department of Agriculture amended the temporary rule with the same revisions which have been made to the proposed rule.

Only the sections that have amendments are printed in this bulletin. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume 00-10, page(s) 60 through 65.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact John Chatburn, Idaho Department of Agriculture, at (208)332-8540.

DATED this 15th day of November, 2000.

Mike Everett, Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, ID 83701-0790
Phone No. (208)332-8500
Fax No. (208)334-4623

IDAPA 02, TITLE 04, Chapter 15

**RULES OF THE DEPARTMENT OF AGRICULTURE GOVERNING
BEEF CATTLE ANIMAL FEEDING OPERATIONS**

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 00-10, October 4, 2000, pages 60 through 65.

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 AMENDED TEXT OF DOCKET NO. 02-0415-0001

SECTION 004

004. INCORPORATION BY REFERENCE.

Copies of these documents may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA **02.04.15** incorporates by reference: (9-18-00)T

Subsection 004.04

04. The 1999 Publication By The United States Department Of Agriculture, Natural Resource Conservation Service, Conservation Practice Standard, Nutrient Management Code 590. (11-15-00)T

SECTION 007

007. DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this chapter. (9-18-00)T

Subsection 007.02

02. Animal Feeding Operation. A lot or facility where slaughter or feeder cattle are confined and fed for a total of forty-five (45) days or more during any twelve (12) month period and crops, vegetation forage growth, or post harvest residues are not sustained in the normal growing season over any portion of the lot or facility. (9-18-00)F(11-15-00)T

Subsection 007.05

05. Compost. A ~~group~~ biologically stable material derived from the biological decomposition of organic ~~residues or a mixture of organic residues and soil that have been piled, moistened, and allowed to undergo~~

~~aerobic biological decomposition matter.~~

~~(9-18-00)F(11-15-00)T~~

Subsection 007.07

07. Discharge. Release of process wastewater, ~~runoff~~, or manure from a beef cattle animal feeding operation to waters of the state. ~~(9-18-00)F(11-15-00)T~~

Subsections 007.15 through 007.22

15. Operator. The ~~owner or~~ person ~~responsible for the management~~ who has power or authority to manage, or direct, or has financial control of a beef cattle animal feeding operation. ~~(9-18-00)F(11-15-00)T~~

~~**16. Owner.** Includes but is not limited to any corporation, partnership or individual where the same person has power or authority to manage, direct, restrict, regulate or has financial control of a beef cattle animal feeding operation. ~~(9-18-00)F~~~~

176. Person. Any individual association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state, or federal governmental department, agency or instrumentality, or any legal entity, which is recognized by law as the subject of rights and duties. (9-18-00)T

187. Process Wastewater. Any water generated from the operation of a beef cattle animal feeding operation that comes into contact with manure, bedding or feed, and runoff. ~~(9-18-00)F(11-15-00)T~~

198. Runoff. Any precipitation that comes into contact with manure, bedding or feed on a beef cattle animal feeding operation. (9-18-00)T

2019. Slaughter Or Feeder Cattle. All cattle except those cattle located on a dairy farm permitted by the Idaho State Department of Agriculture pursuant to IDAPA 02.04.14 "Rules of the Department of Agriculture Governing Dairy Waste." (9-18-00)T

240. Unauthorized Discharge. A ~~release discharge~~ of process wastewater, ~~runoff~~, or manure from a beef cattle animal feeding operation to ~~state~~ surface waters of the state that is not authorized by a National Pollutant Discharge Elimination System permit issued by the United States Environmental Protection Agency, or the release of process wastewater, ~~runoff~~ or manure from a beef cattle animal feeding operation, to waters of the state, that ~~exceeds Idaho's state~~ does not meet the requirements of the act or water quality standards. ~~(9-18-00)F(11-15-00)T~~

221. Wastewater Storage And Containment Facility. That portion of a beef cattle animal feeding operation, ~~excluding the confinement area~~, where manure, ~~runoff~~, or process wastewater is stored or collected. This may include corrals, feeding areas, waste collection systems, waste conveyance systems, waste storage ponds, waste treatment lagoons and evaporative ponds. ~~(9-18-00)F(11-15-00)T~~

232. Waters Of The State. All surface and ground water located within the boundaries of the state or boundary streams, rivers and lakes except for private waters as defined in Title 42, Chapter 2, Idaho Code. (9-18-00)T

SECTION 010

010. UNAUTHORIZED DISCHARGES.

Unauthorized discharges of manure, ~~runoff~~, or process wastewater from beef cattle animal feeding operations or land application sites owned or controlled by a beef cattle animal feeding operation are prohibited. ~~(9-18-00)F(11-15-00)T~~

SECTION 011

011. NOTIFICATION OF DISCHARGE.

Subsections 010.01 and 010.02

01. Notification Within Twenty-Four Hours of Discharge. Within twenty-four (24) hours of learning of a discharge, the operator of a beef cattle animal feeding operation shall verbally notify the Director of such a discharge. ~~(9-18-00)F~~(11-15-00)T

02. Written Notification Within Five Days To The Director. ~~If the Idaho Department of Agriculture has not begun a discharge investigation within five (5) days of the verbal notification to the director, the operator shall submit a written report to the Director which includes:~~ ~~(9-18-00)F~~(11-15-00)T

- a. A description of the discharge, a description of the flow path to the receiving water body; (9-18-00)T
- b. An estimation of the flow rate and volume discharged; (9-18-00)T
- c. The period of discharge, including dates and times, and if not already corrected, the anticipated time the discharge is expected to continue; and (9-18-00)T
- d. Steps taken to reduce, eliminate and prevent recurrence of the discharge. (9-18-00)T

SECTION 020

020. WASTEWATER STORAGE AND CONTAINMENT FACILITIES.

Subsections 020.01 and 020.02

01. Wastewater Storage And Containment Facilities. All beef cattle animal feeding operations where process wastewater leaves the confinement area and has the potential to impact surface water or be in violation of state water quality standards shall have wastewater storage and containment facilities designed, constructed, operated, and maintained sufficient to contain: ~~(9-18-00)F~~(11-15-00)T

- a. All process wastewater generated on the facility during the non-land application season; and (9-18-00)T
- b. The runoff from a twenty-five (25) year, twenty-four (24) hour rainfall event; and (9-18-00)T
- c. Either three (3) inches of runoff from the accumulation of winter precipitation or the amount of runoff from the accumulation of precipitation from a one-in-five (1 in 5) year winter. (9-18-00)T

02. All Substances Entering Wastewater Storage And Containment Facilities. All substances entering wastewater storage and containment facilities shall be composed of manure, ~~runoff~~, and process wastewater from the operation of the beef cattle animal feeding operation. The disposal of any other materials into a wastewater storage and containment facility, including, but not limited to, human waste, is prohibited. ~~(9-18-00)F~~(11-15-00)T

SECTION 030

030. NUTRIENT MANAGEMENT.

Each beef cattle animal feeding operation shall submit a nutrient management plan, which conforms to the nutrient management standard, to the Director for approval. Failure to implement an approved nutrient management plan ~~as written~~ is a violation of these rules. ~~(9-18-00)F~~(11-15-00)T

No Changes to Subsections 030.01 or 030.02

SECTION 080

080. COMPLIANCE ORDERS.

When the Director identifies items of non-compliance or unauthorized discharges, the deficiencies will be noted and discussed with the operator. Unauthorized discharges shall be corrected immediately, or as soon as possible as determined by the Director. Appropriate corrective actions will be identified and scheduled informally. Formal compliance orders ~~may~~ shall be developed, as the Director deems necessary as provided by Section 22-4909, Idaho Code. ~~(9-18-00)F(11-15-00)T~~

SECTION 090

090. PENALTIES.

Failure to comply with any provision of these rules or any formal compliance order of the Director shall be a violation of these rules, ~~and~~ Such violation may ~~be~~ subject the operator to an administrative enforcement action or a civil enforcement action in district court and a civil penalty not to exceed ten thousand dollars (\$10,000) per violation or one thousand dollars (\$1,000) for each day of a continuing violation as provided in Title 22, Chapter 49, Idaho Code. Civil penalties collected shall be deposited in the state treasury and credited to the State School Building Fund. ~~(9-18-00)F(11-15-00)T~~

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.06.12 - QUARANTINE ORDER NO. 8-1962 PERTAINING TO EUROPEAN PINE SHOOT MOTH
DOCKET NO. 02-0612-0001 (REPEAL)
NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 22, Chapter 19, 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.

To repeal this chapter in its entirety. The European Pine Shoot Moth is now found in most counties in the state.

The pending rule is being adopted as proposed and the chapter is being repealed in its entirety. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume 00-10, page 66.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Roger Vega, Administrator, Division of Plant Industries, at 332-8620 or Michael E. Cooper, Bureau Chief, Division of Plant Industries, at 332-8620.

DATED this 15th day of November, 2000.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8500 / Fax: (208) 334-2170

IDAPA 02, TITLE 06, Chapter 12

QUARANTINE ORDER NO. 8-1962 PERTAINING TO EUROPEAN PINE SHOOT MOTH

This rule is being repealed in its entirety.

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 00-10, October 4, 2000, page 66.

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 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.06.12 - IDAHO STATE DEPARTMENT OF AGRICULTURE RULES
PERTAINING TO THE IDAHO FERTILIZER LAW

DOCKET NO. 02-0612-0002

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 Title 22, Chapter 6, Idaho Code.

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

The authority for this rule has been transferred to the Division of Plant Industries and the rule is being rewritten and revised to reflect this. The revised rule prescribes definitions not covered by the law; includes manuals that need to be incorporated by reference; 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.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume 00-10, pages 67 through 77.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Roger Vega, Administrator, Division of Plant Industries, at 332-8620 or Michael E. Cooper, Bureau Chief, Division of Plant Industries, at 332-8620.

DATED this 15th day of November, 2000.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8500 / Fax: (208) 334-2170

IDAPA 02, TITLE 06, Chapter 12

IDAHO STATE DEPARTMENT OF AGRICULTURE RULES
PERTAINING TO THE IDAHO FERTILIZER LAW

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 00-10, October 4, 2000, pages 67 through 77.

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 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.06.14 - RULES CONCERNING ANNUAL BLUEGRASS, Poa annua

DOCKET NO. 02-0614-9901

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 Title 22, Chapter 20, 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.

These rules will protect the Kentucky Bluegrass, fescue, ryegrass and bentgrass or redtop seed production areas in Idaho from contamination by Annual Bluegrass.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the November 3, 1999 Idaho Administrative Bulletin, Volume 99-11, pages 22 through 24.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Roger Vega, Administrator, Division of Plant Industries, at 332-8620 or Richard Lawson, Bureau Chief, Division of Plant Industries, at 332-8630.

DATED this 15th day of November, 2000.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

IDAPA 02, TITLE 06, Chapter 14

RULES CONCERNING ANNUAL BLUEGRASS, Poa annua

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-11, November 3, 1999, pages 22 through 24.

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 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.06.17 - IDAHO STATE DEPARTMENT OF AGRICULTURE RULES CONCERNING
THE DISPOSAL OF CULL ONIONS AND POTATOES

DOCKET NO. 02-0617-9901

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 Title 22, Chapters 1 and 20, 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.

There is a need to amend the rules to address the prevention of plant diseases and pests that could affect onion and potato production.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the December 1, 1999 Idaho Administrative Bulletin, Volume 99-12, pages 13 through 17.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Roger Vega, Administrator, Division of Plant Industries, at 332-8620 or Michael E. Cooper, Bureau Chief, Division of Plant Industries, at 332-8620.

DATED this 15th day of November, 2000.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8500 / Fax: (208) 334-2170

IDAPA 02, TITLE 06, Chapter 17

IDAHO STATE DEPARTMENT OF AGRICULTURE RULES CONCERNING
THE DISPOSAL OF CULL ONIONS AND POTATOES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-12, December 1, 1999, pages 13 through 17.

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 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.06.22 - NOXIOUS WEED RULES

DOCKET NO. 02-0622-0001

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 22, Chapter 24, Idaho Code.

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

The amendments will designate Eurasian watermilfoil (*Myriophyllum spicatum*) as a noxious weed in Idaho, which had not been designated in the current rule.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume 00-10, pages 78 through 81.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Glen Secrist, Bureau Chief, Idaho State Department of Agriculture, at (208)332-8540.

DATED this 9th day of November, 2000.

Mike Everett, Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, ID 83701
Phone No. (208)332-8540
Fax No. (208)334-4062

IDAPA 02, TITLE 06, Chapter 22

NOXIOUS WEED RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 00-10, October 4, 2000, pages 78 through 81.

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 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.06.33 - RULES CONCERNING THE LATE BLIGHT OF POTATO, Solanum tuberosum L.

DOCKET NO. 02-0633-9901 (REPEAL)

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 22, Chapter 19, 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.

To repeal the rule in its entirety. Late blight of potato has been confirmed in all the potato growing counties. Late blight is no longer a disease of quarantine significance.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the December 1, 1999 Idaho Administrative Bulletin, Volume 99-12, page 18.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Roger Vega, Administrator, Division of Plant Industries, at 332-8620 or Michael E. Cooper, Bureau Chief, Division of Plant Industries, at 332-8620.

DATED this 15th day of November, 2000.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

IDAPA 02, TITLE 06, Chapter 33

RULES CONCERNING THE LATE BLIGHT OF POTATO, Solanum tuberosum L.

This rule is being repealed in its entirety.

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-12, December 1, 1999, page 18.

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 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.06.35 - RULES CONCERNING ROUGH BLUEGRASS, *Poa trivialis*

DOCKET NO. 02-0635-9901

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 Title 22, Chapter 20, 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.

These rules will protect the Kentucky Bluegrass, fescue, ryegrass and bentgrass or redtop seed production areas in Idaho from contamination by Rough Bluegrass.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the November 3, 1999 Idaho Administrative Bulletin, Volume 99-11, pages 25 through 27.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Roger Vega, Administrator, Division of Plant Industries, at 332-8620 or Richard Lawson, Bureau Chief, Division of Plant Industries, at 332-8630.

DATED this 15th day of November, 2000.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

IDAPA 02, TITLE 06, Chapter 35

RULES CONCERNING ROUGH BLUEGRASS, *Poa trivialis*

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-11, November 3, 1999, pages 25 through 27.

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 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.06.40 - RULES RELATING TO GINSENG CROP MANAGEMENT AREA FOR MAGIC VALLEY

DOCKET NO. 02-0640-9901

NOTICE OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2001 Idaho State Legislature for final adoption. When 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 Title 22, Chapter 10, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the December 1, 1999 Idaho Administrative Bulletin, Volume 99-12, pages 19 through 26.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 22-1005, Idaho Code. The following schedule for ginseng certification activities shall apply: 1) Registration (grower or dealer or grower and dealer): \$25, 2) Certificate of origin form, each: \$10, 3) Hourly rate for certification services: \$28, 4) Overtime rate for certification services: \$33.

Because of the fee being imposed or increased through this rulemaking, this pending rule will not be adopted as final nor will it become effective until it has been approved, amended, or modified by concurrent resolution of the legislature.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Roger Vega, Administrator, Division of Plant Industries, at 332-8620 or Michael E. Cooper, Bureau Chief, Division of Plant Industries, at 332-8620.

DATED this 15th day of November, 2000.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8500 / Fax: (208) 334-217

IDAPA 02, TITLE 06, Chapter 40

RULES RELATING TO GINSENG CROP MANAGEMENT AREA FOR MAGIC VALLEY

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-12, December 1, 1999, pages 19 through 26.

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

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.01.04 - RULES GOVERNING ELECTRICAL SPECIALTY LICENSING
DOCKET NO. 07-0104-0001
NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1006, 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 Board has long granted waivers of specialty electrical contractor's licensing requirements when certain conditions were met. Because the Board meets infrequently, and because waivers are a ministerial function, authority to grant waivers to qualifying applicants is being delegated to the staff.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume No. 00-10, pages 82 and 83.

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

DATED this 9th day of November, 2000.

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

IDAPA 07, TITLE 01, Chapter 04

RULES GOVERNING ELECTRICAL SPECIALTY LICENSING

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 00-10, October 4, 2000, pages 82 and 83.

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

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.01.06 - RULES GOVERNING THE USE OF NATIONAL ELECTRICAL CODE
DOCKET NO. 07-0106-0001
NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1006, 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.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 6, 2000 Idaho Administrative Bulletin, Volume No. 00-9, pages 16 and 17.

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

DATED this 9th day of November, 2000.

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

IDAPA 07, TITLE 01, Chapter 06

RULES GOVERNING THE USE OF NATIONAL ELECTRICAL CODE

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 00-9, September 6, 2000, pages 16 and 17.

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

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.01.09 - RULES GOVERNING READOPTION OF RULES OF ELECTRICAL DIVISION
DOCKET NO. 07-0109-0001 (REPEAL)
NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1006, 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 and the chapter is being repealed in its entirety. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume No. 00-10, page 84.

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

DATED this 9th day of November, 2000.

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

IDAPA 07, TITLE 01, Chapter 09

RULES GOVERNING READOPTION OF RULES OF ELECTRICAL DIVISION

This rule is being repealed in its entirety.

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 00-10, October 4, 2000, page 84.

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

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.01.11 - RULES GOVERNING CIVIL PENALTIES
DOCKET NO. 07-0111-0001
NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1006, 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.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 6, 2000 Idaho Administrative Bulletin, Volume No. 00-9, pages 18 through 20.

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

DATED this 9th day of November, 2000.

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

IDAPA 07, TITLE 01, Chapter 11

RULES GOVERNING CIVIL PENALTIES

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 00-9, September 6, 2000, pages 18 through 20.

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 08 - IDAHO STATE BOARD OF EDUCATION
08.01.02 - PERSONNEL RULES OF THE STATE BOARD OF EDUCATION
DOCKET NO. 08-0102-0001 (REPEAL)
NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2001 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 2001, 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 chapters 1, 22, 23, 28, 30, 31 and 40 of title 33 and sections 59-1603 and 59-1606, Idaho Code and Article IX, Section 2 and Article IX, Section 10 of the Idaho Constitution.

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. This rule is being repealed in its entirety. This rule in no way regulates members of the general public. Regulations related to personnel of the Board's agencies and institutions are provided in the Board's Governing Policies and Procedures, which allow the Board more flexibility to make changes and will save money in publication and maintenance costs. Also, by adopting such into policy rather than rule, it consolidates the Board's guidelines into a single document for the postsecondary institutions rather than having them consult more than one source.

The pending rule is being adopted as proposed and the chapter is being repealed. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume 00-10, pages 85.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Randi McDermott at 334-2270.

DATED this 24th day of October, 2000.

Randi McDermott
Interim Planning, Policy & Governmental Affairs Coordinator
State Board of Education
650 W. State St.
PO Box 83720, Boise, ID 83720-0037
Phone: 208-334-2270 / Fax: 208-334-2632

IDAPA 08, TITLE 01, Chapter 02
PERSONNEL RULES OF THE STATE BOARD OF EDUCATION

This rule is being repealed in its entirety.

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 00-10, October 4, 2000, page 85.

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 08 - IDAHO STATE BOARD OF EDUCATION
08.01.03 - FINANCIAL AFFAIRS OF THE STATE BOARD OF EDUCATION
DOCKET NO. 08-0103-0001 (REPEAL)
NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2001 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 2001, 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 33-106, Idaho Code, as well as several sections in Chapters 22, 23, 28, 29, 30, 31 and 40, Title 33, Idaho Code and Article IX, Section 2 and Article IX, Section 10 of the Idaho Constitution.

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. This chapter is being repealed in its entirety. This rule in no way regulate members of the general public. Regulations related to financial affairs at the colleges and universities are provided in the Board's Governing Policies and Procedures, which allow the Board more flexibility to make changes and will save money in publication and maintenance costs. Also, by adopting such into policy rather than rule, it consolidates the Board's guidelines into a single document for the postsecondary institutions rather than having them consult several sources.

The pending rule is being adopted as proposed and the chapter is being repealed. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume 00-10, page 86.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Randi McDermott at 334-2270.

DATED this 24th day of October, 2000.

Randi McDermott
Interim Planning, Policy & Governmental Affairs Coordinator
State Board of Education
650 W. State St., PO Box 83720, Boise, ID 83720-0037
Phone: 208-334-2270 / Fax: 208-334-2632

IDAPA 08, TITLE 01, Chapter 03
FINANCIAL AFFAIRS OF THE STATE BOARD OF EDUCATION

This rule is being repealed in its entirety.

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 00-10, October 4, 2000, page 86.

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 08 - IDAHO STATE BOARD OF EDUCATION
08.01.04 - RULES GOVERNING RESIDENCY CLASSIFICATION

DOCKET NO. 08-0104-0001

NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2001 Idaho State Legislature for final adoption. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 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 33-3717, 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.

To allow a person separated under honorable conditions from the U.S. Coast Guard who designates Idaho as his intended domicile to be considered an Idaho resident for tuition purposes.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume 00-10, pages 87 through 89.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Randi McDermott at 334-2270.

DATED this 24th day of October, 2000.

Randi McDermott
Interim Planning, Policy & Governmental Affairs Coordinator
State Board of Education
650 W. State St.
PO Box 83720, Boise, ID 83720-0037
Phone: 208-334-2270 / Fax: 208-334-2632

IDAPA 08, TITLE 01, Chapter 04

RULES GOVERNING RESIDENCY CLASSIFICATION

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 00-10, October 4, 2000, pages 87 through 89.

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 08 - IDAHO STATE BOARD OF EDUCATION
08.01.09 - INTELLECTUAL PROPERTY AND CONFLICT OF INTEREST
DOCKET NO. 08-0109-0001 (REPEAL)
NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2001 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 2001, 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 Chapters 1, 22, 28, 30, 31, 38 and 40, Title 33, Idaho Code and Article IX, Section 2 and Article IX, Section 10 of the Idaho Constitution.

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. This chapter is being repealed in its entirety. This rule in no way regulate members of the general public. Regulations related to intellectual property and conflict of interest are provided in the Board's Governing Policies and Procedures, which allow the Board more flexibility to make changes and will save money in publication and maintenance costs. Also, by adopting such into policy rather than rule, it consolidates the Board's guidelines into a single document for the postsecondary institutions rather than having them consult several sources.

The pending rule is being adopted as proposed and the chapter is being repealed. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume 00-10, page 90.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Randi McDermott at 334-2270.

DATED this 24th day of October, 2000.

Randi McDermott
Interim Planning, Policy & Governmental Affairs Coordinator
State Board of Education
650 W. State St.
PO Box 83720, Boise, ID 83720-0037
Phone: 208-334-2270 / Fax: 208-334-2632

IDAPA 08, TITLE 01, Chapter 09

INTELLECTUAL PROPERTY AND CONFLICT OF INTEREST

This rule is being repealed in its entirety

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 00-10, October 4, 2000, page 90.

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 08 - IDAHO STATE BOARD OF EDUCATION
08.01.11 - OUT-OF-STATE INSTITUTIONS, IN-STATE NON-ACCREDITED INSTITUTIONS,
AND CORRESPONDENCE OR PRIVATE COURSES

DOCKET NO. 08-0111-0001

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 33-107 and 33-2403, 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.

To delete "certificate" from the definition of a program included in the requirement to maintain a register of accredited out-of-state higher education institutions.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the January 5, 2000 Idaho Administrative Bulletin, Volume 00-1, page 46 and 47.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Robin A. Dodson, Chief Academic Officer, Idaho State Board of Education.

DATED this 25th day of October, 2000.

Randi McDermott
Interim Planning, Policy & Governmental Affairs Coordinator
State Board of Education
650 W. State Street
PO Box 83720, Boise, Idaho 83720-0037
Phone: (208)334-2270 / FAX: (208)334-2632

IDAPA 08, TITLE 01, Chapter 11

OUT-OF-STATE INSTITUTIONS, IN-STATE NON-ACCREDITED INSTITUTIONS,
AND CORRESPONDENCE OR PRIVATE COURSES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 00-1, January 5, 2000, pages 46 and 47.

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 08 - IDAHO STATE BOARD OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0001

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-105, Idaho Code.

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

The rule change provides a new approval date for the incorporated manual, and also specifies which portions of the document are included in the incorporation by reference.

Subsection 005.01 has been amended to provide a more clear and accurate title for the document being incorporated.

Subsection 005.02 has been amended to be consistent with changes to the previous section.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the October 4, 2000 Idaho Administrative Bulletin, Volume 00-10, pages 91 and 92.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Dr. Mike Stefanic, Idaho Chief Certification Officer, at 208-332-6800.

DATED this 25th day of October, 2000.

Dr. Michael P. Stefanic
Chief Certification Officer
Idaho State Department of Education
650 W. State St.
PO Box 83720, Boise, ID 83720-0027
208-332-6800 / fax: 208-334-4664

IDAPA 08, TITLE 02, Chapter 02

RULES GOVERNING UNIFORMITY

**There are substantive changes from the proposed rule text.
Text added to the pending rule is in italics.**

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 00-10, October 4, 2000, pages 91 and 92.

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 AMENDED TEXT OF DOCKET NO. 08-0202-0001

SECTION 005

005. INCORPORATION BY REFERENCE.

The State Board of Education adopts and incorporates into its rules:

(4-5-00)

Subsections 005.01 and 005.02

01. Incorporated Document. The Idaho Department of Education ~~Professional School Personnel Certification Standards Manual Revised on June 17, 1999~~ and Code of Ethics for the Idaho Teaching Profession as approved on October 19, 2000. (4-5-00)()

02. Document Availability. The ~~manual is~~ Idaho Department of Education Certification Standards and Code of Ethics for the Idaho Teaching Profession are available at the Idaho State Department of Education at 650 W. State St., PO Box 83720, Boise, Idaho, 83720-0027. (4-5-00)()

IDAPA 08 - IDAHO STATE BOARD OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0002

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 Sections 33-105(1) and 33-114, 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.

To change the reference to the NASDTEC Standards as the official vehicle for the approval of teacher education programs. The replacement vehicle will be the National Council for Accreditation of Teacher Education (NCATE) approved Idaho Standards for Initial Certification of Professional School Personnel.

Rule 08.02.02, Subsection 100.04 has been amended from what was originally proposed to provide clarity.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the October 4, 2000 Idaho Administrative Bulletin, Volume 00-10, pages 93 and 94.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Randi McDermott at 208-334-2270.

DATED this 25th day of October, 2000.

Randi McDermott
Interim Planning, Policy & Governmental Affairs Coordinator
State Board of Education
650 W. State St.
PO Box 83720, Boise, ID 83720-0037
Phone: 208-334-2270
Fax: 208-334-2632

IDAPA 08, TITLE 02, Chapter 02

RULES GOVERNING UNIFORMITY

**There are substantive changes from the proposed rule text.
Text added to the pending rule is in italic.**

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 00-10, October 4, 2000, pages 93 and 94.

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 AMENDED TEXT OF DOCKET NO. 08-0202-0002

SECTION 100

100. OFFICIAL VEHICLE FOR APPROVING EXISTING TEACHER EDUCATION PROGRAMS.

(Section 33-114, Idaho Code)

(4-1-97)

Subsection 100.04

04. Continuing Accreditation. The state of Idaho will follow the National Council for Accreditation of Teacher Education (NCATE) model and pursue continuing approval at the end of five (5) years following baseline approval. ~~(4-1-97)~~(_____)

IDAPA 08 - IDAHO STATE BOARD OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0002

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 Sections 33-105(1) and 33-107(3), 33-116, and 33-1612, Idaho Code and Article IX, Section 2 of the Idaho Constitution.

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.

At the request of the Legislature, we are changing the name from “exiting” to “achievement” standards throughout the chapter. Additionally, the Board has adopted K-8 Achievement Standards to help students prepare for the 9-12 Standards. The newly approved K-8 Standards are incorporated by reference, along with the previously approved 9-12 Standards.

Rule 08.02.03.004.01 has been amended from what was originally proposed to provide the final approval date for the Standards.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the October 4, 2000 Idaho Administrative Bulletin, Volume 00-10, pages 95 through 98.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Randi McDermott at 208-334-2270.

DATED this 25th day of October, 2000.

Randi McDermott
Interim Planning, Policy & Governmental Affairs Coordinator
State Board of Education
650 W. State St.
PO Box 83720
Boise, ID 83720-0037
Phone: 208-334-2270
Fax: 208-334-2632

IDAPA 08, TITLE 02, Chapter 03

RULES GOVERNING THOROUGHNESS

There are substantive changes from the proposed rule text.
Text added to the pending rule is in italics.

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 00-10, October 4, 2000, pages 95 through 98.

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 AMENDED TEXT OF DOCKET NO. 08-0203-0002

SECTION 004

004. INCORPORATION BY REFERENCE.

The State Board of Education adopts and incorporates into its rules:

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Subsection 004.01

01. K-8 State Achievement Standards. The Idaho State Board of Education K-8 State Achievement
Standards approved ~~August 16, 2000~~ *October 19, 2000.*

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IDAPA 11 - IDAHO STATE POLICE
11.13.01 - THE MOTOR CARRIER RULES
DOCKET NO. 11-1301-0001
NOTICE OF RESCISSION OF TEMPORARY RULE

AUTHORITY: In compliance with Sections 67-5221 and 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule previously adopted under this docket. The action is authorized pursuant to Section 67-2901A, Idaho Code.

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

This temporary rule is being rescinded because the motor carrier rules already grant authority for vehicle and carrier identification numbers and is, therefore, no longer needed.

The original text of the temporary rule was published in the January 5, 2000 Idaho Administrative Bulletin, Volume 00-1, pages 64 and 65.

The proposed rule, published under this same docket number, is being vacated also. See the notice immediately preceding this notice in this Bulletin.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rescission of temporary rule, contact Lamont Johnston at (208) 884-7220.

DATED this 2nd day of November, 2000.

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

IDAPA 11 - IDAHO STATE POLICE
11.13.01 - THE MOTOR CARRIER RULES
DOCKET NO. 11-1301-0001
NOTICE OF VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Sections 67-5221, Idaho Code, notice is hereby given that this agency has vacated the rulemaking previously initiated under this docket. The action is authorized pursuant to Section 67-2901A, Idaho Code.

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

This proposed rule is being vacated because the motor carrier rules already grant authority for vehicle and carrier identification numbers.

The original text of the proposed and temporary rule was published in the January 5, 2000 Idaho Administrative Bulletin, Volume 00-1, pages 64 and 65.

The temporary rule, adopted under this docket number, is being rescinded also. See the notice immediately following this notice in this Bulletin.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this vacation of rulemaking, contact Lamont Johnston at (208) 884-7220.

DATED this 2nd day of November, 2000.

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

IDAPA 13 - IDAHO DEPARTMENT OF FISH AND GAME

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-0001

NOTICE OF PENDING RULE

EFFECTIVE DATE: The pending rule has been adopted by the agency and is now pending review by the 2001 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, and Section 36-104(b), 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.

To add new required sections to the rule, to repeal obsolete rules and allow residents to purchase unsold nonresident tags as allowed by statutory amendment.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume No. 00-10, pages 107 through 124.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Steve Barton at (208) 334-3781.

DATED this 14th day of November, 2000.

W. Dallas Burkhalter
Deputy Attorney General
PO Box 25, Boise, ID 83707
208-334-3715/FAX 208-334-2148

IDAPA 13, TITLE 01, Chapter 04

RULES GOVERNING LICENSING

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 00-10, October 4, 2000, pages 107 through 124.

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 13 - IDAHO DEPARTMENT OF FISH AND GAME

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-0002

NOTICE OF RESCISSION OF TEMPORARY RULE

AUTHORITY: In compliance with Sections 67-5221 and 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule previously adopted under this docket number in the Idaho Administrative Bulletin, Volume 00-10, October 4, 2000, pages 125 through 127. The action is authorized by Section 36-104(b), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for rescinding the temporary rule:

The temporary rule was adopted to authorize license and tag refunds or exchanges for the 2000 hunting season because of fire related land use closures. The effective date for making requests for such refunds or exchanges expired on October 1, 2000. As a result the temporary rule is no longer in effect and is, therefore, being rescinded.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rescission of temporary rule, contact Steve Barton at (208) 334-3781.

Dated this 14th day of November, 2000.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 South Walnut
PO Box 25
Boise, ID 83707
208-334-3715
FAX: 208-334-2148

IDAPA 13 - IDAHO DEPARTMENT OF FISH AND GAME
13.01.08 - RULES GOVERNING THE TAKING OF BIG GAME
ANIMALS IN THE STATE OF IDAHO

DOCKET NO. 13-0108-0001

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is March 13, 2000. The pending rule has been adopted by the agency and is now pending review by the 2001 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, and Section 36-104(b), Idaho Code.

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

In the publication of the proposed rule docket, text that should have been removed (struck out) in Subsections 703.01, 703.05, and 703.22 was inadvertently left in. Those Subsections are being re-published, following this notice, in their corrected form and as they were originally submitted by the agency. With the exception of the changes being made to these Subsections, the pending rule is being adopted as proposed.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume No. 00-10, pages 128 through 162.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Lonk Kuck at 208-334-2920.

DATED this 14th day of November, 2000.

W. Dallas Burkhalter
Deputy Attorney General
PO Box 25, Boise, ID 83707
PHONE: 208-334-3715
FAX: 208-334-2148

IDAPA 13, TITLE 01, Chapter 08

RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO

There are substantive changes from the proposed rule text.

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

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 00-10, October 4, 2000, pages 128 through 162.

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 AMENDED TEXT OF DOCKET NO. 13-0108-0001

SECTION 703

703. CONTROLLED HUNT AREA DESCRIPTIONS - ANTELOPE.

Subsection 703.01

01. Hunt Areas ~~29-1~~. That portion of Unit 29 downstream from and including the Hayden Creek drainage on the west side of the Lemhi River and those drainages on the east side of the main Salmon River upstream from the mouth of the Lemhi River to, but excluding, the Poison Creek drainage. ~~(3-20-97)~~(3-13-00)T

Subsection 703.05

05. Hunt Area ~~36A-1~~. That portion of Unit 36A west of the East Fork of the Salmon River. ~~(10-26-94)~~(3-13-00)T

Subsection 703.22

22. Hunt Areas ~~51-2 And 51-3~~. That portion of Unit 51 south of Badger Creek Road and south of the Wet Creek-Pass Creek Road and that portion of Unit 63 within Butte County including that portion of this hunt area within one-half (1/2) mile inside the boundary of the Idaho National Engineering and Environmental Laboratory (INEEL) adjacent to agricultural lands. ~~(7-1-99)~~(3-13-00)T

IDAPA 13 - IDAHO DEPARTMENT OF FISH AND GAME

13.01.09 - RULES GOVERNING THE TAKING OF GAME BIRDS IN THE STATE OF IDAHO

DOCKET NO. 13-0109-0001

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is May 10, 2000. The pending rule has been adopted by the agency and is now pending review by the 2001 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, and Section 36-104(b), Idaho Code.

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

In the publication of the proposed rule docket, text that should have been added was inadvertently omitted. In Subsection 600.04.a. the text “...**seventeen (17) years of age or older...**” should have been added. This Subsection is being re-published, following this notice, in its corrected form and as it was originally submitted by the agency. With this exception of the change being made to this Subsection, the pending rule is being adopted as proposed.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume No. 00-10, pages 163 through 176.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tom Hemker at 208-334-2920.

DATED this 14th day of November, 2000.

W. Dallas Burkhalter
Deputy Attorney General
PO Box 25, Boise, ID 83707
PHONE: 208-334-3715
FAX: 208-334-2148

IDAPA 13, TITLE 01, Chapter 09

RULES GOVERNING THE TAKING OF GAME BIRDS IN THE STATE OF IDAHO

There are substantive changes from the proposed rule text.

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

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 00-10, October 4, 2000, pages 163 through 176.

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 AMENDED TEXT OF DOCKET NO. 13-0109-0001

SECTION 600

600. PHEASANT SEASONS, BAG AND POSSESSION LIMITS.

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

Subsection 600.04.a.

04. WMA Pheasant Permit. (10-26-94)

a. Permit Requirement. Any person seventeen (17) years of age or older hunting for or having a pheasant in his or her possession on any of the Wildlife Management Areas listed in Subsections 600.02 and 600.03 must have a valid WMA Pheasant Permit in his or her possession. ~~(10-26-94)~~(5-10-00)T

IDAPA 13 - IDAHO DEPARTMENT OF FISH AND GAME

13.01.11 - RULES GOVERNING FISH

DOCKET NO. 13-0111-0001

NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2001 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, and Section 36-104(b), 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.

To add new required sections, to do a biannual update of fishing seasons, bag limits, and possession limits and the removal of obsolete rules.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume No. 00-10, pages 177 through 218.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Bill Horton at 208-334-3791.

DATED this 14th day of November, 2000.

W. Dallas Burkhalter
Deputy Attorney General
PO Box 25, Boise, ID 83707
208-334-3715/FAX 208-334-2148

IDAPA 13, TITLE 01, Chapter 11

RULES GOVERNING FISH

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 00-10, October 4, 2000, pages 177 through 218.

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 13 - IDAHO DEPARTMENT OF FISH AND GAME

13.01.15 - RULES GOVERNING THE USE OF DOGS

DOCKET NO. 13-0115-0001

NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2001 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, and Section 36-104(b), 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.

To add required sections, to increase number of nonresident permits to encourage hunting in certain areas, and clarify the requirements for a hunting license and hound hunter permit.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume No. 00-10, pages 219 through 223.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Lonk Kuck at 208-334-2920.

DATED this 14th day of November, 2000.

W. Dallas Burkhalter
Deputy Attorney General
PO Box 25, Boise, ID 83707
208-334-3715/FAX 208-334-2148

IDAPA 13, TITLE 01, Chapter 15

RULES GOVERNING THE USE OF DOGS

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 00-10, October 4, 2000, pages 219 through 223.

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 13 - IDAHO DEPARTMENT OF FISH AND GAME

13.01.15 - RULES GOVERNING THE USE OF DOGS

DOCKET NO. 13-0115-0002

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 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 36-104(b).

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the November 1, 2000, Idaho Administrative Bulletin, Volume No. 00-11, pages 25 and 26.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning pending rule, contact Lonk Kuck at 334-2920.

DATED this 23rd day of November, 2000.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 South Walnut
PO Box 25
Boise, ID 83707
208-334-3715
FAX: 208-334-2148

IDAPA 13, TITLE 01, Chapter 15

RULES GOVERNING THE USE OF DOGS

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 00-11, November 1, 2000, pages 25 and 26.

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 13 - IDAHO DEPARTMENT OF FISH AND GAME
13.01.16 - THE TRAPPING OF PREDATORY AND UNPROTECTED WILDLIFE
AND THE TAKING OF FURBEARING ANIMALS

DOCKET NO. 13-0116-0001

NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2001 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, and Section 36-104(b), 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.

To add required sections to the rules and to do a biennial update and remove obsolete rules.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume No. 00-10, pages 224 through 239.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Wayne Melquist at 208-334-2920..

DATED this 14th day of November, 2000.

W. Dallas Burkhalter
Deputy Attorney General
PO Box 25, Boise, ID 83707
208-334-3715/FAX 208-334-2148

IDAPA 13, TITLE 01, Chapter 16

THE TRAPPING OF PREDATORY AND UNPROTECTED WILDLIFE
AND THE TAKING OF FURBEARING ANIMALS

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 00-10, October 4, 2000, pages 224 through 239.

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 13 - IDAHO DEPARTMENT OF FISH AND GAME
13.01.17 - RULES GOVERNING THE USE OF BAIT FOR TAKING BIG GAME ANIMALS

DOCKET NO. 13-0117-0001

NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2001 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, and Section 36-104(b), 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.

To clarify the restrictions on locating bear bait near water.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume No. 00-10, pages 240 through 242.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Lonk Kuck at 208-334-2920.

DATED this 14th day of November, 2000.

W. Dallas Burkhalter
Deputy Attorney General
PO Box 25, Boise, ID 83707
208-334-3715/FAX 208-334-2148

IDAPA 13, TITLE 01, Chapter 17

RULES GOVERNING THE USE OF BAIT FOR TAKING BIG GAME ANIMALS

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 00-10, October 4, 2000, pages 240 through 242.

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 13 - IDAHO DEPARTMENT OF FISH AND GAME

13.01.19 - RULES GOVERNING OPERATING, DISCONTINUING, AND SUSPENDING VENDORS

DOCKET NO. 13-0119-0001

NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2001 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, and Section 36-104(b), 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.

This rulemaking add new required sections to the rule and corrects obsolete language regarding military personnel obtaining resident licenses and tags.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume No. 00-10, pages 243 and 244.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Steve Barton at 208-334-3781.

DATED this 14th day of November, 2000.

W. Dallas Burkhalter
Deputy Attorney General
PO Box 25
Boise, ID 83707
208-334-3715/FAX 208-334-2148

IDAPA 13, TITLE 01, Chapter 19

RULES GOVERNING OPERATING, DISCONTINUING, AND SUSPENDING VENDORS

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 00-10, October 4, 2000, pages 243 and 244.

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

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

15.01.01 - RULES GOVERNING SENIOR SERVICES PROGRAM

DOCKET NO. 15-0101-0002

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) 67-5003, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume 00-10, pages 248 through 255.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ken Wilkes, (208) 334-3833.

DATED this 14th day of November, 2000.

Lupe Wissel
Director
Idaho Commission on Aging
3380 Americana Terrace, Suite 120
P O Box 83720-0007
Boise, Idaho 83720-0007
Telephone: (208)334-3833
Facsimile: (208)334-3033

IDAPA 15, TITLE 01, Chapter 01

RULES GOVERNING SENIOR SERVICES PROGRAM

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 00-10, October 4, 2000, pages 248 through 255.

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

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

15.01.02 - RULES GOVERNING AREA AGENCY ADULT PROTECTION SERVICES

DOCKET NO. 15-0102-0001

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-5003, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume 00-10, page 259 and 260.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Omar Valverde, (208) 334-3833.

DATED this 14th day of November, 2000.

Lupe Wissel
Director
Idaho Commission on Aging
3380 Americana Terrace, Suite 120
P O Box 83720-0007
Boise, Idaho 83720-0007
Telephone: (208)334-3833
Facsimile: (208)334-3033

IDAPA 15, TITLE 01, Chapter 02

RULES GOVERNING AREA AGENCY ADULT PROTECTION SERVICES

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 00-10, October 4, 2000, pages 259 and 260.

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

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

15.01.02 - RULES GOVERNING AREA AGENCY ADULT PROTECTION SERVICES

DOCKET NO. 15-0102-9902

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) 67-5003, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume 00-10, pages 256 through 258.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ken Wilkes, (208) 334-3833.

DATED this 14th day of November, 2000.

Lupe Wissel
Director
Idaho Commission on Aging
3380 Americana Terrace, Suite 120
P O Box 83720-0007
Boise, Idaho 83720-0007
Telephone: (208)334-3833
Facsimile: (208)334-3033

IDAPA 15, TITLE 01, Chapter 02

RULES GOVERNING AREA AGENCY ADULT PROTECTION SERVICES

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 00-10, October 4, 2000, pages 256 through 258.

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

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

15.01.03 - RULES GOVERNING THE OMBUDSMAN FOR THE ELDERLY PROGRAM

DOCKET NO. 15-0103-0001

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-5003, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 6, 2000, Idaho Administrative Bulletin, Volume 00-9, pages 69 and 70.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cathy Hart, (208) 334-3833.

DATED this 14th day of November, 2000.

Lupe Wissel
Director
Idaho Commission on Aging
3380 Americana Terrace, Suite 120
P O Box 83720-0007
Boise, Idaho 83720-0007
Telephone: (208)334-3833
Facsimile: (208)334-3033

IDAPA 15, TITLE 01, Chapter 03

RULES GOVERNING THE OMBUDSMAN FOR THE ELDERLY PROGRAM

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 00-9, September 6, 2000, pages 69 and 70.

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

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

15.01.20 - RULES GOVERNING AREA AGENCY ON AGING (AAA) OPERATIONS

DOCKET NO. 15-0120-0001

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-5003, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume 00-10, pages 261 and 262.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ken Wilkes, (208) 334-3833.

DATED this 14th day of November, 2000.

Lupe Wissel
Director
Idaho Commission on Aging
3380 Americana Terrace, Suite 120
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Boise, Idaho 83720-0007
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IDAPA 15, TITLE 01, Chapter 20

RULES GOVERNING AREA AGENCY ON AGING (AAA) OPERATIONS

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 00-10, October 4, 2000, pages 261 and 262.

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

**IDAPA 15 - OFFICE OF THE GOVERNOR
DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION**

15.04.01 - RULES OF THE DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION

DOCKET NO. 15-0401-0001

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5309, Idaho Code.

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

The proposed rules have been amended in response to public comment and to make typographical, transcriptional, and clerical corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code.) In addition, a section clarifying the use of payline exceptions has been added.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume 00-10, pages 263 through 298.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Daniel Steckel at 334-3596.

DATED this 14th day of November, 2000.

Ann Heilman
Administrator
Division of Human Resources
700 West State Street
P.O. Box 83720
Boise, ID 83720-0066
(208)334-3345
(208)334-3182 (fax)

IDAPA 15, TITLE 04, Chapter 01

RULES OF THE DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION

**There are substantive changes from the proposed rule text.
Text added to the pending rule is shown in italics.**

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 00-10, October 4, 2000, pages 263 through 298.

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 AMENDED TEXT OF DOCKET NO. 15-0401-0001

SECTION 010

010. DEFINITIONS.

Each of the terms defined in these rules shall have the meaning given herein unless a different meaning is clearly required by the context. Additional definitions are contained in Section 67-5302, Idaho Code. (7-1-87)

Subsection 010.34

34. Involuntary Transfer. A significant change in work location, shift and/or organizational unit made as a result of a management decision as opposed to an employee's request ~~for~~ or agreement to transfer. ()

SECTION 021

021. DISCRIMINATION PROHIBITED.

No person shall be disqualified from taking an examination, from appointment to a position, from promotion, or from holding a position in the classified service because of race or national origin, color, sex, age, political or religious opinion or affiliation, handicap, or for being a disabled or Vietnam era veteran; nor shall any person be separated, demoted, or transferred from any position in classified service or otherwise discriminated against in compensation, terms, conditions, or privileges of employment for any of these reasons. In determining whether discrimination has taken place, reference will be made to the appropriate federal and state statutes, regulations, and executive orders discriminated against in regards to appointments, promotions, demotions, separations, transfers, compensation, or other terms, conditions, or privileges of employment because of race, national origin, color, sex, age, religion, disability, or veteran status (unless under other than honorable conditions). (4-5-85)()

SECTION 072

072. OPERATION OF COMPENSATION PLAN.

Subsections 072.03 through 072.08

03. Payline Exceptions. Temporary assignments to a new pay grade may be made by the administrator pursuant to Section 67-5309(c)(b)(i), Idaho Code. Such assignments shall apply to an entire class for the purpose of recruitment or retention and shall be reviewed annually to determine the need for continuance. ()

034. Salary After Reappointment From Layoff. An employee appointed from a layoff register

(Subsection 101.01 and Section 145) shall be paid ~~at~~ in the current pay grade for the classification to which reapointed ~~and~~ or at the same payrate he or she received immediately preceding layoff, whichever is greater.
(7-1-94)(____)

045. Salary Upon Transfer. (7-10-88)

a. A transfer between departments (Section 126) in the same class or one (1) of equal pay grade ~~shall have no effect on~~ does not require a change in the employee's salary ~~unless,~~ but a lower or higher rate is may be negotiated between the employee and the appointing authority.
(7-1-94)(____)

b. If the transfer is to a class of lower pay grade (demotion), the employee's salary is negotiable between the employee and appointing authority ~~up to the employee's current salary immediately preceding transfer not to exceed the maximum rate for~~ within the lower pay grade.
(7-1-94)(____)

~~c. When necessary to transfer a particularly qualified individual, the appointing authority may make the transfer at a higher pay rate within the assigned pay grade.~~
(7-1-94)

056. Salary Upon Reinstatement. (7-10-88)

a. Except as otherwise provided in the following rule, the salary of a reinstated employee (Section 125) is negotiable between the employee and appointing authority in the current pay grade for the class in which the employee has reinstatement privileges ~~up to the pay rate the employee last received while in that class. The negotiated amount cannot exceed the maximum rate of the pay grade for the class to which the employee is reinstated. If reinstatement would cause a current employee to lose salary, his or her salary may be protected to its current level not to exceed the maximum pay rate of the assigned pay grade.~~
(7-1-94)(____)

~~b. When necessary to reinstate a particularly qualified individual, the appointing authority may make the reinstatement at a higher pay rate within the assigned pay grade.~~
(7-1-94)

~~06. **Salary Upon Upward Reallocation.** When a class is reallocated upward, employees shall receive their current hourly rates or the lowest rate of their assigned pay grade, whichever is greater.~~
(7-1-94)

07. Salary Upon Downward ~~Reallocation~~ Reassignment. When a class is ~~reallocated~~ reassigned downward the employee's salary ~~shall will~~ be protected ~~and shall be "frozen" above the highest rate of the pay grade to which the classification is assigned, if necessary~~ within the new paygrade. If a particularly qualified employee's salary is above the highest rate of the new paygrade, the appointing authority may petition the administrator to "freeze" the employee's salary.
(7-1-94)(____)

08. Salary Upon Return From Military Duty. An employee who returns to state service from active military duty in accordance with the provisions of Sections 65-511 or 65-512, Idaho Code, shall be paid at the ~~same~~ comparable rate in the current pay grade for the classification to which he or she was assigned prior to leaving for military service.
(7-1-94)(____)

SECTION 104

104. REMOVAL OF NAMES.

Subsections 104.01.a. and 104.01.b.

01. Reasons Specified. Names may be removed from an eligibility register by the administrator because of:
(4-5-85)

a. Appointment of the eligible candidate from the register to the class or appointment to a class in a higher pay grade.
(4-5-85)

b. ~~Filing of a~~ statement by the eligible candidate that he ~~or she~~ is not willing to accept appointment

under conditions previously specified.

(4-5-85)()

No changes to Subsections 104.01.c. and 104.01.d.

Subsections 104.01.e. through 104.01.i.

- e. The eligible candidate's conduct renders him or her unsuitable for a position in the state service. (4-5-85)()
- f. Written rejection of the eligible candidate for good cause by an appointing authority as approved by the administrator. (7-1-87)()
- g. Conviction of an eligible candidate of any felony. (4-5-85)()
- h. False statements of material facts given in the eligible candidate's application for employment or any subsequent examinations or interviews. (4-5-85)()
- i. Dismissal of an eligible candidate from state service. (4-5-85)()

SECTION 106

106. RESTORATION OF NAMES TO ELIGIBILITY REGISTERS.

Upon receiving appropriate evidence, the administrator shall restore the name of an eligible candidate to any eligibility register from which it has been removed for causes enumerated in Section 104. (4-5-85)()

SECTION 111

111. NUMBER OF NAMES ON REGISTER.

The Division of Human Resources' staff shall certify from the eligibility register, in the order of their scores, a sufficient number of names so that the appointing authority shall be able to select for appointment from among ten (10) eligible candidates successively for each position to be filled. If an appointment is to be made to one (1) position only, the top ten (10) available eligible candidates shall be certified. If appointments are to be made to more than one (1) position, one (1) additional name shall be added for each vacancy so that the appointing authority shall have ten (10) names to consider for each vacancy. The names of all eligible candidates with scores identical to the tenth ranking eligible candidate on the register shall be ~~arranged in alphabetical order and certified as a single eligible provided to appointing authorities~~ for selection purposes. ~~A register with at least five (5) eligibles shall be adequate.~~ (7-1-98)()

SECTION 112

112. ~~USE OF OPEN COMPETITIVE REGISTER~~ ADEQUATE REGISTERS.

~~In instances where recruitment is undertaken to establish an open competitive register to fill a particular position or positions, any request for a register shall automatically be considered as a request for an open competitive register until at least one position is filled from such a register. A register with at least five (5) eligible candidates shall be adequate. If no register exists or if there are less than five (5) eligible candidates, appointing authorities may:~~ (7-1-87)()

Subsection 112.01

- 01. Selection From Inadequate Register. Hire an eligible candidate listed on an inadequate register. ()**

No Changes to Subsections 112.02 through 112.04.

SECTION 130

130. ACTING APPOINTMENT TO A POSITION.

Subsection 130.04

04. Effective Date. *The effective date of each active appointment may be retroactive to the beginning of the pay period during which approval is granted.* ()

SECTION 170

170. PROMOTIONS.

01. Use Of Promotional Registers. (7-1-93)

Subsection 170.01.c.

c. Layoff Registers. Promotions to a class are not permissible as long as there is a departmental layoff register (Subsection 101.01) for the class with names of eligible candidates who are willing to accept reemployment. (4-5-85)()

SECTION 230

230. VACATION LEAVE.

Subsection 230.04

04. Interdepartmental Transfer. An employee who is transferred from one (1) state department to another department shall be credited with accrued vacation leave by the receiving department at the time of transfer. *The amount of leave shall be shown on the transaction documents separating the employee from one (1) department and appointing him or her in the other.* (4-5-85)()

SECTION 240

240. SICK LEAVE.

Subsection 240.02

02. Interdepartmental Transfer. An employee who is transferred from one (1) state department to another shall be credited by the receiving department with the amount of sick leave accrued at the time of transfer. *The amount of such accrued leave shall be shown on the transaction documents separating the employee from one (1) department and appointing him or her in the other.* (4-5-85)()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.02.03 - RULES GOVERNING EMERGENCY MEDICAL SERVICES

DOCKET NO. 16-0203-0001

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 39-145(2), Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Administrative Bulletin, Volume 00-10, pages 302 through 306.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Dia Gainor at (208) 334-4000.

DATED this 15th day of November, 2000.

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

IDAPA 16, TITLE 02, Chapter 03

RULES GOVERNING EMERGENCY MEDICAL SERVICES

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 00-10, October 4, 2000, pages 302 through 306.

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.08 - VITAL STATISTICS RULES

DOCKET NO. 16-0208-0001

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) Title 39, Chapter 2 Vital Statistics Act, Section 253, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 6, 2000 Administrative Bulletin, Volume 00-9, pages 71 through 73.

FEE SUMMARY: The proposed rule does not impose a fee or charge. The fee is established by the statute in Section 16-1513(7), Idaho Code. It is not within the discretion of the agency to either increase or decrease this fee. The agency had erroneously altered the fee by administrative rule. This docket merely amends the rule to conform to the mandate of the legislature.

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

DATED this 6th day of October, 2000.

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

IDAPA 16, TITLE 02, Chapter 08

VITAL STATISTICS RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 00-9, September 6, 2000, pages 71 through 73.

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.01 - RULES GOVERNING ELIGIBILITY FOR MEDICAID FOR FAMILIES AND CHILDREN
DOCKET NO. 16-0301-0002
NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 56-1004(1), Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Administrative Bulletin, Volume 00-10, pages 307 through 309.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5818.

DATED this 2nd day of November, 2000.

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

IDAPA 16, TITLE 03, Chapter 01

RULES GOVERNING ELIGIBILITY FOR MEDICAID FOR FAMILIES AND CHILDREN

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 00-10, October 4, 2000, pages 307 through 309.

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

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

DOCKET NO. 16-0304-0002

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 56-202(b) and 56-1004, 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.

This rulemaking changes the gross and net income limits, the maximum monthly allotments and the Standard Utility Allowance (SUA).

The pending rule is being adopted as proposed. The original text of the proposed rules was published in the October 4, 2000 Administrative Bulletin, Volume 00-10, pages 310 through 313.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5818.

DATED this 1st day of November, 2000.

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

IDAPA 16, TITLE 03, Chapter 04

RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 00-10, October 4, 2000, pages 310 through 313.

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

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

DOCKET NO. 16-0304-0101

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule is effective September 22, 1996, December 1, 2000 and February 1, 2001.

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

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 17, 2001.

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 to the proposed rulemaking:

Effective September 22, 1996, participants have the right to receive Food Stamps within seven (7) days if eligible for expedited services.

Effective December 1, 2000, a household in which all adult members are elderly or disabled and whose income is stable, must be certified up to twenty-four (24) months.

Effective February 1, 2001, this rulemaking creates new standards for establishing and collecting food stamp recipient claims from households who received over payments or misused food stamp benefits. The Department will collect overpayments through Food Stamp allotment reduction. If their claim becomes delinquent, the case will be referred to the Treasury Offset Program (TOP). TOP intercepts federal payments that are to be made to individuals, such as Federal income tax refunds and Federal salaries. The overpayment claims are Federal debts.

TEMPORARY RULE JUSTIFICATION: Temporary rule has been adopted in accordance with Section 67-5226, Idaho Code and is necessary in order to comply with deadlines in amendments to governing law or federal programs and to confer a benefit.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule making is to comply with deadlines in amendments to governing law and federal programs.

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

Anyone can submit written comments regarding this proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before January 24, 2001.

DATED this 2nd day of November, 2000.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0304-0101

160. EXPEDITED CERTIFICATION.

If all required proof is provided for expedited certification, a normal certification period is assigned. Certification based on application date, household type and proof is listed below: (6-1-94)

01. Nonmigrant Household Applying From The First Through The Fifteenth Of The Month. For a non-migrant household applying from the first (1st) through the fifteenth of the month, if proof of eligibility factors is postponed, assign a normal certification period. Issue the first month's benefits. Do not issue the second month's benefits until the postponed proof is received. When proof is postponed the household has thirty (30) days from the application date to provide the proof. The household must be given timely and adequate notice no further benefits will be issued until proof is completed. If the proof results in changes in the household's Food Stamps, the Department will act on the changes without advance notice. If postponed proof is provided before the second month, process an issuance for the first working day of the second month. If proof is provided in the second month, issue benefits within ~~five~~ seven (57) calendar days from the date the proof is received. If postponed proof is not provided within thirty (30) days from the application date, close the case. (~~7-1-97~~)(9-22-96)T

02. Nonmigrant Household Applying From the Sixteenth Through The End Of The Month. For a non-migrant household applying from the sixteenth (16th) to the end of the month, if proof of eligibility factors is postponed, assign a normal certification period. Issue the first and second month's benefits within the expedited time frame. When proof is postponed the household has thirty (30) days from the application date to complete the proof. The household must be given timely and adequate notice no further benefits will be issued until proof is completed. If the proof results in changes in the household's Food Stamps, the Department will act on the changes without advance notice. If postponed proof is provided within thirty (30) days, process an issuance for the first working day of the third month. If postponed proof is not provided within thirty (30) days from the application date, close the case. (7-1-97)

03. Migrant Household Applying From The First Through The Fifteenth Of The Month. For a migrant household applying from the first (1st) through the fifteenth (15th) of the month, if proof of eligibility factors is postponed, assign a normal certification period. Issue the first month's benefits. When proof is postponed the household has thirty (30) days from the application date to complete in-state proof. The household has sixty (60) days from the application date to complete out-of-state proof. The household must be given adequate and timely notice no further benefits will be issued until the postponed proof is completed. Before the second month's benefits are issued, the household must provide all in-state postponed proofs. Before the third month's benefits are issued, the household must provide all out-of-state postponed proof. If the proofs result in changes in the household's Food Stamps the Department will act on these changes, without providing advance notice. Migrants are entitled to postponed out-of-state proof only once each season. If postponed in-state proof is provided before the second month, process an issuance for the first working day of the second month. If postponed out-of-state proof is provided before the third month, process a regular issuance for the third month. If postponed out-of-state proof is provided in the third month, issue benefits within ~~five~~ seven (57) calendar days from the date proof is received. If postponed in-state proof is not provided within thirty (30) days from the application date, close the case. If postponed out-of-state proof is not provided within sixty (60) days from the application date, close the case. (~~7-1-97~~)(9-22-96)T

04. Migrant Household Applying From The Sixteenth Through The End Of The Month. For a migrant household applying from the Sixteenth to the end of the month, if proof of eligibility factors is postponed, assign a normal certification period. Issue the first and second months' benefits within the expedited time frame. When proof is postponed the household has thirty (30) days from the application date to provide in-state proof. The household has sixty (60) days from the application date to provide out-of-state proof. The household must be given adequate and timely notice no further benefits will be issued until the postponed proof is completed. Before the third month's benefits are issued, the household must provide all in-state and out-of-state postponed proofs. If the proofs result in changes in the household's Food Stamps the Department will act on these changes without providing advance notice. Migrants are entitled to postponed out-of-state proof only once each season. If postponed proof is provided before the third month, process a regular issuance for the third month. If postponed out-of-state proof is provided in the third month, issue benefits within ~~five~~ seven (57) calendar days from the date proof is received. If

postponed in-state proof is not provided within thirty (30) days from the application date, close the case. If postponed out-of-state proof is not provided within sixty (60) days from the application date, close the case. ~~(7-1-97)~~(9-22-96)T

05. Reapplying Household. When a household granted postponed proof at the last expedited certification reapplies, it must provide the postponed proof. The Department does not require postponed proof if the household was certified under normal standards since the last expedited certification. (6-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

576. CERTIFICATION PERIODS.

A certification period must be assigned for each household. Households must be assigned the longest certification period possible based on expected household circumstances. At the end of each certification period, entitlement to Food Stamps ends. Further eligibility starts only upon recertification based upon a newly completed application, an interview and verification. Benefits cannot be continued beyond the end of a certification period without a new determination of eligibility. (6-1-94)

01. First Month Of Certification. The first month the household is eligible is the first month in the certification period for initial applicants. Upon recertification, a new certification period begins. (6-1-94)

02. Elderly Or Disabled Households. Households ~~consisting entirely of~~ in which all adult members are elderly or disabled ~~members, whose~~ with stable income ~~is stable~~, must be certified for up to ~~twelve~~ twenty-four ~~(#24)~~ months. ~~(6-1-94)~~(12-1-00)T

03. Farmworker Households. Annual certification periods will be assigned to farmworkers who receive their annual salaries on a scheduled monthly basis. The income must not change as the amount of work changes. (6-1-94)

04. Self-Employed For At Least One Year. Self-employed households, working as self-employed for at least one (1) year, will be certified up to twelve (12) months. Income must be readily predictable and household circumstances must not be likely to change. (6-1-94)

05. Self-Employed For Less Than One Year. Households, self-employed less than one (1) year, will be certified up to six (6) months. Households self-employed for less than one (1) year are assigned a certification period to bring the household into the annual cycle. (6-1-94)

06. Financial And Medical Assistance Households. Households in which all adult members receive AABD, AABD-related Medicaid, or SSI will be assigned certification periods coinciding with the other program's review. To align the Food Stamp certification with the redetermination date for the AABD, AABD-related Medicaid or SSI program, the household's Food Stamp certification can be shortened or extended when the AABD, AABD-related Medicaid, or SSI application is initially approved. The Food Stamp certification period for these households may be extended up to ~~twelve~~ twenty-four ~~(#24)~~ months. The household must be notified of changes in the length of the certification period. ~~(7-1-98)~~(12-1-00)T

07. Households Eligible For A Child Support Deduction. Households eligible for a child support deduction with no record of regular child support or arrearage payments will be certified up to three (3) months. Households eligible for a child support deduction with a record of regular child support or arrearage payments will be certified for up to six (6) months. These requirements do not apply to households assigned certification periods under Subsections 576.02, 576.04, 576.05, and 576.06. (7-1-98)

08. Households Granted Separate Household Status. Households consisting of a parent and that parent's children who have been granted separate household status will be assigned a certification period up to six (6) months. Financial and medical assistance households granted separate household status must be assigned certification periods up to six (6) months. (9-1-94)

09. Stable Households. Households with stable income or work records, except self-employed and farmworker households, are certified for up to six (6) months. The household should expect no major changes in income, deductions, or household composition. (6-1-94)

10. Stable Homeless Households. Households in which all members are homeless, whose living arrangements reflect a stable living situation must be certified for up to six (6) months. Stable living situations include living with another household. Living in transitional housing is not a stable living situation. (6-1-94)

11. Unstable Households. Households will be certified for one (1) or two (2) months, when the household cannot predict its future circumstances, or when frequent changes in income or household status is expected. Households must be certified for the period the household can predict its circumstances, household status, and household income. Migrant and seasonal farmworkers, whose income is subject to large fluctuations during the work season will be certified for one (1) to two (2) months. The income fluctuation may be due to uncertainty of continuous employment, or due to bad weather, or other circumstances. (6-1-94)

12. Residents Of Alcohol and Drug Abuse Centers. Residents of alcohol and drug abuse centers may be certified for periods of one (1) to six (6) months depending on the length of the treatment or rehabilitation program. (6-1-94)

13. Certifications After The Fifteenth Of The Month. Households eligible for a certification period of three (3) or fewer months must have their certification period increased by one (1) month if the application is approved after the fifteenth (15th) day of the application month and the household's circumstances warrant the longer period. (6-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

680. COLLECTING THE ~~OVERISSUANCES~~ CLAIMS.

Food Stamps are reduced by ten percent (10%) of the monthly Food Stamps or ten dollars (\$10) per month, whichever is greater. Food Stamps must not be withheld from an initial month's benefits. ~~(7-1-98)~~(2-2-01)T

01. Household Fails To Pay. Send a notice if the household fails to pay under the repayment agreement, by paying nothing or less than agreed. (7-1-98)

a. The notice must state insufficient or no payment was received. (6-1-94)

b. The notice must state the household may contact the Department to renegotiate their repayment agreement. (6-1-94)

c. The notice must state if the household fails to make the overdue payment or to contact the Department to discuss renegotiation, the current Food Stamps will be reduced without further notice. (6-1-94)

02. Household Renegotiates Repayment. If the household requests renegotiation, decide if their financial circumstances allow payment renegotiation. If their financial circumstances warrant renegotiation, negotiate a new repayment agreement. If renegotiation is not feasible, continue renegotiation until a settlement is reached. Begin allotment reduction if a settlement is not reached. Notice is not required. (7-1-98)

03. Household Fails To Respond To Notice. Begin allotment reduction if a Food Stamp household fails to respond to the notice. (6-1-94)

04. IHE Collection By ~~Federal Income Tax Refund Offset Program (FTROP)~~ Treasury Offset Program (TOP). Past Due claims can be submitted for collection through ~~FTROP~~ TOP as specified in 7CFR 273.18 ~~(7-1-98)~~(2-1-01)T

a. The claim is properly established. (7-1-97)

- b. No person liable for the claim currently participates in a Food Stamp household. (7-1-97)
- c. The claim is for at least thirty dollars (\$30). Multiple claims may be combined to total thirty dollars (\$30). (7-1-97)
- d. The date of the first demand letter is within ten (10) years of the ~~processing year~~ quarterly TOP submission. There is no time limit on court judgements. ~~(7-1-97)~~(2-1-01)T
- e. Voluntary or involuntary payments are ~~thirty one hundred-eighty~~ (3180) days past due. ~~(7-1-97)~~(2-1-01)T

05. FTROP TOP Notices. Sixty (60) days before referring claims for collection under ~~FTROP TOP~~, the Department will provide the person with a notice of intent to collect via ~~tax refund~~ Treasury offset. The notice must inform the person of their right to request a Department review of the intended collection action. The request for review must be received within sixty (60) days of the notice of intent. The Department will determine if the claims in question are past due and legally enforceable based on a review of its records or other information submitted by the person. The Department will notify the person in writing if it is determined the claim is past due and legally enforceable and the Department intends to refer the claim to ~~IRS~~ TOP for offset. The notice of determination must inform the person of the right to request that FCS review the Department's decision. The notice must include instructions for requesting a review by FCS and the address of the FCS regional office. ~~Claims subject to federal salary offset will be handled in accordance with 7CFR 273.18(g).~~
~~(7-1-97)~~(2-1-01)T

06. TOP Effect On The Person. When a claim is referred to TOP, any eligible Federal payment owed to the person may be intercepted, and applied to the claim to reduce the debt. The person may be required to pay collection or processing fees charged by the Federal government to intercept the payment. ~~(7-1-97)~~(2-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

693. COLLECTING ADMINISTRATIVE ERROR CLAIMS.

The Department must collect against any or all adult members of the household with the AE ~~overissuance~~ claim. If household membership changes, collect from any previous adult member of the household with the ~~overissuance~~ claim. ~~(7-1-98)~~(2-1-01)T

01. Household Fails To Repay. Send a notice if the household fails to pay under a repayment agreement by paying nothing or less than agreed. The notice must state insufficient or no payment was received. The notice must state the household may contact the Department to renegotiate their repayment agreement. If the household requests renegotiation, negotiate a new repayment agreement. Begin allotment reduction if a settlement is not reached. Notice is not required. (7-1-98)

02. Food Stamp Amount Reduced. The amount of Food Stamp reduction will not exceed the greater of ten percent (10%) of monthly Food Stamps or ten dollars (\$10) per month, unless the household requests a higher amount, in writing. (7-1-98)

03. Department Must Not. The Department must not start allotment reduction from an initial month's benefits. (7-1-98)

04. AE Collection By Treasury Offset Program (TOP). Past Due claims can be submitted for collection through TOP as specified in 7 CFR 273.18(n). The claim must meet the criteria is Subsections 713.04.a. through 713.04.e. ~~(7-1-98)~~(2-1-01)T

- a. The claim is properly established. ~~(7-1-98)~~(2-1-01)T

- b. No person liable for the claim currently participates in a Food Stamp household. (2-1-01)T
- c. The claim is for at least thirty dollars (\$30). Multiple claims may be combined to total thirty dollars (\$30). (2-1-01)T
- d. The date of the first demand letter is within ten (10) years of the quarterly TOP submission. (2-1-01)T
- e. Voluntary or involuntary payments are one hundred eighty (180) days past due. (2-1-01)T

05. TOP Notices. Sixty (60) days before referring claims for collection under TOP, the Department will provide the person a notice of intent to collect via Treasury offset. The notice must inform the person of their right to request a Department review of the intended collection action. The Department must receive the request for review within sixty (60) days of sending the notice of intent. The Department will determine if the claims are past due and legally enforceable, based on a review of its records or information submitted by the person. The Department will notify the person in writing if it determines the claim is past due and legally enforceable, and intends to refer the claim to TOP for offset. The notice of determination must inform the person of the right to request that FCS review the Department's decision. The notice must include instructions for requesting a review by FCS and the address of the FCS regional office. (2-1-01)T

06. TOP Effect On The Person. When a claim is referred to TOP, any eligible Federal payment owed to the person may be intercepted, and applied to the claim to reduce the debt. The person may also be required to pay collection or processing fees charged by the Federal government to intercept the payment. (2-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

713. COLLECTING IPV ~~OVERISSUANCES~~ CLAIMS.

The Department must collect against any or all adult members of the household with the IPV ~~overissuance~~ claim. If household membership changes, collect from any previous adult member of the household with the ~~overissuance~~ claim. (7-1-98)(2-1-01)T

01. Household Fails To Pay. Send a notice if the household fails to pay under the repayment agreement, by paying nothing or less than agreed. The notice must state: (7-1-98)

- a. No payment, or not enough payment, was received. (6-1-94)
- b. The household may contact the Department to renegotiate their repayment agreement. (6-1-94)
- c. If the household fails to make the overdue payment or to contact the Department to discuss renegotiation, the current Food Stamps will be reduced without further notice. (6-1-94)

02. Household Renegotiates Repayment. If the household requests renegotiation, the Department must decide if their financial circumstances allow payment renegotiation. If their financial circumstances warrant renegotiation, negotiate a new repayment agreement. If renegotiation is not feasible, continue renegotiation until a settlement is reached. Begin allotment reduction if a settlement is not reached. Notice is not required. (6-1-94)

03. Household Fails To Respond To Notice. If a Food Stamp household fails to respond to the notice by making the overdue payments or requesting renegotiation, reduce Food Stamp issuance. (6-1-94)

04. Collection By ~~Federal Income Tax Refund Offset Program (FTROP)~~ Treasury Offset Program (TOP). Past Due claims can be submitted for collection through ~~FTROP~~ TOP as specified in 7CFR 273.18 (gn). The claim must meet the following criteria: (7-1-98)(2-1-01)T

- a. The claim is properly established. (7-1-97)

- b. No person liable for the claim currently participates in a Food Stamp household. (7-1-97)
- c. The claim is for at least thirty dollars (\$30). Multiple claims may be combined to total thirty dollars (\$30). (7-1-97)
- d. The date of the first demand letter is within ten (10) years of the ~~processing year~~ quarterly TOP submission. There is no time limit on court judgements. ~~(7-1-97)~~(2-1-01)T
- e. Voluntary or involuntary payments are ~~thirty one hundred eighty (3180)~~ thirty one hundred eighty (3180) days past due. ~~(7-1-97)~~(2-1-01)T

05. FTROP TOP Notices. Sixty (60) days before referring claims for collection under ~~FTROP TOP~~, the Department will provide the person with a notice of intent to collect via ~~tax refund~~ Treasury offset. The notice must inform the person of their right to request a Department review of the intended collection action. The request for review must be received within sixty (60) days of the notice of intent. The Department will determine if the claims in question are past due and legally enforceable based on a review of its records or other information submitted by the person. The Department will notify the person in writing if it is determined the claim is past due and legally enforceable and the Department intends to refer the claim to ~~IRS for offset~~ TOP. The notice of determination must inform the person of the right to request that FCS review the Department's decision. The notice must include instructions for requesting a review by FCS and the address of the FCS regional office. ~~Claims subject to federal salary offset will be handled in accordance with 7CFR 273.18(g).~~ ~~(7-1-97)~~(2-1-01)T

06. TOP Effect On The Person. When a claim is referred to TOP, any eligible Federal payment owed to the person may be intercepted, and applied to the claim to reduce the debt. The person may also be required to pay collection or processing fees charged by the Federal government to intercept the payment. ~~(2-1-01)T~~

(BREAK IN CONTINUITY OF SECTIONS)

796. SHELTERS FOR BATTERED WOMEN AND CHILDREN.

The Department must determine if the shelter for battered women and children is a public or private non-profit residential facility. The Department must determine if the shelter serves only battered women and their children. If the facility serves other persons, the Department must determine if a portion of the facility is set aside to serve only battered women and children. Shelters having FCS authorization to redeem Food Stamps on a wholesale basis meet the shelter definition. Battered women and children shelter rules are listed below: (7-1-98)

01. Food Stamp Eligibility. Women and children who recently left a household containing a person who abused them may get Food Stamps, even if the household they left was getting Food Stamps. Shelter residents may apply for and get separate Food Stamps only once in a month. The original Food Stamp certification must have included the person who subjected them to abuse. The resident household must meet eligibility criteria for income, resources, and expenses. (6-1-94)

02. Income, Resources, And Expenses. Income, resources, and expenses of the household are counted. Income, resources, and expenses of their former household, containing the person who subjected them to abuse, are not counted. Jointly held resources are inaccessible if the resources are jointly owned by the shelter resident and members of the abusive household. Jointly held resources are inaccessible if the shelter residents' access to the resource is dependent on the agreement of the joint owner still living in the former household. Room payments to the shelter are shelter expenses. (6-1-94)

03. Expedited Services. If shelter residents are eligible for expedited services, Food Stamps must be received within ~~five~~ seven (~~57~~) days. ~~(6-1-94)~~(9-22-96)T

04. Food Stamps For Former Household. The Department must take prompt action to correct the former household's eligibility and allotment. The Department must issue a ten (10) day advance notice of adverse

action. (6-1-94)

05. Using Food Stamps To Get Prepared Meals. Residents of shelters for battered women and children may use Food Stamps to purchase meals prepared for them at the shelter. (6-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

850. FOOD STAMP RIGHTS.

The Food Stamp household has rights protected by Federal and State laws and Department rules. The Department must inform clients of their rights during the application process and eligibility reviews. Food Stamp rights are listed below: (6-1-94)

- 01. Application.** The right to get an application on the date requested. (6-1-94)
- 02. Application Registered.** The right to have the signed application accepted right away. (6-1-94)
- 03. Representative.** The right to have an authorized representative if the applicant cannot get to the Food Stamp office. The authorized representative must have knowledge of the applicant's situation. (6-1-94)
- 04. Home Visit Or Telephone Interview.** The right to have a home visit or telephone interview. The applicant must be: (6-1-94)
 - a. Age sixty (60) or older; or (6-1-94)
 - b. Disabled and unable to come to the Food Stamp office. (6-1-94)
 - c. The Department may also allow a home visit or telephone interview because of transportation difficulties or other hardships. (6-1-94)
- 05. Thirty Day Processing.** The right to have the application processed and Food Stamps issued within thirty (30) days. (6-1-94)
- 06. Expedited Service.** The right to get Food Stamps within ~~five~~ seven (57) days if eligible for expedited service. (~~6-1-94~~)(9-22-96)T
- 07. Fair And Equal Treatment.** The right to fair and equal treatment, regardless of age, gender, race, color, handicap, religious creed, national origin, political belief. (4-5-00)
- 08. Case Record And Food Stamp Rules Available.** The right to look at the client's case file. The right to look at a copy of the Food Stamp program rules. (6-1-94)
- 09. Notification.** The right to be told in writing of: (6-1-94)
 - a. The reasons for the Department's action if the application is rejected. (6-1-94)
 - b. The reasons for the Department's action if Food Stamps are reduced or stopped. (6-1-94)
- 10. Fair Hearing.** The right to request a fair hearing about the Department's decision. The right to request a fair hearing if the household feels discrimination has taken place in any way. Food Stamp fair hearings must be requested within ninety (90) days from the day notice is mailed. In certain situations, Food Stamps may continue if a fair hearing is requested. (6-1-94)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED, BLIND AND DISABLED

DOCKET NO. 16-0305-0002

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 56-1004(1), Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Administrative Bulletin, Volume 00-10, pages 314 through 319.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5818.

DATED this 2nd day of November, 2000.

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

IDAPA 16, TITLE 03, Chapter 05

RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED, BLIND AND DISABLED

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 00-10, October 4, 2000, pages 314 through 319.

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED, BLIND AND DISABLED
DOCKET NO. 16-0305-0101
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule is effective 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) 56-202(b) and 56-1004(1), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 17, 2001.

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 to the proposed rulemaking:

This rulemaking adds a prohibition and penalty for transfer of resources by a person applying for or receiving cash payments through Aid to the Aged, Blind and Disabled (AABD). A participant can become ineligible for AABD cash if he does not receive adequate payment for transfer of things he owns. The number of months he is ineligible depends on the uncompensated value of the transferred property.

For nursing home care and eligibility for Medicaid under a Home and Community Based Services (HCBS) waiver, a personal service contract is considered an asset transfer. A Medicaid participant entering into a personal service contract can be penalized by loss of Medicaid help with nursing home costs. He can also become ineligible for HCBS Medicaid. This rule provides conditions a personal service contract must meet to be exempt from the asset transfer penalty.

An asset transfer by a person seeking or receiving Medicaid is presumed to be for the purpose of becoming eligible for Medicaid help with nursing home costs or eligible for HCBS Medicaid. Annuities are also presumed to be asset transfers without adequate payment unless the person can show that an existing retirement plan was inadequate to meet the needs of the beneficiary of the annuity. Each of these presumptions is rebuttable. The rebuttal conditions are listed. Also, the life expectancy table for annuities has been updated for the year 2000.

Other changes and additions are: 1) A definition of Fair Market Value is added. 2) Conversion or sale of a resource is a resource, not income. 3) Interest on excluded burial funds is also excluded. 4) An asset cannot be counted as income and a resource in the same month. Cash and in-kind assets are income. Income help past the month received is a resource. 5) The twenty dollar (\$20) standard income disregard is retained by the participant for his personal use. 6) The earned income disregards of the first sixty-five dollar (\$65) plus one half (1/2) of the remaining earnings are retained by the participant for his personal use. These disregards are an incentive to continue employment. 7) Children in the Certain Disabled Children Medicaid group must be "cost-effective" to qualify for Medicaid. This rule is revised to specify that cost-effectiveness compares the estimated cost to Medicaid for the child's care outside a medical institution to the cost in an institution. 8) A person applying for Medicaid as a Qualified Disabled and Working Individual must not be eligible for any other type of Medicaid.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to protect public health, safety and welfare, to comply with deadlines in amendments to governing law and federal programs and to confer a benefit.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the division is complying with deadlines in amendments to governing law and federal programs.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance

on technical questions concerning the temporary or proposed rule, contact Patti Campbell at (208) 334-5818.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before January 24, 2001.

DATED this 31st day of October, 2000.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0305-0101

005. DEFINITIONS.

These definitions apply to IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)": (7-1-99)

01. AABD Cash. A payment to a participant, a participant's guardian, or a holder of a limited power of attorney for EBT payments. (7-1-99)

02. Applicant. A person applying for public assistance from the Department, and whose application is not fully processed. (7-1-99)

03. Child. A child is under age eighteen (18), or under twenty-one (21) and attending school, college, university, or vocational or technical training designed to prepare him for gainful employment. A child is not married. A child is not the head of a household. (7-1-99)

04. Department. The Department of Health and Welfare. (7-1-99)

05. Direct Deposit. The electronic deposit of a participant's AABD cash to the participant's personal account with a financial institution. (7-1-99)

06. Electronic Benefits Transfer (EBT). A method of issuing AABD cash to a participant, a participant's guardian or a holder of a limited power of attorney for EBT payments for a participant. EBT rules are in IDAPA 16.03.20, "Rules Governing Electronic Benefits Transfer (EBT) of Public Assistance and Food Stamps". (7-1-99)

07. Essential Person. A person of the participant's choice whose presence in the household is essential to the participant's well-being. The essential person provides services a participant needs to live at home. (7-1-99)

08. Fair Market Value. Fair market value of an asset is the price for which the asset can be reasonably expected to sell on the open market, in the geographic area involved. (11-1-00)T

089. Medicaid. The Federally-aided program for medical care (Title XIX, Social Security Act).(7-1-99)

~~0910.~~ **Medical Assistance Rules.** Idaho Department of Health and Welfare Rules, IDAPA 16.03.09, "Rules Governing Medical Assistance". (7-1-99)

~~101.~~ **Medicaid For Families With Children Rules.** Idaho Department of Health and Welfare Rules, IDAPA 16.03.01, "Rules Governing Eligibility for Medicaid for Families and Children". (7-1-99)

~~112.~~ **Participant.** An individual applying for or receiving assistance. (7-1-99)

~~123.~~ **Sole Beneficiary.** The only beneficiary of a trust, including a beneficiary during the grantor's life, a beneficiary with a future interest, and a beneficiary by the grantor's will. (7-1-99)

~~134.~~ **TAFI Rules.** Idaho Department of Health and Welfare Rules, IDAPA 16.03.08, "Rules Governing Temporary Assistance for Families in Idaho". (7-1-99)

~~145.~~ **Working Day.** A calendar day when regular office hours are observed by the state of Idaho. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

209. CONVERSION OR SALE OF A RESOURCE NOT INCOME.

Payment from the sale, exchange, or replacement of a resource is not income. The payment is a resource. (11-1-00)T

~~20910.~~ -- 214. **(RESERVED).**

(BREAK IN CONTINUITY OF SECTIONS)

223. BURIAL FUNDS EXCLUDED FROM RESOURCE LIMIT.

Burial funds up to one thousand five hundred dollars (\$1,500) per person, set aside for the burial expenses of the participant or spouse, are excluded from resources. To be excluded, burial funds must be kept separate from assets not burial related. A burial contract that can be revoked or sold, without significant hardship, is a resource. Any portion of the contract for the purchase of burial spaces is excluded from resources. A burial contract that cannot be revoked, and cannot be sold without significant hardship, is not a resource. The burial fund portion of the contract counts against the one thousand five hundred dollar (\$1,500) burial funds exclusion. The burial space portion of the contract does not count against the burial funds exclusion. Interest earned on excluded burial funds is also excluded.

~~(7-1-99)~~(11-1-00)T

01. Life Insurance Policy As Burial Funds. The participant can designate a countable life insurance policy as a burial fund. The face value of excluded life insurance policies on the participant counts against the burial funds exclusion. (7-1-99)

02. Face Value Of Burial Insurance Policies Not Counted. The face value of burial insurance policies does not count toward the one thousand five hundred dollar (\$1,500) life insurance limit, when computing the total face value of life insurance policies owned by a participant. Interest on excluded burial funds does not count toward the one thousand five hundred dollar (\$1,500) burial funds exclusion. (7-1-99)

03. Effective Date Of Burial Funds Exclusion. The exclusion is effective the month after the month the funds were set aside. Burial funds can be designated retroactively, back to the first day of the month the participant intended the funds to be set aside. The participant must confirm the designation in writing. (7-1-99)

04. Penalty For Misusing Burial Funds. If the participant does not get SSI, burial funds used for another purpose lose the exclusion. An overpayment must be recovered. If the participant gets SSI, and is penalized

by SSA because he used excluded burial funds for another purpose, his AABD payment must not be increased to compensate the SSA penalty. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

273. -- ~~28476.~~ RESERVED.

~~28577.~~ EXCLUDED REAL ESTATE CONTRACT.

The principal balance of a real estate contract is excluded from resources of a participant in long-term care. The contract must meet the conditions in Subsections ~~28577.01~~ through ~~28577.03~~. The exclusion ends the first month the contract does not produce income. The principal balance is a resource the first moment of the next month. Interest payments on the contract are income for patient liability. This exclusion is not used if it is more restrictive to Medicaid eligibility than counting the value of the contract. (~~4-5-00~~)(11-1-00)T

01. Income Producing. The contract produces income when payments are made to the participant by the purchaser. (4-5-00)

02. Adequate Rate Of Return. The contract has a rate of return no less than two (2) percentage points below the bank market rate for loans on similar property in the community when the contract was signed. (4-5-00)

03. Remainder To Estate. The remainder of the contract is part of the estate when the participant dies. There are no provisions in the contract having the intent or effect of making the remainder unavailable to Medicaid estate recovery. (4-5-00)

~~28678.~~ TRUSTS.

A trust is a resource to a participant with the legal right to revoke the trust, and use the principal for his own support and maintenance. See Sections 838 through 873 in these rules for treatment of trusts for Medicaid. (7-1-99)

2879. RETIREMENT FUNDS.

Retirement funds are annuities or work-related plans for providing income or pensions when employment ends. A retirement fund, owned by a participant, is a resource if he has the option of withdrawing a lump sum, even though he is not yet eligible for periodic retirement payments. If the participant is eligible for periodic retirement payments, the fund is not a countable resource. The value of a retirement fund is the amount of money a participant can currently withdraw from the fund. (7-1-99)

~~2880.~~ INHERITANCE.

An inheritance is cash, a right, or noncash items received as the result of someone's death. Cash or noncash items in an inheritance are income the month received and a resource the next month. A contested inheritance is not counted as a resource until the contest is settled and money is distributed. (7-1-99)

~~2891.~~ LIFE INSURANCE.

A life insurance policy is an excluded resource if its face value, plus the face value of all other life insurance policies the participant owns on the same insured person, totals one thousand five hundred dollars (\$1,500) or less. If the face values exceed one thousand five hundred dollars (\$1,500) the policies are a resource in the amount of the cash surrender value. (7-1-99)

~~2902.~~ CONSERVATORSHIP.

Funds required to be made available for the care and maintenance of a participant, under a court order, are the participant's resource. This is true even if the participant or his agent is required to petition the court to withdraw funds for the participant's care. (7-1-99)

~~29183.~~ CONDITIONAL BENEFITS.

A participant ineligible due solely to excess nonliquid resources, can receive AABD cash and related Medicaid. The participant must meet two (2) conditions. First, his countable liquid resources must not exceed three (3) times the

participant's AABD cash budgeted needs. Second, the participant agrees, in writing, to sell excess nonliquid resources at their fair market value, within three (3) months. The value of excess real property is not counted as a resource, as long as the participant makes reasonable efforts to sell the property at its fair market value, and his reasonable efforts to sell are not successful. This exclusion is also used to compute deemed resources. (7-1-99)

01. Conditional Benefits Payments Disposal/Exclusion Period. The disposal period and exclusion period for excess nonliquid resources begins on the date the participant signs the Agreement to Sell Property. The disposal and exclusion periods can begin earlier for a participant who met all requirements to receive conditional benefits before his first opportunity to sign the Agreement to Sell Property. The participant must sign the Agreement to Sell Property before his application is approved. (7-1-99)

02. Time Period For Disposal Of Excess Resources. The disposal period for excess nonliquid personal property is three (3) months. One (1) three (3) month extension, for sale of personal property, is allowed when good cause exists. (7-1-99)

03. Good Cause For Not Making Efforts To Sell Excess Property. The participant has good cause exists for not making efforts to sell property, when circumstances beyond his control prevent his taking the required actions. Without good cause, the participants's countable resources include the value of the excess property, retroactive to the beginning of the conditional benefits period. (7-1-99)

~~292. 299. (RESERVED).~~

284. RESOURCE TRANSFER FOR LESS THAN FAIR MARKET VALUE.

Starting November 1, 2000, AABD cash participants are subject to a period of ineligibility if they transfer resources for less than fair market value. The participant is not subject to a period of ineligibility if his total countable resources in the transfer month were under two thousand dollars (\$2,000), even if he had kept the transferred resources. Excluded resources, except for the excluded home and associated property, are not subject to the resource transfer period of ineligibility. The exceptions to the period of ineligibility for transfer of resources are listed in Section 292. (11-1-00)T

01. Transfer Of Resources. Transfer of resources includes reducing or eliminating the participant's ownership or control of the resource. Transfer of resources includes giving away cash resources without receiving fair market value. (11-1-00)T

02. Transfer Of Resources By A Spouse. A transfer by the participant's spouse of either spouse's resources subjects the participant to the resource transfer period of ineligibility. (11-1-00)T

03. Transfer Of Resources By A Co-Owner. Transfer of the participant's resources by a co-owner subjects the participant to a period of ineligibility based on his share of the co-owed resources. (11-1-00)T

04. Transfer Of Resources By A Legal Representative. Transfer of the participant's resources by a legal representative such as a legal guardian or parent of a minor child subjects the participant to a period of ineligibility. (11-1-00)T

285. AABD PERIOD OF INELIGIBILITY FOR RESOURCE TRANSFERS.

The resource transfer period of ineligibility is a period of AABD ineligibility for up to thirty-six (36) months. The period of ineligibility begins the first day of the month after the transfer month. The participant must be notified, in writing, at least ten (10) days before a resource transfer period of ineligibility is imposed. (11-1-00)T

286. RESOURCE TRANSFER LOOK-BACK.

The resource transfer period of ineligibility applies to transfers in a thirty-six (36) month look-back period. (11-1-00)T

01. Look-Back For An Applicant. The look-back period begins thirty-six (36) months before the application date. (11-1-00)T

02. Look-Back For A Participant. The look-back date is the date the participant transferred the

resource. A transfer of resources at any time after the look-back start date may result in a period of ineligibility.

(11-1-00)T

287. CALCULATING THE PERIOD OF INELIGIBILITY FOR RESOURCE TRANSFERS.

The period of ineligibility is the number of months computed by dividing the difference between the fair market value of the resource and the amount the participant received for the resource by the full AABD allowances for the participant's living arrangement. For an applicant, use the full AABD allowance for the application month. For a participant, use the full AABD allowances for the transfer month. For an AABD couple, the period of ineligibility is computed by dividing the difference between the fair market value of the resource and the amount the participant received for the resource by the full AABD allowances for the couple's living arrangement. The number of months of ineligibility is computed to two (2) decimal places and rounded down to the nearest whole number. If the amount transferred is less than the participant's AABD allowances for one (1) month, the participant is not subject to a period of ineligibility.

(11-1-00)T

288. LENGTH OF PERIOD OF INELIGIBILITY.

The period of ineligibility begins with the month after the month the transfer took place. The period of ineligibility continues whether or not the participant receives AABD. Ineligibility continues until all the resources are returned to the participant or spouse, adequate consideration for all the resources is received, thirty-six (36) months passes, or the period of ineligibility ends.

(11-1-00)T

289. SPOUSE APPLIES AFTER PERIOD OF INELIGIBILITY IS COMPUTED.

If the spouse applies after the period of ineligibility is computed, compute the spouse's period of ineligibility by multiplying the number of months in the period of ineligibility already expired by the full AABD allowances for the couple's living arrangement. Subtract the total from the original difference between the fair market value of the resource and the amount the participant received for the resource. Divide the remaining difference between the fair market value of the resource and the amount the participant received for the resource by the full AABD allowances for the couple's living arrangement for the first month of ineligibility.

(11-1-00)T

290. MULTIPLE RESOURCE TRANSFERS.

If the participant makes more than one (1) resource transfer, the difference between the fair market value of all the transferred resource's and the amount the participant received for all the transferred resources is used to determine the length of the period of ineligibility. The period of ineligibility begins with the month after the month of the first transfer.

(11-1-00)T

291. TRANSFERS TO TRUSTS.

A trust established from the participant's resources is a resource transfer for less than fair market value, unless it meets an exception in Section 292 of these rules. If the trust includes resources of another person, the resource transfer period of ineligibility applies to the participant's share of the trust.

(11-1-00)T

01. Payment From Trust Not For Participant. If a payment is made to another individual from a trust counted as a resource, and the payment is not for the benefit of the participant, the payment is a resource transfer for less than fair market value.

(11-1-00)T

02. Payment From Trust Restricted. If the participant takes action so no payment from a trust counted as a resource can be made for any reason, the trust is a resource transfer for less than fair market value. By taking the action, the participant causes the trust to be no longer counted as a resource and the participant is subject to the period of ineligibility. The date of the action restricting payment is the date of the transfer.

(11-1-00)T

292. PERIOD OF INELIGIBILITY EXCEPTIONS.

A participant or spouse is not subject to the resource transfer period of ineligibility if one (1) of the following conditions is satisfied.

(11-1-00)T

01. Home To Spouse. Title to the home is transferred solely to the spouse.

(11-1-00)T

02. Home To Minor Child Or Disabled Adult Child. Title to the home is transferred to the child of the participant or spouse. The child must be under age twenty-one (21), blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416.

(11-1-00)T

03. Home To Brother Or Sister. Title to the home is transferred to a brother or sister of the participant or spouse who must have had an equity interest or life estate in the transferred home and was residing in that home for at least one (1) year immediately before the month the home was transferred. (11-1-00)T

04. Home To Adult Child. Title to the home was transferred to a son or daughter of the participant or spouse, other than a child under the age of twenty-one (21). The son or daughter must have resided in that home for at least two (2) years immediately before the month the participant entered a medical facility or long-term care. The son or daughter must have provided care to the participant, which permitted him to live at home rather than enter a medical facility or long-term care. (11-1-00)T

05. Benefit Of Spouse. Resources, other than the home, were transferred to the participant's spouse or to another person for the sole benefit of the spouse. (11-1-00)T

06. Transfer From Spouse. The resources were transferred from the participant's spouse to another person for the sole benefit of the participant's spouse. (11-1-00)T

07. Transfer To Child. The resources were transferred to the participant's child or to a trust established solely for the benefit of the participant's child. The child must be blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416. The child may be any age. (11-1-00)T

08. Transfer To Trust For Person Under Sixty-Five. The resources were transferred to a trust for the sole benefit of a person under age sixty-five (65), blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416. "Sole benefit" means any remainder in the trust after the person's death must go first to AABD, then to his estate, not to another person. The person must be blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416. (11-1-00)T

09. Transfer To A Trust That Is A Countable Resource. The resources were transferred to a trust and the trust is a countable resource for AABD in the amount of the transfer. (11-1-00)T

10. Intent To Receive Fair Market Value. The participant or spouse proves he intended to dispose of the resources at fair market value or for other adequate consideration, but can prove good cause for not doing so. (11-1-00)T

11. Resources Returned. All resources transferred for less than fair market value have been returned to the participant. (11-1-00)T

12. No AABD Purpose. The participant or spouse proves the resources were transferred exclusively for a purpose other than qualifying for AABD. Purposes other than qualifying for AABD include: (11-1-00)T

a. After the resource transfer the participant has a traumatic onset of disability. (11-1-00)T

b. After the resource transfer a previously unknown disabling condition is diagnosed. (11-1-00)T

c. After the resource transfer the participant has an unexpected loss of income or resources resulting in eligibility for AABD. (11-1-00)T

d. The resource was excludable in the transfer month. (11-1-00)T

e. The transfer of resources was court-ordered, provided the participant did not petition the court to order the transfer. (11-1-00)T

f. The participant took a vow of poverty and gave the resources to a religious order. (11-1-00)T

13. Undue Hardship. The participant proves failure to receive AABD would deprive him of food or shelter and his total available funds, including income and liquid resources, are less than his AABD allowances for the month he claims undue hardship. Undue hardship must be proven for each month of the period of ineligibility.

When determining total available funds for a child, count any income and resources deemed from his parents.

(11-1-00)T

14. Exception To Fair Market Value. The amount received is reasonable, even if less than fair market value if a forced sale was done under reasonable circumstances, and little or no market demand exists for the type of resource transferred, or the resource was transferred to settle a legal debt approximately equal to the fair market value of the transferred resource.

(11-1-00)T

15. No Benefit To Participant. The participant received no benefit from the resource because he or the spouse held title to the property only as a trustee for another person, or the transfer was done to clear title to property and the participant or spouse had no interest in the property that would benefit him.

(11-1-00)T

16. Fraud Victim. The resource was transferred because the participant or spouse was the victim of fraud, misrepresentation, or coercion. The participant or spouse must take all possible steps to recover the resources or property or its equivalent in damages. The participant must assign recovery rights to the state of Idaho.

(11-1-00)T

293. EFFECT ON MEDICAID ELIGIBILITY.

Ineligibility for AABD cash because of property transfer does not make the participant ineligible for Medicaid.

(11-1-00)T

294. -- 299. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

307. COUNTING RESOURCES AND INCOME.

An asset cannot be counted as income and resources in the same month. Assets received in cash or in-kind during a month are income. Income held past the month received is a resource.

(11-1-00)T

307~~8~~. -- 309. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

540. STANDARD DISREGARD.

The standard disregard is twenty dollars (\$20). The standard disregard is first subtracted from unearned income. If the unearned income is less than the standard disregard, the remainder of the standard disregard is subtracted from earned income. The participant retains the standard disregard for his personal use.

~~(7-1-99)~~(11-1-00)T

01. Standard Disregard And A Couple. Subtract the standard disregard only once a month from the combined income of a couple in the same household.

(7-1-99)

02. Standard Disregard Exception. The standard disregard must not be subtracted from nonservice-connected VA payments, Title IV-E foster care payments, or BIA General Assistance.

(7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

542. SIXTY-FIVE DOLLAR EARNED INCOME DISREGARD.

Sixty-five dollars (\$65) of earned income in a month are not counted. Subtract the sixty-five dollar (\$65) disregard only once a month from the combined income of a couple in the same household. The sixty-five dollar (\$65)

disregard is a work incentive. The participant retains the sixty-five dollar (\$65) disregard for his personal use.
(~~7-1-99~~)(11-1-00)T

(BREAK IN CONTINUITY OF SECTIONS)

544. ONE-HALF REMAINING EARNED INCOME DISREGARD.

One-half (1/2) of remaining earned income ~~remaining~~, after the IRWE is subtracted, is not counted. The one-half (1/2) of remaining earned income is a work incentive. The participant retains the one-half (1/2) of remaining earned income for his personal use.
(~~7-1-99~~)(11-1-00)T

(BREAK IN CONTINUITY OF SECTIONS)

785. CERTAIN DISABLED CHILDREN.

A disabled child, not eligible for Medicaid outside a medical institution, is eligible for Medicaid if he meets the conditions in Subsections 785.01 through 785.07 of these rules.
(~~7-1-99~~)(11-1-00)T

- 01. Age.** Is under nineteen (19) years old. (7-1-99)
- 02. AABD Criteria.** Meets the AABD blindness or disability criteria. (7-1-99)
- 03. AABD Resource Limit.** Meets the AABD single person resource limit. (7-1-99)
- 04. Income Limit.** Has monthly income not exceeding three (3) times the Federal SSI benefit payable monthly to a single person. (7-1-99)
- 05. Eligible For Long Term Care.** Meets the medical conditions for long-term care in IDAPA 16.03.09, "Rules Governing the Medical Assistance Program," Subsection 160.09. (7-1-99)
- 06. Appropriate Care.** Is appropriately cared for outside a medical institution, under a physician's plan of care. (7-1-99)
- 07. Cost Of Care.** Can be cared for cost effectively at-home outside a medical institution. The estimated cost of caring for the child ~~at-home~~ must not exceed the cost of the child's care in a hospital, nursing facility, or ICF-MR.
(~~7-1-99~~)(11-1-00)T

(BREAK IN CONTINUITY OF SECTIONS)

812. QUALIFIED DISABLED AND WORKING INDIVIDUAL (QDWI).

A person meeting all requirements in Subsections 812.01 through 812.05 of these rules is eligible for QDWI. The person must not be eligible for any other type of Medicaid. A QDWI is eligible only for Medicaid payment of his Medicare Part A premium.
(~~7-1-99~~)(11-1-00)T

- 01. Age And Disability.** The participant must be a disabled worker under age sixty-five (65). (7-1-99)
- 02. Nonfinancial Requirements.** The participant must meet the Medicaid eligibility requirements of residence, citizenship, support cooperation and SSN. (7-1-99)
- 03. Section 1818A Medicare.** SSA determined the participant meets the conditions of Section 1818A of the Social Security Act. (7-1-99)

04. Income. Monthly income must not exceed two hundred percent (200%) of the one (1) person official poverty line defined by the OMB. (7-1-99)

05. Resources. The resource limit is four thousand dollars (\$4,000). (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

831. ASSET TRANSFER FOR LESS THAN FAIR MARKET VALUE.

Starting August 11, 1993, the participant is subject to a penalty if he transfers his income or resources for less than fair market value. The asset transfer penalty applies to Medicaid services received October 1, 1993 and later. Excluded resources, other than the home and associated property, are not subject to the asset transfer penalty. The asset transfer penalty applies to a Medicaid participant in long-term care or HCBS. A participant in long-term care is a patient in a nursing facility or a patient in a medical institution, requiring and receiving the level of care provided in a nursing facility. (4-5-00)

01. Rebuttable Presumption. Unless a transfer meets the requirements of Section 840, there is a rebuttable presumption that the transfer was made for the purpose of qualifying for Medicaid. The asset transfer penalty applies unless the participant shows that the asset transfer would not have affected his eligibility for Medicaid. (11-1-00)T

02. Contract for Services Provided by a Relative. A contract for personal services to be furnished to the participant by a relative is presumed to be made for the purpose of qualifying for Medicaid. The asset transfer penalty applies unless the participant shows that: (11-1-00)T

a. A written contract for personal services was signed before services were delivered. The contract must require that payment be made after services are rendered. The contract must be dated and the signatures notarized. Either party must be able to terminate the contract; and (11-1-00)T

b. The contract must be signed by the participant or a legally authorized representative through a power of attorney, legal guardianship or conservatorship. A representative who signs the contract must not be the provider of the personal care services under the contract; and (11-1-00)T

c. Compensation for services rendered must be comparable to rates paid in the open market. (11-1-00)T

03. Transfer Of Income Or Resources. Transfer of income or resources includes reducing or eliminating the participant's ownership or control of the asset. (4-5-00)

04. Transfer Of Income Or Resources By A Spouse. A transfer by the participant's spouse of either spouse's income or resources, before eligibility is established, subjects the participant to the asset transfer penalty. After the participant's eligibility is established, a transfer by the spouse of the spouse's own income or resources does not subject the participant to the asset transfer penalty. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

837. LIFE ESTATES AND ANNUITIES AS ASSET TRANSFERS.

Conditions for determining if a life estate ~~or an annuity are~~ is an asset transfer for less than fair market value are listed in Subsections ~~837.01 through 837.05.~~ The purchase of an annuity is an asset transfer that is presumed to be made for the purpose of qualifying for Medicaid. The asset transfer penalty applies unless the participant shows the purchase of the annuity would not have affected his eligibility for Medicaid or, the payment from the annuity is not greater than necessary to meet the reasonable and ordinary monthly needs of the beneficiary. He must also show that the annuity meets the conditions in Subsections 837.03 and 837.04. (~~7-1-99~~)(11-1-00)T

01. Life Estate. A life estate worth less than the value of the transferred real property is subject to the asset transfer penalty. To compute the value of the life estate, multiply the fair market value of the real property at the time of transfer by the remainder factor for the participant's age at the time of transfer. ~~The remainder factor for the participant's age is listed in Table 837.01.~~ the following table:

TABLE 837.01 - LIFE ESTATE REMAINDER TABLE							
Age	Life Estate Remainder	Age	Life Estate Remainder	Age	Life Estate Remainder	Age	Life Estate Remainder
0	.02812	1	.01012	2	.00983	3	.00922
4	.01019	5	.01062	6	.01116	7	.01178
8	.01252	9	.01337	10	.01435	11	.01547
12	.01671	13	.01802	14	.01934	15	.02063
16	.02185	17	.02300	18	.02410	19	.02520
20	.02635	21	.02755	22	.02880	23	.03014
24	.03159	25	.03322	26	.03505	27	.03710
28	.03938	29	.04187	30	.04457	31	.04746
32	.05.058	33	.05.392	34	.05.750	35	.06132
36	.06540	37	.06974	38	.07433	39	.07917
40	.08429	41	.08970	42	.09543	43	.10145
44	.10779	45	.11442	46	.12137	47	.12863
48	.13626	49	.14422	50	.15257	51	.16126
52	.17031	53	.17972	54	.18946	55	.19954
56	.20994	57	.22069	58	.23178	59	.24325
60	.25509	61	.26733	62	.27998	63	.29304
64	.30648	65	.32030	66	.33449	67	.34902
68	.36390	69	.37914	70	.39478	71	.41086
72	.42739	73	.44429	74	.46138	75	.47851
76	.49559	77	.51258	78	.52951	79	.54643
80	.56341	81	.58033	82	.59705	83	.61358
84	.63002	85	.64641	86	.66236	87	.67738
88	.69141	89	.70474	90	.71779	91	.73045
92	.74229	93	.75308	94	.76272	95	.77113
96	.77819	97	.78450	98	.79000	99	.79514
100	.80025	101	.80468	102	.80946	103	.81563
104	.82144	105	.83038	106	.84512	107	.86591
108	.89932	109	.95455				

(7-1-99)(11-1-00)T

02. Irrevocable Annuity. An irrevocable annuity is an asset transfer if it does not provide fair market value. To provide fair market value, an irrevocable annuity must meet life expectancy and annual interest tests listed in Subsections 837.03 and 837.04. The value for calculating the asset transfer penalty is the difference between the actual rate produced by the annuity and five percent (5%) per year. The sixty (60) month look-back applies. (7-1-99)

03. Irrevocable Annuity Life Expectancy Test. The participant's life expectancy, shown in the following table, must equal or exceed the term of the annuity. Using Table 837.03 compare the face value of the annuity to the participant's life expectancy at the purchase time. The annuity meets the life expectancy test if the participant's life expectancy equals or exceeds the term of the annuity. If the exact age is not in the Table, use the next lower age.

TABLE 837.03 – LIFE EXPECTANCY TABLE – FEMALES							
Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy
0	78.79	1	78.42	2	77.48	3	76.51
4	75.54	5	74.56	6	73.57	7	72.59
8	71.60	9	70.61	10	69.82	11	68.63
12	67.64	13	66.65	14	65.67	15	64.68
16	63.71	17	62.74	18	61.77	19	60.80
20	59.63	21	58.86	22	57.59	23	56.92
24	55.95	25	54.98	26	54.02	27	53.05
28	52.08	29	51.12	30	50.15	31	49.19
32	48.23	33	47.27	34	46.31	35	45.35
36	44.40	37	43.45	38	42.50	39	41.55
40	40.61	41	39.66	42	38.72	43	37.78
44	36.85	45	35.92	46	35.00	47	34.08
48	33.17	49	32.27	50	31.37	51	30.48
52	29.60	53	28.72	54	27.86	55	27.00
56	26.15	57	25.31	58	24.48	59	23.67
60	22.86	61	22.06	62	21.27	63	20.49
64	19.72	65	18.96	66	18.21	67	17.48
68	16.76	69	16.04	70	15.35	71	14.66
72	13.99	73	13.33	74	12.68	75	12.05
76	11.43	77	10.83	78	10.24	79	9.67
80	9.11	81	8.58	82	8.06	83	7.56
84	7.08	85	6.63	86	6.20	87	5.79
88	5.41	89	5.05	90	4.71	91	4.40
92	4.11	93	3.84	94	3.59	95	3.36
96	3.16	97	2.97	98	2.80	99	2.64

TABLE 837.03 – LIFE EXPECTANCY TABLE – FEMALES							
<i>Age</i>	<i>Life Expectancy</i>	<i>Age</i>	<i>Life Expectancy</i>	<i>Age</i>	<i>Life Expectancy</i>	<i>Age</i>	<i>Life Expectancy</i>
100	2.48	101	2.34	102	2.20	103	2.06
104	1.93	105	1.81	106	1.69	107	1.58
108	1.48	109	1.38	110	1.28	111	1.19
112	1.10	113	1.02	114	0.96	115	0.89
116	0.83	117	0.77	118	0.71	119	0.66

TABLE 837.03 – LIFE EXPECTANCY TABLE – FEMALES							
<i>Age</i>	<i>Life Expectancy</i>	<i>Age</i>	<i>Life Expectancy</i>	<i>Age</i>	<i>Life Expectancy</i>	<i>Age</i>	<i>Life Expectancy</i>
0	78.79	1	78.42	2	77.48	3	76.51
4	75.54	5	74.56	6	73.57	7	72.59
8	71.60	9	70.61	10	69.82	11	68.63
12	67.64	13	66.65	14	65.67	15	64.68
16	63.71	17	62.74	18	61.77	19	60.80
20	59.63	21	58.86	22	57.59	23	56.92
24	55.95	25	54.98	26	54.02	27	53.05
28	52.08	29	51.12	30	50.15	31	49.19
32	48.23	33	47.27	34	46.31	35	45.35
36	44.40	37	43.45	38	42.50	39	41.55
40	40.61	41	39.66	42	38.72	43	37.78
44	36.85	45	35.92	46	35.00	47	34.08
48	33.17	49	32.27	50	31.37	51	30.48
52	29.60	53	28.72	54	27.86	55	27.00
56	26.15	57	25.31	58	24.48	59	23.67
60	22.86	61	22.06	62	21.27	63	20.49
64	19.72	65	18.96	66	18.21	67	17.48
68	16.76	69	16.04	70	15.35	71	14.66
72	13.99	73	13.33	74	12.68	75	12.05
76	11.43	77	10.83	78	10.24	79	9.67
80	9.11	81	8.58	82	8.06	83	7.56
84	7.08	85	6.63	86	6.20	87	5.79
88	5.41	89	5.05	90	4.71	91	4.40

TABLE 837.03 – LIFE EXPECTANCY TABLE – FEMALES

<i>Age</i>	<i>Life Expectancy</i>	<i>Age</i>	<i>Life Expectancy</i>	<i>Age</i>	<i>Life Expectancy</i>	<i>Age</i>	<i>Life Expectancy</i>
92	4.11	93	3.84	94	3.59	95	3.36
96	3.16	97	2.97	98	2.80	99	2.64
100	2.48	101	2.34	102	2.20	103	2.06
104	1.93	105	1.81	106	1.69	107	1.58
108	1.48	109	1.38	110	1.28	111	1.19
112	1.10	113	1.02	114	0.96	115	0.89
116	0.83	117	0.77	118	0.71	119	0.66

TABLE 837.03 - LIFE EXPECTANCY TABLE

<u>Age</u>	<u>Years of Life Remaining Male</u>	<u>Years of Life Remaining Female</u>	<u>Age</u>	<u>Years of Life Remaining Male</u>	<u>Years of Life Remaining Female</u>
<u>0</u>	<u>73.26</u>	<u>79.26</u>	<u>74</u>	<u>10.12</u>	<u>12.74</u>
<u>10</u>	<u>64.03</u>	<u>69.93</u>	<u>75</u>	<u>9.58</u>	<u>12.09</u>
<u>20</u>	<u>54.41</u>	<u>60.13</u>	<u>76</u>	<u>9.06</u>	<u>11.46</u>
<u>30</u>	<u>45.14</u>	<u>50.43</u>	<u>77</u>	<u>8.56</u>	<u>10.85</u>
<u>40</u>	<u>35.94</u>	<u>40.86</u>	<u>78</u>	<u>8.07</u>	<u>10.25</u>
<u>50</u>	<u>27.13</u>	<u>31.61</u>	<u>79</u>	<u>7.61</u>	<u>9.67</u>
<u>60</u>	<u>19.07</u>	<u>22.99</u>	<u>80</u>	<u>7.16</u>	<u>9.11</u>
<u>61</u>	<u>18.33</u>	<u>22.18</u>	<u>81</u>	<u>6.72</u>	<u>8.57</u>
<u>62</u>	<u>17.60</u>	<u>21.38</u>	<u>82</u>	<u>6.31</u>	<u>8.04</u>
<u>63</u>	<u>16.89</u>	<u>20.60</u>	<u>83</u>	<u>5.92</u>	<u>7.54</u>
<u>64</u>	<u>16.19</u>	<u>19.82</u>	<u>84</u>	<u>5.55</u>	<u>7.05</u>
<u>65</u>	<u>15.52</u>	<u>19.06</u>	<u>85</u>	<u>5.20</u>	<u>6.59</u>
<u>66</u>	<u>14.86</u>	<u>18.31</u>	<u>86</u>	<u>4.86</u>	<u>6.15</u>
<u>67</u>	<u>14.23</u>	<u>17.58</u>	<u>87</u>	<u>4.55</u>	<u>5.74</u>
<u>68</u>	<u>13.61</u>	<u>16.85</u>	<u>88</u>	<u>4.26</u>	<u>5.34</u>
<u>69</u>	<u>13.00</u>	<u>16.14</u>	<u>89</u>	<u>3.98</u>	<u>4.97</u>
<u>70</u>	<u>12.41</u>	<u>15.44</u>	<u>90</u>	<u>3.73</u>	<u>4.63</u>
<u>71</u>	<u>11.82</u>	<u>14.75</u>	<u>95</u>	<u>2.71</u>	<u>3.26</u>
<u>72</u>	<u>11.24</u>	<u>14.06</u>	<u>100</u>	<u>2.05</u>	<u>2.39</u>
<u>73</u>	<u>10.67</u>	<u>13.40</u>	<u>110</u>	<u>1.14</u>	<u>1.22</u>

~~(4-5-00)~~(11-1-00)T

04. Irrevocable Annuity Annual Interest Test. The annuity must produce annual interest of at least five percent (5%). A variable rate annuity meets the interest rate test if the average yearly rate for the most recent five (5) year period is five percent (5%) or more. The participant can rebut the five percent (5%) interest test. He must show single premium annuities are not offered by insurers now, or when the annuity was purchased. Insurers must be rated excellent or superior by an insurance rating firm such as A.M. Best Co. (4-5-00)

05. Revocable Annuity. The surrender amount of a revocable annuity is a resource. Early surrender of a revocable annuity is not an asset transfer for less than fair market value. (7-1-99)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED, BLIND AND DISABLED
DOCKET NO. 16-0305-0102
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule is effective January 1, 2001.

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

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 17, 2001.

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 to the proposed rulemaking:

This rule divides the 2001 Social Security cost-of-living adjustment between the Basic Allowance and the Care Allowance for people in assisted living, certified family homes and board and room homes. The resident retains the Basic Allowance for his or her personal use. This allowance was last updated in 1991.

This rule deletes obsolete text on the schedule for implementing the waiver for Home and Community Based Services for the Aged and Disabled. The waiver is fully implemented.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rule deletes obsolete text and confers a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell.

Anyone can submit written comments regarding the proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before January 24, 2001.

DATED this 7th day of November, 2000.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0305-0102

501. BASIC ALLOWANCE.

Each participant receives a basic allowance unless he lives in a nursing facility. The basic allowance for each living arrangement is listed in Subsections 501.01 through 501.04. The Semi-Independent Group Residential Facility, Room and Board, Residential and Assisted Living Facility and Certified Family Home basic allowances are those in effect January 1, 2000~~1~~. They do not change with the annual cost-of-living increase in the federal SSI benefit amount.

~~(1-1-00)T~~(1-1-01)T

01. Single Participant. Through December 31, 2000, a participant is budgeted five hundred forty-five dollars (\$545) monthly as a basic allowance when living in a situation described in Subsections 501.01.a. through 501.01.e. Beginning January 1, 2001, the basic allowance increase for a single participant is the dollar amount of the annual cost-of-living increase in the federal SSI benefit rate for a single person. (1-1-00)T

- a. Living alone. (7-1-99)
- b. Living with his ineligible spouse. (7-1-99)
- c. Living with another participant who is not his spouse. (7-1-99)
- d. Living in another's household. This includes a living arrangement where the participant purchases lodging (room) and meals (board) from his parent, child or sibling. (1-1-00)T
- e. Living with his TAFI child. (7-1-99)

02. Couple Or Participant Living With Essential Person. Through December 31, 2000, a participant living with his participant spouse or his essential person is budgeted seven hundred sixty-eight dollars (\$768) monthly as a basic allowance. Beginning January 1, 2001, the basic allowance increase for a couple is the dollar amount of the annual cost-of-living increase in the federal SSI benefit rate for a couple. The increase may be rounded up. (1-1-00)T

03. SIGRIF. A participant living in a semi-independent group residential facility (SIGRIF) is budgeted three hundred forty-nine dollars (\$349) monthly as a basic allowance. (7-1-99)

04. Room And Board Home. A participant living in a room and board home, as defined in Section 512, is budgeted ~~fifty-eight~~ sixty-seven dollars (~~\$586~~7) monthly as a basic allowance. ~~(1-1-00)T~~(1-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

512. ~~UNLICENSED RESIDENTIAL AND ASSISTED LIVING FACILITY OR UNCERTIFIED FAMILY ROOM AND BOARD HOME ALLOWANCE.~~

Room and board is a living arrangement where the participant purchases lodging (room) and meals (board) from a person who is not his parent, child or sibling. Through December 31, 2000, a participant living in a room and board home is budgeted ~~a maximum of~~ six hundred thirty-two dollars (\$632) monthly. Beginning January 1, 2001, the Room and Board allowance increase is one-half (1/2) the dollar amount of the annual cost-of-living increase in the federal SSI benefit rate for a single person. Beginning January 1, 2002, the Room and Board allowance increase is the dollar amount of the annual cost-of-living increase in the federal SSI benefit rate for a single person. ~~(1-1-00)T~~(1-1-01)T

513. LICENSED RESIDENTIAL AND ASSISTED LIVING FACILITY AND CERTIFIED FAMILY HOME ALLOWANCES.

Each participant living in a residential and assisted living facility (RALF), (see IDAPA 16.03.22, "Rules Governing Licensed Residential and Assisted Living Facilities in Idaho") or certified family home (CFH), (see IDAPA 16.03.19,

“Rules Governing Certified Family Homes”) is budgeted a basic allowance of ~~fifty-eight~~ sixty-seven dollars (\$~~586~~7) monthly. A participant is also budgeted a monthly allowance for care based on his level of care. If the participant gets a lower level of care than his assessed level, his allowance is for the lower level of care. Through December 31, 2000, care levels and monthly allowances are those listed in Table 513, Subsections 513.01 through 513.03. Beginning January 1, 2001, through December 31, 2001, the RALF and CFH allowances increase by one-half (1/2) the dollar amount of the annual cost-of-living increase in the federal SSI benefit rate for a single person. Beginning January 1, 2002, the RALF and CFH allowances increase by the full dollar amount of the annual cost-of-living increase in the federal SSI benefit rate for a single person. A participant living in a Certified Family Home (CFH) operated by his parent, child or sibling is not entitled to the CFH allowances. He may receive the allowance for a person living with a relative. A relative for this purpose is the participant’s parent, child, sibling, aunt, uncle, cousin, niece, nephew, grandparent or grandchild by birth, marriage, or adoption.

TABLE 513 – CARE LEVELS AND ALLOWANCES		
	LEVEL OF CARE	MONTHLY ALLOWANCE
01.	<i>LEVEL I</i>	<i>Seven hundred and seventy four dollars (\$774)</i>
02.	<i>LEVEL II</i>	<i>Eight hundred and forty one dollars (\$841)</i>
03.	<i>LEVEL III</i>	<i>Nine hundred and nine dollars (\$909)</i>

(1-1-00)F(1-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

525. CHOICE BETWEEN AABD CASH AND HCBS-NF WAIVER SERVICES.

A participant eligible for AABD cash in a Certified Family Home or Residential and Assisted Living Facility and also eligible for services under the HCBS-NF waiver, must chose between AABD cash and waiver services. The participant must not receive AABD cash and waiver services during the same month. *The requirement to chose between AABD cash and HCBS-NF waiver services will be phased in on same schedule as the HCBS-NF waiver. The schedule is listed in Table 525.*

TABLE 525 – EFFECTIVE DATE OF AABD CASH AND HCBS-NF CHOICE	
Counties	Effective Date
<i>Bannock, Bear Lake, Bingham, Caribou, Franklin, Power and Oneida.</i>	<i>August 1, 1999</i>
<i>Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, Twin Falls, Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison and Teton.</i>	<i>October 1, 1999</i>
<i>Benewah, Bonner, Boundary, Kootenai, Shoshone, Clearwater, Idaho, Latah, Lewis and Nez Perce.</i>	<i>December 1, 1999</i>
<i>Adams, Canyon, Gem, Owyhee, Payette, Washington, Ada, Boise, Elmore and Valley.</i>	<i>February 1, 2000</i>

(4-5-00)(1-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

787. PERSON ENTITLED TO HOME AND COMMUNITY BASED SERVICES (HCBS).

An aged, blind or disabled person not eligible for SSI or AABD cash in his own home, because of income deeming or income limits, is eligible for Medicaid if he meets the conditions in Subsections 787.01 through 787.12. (7-1-99)

- 01. Age.** Is at least eighteen (18) years old. (4-5-00)
- 02. AABD Criteria.** If under age sixty-five (65), meets the AABD blindness or disability criteria. (7-1-99)
- 03. AABD Resource Limit.** Meets the AABD single person resource limit. (7-1-99)
- 04. HCBS Income Limit.** For the HCBS Aged and Disabled (A&D) waiver, has income not exceeding three (3) times the Federal SSI benefit payable monthly to a single person. For the HCBS Developmentally Disabled (DD) waiver, has income not exceeding three (3) times the Federal SSI benefit payable monthly to a single person. *The income limit for HCBS A&D in Adams, Canyon, Gem, Owyhee, Payette, Washington, Ada, Boise, Elmore, and Valley counties is nine hundred ninety dollars (\$990) through January 31, 2000. Effective February 1, 2000, the income limit for those counties is an amount not exceeding three (3) times the Federal SSI benefit payable monthly to a single person.* ~~(1-1-00)~~F(1-1-01)T
- 05. Eligible For Long Term Care.** For HCBS-A&D, meets the medical conditions for nursing facility care in accordance with IDAPA 16.03.09, "Rules Governing Medical Assistance," Subsection 160.09. For HCBS-DD, meets the medical conditions for ICF/MR care in accordance with IDAPA 16.03.09, "Rules Governing Medical Assistance," Section 143. (1-1-00)T
- 06. Home Care.** For HCBS-A&D, can be maintained in his own home with Personal Care Services (PCS) furnished under the Department's HCBS waiver. For HCBS-DD, can be maintained in the community. (1-1-00)T
- 07. Cost Of Care.** For HCBS-A&D, can be cared for at home at a cost not to exceed the statewide average cost of care for the participant's level of care. The estimated cost of care in a nursing facility is the statewide average rate for the level of care the participant requires, charged by the type of facility where he would be placed if he were not living at home. For traumatic brain injury patients, the estimated cost of care is at the nursing facility special rate. (1-1-00)T
- 08. Care Requirement.** For HCBS-A&D, must require and receive, or be likely to require and receive, HCBS waiver personal care services for thirty (30) consecutive days. For HCBS-DD, must require and receive, or be likely to require and receive, HCBS-DD waiver services for thirty (30) consecutive days. (1-1-00)T
- 09. Effective Date.** Medicaid is effective the first day of the thirty (30) day period the participant is likely to require HCBS A&D or HCBS-DD waiver services. (1-1-00)T
- 10. Participant With Spouse.** A married participant living at home with his spouse who is not and HCBS participant, can choose between the SSI, CP, and FSI methods. If his spouse is also an HCBS participant or lives in a nursing home, the couple can choose between the SSI and CP methods. (7-1-99)
- 11. Continued Services.** The participant must continue to require and receive waiver services. The participant is ineligible when there is a lapse in need for or receipt of waiver services for thirty (30) days. (7-1-99)
- 12. Annual Limit.** A participant who applies for HCBS Medicaid, after the annual limit on HCBS-A&D or HCBS-DD waiver participants is reached, must be denied Medicaid. (1-1-00)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.08 - RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO

DOCKET NO. 16-0308-0101

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule is effective July 1, 2001 and 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) 56-202(b), 56-209(j) and 56-1004(l), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 17, 2001.

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 to the proposed rulemaking:

During the last legislative session, HB 629 was passed into law. This rulemaking brings the Temporary Assistance for Families in Idaho Program into compliance with the state law requiring screening of all applicants and recipients for substance abuse. The rulemaking also limits Career Enhancement payments to only one payment of either CE or Emergency Assistance to Needy Families and Children within a twelve (12) month period and requires recipient of the payment be either employed or participating in a work program.

TEMPORARY RULE JUSTIFICATION: The temporary rule has been adopted in accordance with Section 67-5226, Idaho Code and is necessary in order to comply with deadlines in amendments to governing law or federal programs.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Department's rule making is to comply with HB 629.

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

Anyone can submit written comments regarding the proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before January 24, 2001.

DATED this 3rd day of November, 2000.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0308-0101

109. SUBSTANCE ABUSE SCREENING.

Idaho law requires substance abuse screening for TAFI cash assistance applicants listed in Subsections 109.01 and 109.02. The Department will conduct screening within ten (10) calendar days of the date of application for TAFI. Screening results determine a participant's need for substance abuse testing and treatment. (7-1-01)T

01. New Applicants. New TAFI applicants, if they are otherwise eligible. (7-1-01)T

02. Persons Reapplying. Persons reapplying for TAFI, after a period of ineligibility, if they are otherwise eligible. (7-1-01)T

10910. EFFECTIVE DATE.

The effective date of the TAFI grant is the date income and resource criteria are met, and a PRC is signed, unless the Department causes a delay, or a later date that is negotiated with the Department. (7-1-98)

~~111. — 112. (RESERVED).~~

111. SUBSTANCE ABUSE SCREENING AND TESTING NOTICE AT APPLICATION.

The Department must provide notice of substance abuse screening and possible testing to each TAFI applicant. The notice must advise the applicant of the factors listed in Subsections 111.01 through 111.08. (7-1-01)T

01. Screening Requirement. The Department conducts substance abuse screening as a condition of receiving TAFI cash assistance. (7-1-01)T

02. Testing Requirement. The Department conducts substance abuse testing as a condition for receiving TAFI cash assistance, if screening indicates the applicant is engaged in, or at high risk of, substance abuse. (7-1-01)T

03. Treatment Requirement. Participants must to enter a substance abuse treatment program and cooperate with treatment, if screening, assessment or testing shows them in need of substance abuse treatment. (7-1-01)T

04. Participant Information. Before screening the Department will provide participants information about the purpose of substance abuse screening, testing and treatment. (7-1-01)T

05. Confidentiality Of Screening And Testing. Substance abuse screening and testing results are confidential under Section 9-340C(6), Idaho Code. Results can only be released to an evaluating or treating substance abuse program. Results cannot be released for use in any criminal investigation or proceeding. (7-1-01)T

06. Right To Withdraw Application. Substance abuse screening and testing is not required if the person does not apply for, or receive, TAFI. (7-1-01)T

07. Eligibility Of Children. If the applicant chooses not to comply with substance abuse screening and testing requirements, the children in the case can still be TAFI eligible. (7-1-01)T

08. Receipt Of Notice. Participants must acknowledge in writing the receipt of notice of screening and testing requirements. The Department will provide a copy of the signed acknowledgment to the participant. (7-1-01)T

1102. FORMS AND SCHEDULED MEETINGS.

The family must complete the application process and forms, and must attend all scheduled meetings unless good cause exists. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

~~117. -- 120.~~ (RESERVED).

117. SUBSTANCE ABUSE INITIAL SCREENING.

The Department will use a nationally recognized substance abuse screening instrument. (7-1-01)T

118. SUBSTANCE ABUSE ASSESSMENT.

A Department approved substance abuse contractor will conduct screening to evaluate a participant's need for testing. The contractor will use a screening instrument approved by the Department as a valid and reliable indicator of possible substance abuse. The contractor must have adequate training in the recognition of substance abuse, use of the screening instrument, and interpretation of results. When found necessary by the contractor, the assessment process will include substance abuse testing. The contractor will interpret the results. (7-1-01)T

119. REFERRAL FOR SUBSTANCE ABUSE ASSESSMENT.

The Department will refer the participant for assessment when screening results indicate a reasonable suspicion the participant is engaged in, or at high risk of, substance abuse. A Department approved substance abuse contractor will conduct the assessment. (7-1-01)T

120. SUBSTANCE ABUSE TESTING.

Idaho law requires substance abuse testing of any TAFI applicant or recipient, if the Department has a reasonable suspicion they are engaged in, or at high risk of, substance abuse. Testing will be conducted if screening and assessment give a reasonable suspicion the participant is engaged in substance abuse. TAFI participants must comply with substance abuse testing as a condition of eligibility. (7-1-01)T

121. CONSENT AND ACKNOWLEDGMENT REQUIRED BEFORE SUBSTANCE ABUSE TESTING.

Before taking a substance abuse test, the participant must sign a consent for testing. The participant will be asked, but not required, to advise the person administering the test of the use of any over-the-counter or prescription drugs. This information will be considered in the results of the drug test. The participant must acknowledge, in writing, he received and understands the notice elements listed this Section and Section 111 of these rules. (7-1-01)T

122. ADMINISTRATION OF SUBSTANCE ABUSE TEST.

A Department approved contractor will administer the substance abuse test. The contractor must have training, through a licensed laboratory, in correct procedures for specimen collection and chain of custody. Specimen collection shall be documented. This includes labeling containers to prevent erroneous drug test results. The contractor must perform specimen collection, storage, and transportation to the laboratory site in a manner preventing specimen contamination or adulteration. A licensed laboratory will evaluate specimens. The laboratory will analyze specimens for controlled substances and alcohol. (7-1-01)T

01. Specimen Collection Procedures. The contractor shall collect the specimen for substance abuse testing with due regard for the privacy of the participant providing the specimen. The contractor shall collect the specimen in a manner preventing substitution or contamination of the specimen. (7-1-01)T

02. Test Results. The Department will evaluate the results of the substance abuse test, before notifying the participant of them. The Department will evaluate all positive test results to verify the specimen was collected, transported, and analyzed under proper procedures. The Department will determine if other circumstances caused the positive test result. The Department shall review and confirm medical information provided by the applicant. After this evaluation is complete, the Department will notify the participant of the test results. If the test result is positive, the Department will inform the participant of available substance abuse treatment programs, and of the requirement for treatment to be TAFI eligible. (7-1-01)T

03. Request For New Test. Within ten (10) calendar days of notice of a positive test result, the participant can request a new test. The participant must notify the Department in writing of the intent to challenge the test results. For those participants approved for TAFI, benefits will continue during the re-test process. (7-1-01)T

~~123. (RESERVED).~~

123. TAFI APPROVAL BEFORE SUBSTANCE ABUSE SCREENING AND TESTING RESULTS KNOWN.

Applicants may be approved for TAFI, if otherwise eligible, when they agree to substance abuse screening. They must complete the screening instrument. If required, they must participate in a substance abuse assessment. This includes providing a specimen for testing, if needed as part of the assessment process. The applicant should complete these steps within fifteen (15) calendar days of approval. If the process takes longer than fifteen (15) calendar days, through no fault of the applicant, TAFI may be approved if the participant is cooperative in satisfying their substance abuse screening requirements. (7-1-01)T

124. SUBSTANCE ABUSE TREATMENT.

If substance abuse screening, assessment or testing shows the participant needs substance abuse treatment, the Department shall require the participant to enter a substance abuse treatment program and cooperate with treatment. Treatment shall be provided at no cost to TAFI participants. Treatment shall be community based and gender specific when available. The Department shall provide for the participant's transportation and child care needs if necessary. (7-1-01)T

1245. MANDATORY INDIVIDUALS.

Individuals who must be included in the family are listed in Subsections 1245.01 through 1245.03.

~~(4-5-00)~~(7-1-01)T

01. Children. Children under the age of eighteen (18) or, under the age of nineteen (19) if they are attending a secondary school or the equivalent level of vocational or technical training full time. Children must reside with a parent or a caretaker relative who exercises care and control of them. A dependent child's natural or adoptive brother or sister, including half (1/2) siblings, living in the same home as the dependent child must be included in the family. (4-5-00)

02. Parents. Parents who have an eligible natural or adopted child residing with them. (7-1-98)

03. Pregnant Woman. A pregnant woman with no other children who is in at least the third calendar month before the baby is due and is unable to work due to medical reasons. (4-5-00)

1226. OPTIONAL INDIVIDUALS.

Individuals who may be eligible are listed in Subsections 1226.01 and 1226.02.

~~(4-5-00)~~(7-1-01)T

01. Caretaker Relatives. Adult specified relatives other than parents who have an eligible related child residing with them and who are responsible for the child's care. Only one (1) child in the family must be related to one (1) of the following specified relatives: brother, sister, aunt, uncle, nephew, niece, first cousin, or first cousin once removed; one (1) of these relationships prefixed by "grand" or "great"; one (1) of these relationships by half-blood; a stepparent, step-sibling, or the spouse of a relative by marriage, even if the marriage has ended. (7-1-98)

02. Related Children. Related dependent children who are not siblings or half (1/2) siblings of family members and who are living in the home. (4-5-00)

~~127.—130. (RESERVED).~~

1247. MARRIED CHILD UNDER AGE EIGHTEEN.

A married child under age eighteen (18) is no longer considered a dependent child. The child's subsequent separation, divorce or annulment does not change that status. (7-1-98)

1258. UNMARRIED PARENT UNDER THE AGE OF EIGHTEEN.

An unmarried parent under age eighteen (18) must live with his or her parents, unless good cause is established. Two (2) unmarried parents under the age of eighteen (18), with a child in common, can choose to live with the parents of the unmarried father or the unmarried mother. (7-1-98)

1269. GOOD CAUSE NOT TO LIVE WITH PARENTS.

Good cause reasons for unmarried parents under age eighteen (18) not to live with their parents are listed in Subsections 1269.01 through 1269.05. ~~(7-1-98)~~(7-1-01)T

01. Child Of Unmarried Parent Under Age Eighteen Conceived By Rape Or Incest. (7-1-98)

a. Proof is provided that the child of the unmarried parent under age eighteen (18) was conceived because of rape or incest; and (7-1-98)

b. The individual who committed the rape or incest is a parent or other individual living in the household; and (7-1-98)

c. The other parent in the home is not taking protective steps established in the child welfare plan. (7-1-98)

02. Abusive Parents. Proof is provided that the parents of the unmarried parent under age eighteen (18) are abusive and the physical or emotional health of the unmarried parent under age eighteen (18) or his or her child is jeopardized. (7-1-98)

03. Parents Not Available. The parents are not available due to incarceration, death, or their whereabouts are unknown. (7-1-98)

04. Home Not Available. The parents refuse to take the child back into the home and no alternative care is available. (7-1-98)

05. Safety Threatened. Proof is provided that the unmarried parent under age eighteen (18) is dangerous to the parents or other household members. (7-1-98)

130. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

161. -- 1652. (RESERVED).

1663. WORK ACTIVITIES RESPONSIBILITY.

All adults are required to participate in work activities, up to forty (40) hours per week. A child between the ages of sixteen (16) and eighteen (18), who is not attending school, must participate up to forty (40) hours per week in assigned work activities. A single custodial parent of a child less than six (6) years of age is not required to participate in a work activity if one of the reasons listed in Subsections 1663.01 through 1663.03 occurs. ~~(7-1-98)~~(7-1-00)T

01. Reasonable Distance. Appropriate child care is not available within a reasonable distance from the participant's home or work site. (7-1-98)

02. Relative Child Care. Informal child care by relatives or others is not available or is unsuitable. (7-1-98)

03. Child Care Not Available. Appropriate and affordable child care is not available. (7-1-98)

1674. WORK ACTIVITIES.

Work activities include paid work, including self-employment that produces earnings of at least the federal minimum wage; unpaid work; community service; work search activities; education leading to high school diploma or equivalency; work preparation education; vocational or job skills training; and other activities that improve the ability to obtain and maintain employment or support self-reliance. (7-1-98)

165. WORK REQUIREMENTS DURING SUBSTANCE ABUSE TREATMENT.

The Department may require participants to engage in appropriate work activities during substance abuse treatment. The treatment program must judge the work activities to be appropriate to the participant's treatment plan. Negotiation of the Personal Responsibility Contract between the participant, the Department and the Treatment program will include the work activities. (7-1-01)T

166. CONSENT TO RELEASE CONFIDENTIAL INFORMATION.

Participants entering a substance abuse treatment program must sign a consent to release program information to the Department. The treatment program shall only release substance abuse treatment information to report participant progress. (7-1-01)T

167. FAILURE TO COMPLY WITH SUBSTANCE ABUSE SCREENING AND TESTING REQUIREMENTS.

TAFI applicants or participants refusing to cooperate with substance abuse screening, assessment, testing or treatment are ineligible. (7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

311. -- 315. (RESERVED).

311. TAFI ELIGIBILITY DURING SUBSTANCE ABUSE TREATMENT.

A participant may receive TAFI after showing a positive test result. They must agree to enter treatment and meet all other eligibility factors. Participants continuing to meet TAFI eligibility factors will remain eligible during substance abuse treatment. A participant absent from the home, due to residential treatment, continues to be a member of the TAFI assistance unit. (7-1-01)T

312. FAILURE TO COMPLY WITH TREATMENT OR ENGAGING IN SUBSTANCE ABUSE AFTER TREATMENT.

The Department will deny TAFI benefits to any participant who leaves treatment before being released, or engages in substance abuse following treatment. (7-1-01)T

313. CONTINUATION OF ELIGIBILITY FOR CHILDREN.

A dependent child's eligibility for TAFI is not affected if an adult in the assistance unit is ineligible for refusal to comply with the substance abuse screening, testing or treatment. (7-1-01)T

314. PROTECTIVE PAYEE.

If an adult in the assistance unit is ineligible for TAFI for failure to comply with substance abuse screening, testing or treatment requirements, the Department may establish a protective payee for the benefit of the child. If the adult refuses to cooperate in establishing an appropriate protective payee for the child, the Department may appoint one. (7-1-01)T

315. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

368. CAREER ENHANCEMENT SERVICES.

Career Enhancement services may be provided to an individual with dependent children. The individual must have a work-related need, that if unmet, would prevent them from ~~obtaining or~~ maintaining employment or participate in work programs. Career Enhancement services are non-recurrent, short-term, and designed to deal with a specific crisis situation or episode of need. Career Enhancement payments do not count towards the TAFI twenty-four (24) month time limit. (~~1-1-00~~)F(11-1-00)T

369. CAREER ENHANCEMENT SUPPORTIVE SERVICES.

Career Enhancement supportive services are provided to help individuals participate in career enhancement activities, including employment. Career Enhancement supportive services must not extend beyond four (4) months per episode of need. The individual may only receive one (1) Career Enhancement payment or Emergency Assistance payment in a twelve (12) month period. ~~(1-1-00)F(11-1-00)T~~

(BREAK IN CONTINUITY OF SECTIONS)

371. CAREER ENHANCEMENT ELIGIBILITY CRITERIA.

The individual must meet the criteria in Subsections 371.01 through 371.14. (1-1-00)T

01. Application For Career Enhancement Services. An application form must be completed for Career Enhancement services, unless the family already receives services from the Food Stamp Medicaid, Idaho Child Care or Child Support Services programs. A Career Enhancement service plan must be completed for all eligible individuals. (1-1-00)T

02. Verification Of Career Enhancement Eligibility. SSN must be verified. Other eligibility criteria are verified at the discretion of the Department. (1-1-00)T

03. Eligible Individual. The individual must not have failed, without good cause, to comply with a previous Career Enhancement service plan. The individual must be a parent or a caretaker relative with a dependant child in the home, a pregnant woman; or a non-custodial parent legally responsible to provide support for a dependent child who does not reside in the same home. (1-1-00)T

04. Need For Work-Related Services. The individual must be in need of work-related services to ~~obtain or~~ maintain employment or participate in work programs. The individual must participate in meeting the need to the extent possible. This requires the individual to meet a portion of the need if possible, and to explore other resources available to meet the need. ~~(1-1-00)F(11-1-00)T~~

05. Income Limit. The family must meet the income limit for only the first month of the service to receive Career Enhancement services. The family's income must be below two hundred percent (200%) of the federal poverty guidelines, or the family must be eligible for Food Stamps, Medicaid or ICCP. For non-custodial parents, the family's income must be below four hundred percent (400%) of the federal poverty guidelines, or the family must be eligible for Food Stamps or Medicaid. (1-1-00)T

06. Citizenship And Legal Non-Citizen. The individual must be a citizen or must meet the legal non-citizenship requirements of Section 131. (7-1-99)

07. SSN. An SSN, or proof of application for an SSN, must be provided for the individual. (1-1-00)T

08. Residence. The individual must live in the state of Idaho and must not be a resident of another state. (7-1-99)

09. Duplication of Services. Career Enhancement services must not be provided for a need already met by Emergency Assistance under IDAPA 16.06.01, "Rules Governing Family and Children's Services," or by a one-time TAFI cash payment. (1-1-00)T

10. TANF Restrictions. The family must not be receiving TANF or TAFI benefits or be serving a TAFI sanction. The individual must not receive Career Enhancement services if he has received five (5) years of TANF benefits. The family must not be receiving TANF Extended Cash Assistance. If the individual received an Emergency Assistance to Needy Families with children payment within the past twelve (12) months the individual cannot receive Career Enhancement. If the individual has received Career Enhancement within the past twelve (12) months the individual cannot receive Career Enhancement. ~~(1-1-00)F(11-1-00)T~~

11. Controlled Substance Felons. Individuals convicted under federal or state law of any offense classified as a felony involving the possession, use or distribution of a controlled substance can receive Career Enhancement services when they comply with the terms of a withheld judgment, probation or parole. The felony must have occurred after August 22, 1996. (7-1-00)T

12. Fleeing Felons. Felons who are fleeing to avoid prosecution, custody or confinement after conviction of a felony or an attempt to commit a felony cannot receive Career Enhancement services. (1-1-00)T

13. Probation Or Parole Violation. Felons who are violating a condition of probation or parole imposed for a federal or state felony cannot receive Career Enhancement services. (1-1-00)T

14. Fraud. Individuals convicted in a federal or state court of fraudulently misrepresenting residence to get TANF, AABD, Food Stamps, Medicaid, or SSI, from two (2) or more states at the same time, cannot receive Career Enhancement services for ten (10) years from the date of conviction. (1-1-00)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM IN IDAHO
DOCKET NO. 16-0309-0008

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The amendments to the temporary rule are effective January 1, 2000. The pending rule has been adopted by the agency and is now pending review by the 2001 Idaho State Legislature for final adoption. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section(s) 56-202(f), Idaho Code.

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

In Section 010.02 reference to the Internet has been added. The proposed rules have been amended in response to public comment, and are being amended pursuant to Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Director amended the temporary rule with the same revisions which have been made to the proposed rule.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume 00-10, page(s) 320 and 321.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Becca D. Ruhl at (208) 395-2040.

DATED this 8th day of November, 2000.

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

IDAPA 16, TITLE 03, Chapter 09

RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM IN IDAHO

**There are substantive changes from the proposed rule text.
Text added to the pending rule is in italics.**

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 00-10, October 4, 2000, pages 320 and 321.

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 AMENDED TEXT OF DOCKET NO. 16-0309-0008

SUBSECTION 010.02

010. PUBLIC ACCESS TO PROGRAM INFORMATION.

02. Availability Of Materials. Copies of IDAPA 16.03.09, "Rules Governing the Medical Assistance Program in Idaho," or other MA program information affecting the public can be found on the State web page or will be furnished to any individual or organization who, in accordance with Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Rules Governing the Protection and Disclosure of Department Records (Confidentiality)". Formal requests for specific information can be submitted to the Department's Administrative Procedure Section, 450 W. State Street, P.O. Box 83720, Boise, ID 83720-0036. ~~(1-1-00)~~(1-1-00)T

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

DOCKET NO. 16-0309-0009

NOTICE OF PENDING RULE

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

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

HB 797 requires that the Department reduce its current one hundred (100) visit limitation on Physical Therapy visits and preauthorized any medically necessary visits over that limit. This rule change reduces the number of unauthorized visits to twenty-five (25) per calendar year and require authorization for any visits over the twenty-five (25) by the Department of Health and Welfare.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Administrative Bulletin, Volume 00-10, pages 322 through 327.

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

DATED this 8th day of November, 2000.

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

IDAPA 16, TITLE 03, Chapter 09

RULES GOVERNING MEDICAL ASSISTANCE PROGRAM

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 00-10, October 4, 2000, pages 322 through 327.

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

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

DOCKET NO. 16-0309-0010

NOTICE OF PENDING RULE

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

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

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

The changes implement SB 1365. The major points are: All PCS and Attendant providers will be employees of an agency; CNA requirements is modified to allow other training; and PCS supervision by MD and RN expanded.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Administrative Bulletin, Volume 00-10, pages 328 through 354.

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

DATED this 5th day of December, 2000.

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

IDAPA 16, TITLE 03, Chapter 09

RULES GOVERNING MEDICAL ASSISTANCE PROGRAM

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 00-10, October 4, 2000, pages 328 through 354.

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

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

DOCKET NO. 16-0309-0012

NOTICE OF PENDING RULE

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

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

Changes to the rule will be made as required by legislative intent, generic drugs will be dispensed by the pharmacy unless prior authorized by the Department.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Administrative Bulletin, Volume 00-10, pages 364 through 367.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Gary Duerr at (208) 364-1829.

DATED this 7th day of November, 2000.

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

IDAPA 16, TITLE 03, Chapter 09

RULES GOVERNING MEDICAL ASSISTANCE PROGRAM

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 00-10, October 4, 2000, pages 364 through 367.

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.11 - RULES GOVERNING INTERMEDIATE CARE FACILITIES FOR THE
MENTALLY RETARDED (ICF/MR)

DOCKET NO. 16-0311-0101

NOTICE OF TEMPORARY RULE

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

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule. The action is authorized pursuant to Section(s) 39-1303a, 39-1307 and 67-6532, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of the supporting reasons for temporary rulemaking.

There are currently four hundred and seventy-four (474) community ICF/MR beds. The bed cap is set at four hundred and eighty-six (486) leaving the use of the other twelve (12) beds to be determined. The rules will state that the twelve (12) beds will be used for temporary emergency use, whereby ICF/MR's may request a temporary time-limited waiver to exceed the bed capacity at a specific facility, to accommodate the emergency placement needs of consumers.

The rule change is temporary only and covers the time period of July 1, 2000 to June 30, 2001. On June 30, 2001, the rule will become null and void. The rule is a temporary measure intended to achieve compliance with 2000 Legislative Intent Language, while the Department works collaboratively with providers and advocates to develop and implement long range cost controls.

TEMPORARY RULE JUSTIFICATION: The temporary rule has been adopted in accordance with Section 67-5226, Idaho Code and is necessary in order to comply with deadlines in amendments to governing law or federal programs.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary rule, contact Sylvia Creswell at (208) 364-1863.

DATED this 5th day of December, 2000.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0311-0101

310. APPLICATION FOR INITIAL LICENSE.

Application for an initial license to operate an ICF/MR facility will be governed by the following rules: (7-1-80)

01. Form Of Application. All persons planning the operation of a facility must apply to the

Department for an initial license on a form provided by the Department. This application must be submitted to the Department at least ninety (90) days prior to the planned opening date. (7-1-80)

02. Additional Documents Required. In addition to the application form, the following must be submitted prior to occupancy: (7-1-80)

- a. A certificate of occupancy from the local building and fire authority. (7-1-80)
- b. Evidence of staffing patterns, qualifications of employees, and organizational design. (7-1-80)
- c. If the facility is owned by a corporation, the names and addresses of all officers and stockholders having more than five percent (5%) ownership. (7-1-80)

03. Status Of Existing License Pending Renewal. When an application for renewal of a license has been made in the proper manner and form, the existing license will, unless revoked, remain in force and effect until the Department has acted on the application for renewal. (7-1-80)

04. Change Of Ownership. Before a new owner can operate a facility, he must submit a new application for a license and must receive the license from the Department. (7-1-80)

05. Total Number Of Licensed And Medicaid Certified ICF/MR Beds. The total number of licensed and Medicaid Certified ICF/MR beds shall not exceed four hundred eighty-six (468) at any given time. To accommodate the needs of ICF/MR eligible consumers, twelve (12) of the total beds within this limitation shall be reserved for time-limited emergency use as specified in Subsection 320.02 of this chapter. (7-1-00)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.04.10 - RULES GOVERNING COMMUNITY SERVICES BLOCK GRANT PROGRAM
DOCKET NO. 16-0410-0001 (REPEAL)
NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 56-1004, 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.

Repeal of the entire chapter is necessary due to Federal Law changes as contained in the 1998 Federal CSBG Reauthorization.

The pending rule is being adopted as proposed and the chapter is being repealed. The original text of the proposed rule was published in the October 4, 2000 Administrative Bulletin, Volume 00-10, page 376.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Patti Campbell.

DATED this 1st day of November, 2000.

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

IDAPA 16, TITLE 04, Chapter 10

RULES GOVERNING COMMUNITY SERVICES BLOCK GRANT PROGRAM

This chapter is being repealed in its entirety.

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 00-10, October 4, 2000, page 376.

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.04.10 - RULES GOVERNING THE COMMUNITY SERVICES BLOCK GRANT PROGRAM
DOCKET NO. 16-0410-0002

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is October 1, 2000. This pending 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 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section(s) 56-1004, Idaho Code.

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

In Section 127 clarification was made in regards to the sale of real property. The proposed rules have been amended in response to public comment and to make transcriptional corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code.

Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Director amended the temporary rule with the same revisions, that have been made to the proposed rule.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules were published in the October 4, 2000 Administrative Bulletin, Volume 00-10, page(s) 377 through 383.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5815.

DATED this 1st day of November, 2000.

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

IDAPA 16, TITLE 04, Chapter 10

RULES GOVERNING THE COMMUNITY SERVICES BLOCK GRANT PROGRAM

There are substantive changes from the proposed rule text.
Text added to the pending rule is in italics.

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 00-10, October 4, 2000, pages 377 through 383.

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 AMENDED TEXT OF DOCKET NO. 16-0410-0002

SECTION 127

127. INCOME ELIGIBILITY REQUIREMENTS.

Assistance under this program is limited to participant households with countable income at or below one hundred twenty-five percent (125%) of the Poverty Guidelines updated annually in the Federal Register by the US Department of Health and Human Services under the authority of 42 U.S.C. 9902(s), effective thirty (30) days after publication. (10-1-00)T

Subsection 127.02.f.

02. Income Not Counted. For eligibility purposes, the following types of income are not counted. (10-1-00)T

f. Sale of real property *if reinvested within three (3) calender months.* ~~(10-1-00)T~~(10-1-00)T

**IDAHO DEPARTMENT OF ADMINISTRATION
OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR
AND THE IDAHO DEPARTMENT OF HEALTH AND WELFARE**

16.04.12 - RULES GOVERNING THE INDIVIDUAL AND FAMILY GRANT PROGRAM

DOCKET NO. 16-0412-0001

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-1004, Idaho Code and is being done in conjunction with the Office of the Administrative Rules Coordinator.

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.

This chapter, IDAPA 16.04.12, was inadvertently omitted from the printed edition of the Idaho Administrative Code, July 1, 2000. Chapter 67, Title 52, Idaho Code requires that the rule be re-codified as a result of this omission. The rule is being repromulgated as previously adopted in accordance with Idaho Code. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 6, 2000, Idaho Administrative Bulletin, Volume 00-9, pages 94 through 98.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Sherri Kovach at 334-5552 or Dennis Stevenson at 332-1820.

DATED this 16th day of November, 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

IDAPA 16, TITLE 04, Chapter 12

RULES GOVERNING THE INDIVIDUAL AND FAMILY GRANT PROGRAM

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 00-9, September 6, 2000, pages 94 through 98.

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.04.14 - RULES GOVERNING LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

DOCKET NO. 16-0414-0001

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 56-1004(1), Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Administrative Bulletin, Volume 00-10, pages 384 through 386.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5815.

DATED this 1st day of November, 2000.

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

IDAPA 16, TITLE 04, Chapter 14

RULES GOVERNING LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

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 00-10, October 4, 2000, pages 374 through 386.

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.03 - RULES GOVERNING CONTESTED CASE PROCEEDINGS AND DECLARATORY RULINGS

DOCKET NO. 16-0503-0001 (REPEAL)

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 16-107, 56-133, 56-135, 56-202, 56-203, 56-204A, 56-216, 56-1003, 56-1004, and 56-1005, Idaho Code.

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

The pending rule is being adopted as proposed and the chapter is being repealed. The original text of the proposed rule was published in the October 4, 2000 Administrative Bulletin, Volume 00-10, page 387.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Jeanne Goodenough at (208) 334-5537.

DATED this 5th day of December, 2000.

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

IDAPA 16, TITLE 05, Chapter 03

RULES GOVERNING CONTESTED CASE PROCEEDINGS AND DECLARATORY RULINGS

This chapter is being repealed in its entirety.

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 00-10, October 4, 2000, page 387.

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.05.03 - RULES GOVERNING CONTESTED CASE PROCEEDINGS
AND DECLARATORY RULINGS

DOCKET NO. 16-0503-0002

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 16-107, 56-133, 56-135, 56-202, 56-203, 56-204A, 56-216, 56-1003, 56-1004, and 56-1005, Idaho Code.

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

In Section 106 the time limit for providing good cause for not appearing at a scheduled hearing was increased to fourteen (14) days and the process for avoiding default was clarified. In Section 101, after the word "verbally", "to Department staff" was added. In Section 120 text was added authorizing the hearing officer to issue such other orders as are needed for the orderly conduct of a proceeding. In Section 130, the hearing officer's authority to protect the privacy of participants has been added. In Section 131 language was clarified regarding the hearing officer's deference to the Department's interpretation of statute, rule, regulation or policy. In Sections 150 and 151, language was added regarding the Directors and Board's review on appeal. In Section 204 text was removed regarding the Individual and Family Grant Program and in Section 206 text was amended to say a hearing can be consolidated when there are multiple appeals or a group appeal involving the "same change in" law, rules, or policy. The proposed rules have been amended in response to public comment and to make transcriptional corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the October 4, 2000 Administrative Bulletin, Volume 00-10, page(s) 388 through 396.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Jeanne Goodenough at (208) 334-5537.

DATED this 24th day of October, 2000.

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

IDAPA 16, TITLE 05, Chapter 03

RULES GOVERNING CONTESTED CASE PROCEEDINGS AND DECLARATORY RULINGS

There are substantive changes from the proposed rule text.
Text added to the pending rule is in italics.

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 00-10, October 4, 2000, pages 388 through 396.

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 AMENDED TEXT OF DOCKET NO. 16-0503-0002

SECTION 101

101. FILING OF APPEALS.

Appeals shall be filed in writing and shall state the appellant's name, address and phone number, and the remedy requested, except that appeals of action relating to Division of Welfare programs listed in Section 200 of these rules may be made verbally *to Department Staff* by an individual or representative. Appeals should be accompanied by a copy of the decision that is the subject of the appeal. Unless otherwise provided by statute or these rules, individuals who are aggrieved by a Department decision shall have twenty-eight (28) days from the date of the decision is mailed to file an appeal. ()

SECTION 106

106. DEFAULT.

If a party fails to appear at a scheduled hearing or at any stage of a contested case ~~without good cause~~, the hearing officer may enter a proposed default order against that party. The default order shall be set aside if, *within fourteen (14) days of the date of mailing*, the appellant ~~provides good cause for not appearing within seven (7) days of service of the order~~ *submits a written explanation for not appearing, which the hearing officer finds substantial and reasonable.* ()

SECTION 120

120. DISCOVERY.

Except for hearings involving Section 56-1005(5), Idaho Code, prehearing discovery shall be limited to obtaining the names of witnesses and copies of documents the opposing party intends to offer as exhibits. The hearing officer may order ~~disclosure~~ *production* of this information if a party refuses to comply after receiving a written request. *The hearing officer shall issue such other orders as are needed for the orderly conduct of the proceeding.* Nothing in Section 120 shall limit the authority of the Director provided in Section 56-227C, Idaho Code. ()

SECTION 130

130. OPEN HEARINGS.

All contested case hearings are open to the public, unless ordered closed in the discretion of the hearing officer due to the sensitive nature of the hearing. *The hearing officer can order that individuals be identified by initials or an alias if necessary to protect their privacy.* Witnesses may testify by telephone or other electronic means, provided the

examination and responses are audible to all parties. ()

SECTION 131

131. AUTHORITY OF HEARING OFFICER.

The hearing officer shall consider only information that was available to the Department at the time the decision was made. If appellant shows that there is additional relevant information that was not presented to the Department with good cause, the hearing officer shall remand the case to the Department for consideration. No hearing officer shall have the jurisdiction or authority to invalidate any federal or state statute, rule, regulation, or court order. No hearing officer shall substitute his judgment for that of Department officials on matters of substance or policy, nor shall any defer to the Department's interpretation of statutes, rules, regulations or policy unless the hearing officer finds the interpretation to be contrary to statute or an abuse of discretion. The hearing officer shall not retain jurisdiction on any matter after it has been remanded to the Department. ()

SECTION 150

150. REVIEW OF PRELIMINARY ORDERS BY DEPARTMENT.

In cases under the jurisdiction of the Department, either party may file a request for review with the Administrative Procedures Section not later than fourteen (14) days from the date the preliminary order was mailed. The request shall identify all legal and factual bases of disagreement with the preliminary order. The Director or designee shall allow for briefing by the parties and shall determine whether oral argument will be allowed. The Director or designee shall determine whether a transcript of the hearing is needed and if so, one shall be provided by the party who requests review of the preliminary order. A final decision shall be issued within fifty-six (56) days after the matter has been submitted for decision. The Director or designee shall exercise all of the decision-making power he would have had if he had presided over the hearing. ()

SECTION 151

151. PETITION FOR REVIEW BY BOARD OF HEALTH AND WELFARE.

In cases under the jurisdiction of the Board, either party may file a petition for review with the Administrative Procedures Section not later than twenty-eight (28) days from the date the preliminary order was mailed. The Administrative Procedures Section shall establish a schedule for the submission of briefs and if allowed, oral argument. Appellant shall provide a transcript of the hearing before the hearing officer unless the appeal involves only questions of law. The Board shall exercise all of the decision-making power they would have had if they had presided over the hearing. ()

SECTION 204

204. TIME LIMITS FOR COMPLETING HEARINGS.

The Department shall conduct the hearing relating to an individual's benefits and take action within ninety (90) days from the date the hearing request is received. When the hearing request concerns the computed amount of the Community Spouse Resource Allowance, the hearing shall be held within thirty (30) days from the date the hearing request is received. The Department shall expedite hearing requests from appellants such as migrant farm workers who are planning to move before the hearing decision would normally be reached. An applicant for benefits or services in the Individual and Family Grant Program who is dissatisfied with the administrative panel's determination of eligibility or grant amount may appeal not later than fourteen (14) days from mailing of the determination. ()

SECTION 206

206. CONSOLIDATED HEARING.

When there are multiple appeals or a group appeal involving same change in law, rules, or policy, the hearing officer shall hold a consolidated hearing. ()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.05.06 - RULES GOVERNING MANDATORY CRIMINAL HISTORY CHECKS
DOCKET NO. 16-0506-0101 (REPEAL)
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule is effective January 1, 2001.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(b), 56-203(h), 56-204(A), 39-1208, 16-1826(2), 39-1210(10), 39-1211(4), 39-1213, 39-3372, 39-3342 and 39-5604, Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 17, 2001.

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 to the proposed rulemaking:

This chapter is being repealed in its entirety and re-written in Docket No. 16-0506-0002 which is being published in this Bulletin following this notice.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was with criminal history work groups comprised of department staff representing all programs impacted by the criminal history process.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Tracy Goodin at (208) 334-4932.

Anyone can submit written comments regarding the proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before January 24, 2001.

DATED this 9th day of November, 2000.

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

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.05.06 - RULES GOVERNING MANDATORY CRIMINAL HISTORY CHECKS

DOCKET NO. 16-0506-0102

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule is effective January 1, 2001.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(b), 56-203(h), 56-204(A), 39-1210(10), 39-1211(4), 39-1213, 39-3372, 39-3342 and 39-5604, Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 17, 2001.

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 to the proposed rulemaking:

This chapter is being re-written in its entirety, however much of the original substantive language remains. The rule changes include clarification of the process of the criminal history check, the exemption review process, and the working definitions. This rule also expands the list of crimes for which there will be an automatic denial. The changes to the rule are to clarify and expedite the criminal history check process while ensuring the protection of the public health and safety.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was with criminal history work groups comprised of department staff representing all programs impacted by the criminal history process.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Tracy Goodin at (208) 334-4932.

Anyone can submit written comments regarding the proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before January 24, 2001.

DATED this 9th day of November, 2000.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0506-0102

IDAPA 16, TITLE 05, Chapter 06

RULES GOVERNING MANDATORY CRIMINAL HISTORY CHECKS

000. LEGAL AUTHORITY.

The Idaho Legislature has granted the Director of the Department of Health and Welfare the power and authority to conduct mandatory criminal history checks pursuant to Sections 56-202(b), 56-203(h), 56-204(A), 39-1105, 39-1210(10), 39-1211(4), 39-1213, 39-3372, 39-3342, and 39-5604, Idaho Code. (1-1-01)T

001. TITLE AND SCOPE.

01. Title. These rules are to be cited in full as Idaho Department of Health and Welfare Rules, IDAPA 16, Title 05, Chapter 06, "Rules Governing Mandatory Criminal History Checks". (1-1-01)T

02. Scope. These rules are established to assist in the protection of children and vulnerable adults by requiring criminal history checks of individuals who provide care or services that are financially supported, licensed or certified by the Department of Health and Welfare. (1-1-01)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations associated with this chapter of rules. (1-1-01)T

003. ADMINISTRATIVE APPEALS.

Appeals and proceedings shall be governed by the Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings". (1-1-01)T

004. INCORPORATION BY REFERENCE.

There are no documents being incorporated by reference. (1-1-01)T

005. IDAHO PUBLIC RECORD ACT.

The Department of Health and Welfare will comply with Sections 9-337 through 9-347, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempt, as set forth in Section 9-340, Idaho Code, and other state and federal laws and regulations, all public records in the custody of the Department of Health and Welfare are subject to disclosure. (1-1-01)T

006. -- 009. (RESERVED).

010. DEFINITIONS AND ABBREVIATIONS.

01. Criminal History Check. The criminal history check is a fingerprint based check consisting of a self-declaration, fingerprints of the individual, information obtained from the Federal Bureau of Investigation, the National Criminal History Background Check System, Bureau of Criminal Identification, the statewide Child Abuse Registry, Adult Protection Registry, Sexual Offender Registry, and Medicaid S/URs sanction list. (1-1-01)T

02. BCI. The Idaho State Police Bureau of Criminal Investigation. (1-1-01)T

03. EMS. Emergency Medical Services. (1-1-01)T

04. FBI. Federal Bureau of Investigation. (1-1-01)T

- 05. Department.** The Idaho Department of Health and Welfare. (1-1-01)T
- 06. Good Cause.** The conduct of a reasonably prudent person in the same or similar circumstances. (1-1-01)T
- 07. S/UR's.** Surveillance and Utilization Review Section. (1-1-01)T

011. -- 014. (RESERVED).

015. INDIVIDUALS SUBJECT TO MANDATORY CRIMINAL HISTORY CHECKS.

01. Department Individuals. A self-declaration and a criminal history check shall be required of Department employees, volunteers, student interns, and any other persons who have direct contact with children or vulnerable adults as defined in Section 39-5302(10), Idaho Code. (1-1-01)T

02. Other Individuals. A self-declaration and a criminal history check shall be required of other individuals, including providers and contractors and their employees, volunteers, and student interns and any other persons, who provide Department funded direct care or services to children or vulnerable adults as defined in Section 39-5302(10), Idaho Code. These include but are not limited to: (1-1-01)T

- a. Providers of personal care, excluding employees of nursing homes and licensed residential and assisted living facilities; (1-1-01)T
- b. Adult family home care providers and all adults in the home or on the property; (1-1-01)T
- c. Children's foster home care providers and other individual(s) age eighteen (18) or older residing in the foster care provider's home or property; (1-1-01)T
- d. Providers of adult day care and all adults in the home, if provided in a private residence; (1-1-01)T
- e. Providers of children's day care and all other individuals over twelve (12) years of age in the day care who have unsupervised contact with children; (1-1-01)T
- f. Residential care facility personnel; (1-1-01)T
- g. Personnel of children's residential care facilities; (1-1-01)T
- h. Providers in adult day treatment facilities; (1-1-01)T
- i. Personnel of agencies with Medicaid Provider Agreements or Department contracts who have direct contact with children or vulnerable adults; (1-1-01)T
- j. All persons applying to the Department to be an adoptive parent; (1-1-01)T
- k. All persons petitioning the court for adoption for a child except in the case of a step-parent adoption or when waived by the Court; and (1-1-01)T
- l. Applicants for certified EMS and EMS communications specialists. (1-1-01)T

016. SELF-DECLARATION.

Individuals who are subject to a criminal history check shall complete a self-declaration form signed under penalty of perjury that contains the name, address and date of birth which appears on a valid identification document issued by a governmental entity. The self-declaration is the individual's request for the criminal history check to be done and authorizes the Department to obtain information and release it as required without liability. The applicant shall disclose any conviction or pending indictment for crimes and to furnish a description of the crime and the particulars and any other information as required. The Department shall complete the criminal history check and inform the individual of the results. (1-1-01)T

017. TIMEFRAME FOR SELF-DECLARATION AND FINGERPRINTING.

All individuals covered by these rules shall complete a self-declaration form and fingerprinting within ten (10) days from the date of hire or, in the case of volunteers or student interns, the date they begin to provide direct services. (1-1-01)T

018. FEES AND COSTS.

The payment of the fee for a criminal history check and an updated criminal history check shall be the responsibility of the individual. The fee is eighteen dollars (\$18) for volunteers; five dollars (\$5) for a state update; forty-five dollars (\$45) for day care providers and their employees; and thirty-four dollars (\$34) for all other individuals. (1-1-01)T

019. UPDATING CRIMINAL HISTORY CHECKS.

01. Criminal History Check Every Five Years. Every individual covered under these rules shall complete an updated criminal history check every five (5) years if continuously employed or otherwise reimbursed in the state. An updated criminal history check shall include a self-declaration form, state and local checks, and child and adult protection checks. (1-1-01)T

02. Individuals - Covered Not Continuously Employed. Any individual covered under these rules who has not been continuously employed or otherwise reimbursed in the state during the past five (5) years shall complete a criminal history check, including fingerprints. (1-1-01)T

03. Department Discretion. The Department may, at its discretion, require a criminal history check or updated criminal history check of any individual covered under these rules at any time during the individual's employment. (1-1-01)T

04. Determination Of Time For Update. Five (5) years will be calculated from the date of the individual's most recent Criminal History Check letter of approval. (1-1-01)T

020. -- 029. (RESERVED).

030. DESIGNATED CRIMES RESULTING IN AN UNCONDITIONAL DENIAL.

Individuals shall not be permitted to provide direct care or services when their criminal history check reveals that they have pled guilty, been found guilty or have been adjudicated of one (1) of the designated crimes listed below, or their equivalent, under the laws of any other jurisdiction, regardless of whether the individual received a withheld judgment, a dismissal which resulted from a plea agreement where probation or restitution was required, or a sealed record. (1-1-01)T

01. Unconditional Denial. An unconditional denial shall be issued within in ten (10) working days of the completion of a criminal history check. (1-1-01)T

02. Designated Crimes. No exemption shall be granted for any of the following designated crimes: (1-1-01) T

a. Armed robbery, as defined by Section 18-6501, Idaho Code; (1-1-01)T

b. Arson, as defined by Sections 18-801 through 18-805, Idaho Code; (1-1-01)T

c. Crimes against nature, as defined by Section 18-6605, Idaho Code; (1-1-01)T

d. Forcible sexual penetration by use of a foreign object, as defined by Section 18-6608, Idaho Code; (1-1-01)T

e. Incest, as defined by Section 18-6602, Idaho Code; (1-1-01)T

f. Injury to a child, felony or misdemeanor, as defined by Section 18-1501, Idaho Code; (1-1-01)T

- g. Kidnapping, as defined by Sections 18-4501 through 18-4503, Idaho Code; (1-1-01) T
- h. Lewd conduct with a minor, as defined by Section 18-1508, Idaho Code; (1-1-01)T
- i. Mayhem, as defined by Section 18-5001, Idaho Code; (1-1-01)T
- j. Murder in any degree, voluntary manslaughter, assault or battery with intent to commit a serious felony, as defined by Sections 18-4001, 18-4003, 18-4006, and 18-4015, Idaho Code; (1-1-01)T
- k. Poisoning, as defined by Sections 18-4014 and 18-5501, Idaho Code; (1-1-01)T
- l. A felony involving a controlled substance within seven (7) years of the date of conviction; (1-1-01)T
- m. Possession of sexually exploitative material, as defined by Section 18-1507A, Idaho Code; (1-1-01)T
- n. Rape, as defined by Section 18-6101, Idaho Code; (1-1-01)T
- o. Felony stalking, as defined by Section 18-7905, Idaho Code; (1-1-01)T
- p. Sale or barter of a child, as defined by Section 18-1511, Idaho Code; (1-1-01)T
- q. Sexual abuse or exploitation of a child, as defined by Sections 18-1506 and 18-1507, Idaho Code; (1-1-01)T
- r. Any felony punishable by death or life imprisonment; (1-1-01)T
- s. Any felony involving any type or degree of embezzlement, fraud, theft or burglary within seven (7) years from the date of conviction; (1-1-01)T
- t. Abuse, neglect or exploitation of a vulnerable adult, as defined by Section 18-1505, Idaho Code; or (1-1-01)T
- u. Attempt or conspiracy to commit any of the designated crimes. (1-1-01)T

031. PREVIOUS DENIALS.

The Department shall automatically deny the current request for a criminal history check when there has been a denial within the last three (3) years for any Department program. The individual shall not be entitled an exemption review on the current application. (1-1-01)T

032. MEDICAID SANCTION.

Any individual subject to these rules, who has a current sanction from S/URs or the Office of Inspector General, shall not provide services within the scope of these rules. At the expiration of the sanction, the individual may reapply to the Department to provide services. (1-1-01)T

033. CONDITIONAL DENIALS.

The Department may issue a conditional denial within fourteen (14) days of the completion of a criminal history check, when the criminal history check reveals a plea, finding or adjudication of guilt to any felony or misdemeanor, any crime other than a traffic violation which does not result in a suspension of the individual's driver's license, or a valid finding in a child protection or adult protection referral. The Department may issue a conditional denial when the results of the criminal history check reveal that the individual has falsified or omitted information on the self-declaration form. A conditional denial shall become effective immediately unless the individual requests an exemption review within fourteen (14) days of the date of mailing of the denial notice, unless good cause is shown for a delay. (1-1-01)T

034. EXEMPTION REVIEWS.

The Department shall initiate an exemption review for crimes or actions not designated in Section 030 of these rules. As determined by the Department, the review may consist of a review of the documents and supplemental information provided by the individual, a telephonic interview with the individual, an in-person hearing before the Department manager(s) or supervisor(s) appointed as hearing officers by the regional or institutional director or any other review of the individual's criminal history. Exemption reviews shall be governed by and conducted as follows. (1-1-01)T

01. Scheduling An Exemption Review. Upon receipt of the request for an exemption review, the Department shall determine the type of review and, where an in-person hearing is not necessary, conduct such review within fifteen (15) business days from the date of the request. Where an in-person hearing is appropriate, the Department shall conduct a review not more than fifteen (15) business days from the receipt of the request and provide the applicant at least seven (7) days notice of the review date. (1-1-01)T

02. Factors To Be Considered. During the review, the Department shall consider factors or evidence including, but not limited to, the following: (1-1-01)T

- a. The severity or nature of the crime or other findings; (1-1-01)T
- b. The period of time since the incident(s) under current review; (1-1-01)T
- c. The number and pattern of incident(s); (1-1-01)T
- d. Circumstances surrounding the incident(s) that would help determine the risk of repetition; (1-1-01)T
- e. Relationship of the incident(s) to client care activity; (1-1-01)T
- f. Activities since the incident(s) such as continuous employment, education, participation in treatment, payment of restitution, or any other factors which may be evidence of rehabilitation; (1-1-01)T
- g. Granting of a pardon by the Governor or the President; and (1-1-01)T
- h. The falsification or omission of information on the self-declaration form and other supplemental forms submitted. (1-1-01)T

03. Disqualification After Review. The hearing officer(s) shall make a recommendation as to suitability based upon the above factors to the regional or institutional director. The Department shall issue a notice of decision within fifteen (15) business days of the date of review. (1-1-01)T

04. Appeal. Reviews conducted under this section may be appealed under IDAPA 16.05.03, "Rules Governing Contested Cases Proceedings and Declaratory Rulings". The filing of a notice of appeal shall not stay the action of the Department. The individual who files an appeal must establish that the Department's denial was arbitrary and capricious. (1-1-01)T

035. – 039. (RESERVED).

040. CRIMINAL HISTORY RECORDS.

Criminal history checks done pursuant to this chapter become the property of the Department and shall be held confidential. (1-1-01)T

01. Release Of Criminal History Checks. A copy of the criminal history check shall be released: (1-1-01)T

- a. To the individual named in the criminal history upon receipt of a written request to the Department, provided the individual also releases the state from all liability; or (1-1-01)T

- b. In response to a subpoena issued by a court of competent jurisdiction. (1-1-01)T

02. Release Of Information Obtained Through A Criminal History Check. Information may be released, upon written request or upon signed release by the individual who is the subject of the criminal history check, to: (1-1-01)T

a. The verified employer of, or agency affiliated with an individual when the individual's employment requires a criminal history check under these rules; (1-1-01)T

- b. Department licensing or certification personnel; and (1-1-01)T

- c. As otherwise required by law. (1-1-01)T

03. Retention Of Records. If an exemption is granted, the criminal history record, supplemental documentation received, notes from the review, and the decision shall be retained by the Department for a period of not less than six (6) years after the criminal background check is completed. If an exemption is denied, the Department shall retain all records and electronic recordings pertaining to the review for six (6) years after the criminal background check is completed. (1-1-01)T

04. Use And Dissemination Restrictions For FBI Criminal Identification Records. According to the provisions set for in 28 CFR 50.12, the Department shall: (1-1-01)T

a. Notify the applicant or individual fingerprinted that the fingerprints will be used to check the criminal history records of the FBI; (1-1-01)T

b. In determining the suitability for licensing or employment, provide the applicant or individual the opportunity to complete or challenge the accuracy of the information contained in the FBI identification record; (1-1-01)T

c. Afford the applicant or individual fifteen (15) days to correct or complete the FBI identification record or to decline to do so; and (1-1-01)T

d. Advise the applicant or individual who wishes to correct the FBI identification record that procedures for changing, correcting, or updating are set forth in 28 CFR 16.34. (1-1-01)T

041. CONFIDENTIALITY.

Before any information about an individual covered by these rules and contained in departmental records may be released to the person who is the subject of the record, to another departmental unit, to another governmental agency, or to a private individual or organization, the unit of the Department with custody of the record must comply with Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Rules Governing Protection and Disclosure of Department Records," and federal Public Law 103-209 and 92-544. (1-1-01)T

042. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.01 - RULES GOVERNING FAMILY AND CHILDREN'S SERVICES

DOCKET NO. 16-0601-0001

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The amendments to the temporary rule are effective July 1, 2000. The pending rule has been adopted by the agency and is now pending review by the 2001 Idaho State Legislature for final adoption. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section(s) 16-1624, 16-2001, 16-2402, 56-1003, 56-1004, 56-203b, 56-204(a) and 56-204A, Idaho Code.

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

In **Section 030** is additional detail regarding who may receive alternate care payments and requirements for where the child must reside. Detail was added regarding child eligibility for Independent Living and services available.

In **Section 050** documentation of compelling reasons has been placed on the Alternate Care Plan. Added to the section, federally required reasonable effort regarding finalization of a permanent plan. There are changes to Inter Ethic Adoption Provisions, and compelling reasons are to be documented in the family's Alternate Care Plan and reviewed by the court.

Section 400 the title was changed to Voluntary Placements and included description of Service Plan and Out of Home Placement Agreement.

In **Section 401** the title was corrected.

Section 428 was deleted and moved into the table in Section 426.

In **Section 451**, "foster parent" was added to the text for clarification.

Section 570, clarification of whom may sign for a child's driver's license when that child is in Department custody. For a child in the Departments guardianship, the regional director must approve anyone signing for a child's permit or license. When the child has legal parents, the legal parent(s) may sign for the child's permit and license.

Section 491 was deleted because it was duplicative of federal rule and unnecessary. The title in Section 492 was corrected.

Clarified **Section 700** in regards to placement of a child in an adoptive home.

Section 790 was re-written from one long continuous sentence into two (2) sentences to improve readability and clarity.

In **Section 880**, families will assist in amending their original home study after the addition of a child to their home.

Section 892 added home study update to minimum standards.

Section 894, Home study update with a thirty dollar (\$30) fee was added to the fee table.

In **Section 900** private agencies and independent adoption attorneys must document efforts to recruit the most suitable family for a specific child in order for their client to be eligible for non-recurring adoption reimbursement. Also, current wording that led to misapplication of the consideration of race provisions was deleted.

Sections 951-962 were deleted in their entirety as these rules are a duplicate of rules found under IDAPA 16.06.13, Rules Governing Emergency Assistance for Families and Children.

The proposed rules has been amended in response to public comment and to make typographical, transcriptional, and clerical corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Board and Director of Health and Welfare will amend the temporary rule with the same revisions which have been made to the proposed rule.

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

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the August 2, 2000 Idaho Administrative Bulletin, Volume 00-8, page(s) 49 through 109.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Kathy Morris at (208) 334-5706.

DATED this 30th day of November, 2000.

Sherri Kovach
Administrative Procedures Coordinator
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Boise, Idaho 83720-0036
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IDAPA 16, TITLE 06, Chapter 01

RULES GOVERNING FAMILY AND CHILDREN'S SERVICES

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 00-8, August 2, 2000, pages 49 through 109.

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 AMENDED TEXT OF DOCKET NO. 16-0601-0001

SECTION 030

030. CORE FAMILY AND CHILDREN'S SERVICES.

The following core services are the state and federally mandated services provided by or through regional Family and Children's Services offices: (7-1-00)T

Subsection 030.07

07. Alternate Care (Placement) Services. Temporary living arrangements outside of the family home

for children and youth who are victims of child abuse or neglect or children and youth with a severe emotional disturbance. These out of home placements are arranged for and financed in full or in part by the Department. Alternate care is initiated through either a court order or ~~a~~ voluntarily through an out-of-home placement agreement. Payment shall be made on behalf of a child placed in the licensed home of an individual or relative, a public or private child care institution, a home licensed, approved or specified by an Indian child's tribe, or in a state-licensed public child care institution accommodating no more than twenty-five (25) children. Payments may be made to individuals or to a public or private child placement or child care agency. ~~(7-1-00)F(7-1-00)T~~

Subsection 030.10

10. Independent Living. The assessment, ~~and development of a~~ planning, and provision of services to eligible youth to promote self-reliance and successful transition to adulthood ~~for eligible adolescents.~~ Eligibility requirements for Independent Living services include: youth must be between fifteen (15) and twenty-one (21) years of age; youth's care must be the responsibility of the Department or tribal agency as established by a court order or voluntary agreement with the youth's family; and placed in foster care or similar setting for ninety (90) consecutive days. Once established, a youth's eligibility is maintained up to their twenty-first birthday, regardless of whether they continue to be the responsibility of the Department, tribe, or are in foster care. ~~(7-1-00)F(7-1-00)T~~

SECTION 050

050. PROTECTIONS AND SAFEGUARDS FOR CHILDREN AND FAMILIES.

The federal and state laws which are the basis for these rules include a number of mandatory protections and safeguards which are intended to assure timely permanency for children and to protect the rights of children, their families and their tribes. ~~(7-1-00)T~~

Subsections 050.01

01. Reasonable Efforts. Services offered or provided to the family intended to prevent removal of the child from the family, to reunify a child with their family, to finalize a permanent plan, or prevent a seriously emotionally disturbed child from having to move to a more restrictive setting. Efforts must be made as follows and specifically documented by the Department in reports to the court. The court will make the determination of whether or not the efforts were reasonable: ~~(7-1-00)F(7-1-00)T~~

Subsection 050.11

11. Compliance With Requirements Of The Multiethnic Placement Act And Interethnic Placement Act Adoption Provisions. ~~(3-18-99)(7-1-00)T~~

Subsection 050.13

13. Compelling Reasons. Reasons why the parental rights of a parent of a child in the Department's care and custody should not be terminated when the child has been in the custody of the Department for fifteen (15) out of the last twenty-two (22) months. These reasons must be documented in the ~~family~~ Alternate Care pPlan, in a report to the court, and the court must make a determination if the reasons are sufficiently compelling. A compelling reason must be documented in the Alternate Care pPlan and in a report to the court when a child's plan for permanency is not adoption, guardianship, or return home. ~~(7-1-00)F(7-1-00)T~~

SECTION 400

400. AUTHORITY FOR ALTERNATE CARE SERVICES.

Upon approval of the Regional Family and Children's Services Manager or designee, the Department may provide or purchase alternative care under the following conditions: (3-18-99)

Subsection 400.02

02. Voluntary ~~Agreement~~ Placement. Upon agreement with the parents when circumstances interfere with their provision of proper care or they are no longer able to maintain a child with serious emotional disturbance in their home and they can benefit from social work and treatment services. A family service plan and an out-of-home placement agreement must be developed between the Department and the family, ~~and shall~~. The service plan will identify issues, goals, objectives, time frames, tasks and task responsibilities. The out-of-home placement agreement will include the terms for reimbursement of costs with any necessary justification for deviation from Child Support guidelines. A contract between the Department and the service provider, if applicable, must also be in effect. Voluntary out-of-home placements exceeding one hundred eighty (180) days without a judicial determination that it is contrary to the welfare of the child to be returned home, cannot be reimbursed by Title IV-E funds.

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

SECTION 401

401. CONSIDERATIONS FOR PLACEMENT IN ALTERNAT~~IVE~~ CARE.

The Department shall make meaningful reasonable attempts, both verbally and in writing, to inform in priority order, individuals identified below of the potential imminent placement and the requirements for consideration as a placement resource. The Department shall place children in a safe and trusted environment consistent with the best interest and special needs of the children as required by P.L.96-272, Section 475(5). Ideally, placement priority shall be given in the following order: a) Immediate family; b) Extended family members; c) Non-family members with a significant established relationship with the child; d) other licensed foster parent. Upon immediate contact with persons in categories a) through d) above, and after preliminary screening, within seventy-two (72) hours of decision to place, Departmental staff shall make reasonable attempts to inform immediate family members of the way to become a placement resource. Alternate care placement shall in all cases include consideration of:

~~(3-18-99)~~(7-1-00)T

No changes to remainder of Section 401.

SECTION 426

426. AFDC-FC ELIGIBILITY REQUIREMENTS.

A child is eligible for AFDC-FC if he meets each of the eligibility requirements listed in Table 426.

AFDC-FC ELIGIBILITY REQUIREMENTS - TABLE 426		
	CONDITION	DESCRIPTION
01.	Financial Need	A child is in financial need if, in the month court action to remove him from his home was initiated, or the month the voluntary out-of-home placement agreement is signed: He was receiving AFDC He would have been eligible to receive AFDC if an application had been filed on his behalf; or He lived with his parent or other caretaker relative at some time within six (6) prior months and would have qualified for AFDC in the month of court action or voluntary placement if an application had been filed and he lived with a parent or other specified relative in that month.
02.	Voluntary Placement in Foster Home or Voluntary Relinquishment	A foster care placement is voluntary if the parent has a written agreement with the Department to place the child in foster care. The parent retains parental rights and may terminate the agreement at any time. A voluntary relinquishment is not a voluntary placement. A voluntary relinquishment occurs when the parent permanently gives up rights to a child. A court order is required for a voluntarily relinquished child to qualify for AFDC-FC.

AFDC-FC ELIGIBILITY REQUIREMENTS - TABLE 426		
	CONDITION	DESCRIPTION
03.	Age, Residence, Citizenship, and Deprivation	The other AFDC requirements the child must meet are: Age; Residence; Citizenship; Deprivation of parental support determined in relation to the home from which the child was removed; and The AFDC resource limit.
04.	Court Ordered Removal	A child not voluntarily placed must have been removed from the parent or other caretaker relative by court order. The initial court order must state remaining in the home would be "contrary to the welfare" of the child. For children removed on or after October 1, 1983, the court order must include a determination that reasonable efforts were made to prevent or eliminate the need for removal of the child or to make it possible for the child to return home. This judicial determination must be made within sixty (60) days of removal of the child from his home. The court order must state what reasonable efforts were made considering the family's circumstances and the safety of the child when the child is removed from the home in an emergency. When there is a judicial determination of Aggravated Circumstances, the court order must state that no reasonable efforts to reunify the family are required.
05.	Custody and Placement	<u>The child's placement and care are the Department's responsibility. The child must live in a licensed foster home, licensed institution, licensed group home, or in a licensed relative's home.</u>

(7-1-00)F(7-1-00)T

SECTION 451

451. DRIVERS' TRAINING AND LICENSES FOR CHILDREN IN ALTERNATE CARE.

~~Foster parents shall be discouraged to sign for a foster child's driver's license. Insurance purchased by the Department does not provide coverage.~~ No departmental employee or foster parent shall sign for any foster child's driver's license or permit without written authorization from the Regional Director. Any Department employee or foster parent signing for a foster child's driver's license or permit without the Regional Director's approval assumes full personal responsibility and liability for any driving related damages that may be assessed against the child, ~~and shall~~ Those damages will not be covered by the Department's insurance. (3-18-99)(7-1-00)T

Subsection 451.01 and 451.02

01. **Payment By Department.** The Department ~~shall~~ may make payments for driver's training, licenses and permits for children in the Department's guardianship when ~~provided for in the family case plan for older teens for whom emancipation is the goal~~ obtaining a driver's license is part of an older teen's Independent Living Plan. (3-18-99)(7-1-00)T

02. **Payment By Parents.** ~~Only~~ The parents of children in foster care may authorize drivers' training, provide payment and sign for drivers' licenses and permits. (7-1-00)F(7-1-00)T

SECTION 491

488. -- 490~~1~~. (RESERVED).

~~491. FOSTER CARE MAINTENANCE PAYMENTS.~~

~~Foster care maintenance payments shall be made only on behalf of an eligible child who is in a licensed family foster home of an individual, in an approved relative's home, in a public or private child care institution, in a home licensed, approved or specified by the Indian child's tribe, or in a state-licensed public child care institution accommodating no more than twenty five (25) children. Payments may be made to individuals, to a public or private child placement or child care agency. For Title IV-E purposes, payments for foster care maintenance, whether at regular or specialized rates, are limited to the following: (3-18-99)~~

~~01. Maintenance Of Child. The cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, personal incidentals, liability insurance for the child, and reasonable travel to the child's home for visitation. (3-18-99)~~

~~02. Administrative Costs. Reasonable costs of administration and operation of an institution necessarily required to provide the maintenance of the child. (3-18-99)~~

~~03. Exclusions. No Title IV-E reimbursement is available for children placed in detention facilities, forestry camps, training schools or any other facility operated primarily for the detention of delinquent children. (3-18-99)~~

SECTION 492

~~492. PAYMENT REIMBURSEMENT IN THE HOME OF A RELATIVE.~~

~~A child living with a relative may be eligible for a TAFI grant and/or Title XIX benefits. These options will be considered first. No additional room and board payment or foster care payment may be made if the child is receiving TAFI. A foster care payment may be made if the relative is not legally responsible for the support of the child and the child is in the legal custody of the Department. Relatives licensed as a foster family must be afforded the opportunity to receive foster care reimbursement for any child(ren) placed in their home through the Department. A relative foster family may choose not to accept a foster care reimbursement and apply for a TAFI grant or provide for the child's care using their own financial resources. (7-1-00)F(7-1-00)T~~

SECTION 700

700. ADOPTION SERVICES POLICY.

Where reasonable efforts to reunite or preserve a family are unsuccessful, or where relinquishment is requested by the parents, the Department shall consider whether termination of parental rights is in the best interests of the child. The Department shall ensure that make every effort to place any child legally free for adoption ~~is placed~~ in an appropriate adoptive home; Each child will be placed with an adoptive family that who can support the racial, ethnic or cultural identity of the child, and is able to cope with any forms of discrimination the child may experience.

(7-1-00)F(7-1-00)T

SECTION 790

790. FOSTER PARENT ADOPTIONS.

When a child is in a foster home, the plan for the child is adoption, and the foster parents want to be considered as adoptive parents, the same procedure will be followed and the same requirements will apply as with other adoptive applicants, including The procedure and requirements are the same for all adoptive applicants. This includes foster parents who want to be considered as adoptive parents for a child who has a plan of adoption. These requirements

include compliance with the Indian Child Welfare Act, the Multi-Ethnic Placement Act of 1994 and the Interethnic Adoption Provisions of 1996. ~~(7-1-00)F~~(7-1-00)T

SECTION 880

880. APPLICATIONS FOR ~~SECOND PLACEMENT~~ SUBSEQUENT ADOPTIONS.

When adoptive applicants ~~who are~~ on the Department's ~~waiting~~ list of families waiting to adopt receive a child, ~~whether either~~ through the Department or as an independent placement, ~~the their home~~ study will be closed; ~~and the applicants may reapply following the finalization of the previous adoptive placement if they so desire.~~ ~~(3-18-99)~~(7-1-00)T

Subsection 880.02

02. Update Of Adoption Study. The prospective adoptive family shall assist in ~~updating~~ amending the original adoption study to include information concerning the acceptance and adjustment of the child previously placed in the home, a photograph of the family, including the child previously placed in the home, and their special request for ~~second~~ another placement. ~~(3-18-99)~~(7-1-00)T

SECTION 892

892. MINIMUM STANDARDS FOR SERVICE.

Standards for pre-placement home studies, home study updates, court reports, and supervisory reports must, at a minimum, meet the standards for adoption services established by the Department in these rules. ~~(7-1-00)F~~(7-1-00)T

SECTION 894

894. FEES CHARGED BY THE DEPARTMENT.

Monitoring fees shall accompany the submission of each report and be paid directly to the Department through the Family and Children's Services' regional office as follows:

Table 894. Qualified Individuals	
Home study or Court Report	\$50
Supervision Report or Home Study Update	\$30

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

SECTION 900

900. ADOPTION ASSISTANCE.

The purpose of the adoption assistance program is to encourage the legal adoption of children with special needs who would not be able to have the security of a permanent home without support payments. Applications are made through the Division of Family and Community Services, Resource Development Unit for a determination of eligibility. Once an application for adoption assistance is submitted to the Division of Family and Community Service's, the Division shall respond with a determination of the child's eligibility within forty-five (45) days. ~~(3-18-99)~~

Subsection 900.02.f.

02. Factors Considered. The definition of special needs includes the following factors: (3-18-99)

Subsection 900.02.f.

f. Except in cases of foster parent or relative adoption, the child must have been listed with a state, regional or national adoption exchange. To establish eligibility for a federal non-recurring adoption reimbursement, Private agencies and independent adoption attorneys shall show documentation of efforts to recruit the most suitable family for a specific child. (7-1-00)F(7-1-00)T

Subsection 900.03

~~03. **Racial Backgrounds Other Than Caucasian.** It is recognized that children of racial backgrounds other than Caucasian add another level of complexity in recruiting potential adoptive families. Greater consideration will be given to children who meet the special needs definition who are also a race other than Caucasian. (3-18-99)~~

SECTIONS 923 THROUGH 956

~~923.—950. (RESERVED).~~

~~951. **EMERGENCY ASSISTANCE TO FAMILIES.**~~

~~A family is eligible for Emergency Assistance in Idaho if a licensed social worker within the Department of Health and Welfare, Family and Children's Services receives a report or referral indicating an emergency condition and determines an emergency exists. (3-18-99)~~

~~952. **EMERGENCY ASSISTANCE REQUIREMENTS.**~~

~~01. **Application.** An application is completed by a parent. If both parents are absent, refuse to cooperate in supporting the child or are unwilling to apply on behalf of the child, another adult relative or the Family and Children's Services social worker may complete the application on behalf of the child. (3-18-99)~~

~~02. **Eligible Child.** The family contains a child under the age of eighteen (18). (3-18-99)~~

~~03. **Necessity For Assistance.** The Family and Children's Services social worker has determined that the family has an emergency condition and the family is unable to meet that need. (3-18-99)~~

~~04. **Parent's Refusal To Cooperate With TAFI Requirements, A Personal Responsibility Contract Or Parent's Ineligibility For TAFI Due To Use Of Lifetime TAFI Benefits.** The emergency condition did not arise because the parents failed to cooperate with TAFI requirements, a Personal Responsibility Contract, or are ineligible for TAFI because their lifetime benefit has been met. (3-18-99)~~

~~953. **EMERGENCY CONDITIONS.**~~

~~A family meets the requirements for emergency conditions in the following circumstances: (3-18-99)~~

~~01. **Report Of Abuse Or Neglect.** A family is considered to have an emergency condition if there are reports of risk factors for child abuse or neglect and as a result the child is at risk of out of home placement; or (3-18-99)~~

~~02. **Unmet Service Need.** A family is considered to have an emergency condition if there are unmet service needs that may lead to child abuse or neglect and as a result the child is at risk of out of home placement; or (3-18-99)~~

~~03. **Child's Mental Health.** A family is considered to have an emergency condition if the child is at risk for out home placement due to the child's mental health. (3-18-99)~~

~~954. **EMERGENCY SERVICES.**~~

~~As determined appropriate and necessary by Family and Children's Services personnel if services are not available through the family, extended family, friends, or other community resources, services may be provided to families in~~

~~need and may include: information and referral, case management, court-related activities, intensive in-home services, day treatment, counseling, youth/family companion services, non-residential substance abuse treatment, community-based assessment, respite care, shelter care, and other community-based services provided to meet needs attributable to the emergency or crisis situation and to avoid out-of-home placement or expedite family reunification for the child at risk.~~ (3-18-99)

~~**01. Emergency Payments.** Money payments, payments in kind, or other payments such as vendor payments which are made on behalf of the eligible family for the purchase of goods and services not available through other community resources to meet needs attributable to the emergency or crisis situation.~~ (3-18-99)

~~**02. Placement Services.** Shelter care, foster family care, or residential group care for children separated from their parents, including food, clothing, and supervision unless the child has such assistance provided under Title IV-E. Needed medical care is also included unless the child is eligible for such care under Medicaid.~~ (3-18-99)

~~**955. AUTHORIZATION AND DURATION OF SERVICES AND ASSISTANCE.** Emergency services and assistance are limited to a maximum duration of ninety (90) days or less as necessary to alleviate the emergency condition, and an application and plan must be completed within the first thirty (30) days of the Department's determination of the necessity for assistance.~~ (3-18-99)

~~**956. PROGRAM ADMINISTRATION.** In addition to the assistance and services described in this section, the Department shall engage in activities incidental to and necessary for the proper and efficient administration of the emergency assistance program. Family and Children's Services personnel shall complete the application/planning process including receiving reports and referrals indicating emergency conditions, completing risk assessments, stabilizing families, court-related activities, developing family plans and authorizing services, as well as completing documentation, payment and reporting processes, staff and provider training and other related administrative activities.~~ (3-18-99)

~~95723. -- 999. (RESERVED).~~

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.02 - RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING

DOCKET NO. 16-0602-0001

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 56-202(b), 56-203(b), 56-204A, 56-204(a), 56-1005, 39-1209, 39-1210, 39-1211, 39-1213 and 56-1005(8), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the changes between the text of the proposed rule and the text of the pending rule. In Section 105, language was added that allows applications for renewal, made in the proper manner, to remain in force until the Department has acted on the application for renewal.

Section(s) 400 - 499:

In Section 430, the reference to “fireplaces shall be protected by screens or other means” was moved into Section 431. In Section 726, language was added to include hazardous materials or toxins as being lead paint, asbestos and radon. In Section 103, “parent” was added for clarification. In Section 405.03.v, “about” is added for clarification and in Section 405.03.y, “applicant(s)” is added for clarification. In section 432, “and children's residential” was removed from the text. In Section 438.02.b, “at a foster home” is added to the text for clarification. In Section 442.02, “or day care children” is added for clarification. In Section 442.04.c, the word “or” has been added to the text. In Section 445.04, “the foster parent(s)” was added for clarification. In Section 446.01, the word “foster” was added for clarification and in Section 446.01.j, “visits or” was added to the text. In Section 447.02, “And Illness” was added to the catchline for clarification and in Section 447.04, “A foster parent shall” was added for clarification. In Section 454, “or tribe” was added for clarification. In Section 471.06, the word “or” was added for a grammatical correction.

Section(s) 500 - 599:

In Section 503, “child care” was added for clarification. In Section 571, “documentation of” was added for clarification. In Section 573, the word “the” was added for a grammatical correction. In Section 620, the words “to determine if the family meets required licensing standards to be issued a foster care license” was added for clarification.

Section(s) 600 - 699:

In Section 621, “agency” was added to the text for clarification. In Section 623, “foster parent” was added for clarification. In Sections 650, 660, 680, additional information was added to the section titles. In Section 662, “written” was added for clarification. In Section 710.03 and 710.06 the words “or fraction thereof” was added for clarification.

Section(s) 700 - 799:

In Section 729, the words, “There shall be separate bathroom facilities for staff” was added for clarification. In Section 730.01, “There shall be a minimum of” and the word “the” was added to the text for clarification. In Section 762.04, “Prohibited Locations” was added to the list of appropriate uses of time-outs. In Section 763.01, in the definition, Unlocked Seclusion, the Department has included, “less restrictive and less punitive interventions have been applied without success” to the standard. In Section 763.06 a specific time for seclusion of “one (1) child to not exceed three (3) hours within a twenty-four (24) hour period” has been added. In Section 763.09, the catch line, “Excessive Seclusion” has been changed to “Review”. In Section 764.03, the time limit changed to “ten (10)” minutes.

In Sections 104, 439, and 755, punctuation was corrected. The proposed rules have been amended in response to public comment and to make the typographical, transcriptional, and clerical corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the September 6, 2000 Administrative Bulletin, Volume 00-9, page(s) 99 through 163.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Terri Meyer at (208) 334-5533.

DATED this 3rd day of October, 2000.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Legal Services Division
450 West State Street - 10th Floor
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IDAPA 16, TITLE 06, Chapter 02

RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING

There are substantive changes from the proposed rule text.
Text added to the pending rule is in italics.

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 00-9, September 1, 2000, pages 99 through 163.

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 AMENDED TEXT OF DOCKET NO. 16-0602-0001

SECTIONS 103 THROUGH 105

103. RESTRICTIONS ON APPLICABILITY.

A child care license or certification applies only to the foster home, child care facility, children's residential care facility, children's agency, or person and premises designated. A license issued in the name of a foster *parent*, child care facility or children's agency applies only to the services specified in the license or certification. Any change in management or address renders the license or certification null and void, and the foster parent or operator must

immediately return the license or certification to the licensing agency. ()

104. MANDATORY VISITATIONS.

Pursuant to Section 39-1217, Idaho Code, the Department or other licensing authority shall visit each foster home, child care facility or children's agency as often as it is deemed necessary to assure conformity with the rules for child care licensing. The Department or other licensing authority shall visit, and must be given access to the premises of each foster home, children's residential care facility and children's agency as often as deemed necessary or desirable by the Department but, in any event, at intervals not to exceed six (6) months. ()

105. REVISIT, RELICENSE AND RECERTIFICATION.

Revisit, re-license, and re-certification studies shall document how the foster home, children's residential care facility or children's agency continues to meet the standards for licensing. Consideration must be given to each point of the standards, including a review of the previous study and original application to determine what changes have occurred. An application for renewal of a license or certification must be made by the operator on the form furnished by the Department, and filled out prior to the expiration date of the license or certification currently in force. When such application for renewal has been made in the proper manner and form, the existing license or certification will, unless officially revoked, remain in force until the Department has acted on the application for renewal. ()

SECTION 405

405. INITIAL EVALUATION.

An applicant shall participate in the process and tasks to complete an initial evaluation for foster care licensure. ()

Subsection 405.03

03. Disclosure Of Information. ()

Subsection 405.03.v.

v. The applicant's attitudes about a foster child's family and the applicant's willingness to work with the child's family and tribe; ()

Subsection 405.03.y.

y. The applicant(s) willingness to abide by the children's agency policies and procedures for discipline; ()

SECTION 406

406. SUBSEQUENT EVALUATIONS.

A foster parent shall comply with the following requirements for the subsequent evaluation required for a foster care license: ()

Subsection 406.01

01. Reasonable Access. A foster parent shall allow the children's agency reasonable access to the foster home, including interviewing each foster parent, each foster child and any member of the household to determine continued compliance with licensing standards, for child supervision purposes, and to conduct a re-certification family study. ()

SECTION 407

407. FOSTER PARENT DUTIES.

A foster parent shall carry out the following functions: ()

Subsection 407.04

04. Written Policies And Procedures For Foster Families. Maintain a copy of, be familiar with, and follow these rules and any other rules, policies, or procedures, which an agency may require for foster parents and foster care. ()

SECTION 408

408. FOSTER PARENT TRAINING.

Each foster parent shall comply with the following training requirements: ()

Subsections 408.01 and 408.02

01. Orientation. Each applicant for a foster home license shall receive an orientation *related to* the children's agency foster care program and services. ()

02. Initial Training. Complete not less than ten (10) hours of training no later than one (1) year following the issuance of an initial ~~license for~~ foster care *license*. ()

Subsection 408.04

04. Individualized Training. Complete training identified by the children's agency as meeting the individual needs of the foster parent(s). ()

SECTION 430

430. CHILD CARE AND SAFETY REQUIREMENTS.

The property, structure, premises, and furnishings of a foster home shall be constructed and maintained in good repair, in a clean condition, and free from safety hazards and dangerous machinery and equipment accessible to children. Areas that present a hazard to children in care shall be fenced. ~~Fireplaces shall be protected by screens or other means.~~ ()

SECTION 431

431. INSTALLATION, MAINTENANCE AND INSPECTION OF FLAME AND HEAT PRODUCING EQUIPMENT.

A foster parent shall assure: ()

Subsection 431.01

01. Installation And Maintenance Of Flame And Heat-Producing Equipment. A furnace, fireplace, wood-burning stove, water heater and other flame or heat-producing equipment shall be installed and maintained as recommended by the manufacturer. *Fireplaces shall be protected by screens or other means.* ()

SECTION 432

432. SMOKE AND CARBON MONOXIDE DETECTING DEVICES.

Each foster home ~~and children's residential care facility~~ shall meet the following standards: ()

Subsection 432.01

01. Smoke Detecting Devices. There shall be at least one (1) single-station smoke detector, that is approved by a nationally recognized testing laboratory, which shall be installed and maintained as recommended by the manufacturer and as follows: ()

SECTION 438

438. BATHROOMS, WATER SUPPLY, AND SEWAGE DISPOSAL.

A foster home shall meet the following standards:

Subsection 438.02.b.

02. Water Supply. The water supply shall meet one (1) of the following requirements: ()

b. Water used for consumption at a foster home shall be from an acceptable source, bottled water from an acceptable source, or boiled for a period specified by the local health authority according to IDAPA 58.01.08, "Rules for Public Drinking Water Systems". ()

SECTION 442

442. CHILD PLACEMENT REQUIREMENTS.

A foster family shall accept the placement of children into the home within the terms of the foster home license or certification and the children's agency placement agreement. In determining placement of foster children, the following provisions shall be considered: ()

Subsection 442.02

02. Maximum Number Of Children. Except as specified, the maximum number of children in care at any time, including the foster family's own children, or day care children, shall be limited to not more than six (6) children. ()

Subsection 442.04

04. Special Circumstances Regarding Maximum Numbers Of Children. ()

Subsection 442.04.c.

c. The foster home offers unusual space, skill, and or experience. ()

SECTION 445

445. BEDROOMS.

A foster parent shall comply with the following rules: ()

Subsection 445.04

04. Sharing A Bedroom With A Foster Parent. A child three (3) years of age or older shall not routinely share the bedroom with a foster parent unless the child has special health or emotional needs that require the attention of an adult the foster parent(s) during sleeping hours. ()

SECTION 446

446. BEHAVIOR MANAGEMENT AND DISCIPLINE.

Methods of behavior management and discipline for children shall be positive and consistent. These methods shall be based on each child's needs, stage of development, and behavior. Discipline shall promote self-control, self-esteem, and independence. ()

Subsection 446.01

01. Prohibitions. All of the following types of punishment of a foster child are prohibited: ()

SECTION 447

447. MEDICAL AND DENTAL CARE.

Subsection 447.02

02. Child Injury And Illness. Follow the children's agency approved policies for medical care of a child who is injured or ill. ()

Subsection 447.04

04. Storage Of Medication. A foster parent shall store medications in an area that is inaccessible to a child. ()

SECTION 454

454. RELIGIOUS AND CULTURAL PRACTICES.

A foster parent shall provide a child in care with opportunity for spiritual development and cultural practices in accordance with the wishes of the child and the child's parent or tribe. ()

SECTION 471

471. REPORTING FOSTER HOME CHANGES.

A foster parent shall report to the children's agency any significant change in the foster home by the next working day from the time a foster parent becomes aware of a change, including the following: ()

Subsection 471.06

06. Counseling, Treatment Or Therapy. Counseling or other methods of therapeutic treatment on an outpatient basis for an emotional, mental, or substance abuse issue of a foster parent of or member of the household. ()

SECTION 500

500. GENERAL STANDARDS FOR ORGANIZATIONS KNOWN AS CHILDREN'S AGENCIES AND CHILDREN'S RESIDENTIAL CARE FACILITIES.

(Sections 500 Through 599, see also Sections 000 through 299)

SECTION 571

571. HEALTH SERVICES.

The organization shall provide a physical exam within the last year by a licensed physician when the child has been in continuous care. If a child has not been in continuous care, a physical shall be done within thirty (30) days of admission by a licensed physician. Annual physical exams shall be provided for a child two (2) years of age and older, and on a schedule determined by a pediatrician for a child under two (2) years of age. Documentation shall be maintained of current immunizations or provisions for immunizations as required by Section 39-4801, Idaho Code, within thirty (30) days of admission. The organization shall provide documentation of medical care for the treatment of illnesses, carrying out corrective measures and treatment, and for the administration of medication as ordered by the physician. ()

SECTION 573

573. NON-VIOLENT PHYSICAL INTERVENTION.

An organization shall have written policies and procedures governing the appropriate use of non-violent physical restraint intervention strategies. The policy and procedures shall be in accordance with ~~at~~ the non-violent physical restraint intervention strategies of a nationally recognized program and: ()

No changes have been made to Subsection 573.01 through 573.06

SECTION 620

620. INITIAL AND SUBSEQUENT FAMILY FOSTER HOME EVALUATION STUDY PROCESS AND CONTENTS.

The children's agency shall conduct the appropriate home study based on the foster care Sections 400 through 499 of these rules, to determine if the family meets required licensing standards to be issued a foster care license, and shall maintain a copy of the study on file. ()

SECTION 621

621. TRAINING.

The children's agency shall have and follow a training policy that shall include meeting the orientation and ongoing training requirements of Sections 400 through 499 of these rules, and shall include additional information on the requirements unique to the particular agency program. All foster care training shall be documented in the foster parents case file record. ()

SECTION 623

623. COMPLAINT INVESTIGATION, BASIS, TIME REQUIREMENTS, NOTIFYING FOSTER PARENTS, CONTENTS, AND PROCESS.

When a complaint is received that relates to possible foster parent noncompliance with any provisions in Sections 400 through 499 of these rules, a children's agency shall initiate a complaint investigation as soon as is indicated, based on seriousness of the allegation received, no later than seven (7) calendar days after receipt of the allegation. A children's agency shall inform a foster parent that a complaint has been received, provide a clear description of the allegations, and allow a representative of the foster parent in interviews regarding the complaint before they are questioned or interviewed. ()

SECTION 650

650. ADDITIONAL PROVISIONS FOR TRANSITIONAL LIVING SERVICES.

(Sections 650 through 659, see also Sections 500 through 599)

SECTION 660

660. ADDITIONAL PROVISIONS FOR ADOPTION SERVICES.

(Sections 600 through 679, see also Sections 500 through 599)

SECTION 662

662. PROGRAM STATEMENT.

A children's agency that provides adoption services shall include in its program statement the following: ()

Subsection 662.01

01. Description Of Services Available. A written description of services provided directly by the children's agency or through another organization for a child, a birth parent, an adoptive applicant and an adoptive family. ()

SECTION 680

680. ADDITIONAL PROVISIONS FOR INTER-COUNTRY ADOPTION SERVICES.

(Sections 680 through 699, see also Sections 000 through 299)

SECTIONS 710

710. REQUIRED STAFF RATIOS.

There shall be written staff ratios for direct care staff to children and service workers to children. Unless otherwise specified in these rules, staff ratios shall be: ()

Subsection 710.03

03. Staff -Child Ratio-Sleeping Hours. At least one (1) awake direct care staff to twenty (20) children or fraction thereof during the children's normal sleeping hours in buildings housing children's sleeping quarters. If the presenting problems of the children in care are such that a ratio of one (1) to twenty (20) is not sufficient to provide for the safety and treatment needs of the children, then the ratio of direct care staff to children ratio shall be increased to ensure the safety and treatment needs of the children are met. ()

Subsection 710.06

06. Service Worker Ratios. Except for non-accredited children's residential schools, at least one (1) service worker needs to be available for every twenty (20) children in care or fraction thereof. ()

SECTION 726

726. HAZARDOUS MATERIALS OR TOXINS.

Buildings used to house children shall be free from hazardous materials and toxins. Documentation shall be maintained at the facility confirming the hazardous material or toxins have been removed or do not pose a threat to

the children served. Hazardous materials or toxins may include, but are not limited to: lead paint, asbestos and radon. ()

SECTION 729

729. BATHROOM FACILITIES.

A building used to house children shall have adequate, clean and easily accessible bathroom facilities. The number of toilets for a Group R shall be one (1) per eight (8) females and one (1) per ten (10) males, bathtubs or showers shall be one (1) for each ten (10) individuals; washstands shall be one (1) for every five (5) individuals according to the Uniform Building Code applicable for the type of building and its use. There shall be separate use of bathroom facilities for boys and girls over six (6) years of age. There shall be separate bathroom facilities for staff. ()

SECTION 730

730. SLEEPING ROOMS.

Sleeping rooms in a building used to house children shall be: ()

Subsection 730.01

01. Size. At least seventy (70) square feet, exclusive of closet space, in a single occupancy room. In a multiple occupancy room, there shall be at least forty-five (45) square feet per occupant, exclusive of closet space. Existing multiple occupancy sleeping rooms, may be approved relative to square feet per occupant until the room is remodeled or the building is extensively remodeled. There shall be a minimum of three (3) feet between the sides of beds and two (2) feet at the end of the beds. ()

SECTION 755

755. NUTRITION.

Children shall be provided three (3) nutritionally balanced meals in appropriate intervals and in amounts appropriate to their size and age, and which are in accordance with the recommended dietary allowances of the National Research Council or its equivalent. A child shall be provided a qualified medical professional prescribed diet or special diet based on religious beliefs. A nutritional or dietician professional shall approve menus annually. The current menu shall be readily available and any change or substitution shall be noted on the menu. Menus shall be maintained on file for at least six (6) months. ()

SECTIONS 762

762. TIME-OUT.

A children's residential care facility shall have and follow written policy and procedures governing the appropriate use of time-out, which shall require: ()

Subsections 762.04, 762.05, and 762.07

04. Prohibited Locations. The time-out is not in a closet, bathroom or unfinished basement or attic and is not in a locked area or box. ()

05. Documentation. A description in sufficient detail to provide a clear understanding of the incident which resulted in the child being placed in time-out, and the staff's attempts to help the child avoid time-out. ()

07. Re-Introduction To The Group. The child is re-introduced to the group in a sensitive and non-punitive manner as soon as control is regained. ()

Subsection 762.08

08. Review. If there are more than ten (10) time-outs for a child in a twenty-four (24) hour period, a review is conducted by the chief administrator or designee, to determine the suitability of the child remaining in the children's residential care facility, whether modifications to the child's service plan are warranted, or whether staff need additional training in alternative therapeutic behavior management techniques and appropriate action taken is based on the findings of the review. ()

SECTION 763

763. UNLOCKED SECLUSION.

If a children's residential care facility uses seclusion there shall be written policies and procedures, which at a minimum shall require: ()

Subsection 763.01

01. Use Of Unlocked Seclusion. Unlocked seclusion shall not be used as punishment or to substitute for other developmentally appropriate positive methods of behavior management. Seclusion may only be used as a means of intervention when the child's behavior is so violent or disruptive that it presents a high risk of physical or emotional harm to self or others, and less restrictive and less punitive interventions have been applied without success. ()

Subsection 763.06

06. Supervisory Approval. Supervisory approval is required for a period of seclusion of one (1) child that exceeds two (2) hours, or the total seclusion time exceeds three (3) hours in a twenty-four (24) hour period, or more than four (4) separate seclusion incidents in a twenty-four (24) hour period. ()

Subsection 763.09

09. Review. If there are more than ten (10) seclusion's for a child in a twenty-four (24) hour period, there shall be a review by the chief administrator or his designee. The review shall determine whether modifications to the child's service plan are warranted and whether staff needs additional training in alternative therapeutic behavior management techniques or disciplinary action. Appropriate action shall be taken based on the findings of the review. ()

SECTION 764

764. LOCKED SECLUSION.

Locked seclusion is used only when a child's behavior is so violent or disruptive that it presents a high risk of physical or emotional harm to the child or others and other less restrictive and less punitive interventions have been applied without success. Locked seclusion is prohibited for: non-violent and non-assaultive offenses and behaviors; practices designed to prevent children from running away; secluding a child who is ill; as a punishment; and facilitating supervision for the convenience of staff. No more than one (1) child shall be in a locked seclusion room at a time. Supervisory staff shall be notified at the time the locked seclusion begins. ()

Subsection 764.03

03. Observation. A child in locked seclusion shall be observed by staff at random intervals, not to exceed every ten (10) minutes to assure that the child is safe. ()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.02 - RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING

DOCKET NO. 16-0602-0002

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 56-202(b), 56-203(b), 56-204A, 56-204(a), 56-1005, 39-1209, 39-1210, 39-1211, 39-1213 and 56-1005(8), 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.

The pending rule is being adopted as proposed and is being repealed in its entirety. The original text of the proposed rule was published in the September 6, 2000 Administrative Bulletin, Volume 00-9, page 164.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Terri Meyer at (208) 334-5533.

DATED this 3rd day of November, 2000.

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

IDAPA 16, TITLE 06, Chapter 02

RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING

This rule is being repealed in its entirety.

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 00-9, September 6, 2000, page 164.

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 17 - INDUSTRIAL COMMISSION

17.04.05 - ACCREDITATION OF ASBESTOS PROFESSIONALS EMPLOYED IN SCHOOL PROJECTS

DOCKET NO. 17-0405-0001 (REPEAL)

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 72-508, 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. This rule was originally promulgated pursuant to Executive Order 89-5. During the 2000 session of the legislature, a senate committee member asked the Commission to research the statutory authority for certain provisions of the rule. In performing this research, the Commission discovered that the Executive Order under which the rule was originally promulgated expired without renewal, and there is no existing statutory authority for the rule. The accreditation of asbestos professionals employed in school projects is required by the federal Environmental Protection Act. The state program duplicates the federal program. Inasmuch as the statutory basis for the rule no longer exists, it is proposed that the rule be repealed.

The pending rule is being adopted as proposed and the chapter is being repealed. The original text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume No. 00-10, page 397.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Gary Stivers, Director, Industrial Commission, (208)334-6050.

DATED this 30th day of October, 2000.

Patricia S. Ramey, Commission Secretary
Industrial Commission
317 Main Street, 2nd Floor East
P. O. Box 83720, Boise, Idaho 83720-0041
Phone: (208)334-6000 Fax: (208)334-5145

IDAPA 17, TITLE 04, Chapter 05

ACCREDITATION OF ASBESTOS PROFESSIONALS EMPLOYED IN SCHOOL PROJECTS

The chapter is being repealed in its entirety.

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 00-10, October 4, 2000, page 397.

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 17 - INDUSTRIAL COMMISSION

17.07.01 - SAFETY RULES FOR ELEVATORS AND ESCALATORS - GENERAL REQUIREMENTS

DOCKET NO. 17-0701-0001

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 72-508, 72-720, 72-721, 72-722, and 72-723, 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.

This rule is being amended to update the state's safety standards for elevators, escalators, and moving walkways to comply with changes in the national elevator standards which are adopted by reference in IDAPA 17.07.01.004. There is a need to add to definitions and clarify the state rules based on the national standards. IDAPA 17.07.02, 17.07.03, 17.07.04 are being repealed and incorporated into Chapter 1 to eliminate redundancy and improve the continuity of the rules.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume 00-10, pages 398 through 408.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Mike Poulin, Industrial Safety Supervisor, Division of Building Safety, (208)334-3950, extension 315.

DATED this 30th day of October, 2000.

Patricia S. Ramey, Commission Secretary
Industrial Commission
317 Main Street, 2nd Floor East
P. O. Box 83720, Boise, Idaho 83720-0041
Phone: (208)334-6000 Fax: (208)334-5145

IDAPA 17, TITLE 07, Chapter 01

SAFETY RULES FOR ELEVATORS AND ESCALATORS - GENERAL REQUIREMENTS

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 00-10, October 4, 2000, pages 398 through 408.

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 17 - INDUSTRIAL COMMISSION
17.07.02 - SAFETY STANDARDS FOR CONSTRUCTION AND OPERATION
OF ELEVATORS - ADMINISTRATION

DOCKET NO. 17-0702-0001 (REPEAL)

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-508, 72-720, 72-721, 72-722, and 72-723, 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.

This chapter is being repealed and incorporated into 17.07.01 in order to eliminate redundancy and improve the continuity of the rules.

The pending rule is being adopted as proposed and the chapter is being repealed. The original text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume 00-10, page 409.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Mike Poulin, Industrial Safety Supervisor, Division of Building Safety, (208)334-3950, extension 315.

DATED this 30th day of October, 2000.

Patricia S. Ramey, Commission Secretary
Industrial Commission
317 Main Street, 2nd Floor East
P. O. Box 83720, Boise, Idaho 83720-0041
Phone: (208)334-6000 Fax: (208)334-5145

IDAPA 17, TITLE 07, Chapter 02

SAFETY STANDARDS FOR CONSTRUCTION AND OPERATION
OF ELEVATORS - ADMINISTRATION

The chapter is being repealed in its entirety.

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 00-10, October 4, 2000, page 409.

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 17 - INDUSTRIAL COMMISSION
17.07.03 - SAFETY RULES FOR ELEVATORS AND ESCALATORS - INSPECTION
DOCKET NO. 17-0703-0001 (REPEAL)
NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-508, 72-720, 72-721, 72-722, and 72-723, 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.

This chapter is being repealed and incorporated into 17.07.01 in order to eliminate redundancy and improve the continuity of the rules.

The pending rule is being adopted as proposed and the chapter is being repealed. The original text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume 00-10, page 410.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Mike Poulin, Industrial Safety Supervisor, Division of Building Safety, (208)334-3950, extension 315.

DATED this 30th day of October, 2000.

Patricia S. Ramey, Commission Secretary
Industrial Commission
317 Main Street, 2nd Floor East
P. O. Box 83720, Boise, Idaho 83720-0041
Phone: (208)334-6000 Fax: (208)334-5145

IDAPA 17, TITLE 07, Chapter 03

SAFETY RULES FOR ELEVATORS AND ESCALATORS - INSPECTION

The chapter is being repealed in its entirety.

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 00-10, October 4, 2000, page 410.

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 17 - INDUSTRIAL COMMISSION
**17.07.04 - SAFETY RULES FOR ELEVATORS AND ESCALATORS - CONSTRUCTION,
REPAIR, ALTERATION, OR DISMANTLING**

DOCKET NO. 17-0704-0001 (REPEAL)

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-508, 72-720, 72-721, 72-722, and 72-723, 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.

This chapter is being repealed and incorporated into 17.07.01 in order to eliminate redundancy and improve the continuity of the rules.

The pending rule is being adopted as proposed and the chapter is being repealed. The original text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume 00-10, page 411.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Mike Poulin, Industrial Safety Supervisor, Division of Building Safety, (208)334-3950, extension 315.

DATED this 30th day of October, 2000.

Patricia S. Ramey, Commission Secretary
Industrial Commission
317 Main Street, 2nd Floor East
P. O. Box 83720
Boise, Idaho 83720-0041
Phone: (208)334-6000 Fax: (208)334-5145

IDAPA 17, TITLE 07, Chapter 04

**SAFETY RULES FOR ELEVATORS AND ESCALATORS - CONSTRUCTION,
REPAIR, ALTERATION, OR DISMANTLING**

This chapter is being repealed in its entirety.

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 00-10, October 4, 2000, page 411.**

**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 18 - IDAHO DEPARTMENT OF INSURANCE
18.01.30 - INDIVIDUAL DISABILITY AND GROUP SUPPLEMENTAL DISABILITY
INSURANCE MINIMUM STANDARDS RULE

DOCKET NO. 18-0130-0001 (REWRITE)

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 41-211, Idaho Code.

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

Subsection 018.04 of the proposed rule is being amended to include language that will allow the Director of the Department of Insurance to approve special or internal limitations to major medical policies. The change is in response to public comment. Only the section that has been changed is printed in this bulletin. The original text of the proposed rule was published in the October 4, 2000, Administrative Bulletin, Volume No. 00-10, pages 412 through 432.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Joan Krosch at (208) 334-4250.

Dated this 8th day of November, 2000.

Mary L. Hartung, Director
Idaho Department of Insurance
700 West State Street - 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Telephone No. (208) 334-4250
Fax: (208) 334-4398

IDAPA 18, TITLE 01, Chapter 30

INDIVIDUAL DISABILITY AND GROUP SUPPLEMENTAL DISABILITY
INSURANCE MINIMUM STANDARDS RULE

There are substantive changes from the proposed rule text.
Text added to the pending rule is shown in italics.

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 00-10, October 4, 2000, pages 413 through 432.

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 AMENDED TEXT OF DOCKET NO. 18-0130-0001

Section 018

018. INDIVIDUAL MAJOR MEDICAL EXPENSE COVERAGE.

Subsection 018.04

04. Benefit Requirements. The minimum benefits required by Subsection 018.01 may be subject to all applicable deductibles, coinsurance and general policy exceptions and limitations. A major medical expense policy may also have special or internal limitations for prescription drugs, nursing facilities, intensive care facilities, mental health treatment, alcohol or substance abuse treatment, transplants, experimental treatments, mandated benefits required by law and those services covered under Subsection 018.02 and other such special or internal limitations as are authorized or approved by the director. Except as authorized by Subsection 018.04 through the application of special or internal limitations, a major medical expense policy must be designed to cover, after any deductibles or coinsurance provisions are met, the usual, customary and reasonable charges, as determined consistently by the carrier and as subject to prior written approval by the director or another rate agreed to between the insurer and provider, for covered services up to the lifetime policy maximum. ()

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE
18.01.30 - INDIVIDUAL ACCIDENT AND SICKNESS DISABILITY
INSURANCE MINIMUM STANDARDS ACT

DOCKET NO. 18-0130-0002 (REPEAL)

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 41-211, Idaho Code.

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

The pending rule is being adopted as proposed and the chapter is being repealed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume No. 00-10, October 4, 2000, page 433.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Joan Krosch at (208) 334-4250.

DATED this 15th day of November, 2000.

Mary L. Hartung, Director
Idaho Department of Insurance
700 West State Street - 3rd Floor
P.O. Box 83720, Boise, ID 83720-0043
Telephone No. (208) 334-4250
Fax: (208) 334-4398

IDAPA 18, TITLE 01, Chapter 30

INDIVIDUAL ACCIDENT AND SICKNESS DISABILITY INSURANCE MINIMUM STANDARDS ACT

This chapter is being repealed in its entirety.

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 00-10, October 4, 2000, page 433.

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

DOCKET NO.18-0144-0001

NOTICE OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2001 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 2001, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution, which should still become final and effective on July 1, 2001 in light of Section 41-401(2), Idaho Code.

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 Sections 41-211 and 41-401, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume 00-10, pages 434 through 437.

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

The rule change eliminates many small fees in favor of adopting a single annual continuation fee to improve efficiencies for the Department of Insurance and the insurers and related entities it regulates. The amendments in the pending rule provide that overpayments will not be refunded unless they exceed \$200 or a written request is made by the payor in order to reduce the administrative burden associated with multiple refunds of relatively small payments; extraordinary exam costs will not be considered to be included in the continuation fee and may be imposed by the director to allow the department to pass unforeseen examination costs on to a company; a continuation fee will be imposed on only domestic risk retention groups; and the continuation fee for purchasing groups will be reduced to \$100.

Because of the fee being imposed or increased through this rulemaking, this pending rule will not be adopted as final nor will it become effective until it has been approved, amended, or modified by concurrent resolution of the legislature.

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

Dated this 5th day of October, 2000.

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

IDAPA 18, TITLE 01, Chapter 44

SCHEDULE OF FEES, LICENSES AND MISCELLANEOUS CHARGES

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 00-10, October 4, 2000, pages 434 through 437.

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 18 - IDAHO DEPARTMENT OF INSURANCE
18.01.54 - RULE TO IMPLEMENT THE NAIC MEDICARE SUPPLEMENT INSURANCE
MINIMUM STANDARDS MODEL ACT

DOCKET NO. 18-0154-0101

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2001.

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 41-211, 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 January 19, 2001.

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

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

This rulemaking amends IDAPA 18.01.54, "Rule To Implement The NAIC Medicare Supplement Insurance Minimum Standards Model Act," to conform to changes in federal law by the Balanced Budget Refinement Act of 1999, and the Ticket to Work and Work Incentives Improvement Act of 1999. In order for states to retain Certification of State Medigap Regulatory programs, the federal Health Care Financing Administration has urged the states to adopt these federal standards as soon as possible. The amendments update the requirements for the guaranteed issue provisions, expand the class of persons eligible for guaranteed issue to include individuals who are 65 years of age or older and enrolled in the Program for All-inclusive Care for the Elderly (PACE) if their enrollment ceases under circumstances similar to those that provide guaranteed issue rights to beneficiaries enrolled in a Medicare + Choice plan, allow disabled beneficiaries entitled to Medicare benefits by reason of disability under the Social Security Act and covered under a group health plan the right to suspend benefits and premiums under a Medigap policy, and clarify provisions under the hospital prospective payment system.

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

The recommended amendments will confer a benefit to Medicare + Choice beneficiaries, by improving the guaranteed issue requirements, in the event of plan termination. The amendments further clarify the ability of a disabled Medicare beneficiary, covered under a group health plan, with the right to suspend benefits and premiums under a Medigap policy.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, contact Joan Krosch, Health Insurance Coordinator, at (208) 334-4300.

Anyone may submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before January 26, 2001.

Dated this 15th day of November, 2000.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 180154-0101

004. DEFINITIONS.

For the purposes of IDAPA 18.01.54, "Rule To Implement The NAIC Medicare Supplement Insurance Minimum Standards Model Act," the following terms will be used as defined below: (4-5-00)

01. Applicant. (4-5-00)

a. In the case of an individual Medicare supplement policy, the person who seeks to contract for insurance benefits; and (4-5-00)

b. In the case of a group Medicare supplement policy, the proposed certificate holder. (4-5-00)

02. Bankruptcy. A Medicare+Choice organization that is not an issuer has filed, or has had filed against it, a petition for declaration of bankruptcy and has ceased doing business in the state. (4-5-00)

03. Certificate. Any certificate delivered or issued for delivery in this state under a group Medicare supplement policy. (4-5-00)

04. Certificate Form. The form on which the certificate is delivered or issued for delivery by the issuer. (4-5-00)

05. Continuous Period Of Creditable Coverage. The period during which an individual was covered by creditable coverage, if during the period of the coverage the individual had no breaks in coverage greater than sixty-three (63) days. (4-5-00)

06. Creditable Coverage. (4-5-00)

a. With respect to an individual, coverage of the individual provided under any of the following: (4-5-00)

i. A group health plan; (4-5-00)

ii. Health insurance coverage; (4-5-00)

iii. Part A or Part B of Title XVIII of the Social Security Act (Medicare); (4-5-00)

iv. Title XIX of the Social Security Act (Medicaid), other than coverage consisting solely of benefits under Section 1928; (4-5-00)

v. Chapter 55 of Title 10 United States Code (CHAMPUS); (4-5-00)

vi. A medical care program of the Indian Health Service or of a tribal organization; (4-5-00)

- vii. A state health benefits risk pool; (4-5-00)
- viii. A health plan offered under chapter 89 of Title 5 United States Code (Federal Employees Health Benefits Program); (4-5-00)
- ix. A public health plan as defined in federal regulation; and (4-5-00)
- x. A health benefit plan under Section 5(e) of the Peace Corps Act (22 United States Code 2504(e)). (4-5-00)
- b. Creditable coverage shall not include one (1) or more, or any combination of, the following: (4-5-00)
 - i. Coverage only for accident or disability income insurance, or any combination thereof; (4-5-00)
 - ii. Coverage issued as a supplement to liability insurance; (4-5-00)
 - iii. Liability insurance, including general liability insurance and automobile liability insurance; (4-5-00)
 - iv. Workers' compensation or similar insurance; (4-5-00)
 - v. Automobile medical payment insurance; (4-5-00)
 - vi. Credit-only insurance; (4-5-00)
 - vii. Coverage for on-site medical clinics; and (4-5-00)
 - viii. Other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other benefits. ~~(4-5-00)~~(1-1-01)T
- c. Creditable coverage shall not include the following benefits if they are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of the plan: (4-5-00)
 - i. Limited scope dental or vision benefits; (4-5-00)
 - ii. Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; and (4-5-00)
 - iii. Such other similar, limited benefits as are specified in federal regulations; (4-5-00)
- d. Creditable coverage shall not include the following benefits if offered as independent, non-coordinated benefits: (4-5-00)
 - i. Coverage only for a specified disease or illness; and (4-5-00)
 - ii. Hospital indemnity or other fixed indemnity insurance. (4-5-00)
- e. Creditable coverage shall not include the following if it is offered as a separate policy, certificate, or contract of insurance: (4-5-00)
 - i. Medicare supplemental health insurance as defined under section 1882(g)(1) of the Social Security Act; (4-5-00)
 - ii. Coverage supplemental to the coverage provided under chapter 55 of title 10, United States Code; and (4-5-00)

iii. Similar supplemental coverage provided to coverage under a group health plan. (4-5-00)

f. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) specifically addressed separate, noncoordinated benefits in the group market at PHSA Section 2721(d)(2) and the individual market at Section 2791(c)(3). HIPAA also references excepted benefits at PHSA Sections 2701(c)(1), 2721(d), 2763(b) and 2791(c). In addition, credible coverage has been addressed in an interim final rule (62 Fed. Reg. At 16960-16962 (April 8, 1997)) issued by the Secretary pursuant to HIPAA, and may be addressed in subsequent regulations.

(1-1-01)T

07. Employee Welfare Benefit Plan. A plan, fund, or program of employee benefits as defined in 29 U.S.C. Section 1002 (Employee Retirement Income Security Act). (4-5-00)

08. Insolvency. When an issuer, licensed to transact the business of insurance in this state, has had a final order of liquidation entered against it with a finding of insolvency by a court of competent jurisdiction in the issuer's state of domicile. (4-5-00)

09. Issuer. Includes insurance companies, fraternal benefit societies, managed care organizations, and any other entity delivering or issuing for delivery in this state Medicare supplement policies or certificates. (4-5-00)

10. Medicare. The "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended. (4-5-00)

11. Medicare+Choice Plan. A plan of coverage for health benefits under Medicare Part C as defined in *Section 1859, Title IV, Subtitle A, Chapter 1 of P.L. 105-33* 42 U.S.C. 1395w-28 (b)(1), and includes:

~~(4-5-00)~~(1-1-01)T

a. Coordinated care plans which provide health care services, including but not limited to managed care organization (with or without a point-of-service option), plans offered by provider-sponsored organizations, and preferred provider organization plans; (4-5-00)

b. Medical savings account plans coupled with a contribution into a Medicare+Choice medical savings account; and (4-5-00)

c. Medicare+Choice private fee-for-service plans. (4-5-00)

12. Medicare Supplement Policy. A group or individual policy of accident and sickness insurance or an enrollee contract under a managed care organization, other than a policy issued pursuant to a contract under Section 1876 of the federal Social Security Act (42 U.S.C. Section 1395 et. seq.) or an issued policy under a demonstration project specified in 42 U.S.C. Section 1395ss(g)(1), which is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare. (4-5-00)

13. Policy Form. The form on which the policy is delivered or issued for delivery by the issuer. (4-5-00)

14. Secretary. The Secretary of the United States Department of Health and Human Services. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

010. BENEFIT STANDARDS FOR POLICIES OR CERTIFICATES ISSUED OR DELIVERED ON OR AFTER JULY 1, 1992.

The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state on or after July 1, 1992. No policy or certificate may be advertised, solicited, delivered, or issued

for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards. (4-5-00)

01. General Standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of IDAPA 18.01.54, "Rule To Implement The NAIC Medicare Supplement Insurance Minimum Standards Model Act". (4-5-00)

a. A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage. (4-5-00)

b. A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents. (4-5-00)

c. A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and co-payment percentage factors. Premiums may be modified to correspond with such changes. (4-5-00)

d. No Medicare supplement policy or certificate shall provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium. (4-5-00)

e. Each Medicare supplement policy shall be guaranteed renewable. (4-5-00)

i. The issuer shall not cancel or non-renew the policy solely on the ground of health status of the individual. (4-5-00)

ii. The issuer shall not cancel or non-renew the policy for any reason other than nonpayment of premium or material misrepresentation. (4-5-00)

iii. If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under Subsection 010.01.e.v., the issuer shall offer certificate holders an individual Medicare supplement policy which (at the option of the certificate holder): (4-5-00)

(1) Provides for continuation of the benefits contained in the group policy, or (4-5-00)

(2) Provides for benefits that otherwise meet the requirements of this subsection. (4-5-00)

iv. If an individual is a certificate holder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall offer the certificate holder the conversion opportunity described in Subsection 010.01.e.iii.; or, at the option of the group policyholder, offer the certificate holder continuation of coverage under the group policy. (4-5-00)

v. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced. (4-5-00)

f. Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. (4-5-00)

i. A Medicare supplement policy or certificate shall provide that benefits and premiums under the

policy or certificate shall be suspended at the request of the policyholder or certificate holder for the period (not to exceed twenty-four (24) months) in which the policyholder or certificate holder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificate holder notifies the issuer of the policy or certificate within ninety (90) days after the date the individual becomes entitled to assistance. (4-5-00)

ii. If suspension occurs and if the policyholder or certificate holder loses entitlement to medical assistance, the policy or certificate shall be automatically re-instituted (effective as of the date of termination of entitlement) as of the termination of entitlement if the policyholder or certificate holder provides notice of loss of entitlement within ninety (90) days after the date of loss and pays the premium attributable to the period, effective as of the date of termination of entitlement. (4-5-00)

iii. Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended (for the period provided by federal regulation) at the request of the policyholder if the policyholder is entitled to benefits under Section 226(b) of the Social Security Act and is covered under a group health plan (as defined in Section 1862(b)(1)(A)(v) of the Social Security Act). If suspension occurs and if the policyholder or certificate holder loses coverage under the group health plan, the policy shall be automatically reinstated (effective as of the date of loss of coverage) if the policyholder provides notice of loss of coverage within ninety (90) days after the date of such loss and pays the premium attributable to the period, effective as of the date of termination of entitlement. (1-1-01)T

iv. NOTE: The right to suspend a Medigap policy due to coverage under a group health plan, created by the Ticket To Work and Work Incentives Improvement Act of 1999 does not specify the period of time that a policy may be suspended under Section 8A(7)(c). It is anticipated that the Health Care Financing Administration (HCFA) will provide states with guidance on this issue. In anticipation of HCFA providing such guidance the phrase "as provided by federal law" has been inserted into this provision in parentheses so that any time period prescribed is incorporated by reference. (1-1-01)T

- g. Reinstitution of coverages: (4-5-00)
- i. Shall not provide for any waiting period with respect to treatment of preexisting conditions; (4-5-00)
- ii. Shall provide for coverage which is substantially equivalent to the coverage in effect before the date of suspension; and (4-5-00)
- iii. Shall provide for classification of premiums on terms at least as favorable to the policyholder or certificate holder as the premium classification terms that would have applied to the policyholder or certificate holder had the coverage not been suspended. (4-5-00)

02. Standards For Basic (Core) Benefits Common To All Benefit Plans. Every issuer shall make available a policy or certificate including only the following basic "core" package of benefits to each perspective insured. An issuer may make available to prospective insureds any of the other Medicare supplement insurance benefit plans in addition to the basic core package, but not in lieu of it. (4-5-00)

- a. Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the sixty first day through the ninetieth day in any Medicare benefit period; (4-5-00)
- b. Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used; (4-5-00)
- c. Upon exhaustion of the Medicare hospital inpatient coverage including the lifetime reserve days, coverage of the Medicare Part A eligible expenses for hospitalization paid at the diagnostic related group (DRG) day outlier per diem or other appropriate standard of payment, subject to a lifetime maximum benefit of an additional three hundred sixty five (365) days; (4-5-00)
- d. Coverage under Medicare Parts A and B for the reasonable cost of the first three (3) pints of blood

(or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations; (4-5-00)

e. Coverage for the coinsurance amount (or in the case of hospital outpatient department services under a prospective payment system, the co-payment amount) of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible. NOTE: In this context copayment amount means the least of “copayment amount,” “beneficiary copayment amount,” and the “hospital-elected reduced copayment amount” as those terms are used in applicable federal law and regulation. Provisions governing copayment for hospital outpatient department services under a prospective payment system apply to all Medicare supplement policies or certificates issued prior to and after the effective date of this payment system. ~~(4-5-00)~~(1-1-01)T

03. Standards For Additional Benefits. The following additional benefits shall be included in Medicare Supplement Benefit Plans “B” through “J” only as provided by Section 011 of IDAPA 18.01.54, “Rule To Implement The NAIC Medicare Supplement Insurance Minimum Standards Model Act”. (4-5-00)

a. Medicare Part A deductible: Coverage for all of the Medicare Part A inpatient hospital deductible amount per benefit period. (4-5-00)

b. Skilled nursing facility care: Coverage for the actual billed charges up to the coinsurance amount from the twenty first day through the one hundredth day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A. (4-5-00)

c. Medicare Part B deductible: Coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement. (4-5-00)

d. Eighty percent (80%) of the Medicare Part B excess charges: Coverage for eighty percent (80%) of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge. (4-5-00)

e. One hundred percent (100%) of the Medicare Part B excess charges: Coverage for all of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge. (4-5-00)

f. Basic outpatient prescription drug benefit: Coverage for fifty percent (50%) of outpatient prescription drug charges, after a two hundred fifty dollars (\$250) calendar year deductible, to a maximum of one thousand two hundred fifty dollars (\$1,250) in benefits received by the insured per calendar year, to the extent not covered by Medicare. (4-5-00)

g. Extended outpatient prescription drug benefit. Coverage for fifty percent (50%) of outpatient prescription drug charges, after a two hundred fifty dollars (\$250) calendar year deductible, to a maximum of three thousand dollars (\$3,000) in benefits received by the insured per calendar year, to the extent not covered by Medicare. (4-5-00)

h. Medically necessary emergency care in a foreign country: Coverage to the extent not covered by Medicare for eighty-percent (80%) of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician, and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first sixty (60) consecutive days of each trip outside the United States, subject to a calendar year deductible of two hundred fifty dollars (\$250), and a lifetime maximum benefit of fifty thousand dollars (\$50,000). For purposes of this benefit, “emergency care” shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset. (4-5-00)

04. Preventive Medical Care Benefit. Coverage for the following preventive health services: (4-5-00)

a. An annual clinical preventive medical history and physical examination that may include tests and services from Subsection 010.04.b., and patient education to address preventive health care measures. (4-5-00)

b. Any one or a combination of the following preventive screening tests or preventive services, the frequency of which is considered medically appropriate: (4-5-00)

- i. ~~Fecal occult blood test or a~~ Digital rectal examination, ~~or both;~~ (4-5-00)(1-1-01)T
- ii. ~~Mammogram;~~ (4-5-00)
- iii. Dipstick urinalysis for hematuria, bacteriuria, and proteinuria; (4-5-00)
- iv. Pure tone (air only) hearing screening test, administered or ordered by a physician; (4-5-00)
- v. Serum cholesterol screening (every five (5) years); (4-5-00)
- vi. Thyroid function test; (4-5-00)
- vii. Diabetes screening. (4-5-00)

c. ~~Influenza vaccine administered at any appropriate time during the year and a~~ Tetanus and diphtheria booster (every ten (10) years). (4-5-00)(1-1-01)T

d. Any other tests or preventive measures determined appropriate by the attending physician. Reimbursement shall be for the actual charges up to one hundred percent (100%) of the Medicare-approved amount for each service, as if Medicare were to cover the service as identified in American Medical Association Current Procedural Terminology (AMA CPT) codes, to a maximum of one hundred twenty dollars (\$120) annually under this benefit. This benefit shall not include payment for any procedure covered by Medicare. (4-5-00)

05. At-Home Recovery Benefit. Coverage for services to provide short-term, at-home assistance with activities of daily living for those recovering from an illness, injury, or surgery. For purposes of this benefit, the following definitions shall apply: (4-5-00)

a. Activities of daily living include, but are not limited to, bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings. (4-5-00)

b. Care provider. A duly qualified or licensed home health aide or homemaker, personal care aide or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses' registry. (4-5-00)

c. Home. Any place used by the insured as a place of residence, provided that the place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured's place of residence. (4-5-00)

d. At-home recovery visit. The period of a visit required to provide at-home recovery care, without limit on the duration of the visit, except each consecutive four (4) hours in a twenty-four (24) hour period of services provided by a care provider is one (1) visit. (4-5-00)

06. Coverage Requirements And Limitations. (4-5-00)

a. At-home recovery services provided must be primarily services which assist in activities of daily living. (4-5-00)

b. The insured's attending physician must certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare. (4-5-00)

c. Coverage is limited to: (4-5-00)

- i. No more than the number and type of at-home recovery visits certified as necessary by the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare approved home health care visits under a Medicare approved home care plan of treatment; (4-5-00)
 - ii. The actual charges for each visit up to a maximum reimbursement of forty dollars (\$40) per visit; (4-5-00)
 - iii. One thousand six hundred dollars (\$1,600) per calendar year; (4-5-00)
 - iv. Seven (7) visits in any one week; (4-5-00)
 - v. Care furnished on a visiting basis in the insured's home; (4-5-00)
 - vi. Services provided by a care provider as defined in this section; (4-5-00)
 - vii. At-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded; (4-5-00)
 - viii. At-home recovery visits received during the period the insured is receiving Medicare approved home care services or no more than eight (8) weeks after the service date of the last Medicare approved home health care visit. (4-5-00)
- d. Coverage is excluded for: (4-5-00)
 - i. Home care visits paid for by Medicare or other government programs; and (4-5-00)
 - ii. Care provided by family members, unpaid volunteers or providers who are not care providers. (4-5-00)
- 07. New Or Innovative Benefits.** An issuer may, with the prior approval of the director, offer policies or certificates with new or innovative benefits in addition to the benefits provided in a policy or certificate that otherwise complies with the applicable standards. The new or innovative benefits may include benefits that are appropriate to Medicare supplement insurance, new or innovative, not otherwise available, cost-effective, and offered in a manner which is consistent with the goal of simplification of Medicare supplement policies. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

014. GUARANTEED ISSUE FOR ELIGIBLE PERSONS.

01. Guaranteed Issue. (4-5-00)

a. Eligible persons are those individuals described in Subsection 014.02 who subject to Subsection 014.02.b. apply to enroll under the policy not later than sixty-three (63) days after the date of the termination of enrollment described in Subsection 014.02, and who submit evidence of the date of termination or disenrollment with the application for a Medicare supplement policy. ~~(4-5-00)~~(1-1-01)T

b. With respect to eligible persons, an issuer shall not deny or condition the issuance or effectiveness of a Medicare supplement policy described in Subsection 014.03 that is offered and is available for issuance to new enrollees by the issuer, shall not discriminate in the pricing of such a Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under such a Medicare supplement policy. (4-5-00)

02. Eligible Persons. An eligible person is an individual described in any of the following paragraphs: (4-5-00)

a. The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare; and the plan terminates, or the plan ceases to provide all such supplemental health benefits to the individual; or the individual is enrolled under an employee welfare benefits plan that is primary to Medicare and the plan terminates or the plan ceases to provide all health benefits to the individual because the individual leaves the plan; (4-5-00)

b. The individual is enrolled with a Medicare+Choice organization under a Medicare+Choice plan under Part C of Medicare, and any of the following circumstances apply, or the individual is sixty-five (65) years of age or older and is enrolled with a Program of All-Inclusive Care for the Elderly (PACE) provider under Section 1894 of the Social Security Act, and there are circumstances similar to those described below that would permit discontinuance of the individual's enrollment with such provider if such individual were enrolled in a Medicare+Choice plan: (~~4-5-00~~)(1-1-01)T

i. ~~The organization's or plan's certification has been terminated or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides; The certification of the organization or plan under this part has been terminated, or the organization or plan has notified the individual of an impending termination of such certification; or~~ (~~4-5-00~~)(1-1-01)T

ii. The organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides, or has notified the individual of an impending termination or discontinuance of such plan; (1-1-01)T

iii. The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the Secretary, but not including termination of the individual's enrollment on the basis described in Section 1851(g)(3)(B) of the federal Social Security Act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under Section 1856), or the plan is terminated for all individuals within a residence area; (4-5-00)

~~iv.~~ The individual demonstrates, in accordance with guidelines established by the Secretary, that the organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards; or the organization, or agent, or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual; or the individual meets such other exceptional conditions as the Secretary may provide. An individual described in Subsection 014.02.a. may elect to apply Subsection 014.01 by substituting, for the date of termination of enrollment, the date on which the individual was notified by the Medicare+Choice organization of the impending termination or discontinuance of the Medicare+Choice plan it offers in the area in which the individual resides, but only if the individual disenrolls from the plan as a result of such notification. In the case of an individual making the election in Subsection 014.02.b.iv., the issuer involved shall accept the application of the individual submitted before the date of termination of enrollment, but the coverage under Subsection 014.01, shall only become effective upon termination of coverage under the Medicare +Choice plan involved. (~~4-5-00~~)(1-1-01)T

c. The individual is enrolled with: (4-5-00)

i. An eligible organization under a contract under Section 1876 (Medicare risk or cost); (4-5-00)

ii. A similar organization operating under demonstration project authority, effective for periods before April 1, 1999; (4-5-00)

iii. An organization under an agreement under Section 1833(a)(1)(A) (health care prepayment plan); or (4-5-00)

iv. An organization under a Medicare Select policy; and (4-5-00)

d. The enrollment ceases under the same circumstances that would permit discontinuance of an

individual's election of coverage under Subsection 014.02.b. (4-5-00)

- e. The individual is enrolled under a Medicare supplement policy and the enrollment ceases because: (4-5-00)
 - i. Of the insolvency of the issuer or bankruptcy of the non-issuer organization; or (4-5-00)
 - ii. Of other involuntary termination of coverage or enrollment under the policy; (4-5-00)
 - iii. The issuer of the policy substantially violated a material provision of the policy; or (4-5-00)
 - iv. The issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual. (4-5-00)

f. The individual was enrolled under a Medicare supplement policy and terminates enrollment and subsequently enrolls, for the first time, with any Medicare+Choice organization under a Medicare+Choice plan under Part C of Medicare, any eligible organization under a contract under Section 1876 (Medicare risk or cost), any similar organization operating under demonstration project authority, any PACE program under Section 1894 of the Social Security Act, an organization under an agreement under Section 1833(a)(1)(A) (health care prepayment plan), or a Medicare Select policy; and ~~(4-5-00)~~(1-1-01)T

g. The subsequent enrollment under Subsection 014.02.f. is terminated by the enrollee during any period within the first twelve (12) months of such subsequent enrollment (during which the enrollee is permitted to terminate such subsequent enrollment under Section 1851(e) of the federal Social Security Act); or (4-5-00)

h. The individual, upon first becoming enrolled in Medicare Part B eligible for benefits under part A of Medicare at age 65-~~or older~~, enrolls in a Medicare+Choice plan under part C of Medicare, or in a PACE program under Section 1894, and disenrolls from the plan or program by not later than twelve (12) months after the effective date of enrollment. ~~(4-5-00)~~(1-1-01)T

03. Products To Which Eligible Person Are Entitled. The Medicare supplement policy to which eligible persons are entitled under: (4-5-00)

- a. Subsections 014.02.a. through 014.02.e. and 014.02.g. is a Medicare supplement policy which has a benefit package classified as Plan A, B, C, or F offered by any issuer. (4-5-00)
- b. Subsection 014.02.f. is the same Medicare supplement policy in which the individual was most recently previously enrolled, if available from the same issuer, or, if not so available, a policy described in Subsection 014.03.a. (4-5-00)
- c. Subsection 014.02.h. shall include any Medicare supplement policy offered by any issuer. (4-5-00)

04. Notification Provisions. (4-5-00)

a. At the time of an event described in Subsection 014.02 of this section because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the policy, or the administrator of the plan being terminated, respectively, shall notify the individual of his or her rights under Section 014, and of the obligations of issuers of Medicare supplement policies under Subsection 014.01. Such notice shall be communicated contemporaneously with the notification of termination. (4-5-00)

b. At the time of an event described in Subsection 014.02 of this section because of which an individual ceases enrollment under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, shall notify the individual of his or her rights under this section, and of the obligations of issuers of Medicare supplement policies under Subsection 014.01. Such notice shall be communicated within ten (10)

working days of the issuer receiving notification of disenrollment.

(4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

019. REQUIRED DISCLOSURE PROVISIONS.

01. General Rules.

(4-5-00)

a. Medicare supplement policies and certificates shall include a renewal or continuation provision. The language or specifications of the provision shall be consistent with the type of contract issued. The provision shall be appropriately captioned and shall appear on the first page of the policy, and shall include any reservation by the issuer of the right to change premiums and any automatic renewal premium increases based on the policyholder's age.

(4-5-00)

b. Except for riders or endorsements by which the issuer effectuates a request made in writing by the insured, exercises a specifically reserved right under a Medicare supplement policy, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits, all riders or endorsements added to a Medicare supplement policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require a signed acceptance by the insured. After the date of policy or certificate issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term shall be agreed to in writing and signed by the insured, unless the benefits are required by the minimum standards for Medicare supplement policies, or if the increased benefits or coverage is required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy.

(4-5-00)

c. Medicare supplement policies or certificates shall not provide for the payment of benefits based on standards described as "usual and customary," "reasonable and customary," or words of similar import.

(4-5-00)

d. If a Medicare supplement policy or certificate contains any limitations with respect to preexisting conditions, such limitations shall appear as a separate paragraph of the policy and be labeled as "Preexisting Condition Limitations".

(4-5-00)

e. Medicare supplement policies and certificates shall have a notice prominently printed on the first page of the policy or certificate or attached thereto, stating in substance that the policyholder or certificateholder shall have the right to return the policy or certificate within thirty (30) days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the insured person is not satisfied for any reason.

(4-5-00)

f. Issuers of accident and sickness policies or certificates which provide hospital or medical expense coverage on an expense incurred or indemnity basis to persons eligible for Medicare shall provide to those applicants a "Guide to Health Insurance for People with Medicare" in the form developed jointly by the National Association of Insurance Commissions and the Health Care Financing Administration and in a type size no smaller than twelve (12) point type. Delivery of the ~~g~~Guide shall be made whether or not the policies or certificates are advertised, solicited or issued as Medicare supplement policies or certificates as defined in this rule. Except in the case of direct response issuers, delivery of the ~~g~~Guide shall be made to the applicant at the time of application and acknowledgment of receipt of the ~~g~~Guide shall be obtained by the issuer. Direct response issuers shall deliver the ~~g~~Guide to the applicant upon request but not later than at the time the policy is delivered.

~~(4-5-00)~~(1-1-01)T

g. Form. For the purposes of Section 019, form means the language, format, type size, type proportional spacing, bold character, and line spacing.

(4-5-00)

02. Notice Requirements.

(4-5-00)

a. As soon as practicable, but no later than thirty (30) days prior to the annual effective date of any Medicare benefit changes, an issuer shall notify its policyholders and certificateholders of modifications it has made

to Medicare supplement insurance policies or certificates in a format acceptable to the director. The notice shall:
(4-5-00)

i. Include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement policy or certificate, and
(4-5-00)

ii. Inform each policyholder or certificateholder as to when any premium adjustment is to be made due to changes in Medicare.
(4-5-00)

b. The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms so as to facilitate comprehension.
(4-5-00)

c. The notices shall not contain or be accompanied by any solicitation.
(4-5-00)

03. Outline Of Coverage Requirements For Medicare Supplement Policies. (4-5-00)

a. Issuers shall provide an outline of coverage to all applicants at the time application is presented to the prospective applicant and, except for direct response policies, shall obtain an acknowledgment of receipt of the outline from the applicant; and
(4-5-00)

b. If an outline of coverage is provided at the time of application and the Medicare supplement policy or certificate is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate shall accompany the policy or certificate when it is delivered and contain the following statement, in no less than twelve (12) point type, immediately above the company name: "NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued."
(4-5-00)

c. The outline of coverage provided to applicants pursuant to this section consists of four (4) parts: a cover page, premium information, disclosure pages, and charts displaying the features of each benefit plan offered by the issuer. The outline of coverage shall be in the language and format prescribed below in no less than twelve (12) point type. All plans A-J shall be shown on the cover page, and the plans that are offered by the issuer shall be prominently identified. Premium information for plans that are offered shall be shown on the cover page or immediately following the cover page and shall be prominently displayed. The premium and mode shall be stated for all plans that are offered to the prospective applicant. All possible premiums for the prospective applicant shall be illustrated.
~~(4-5-00)~~(1-1-01)T

04. Notice Regarding Policies Or Certificates Which Are Not Medicare Supplement Policies.
(4-5-00)

a. Any accident and sickness insurance policy or certificate other than Medicare supplement policy and policy issued pursuant to a contract under Section 1876 of the Federal Social Security Act (42 U.S.C. Section 1395 et seq.), disability income policy; or other policy identified in Subsection 001.02.b. of this regulation, issued for delivery in this state to persons eligible for Medicare shall notify insureds under the policy that the policy is not a Medicare supplement policy or certificate. The notice shall either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy, or if no outline of coverage is delivered, to the first page of the policy, or certificate delivered to insureds. The notice shall be in no less than twelve (12) point type and shall contain the following language: "THIS [POLICY OR CERTIFICATE] IS NOT A MEDICARE SUPPLEMENT [POLICY OR CONTRACT]. If you are eligible for Medicare, review the Guide to Health Insurance for People with Medicare available from the company."
(4-5-00)

b. Applications provided to persons eligible for Medicare for the health insurance policies or certificates described in Subsection 019.04.a. shall disclose, using the applicable NAIC Model Regulation referenced as Appendix C located on the Internet (www.doi.state.id.us, - select SHIBA under Consumer Assistance link, see Attachments to NAIC Model Act implementing the Medicare supplement insurance minimum standards), the extent to which the policy duplicates Medicare. The disclosure statement shall be provided as a part of, or together with, the application for the policy or certificate.
(4-5-00)

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.60 - LONG-TERM CARE INSURANCE MINIMUM STANDARDS

DOCKET NO. 18-0160-0001

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211, 41-4605, and 41-4608, 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.

Amends the existing rule governing sales of long-term care insurance to add 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, and sets forth requirements for actuarial certifications.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume No. 00-10, pages 438 through 464.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joan Krosch at (208) 334-4250.

DATED this 15th day of November, 2000.

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

IDAPA 18, TITLE 01, Chapter 60

LONG-TERM CARE INSURANCE MINIMUM STANDARDS

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 00-10, October 4, 2000, pages 438 through 464.

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 18 - DEPARTMENT OF INSURANCE
18.01.69 - RULE TO IMPLEMENT THE SMALL EMPLOYER HEALTH
INSURANCE AVAILABILITY ACT

DOCKET NO. 18-0169-0101

NOTICE OF TEMPORARY AND PROPOSED RULE

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 41-211, 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 January 19, 2001.

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

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

This rulemaking clarifies the administrative appeals process. Other amendments reflect changes made to the Idaho Code based on the provisions of HB 750. Additionally, duplicate information set forth in the Idaho Code was removed. The federal Health Insurance Portability and Accountability Act requirements pertaining to "certification of creditable coverage" has been included.

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

These amendments will benefit Idaho consumers and Small Employer Carriers by clarifying the amended Idaho Code sections based upon HB 750, as well as clarifying the requirements for a "certification of creditable coverage" required by the Health Insurance Portability and Accountability Act of 1996.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed and temporary rule, contact Joan Krosch, Health Insurance Coordinator, at (208) 334-4250.

Anyone may submit written comments regarding the proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before January 26, 2001.

Dated this 15th day of November, 2000.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0169-0101

003. ADMINISTRATIVE APPEALS.

All contested cases shall be governed by the provisions of Chapter 2, Title 41, Idaho Code, Chapter 52, Title 67, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General".

~~(1-25-95)~~(7-1-00)T

004. DEFINITIONS.

As used in this Rule:

(1-25-95)

01. Associate Member. Associate Member of an employee organization means any individual who participates in an employee benefit plan (as defined in 29 U.S.C. Section 1002(1)) that is a multi-employer plan (as defined in 29 U.S.C. Section 1002(37A)), other than the following: (1-25-95)

a. An individual (or the beneficiary of such individual) who is employed by a participating employer within a bargaining unit covered by at least one (1) of the collective bargaining agreements under or pursuant to which the employee benefit plan is established or maintained; or (1-25-95)

b. An individual who is a present or former employee (or a beneficiary of such employee) of the sponsoring employee organization, of an employer who is or was a party to at least one (1) of the collective bargaining agreements under or pursuant to which the employee benefit plan is established or maintained, or of the employee benefit plan (or of a related plan). (1-25-95)

~~**02. Carrier.** Carrier means any entity operating under a current Certificate of Authority issued from the Department of Insurance to do the business of disability insurance in this state. (1-25-95)~~

~~**03. Case Characteristics.** Case Characteristics are limited to age, individual tobacco use, geography, and gender. A Small Employer Carrier must apply the use of such case characteristics on a uniform basis within a class of business. Further definition is found under Section 41-4703(8), Idaho Code, and in Section 015 of this rule. (7-1-98)~~

042. Geographic Area. Geographic areas are limited to no more than six (6) designated areas, with no area being smaller than a county. (7-1-98)

053. New Entrant. New Entrant means an eligible employee, or the dependent of an eligible employee, who becomes part of an employer group after the initial period for enrollment in a health benefit plan. (1-25-95)

064. Risk Characteristic. Risk Characteristic means the health status, claims experience, duration of coverage, or any similar characteristic related to the health status or claims experience of a small employer group or of any member of a small employer group. Such characteristics can include family composition, group size, industry. (7-1-98)

075. Risk Load. Risk Load means the percentage above the applicable base premium rate that is charged by a small employer carrier to the rates of the small employer group, to reflect the risk characteristics of the small employer group. (1-25-95)

(BREAK IN CONTINUITY OF SECTIONS)

011. ASSESSMENTS.

~~01. Initial Assessment. The Board shall determine the initial capital cost of the program and shall make an initial assessment of each carrier in equal amount to fund the initial costs of the program. (1-25-95)~~

~~02. Annual Assessment To Fund Losses. The Board shall, prior to March 1st of each year determine and file with the Director an estimate of the assessments needed to fund the losses incurred by the Idaho Small Employer Reinsurance Program in the previous calendar year. This interim assessment shall be based on the assessment formula set forth in Section 41-4711(12)(c), Idaho Code. Initial or interim assessments paid will be credited to each carrier's account when the amounts needed to fund losses and pay program expenses are known. (1-25-95)(7-1-00)T~~

(BREAK IN CONTINUITY OF SECTIONS)

015. APPLICABILITY.

01. Applicability. This rule shall apply to any health benefit plan provided on a group basis, which: (4-5-00)

a. Meets one (1) or more of the conditions set forth in Sections 41-4704(1) through 41-4704(4), Idaho Code; (1-25-95)

b. ~~Provides Offers~~ coverage to two (2) or more eligible employees of a small employer located in this state, without regard to whether the policy or certificate was issued in this state; and, (1-25-95)(7-1-00)T

c. Is in effect on or after the effective date of the Act. (1-25-95)

02. Group Policy Or Trust Arrangement. The provisions of the Act and this Rule shall apply to a health benefit plan provided to a small employer or to the eligible employees of a small employer without regard to whether the health benefit plan is offered under or provided through a group policy or trust arrangement of any size sponsored by an association or discretionary group unless such health benefit plan(s) are subject to Title 41, Chapter 52, Idaho Code. (4-5-00)

03. Group Policy Or Trust Arrangement. The provisions of the Act and this Rule shall apply to a health benefit plan provided to a small employer or to the eligible employees of a small employer without regard to whether the health benefit plan is offered under or provided through a group policy or trust arrangement of any size sponsored by an association or discretionary group. (1-25-95)

034. Subsequent Employment Of More Than Fifty Eligible Employees. If a small employer is issued a health benefit plan under the terms of the Act, the provisions of the Act and this Rule shall continue to apply to the health benefit plan in the case that the small employer subsequently employs more than fifty (50) eligible employees. A carrier providing coverage to such an employer shall, within sixty (60) days of becoming aware that the employer has more than fifty (50) eligible employees but no later than the anniversary date of the employer's health benefit plan, notify the employer that the protections provided under the Act and this Rule shall cease to apply to the employer if such employer fails to renew its current health benefit plan or elects to enroll in a different health benefit plan. (7-1-98)

045. Employer Subsequently Becomes A Small Employer. If a health benefit plan is issued to an employer that is not a small employer as defined in the Act, but subsequently the employer becomes a small employer (due to the loss or change of work status of one or more employees), the terms of the Act shall not apply to the health benefit plan. The carrier providing a health benefit plan to such an employer shall not become a small employer carrier under the terms of the Act solely because the carrier continues to provide coverage under the health benefit plan to the employer. (1-25-95)

056. Time Period For Notification Of Options To Employer. A carrier providing coverage to an employer described in Subsection 015.085 shall, within sixty (60) days of becoming aware that the employer has fifty

(50) or fewer eligible employees, notify the employer of the options and protections available to the employer under the Act, including the employer's option to purchase a small employer health benefit plan from any small employer carrier. ~~(7-1-98)~~(7-1-00)T

067. Employees In More Than One State. If a small employer has employees in more than one (1) state, the provisions of the Act and this Rule shall apply to a health benefit plan issued to the small employer if: (1-25-95)

- a. The majority of eligible employees of such small employer are employed in this state; or (1-25-95)
- b. If no state contains a majority of the eligible employees of the small employer, the primary business location of the small employer is in this state. (1-25-95)

078. Laws Of This State Or Another State. In determining whether the laws of this state or another state apply to a health benefit plan issued to a small employer described in Subsection 015.407, the provisions of the paragraph shall be applied as of the date the health benefit plan was issued to the small employer for the period that the health benefit plan remains in effect. ~~(1-25-95)~~(7-1-00)T

089. Health Benefit Plan Subject To The Act And This Rule. If a health benefit plan is subject to the Act and this Rule, the provisions of the Act and this Rule shall apply to all individuals covered under the health benefit plan, whether they reside in this state or in another state. (1-25-95)

0910. When Is A Small Employer Carrier Not Subject To The Act And This Rule. A carrier that is not operating as a small employer carrier in this state shall not become subject to the provisions of the Act and this Rule solely because a small employer that was issued a health benefit plan in another state by that carrier moves to this state. (1-25-95)

(BREAK IN CONTINUITY OF SECTIONS)

036. RESTRICTIONS RELATING TO PREMIUM RATES.

01. Separate Rate Manual For Each Class Of Business. A small employer carrier shall develop a separate rate manual for each class of business. Base premium rates and new business premium rates charged to small employers by the small employer carrier shall be computed solely from the applicable rate manual developed pursuant to this subsection. To the extent that a portion of the premium rates charged by a small employer carrier is based on the carrier's discretion, the manual shall specify the criteria and factors considered by the carrier in exercising such discretion. (1-25-95)

02. Requirements For Adjustments To Rating Method. A small employer carrier shall not modify the rating method used in the rate manual for a class of business until the change has been approved as provided in this subsection. The Director may approve a change to a rating method if the Director finds that the change is reasonable, actuarially appropriate, and consistent with the purposes of the Act and this Rule. (1-25-95)

03. Information Required For Review Of Modification Of Rating Method. A carrier may modify the rating method for a class of business only with prior approval of the Director. A carrier requesting to change the rating method for a class of business shall make a filing with the Director at least thirty (30) days prior to the proposed date of the change. The filing shall contain at least the following information: (1-25-95)

- a. The reasons the change in rating method is being requested; (1-25-95)
- b. A complete description of each of the proposed modifications to the rating method; (1-25-95)
- c. A description of how the change in rating method would affect the premium rates currently charged to small employers in the class of business, including an estimate from a qualified actuary of the number of groups or

individuals (and a description of the types of groups or individuals) whose premium rates may change by more than ten percent (10%) due to the proposed change in rating method (not generally including increases in premium rates applicable to all small employers in a health benefit plan); (1-25-95)

d. A certification from a qualified actuary that the new rating method would be based on objective and credible data and would be actuarially sound and appropriate; and (1-25-95)

e. A certification from a qualified actuary that the proposed change in rating method would not produce premium rates for small employers that would be in violation of Section 41-4706, Idaho Code. (1-25-95)

04. Change In Rating Method. For the purpose of Section 036 a change in rating method shall mean: (1-25-95)

a. A change in the number of case characteristics used by a small employer carrier to determine premium rates for health benefit plans in a class of business (a small employer should not use case characteristics other than age, individual tobacco use, geography or gender without prior approval of the Director); (7-1-98)

b. A change in the manner or procedures by which insureds are assigned into categories for the purpose of applying a case characteristic to determine premium rates for health benefit plans in a class of business; (1-25-95)

c. A change in the method of allocating expenses among health benefit plans in a class of business; or (1-25-95)

d. A change in a rating factor with respect to any case characteristic if the change would produce a change in premium for any small employer that exceeds ten percent (10%). (1-25-95)

e. For the purpose of Subsection 036.04, a change in a rating factor shall mean the cumulative change with respect to such factor considered over a twelve (12) month period. If a small employer carrier changes rating factors with respect to more than one case characteristic in a twelve (12) month period, the carrier shall consider the cumulative effect of all such changes in applying the ten percent (10%) test. (1-25-95)

05. Rate Manual To Specify Case Characteristics And Rate Factors To Be Applied. The rate manual developed pursuant to Subsection 036.01 shall specify the case characteristics and rate factors to be applied by the small employer carrier in establishing premium rates for the class of business. (1-25-95)

~~**06. Case Characteristics Other Than Age, Individual Tobacco Use, Geography And Gender Must Have Prior Approval Of Director.** A small employer carrier may not use case characteristics other than those specified in Section 41-4706(1)(i), Idaho Code, without the prior approval of the Director. A small employer carrier seeking such an approval shall make a filing with the Director for a change in rating method under Subsection 036.02.~~

~~(4-5-00)~~

076. Case Characteristics Shall Be Applied In A Uniform Manner. A small employer carrier shall use the same case characteristics as defined in Section 41-4706(1)(h), Idaho Code, in establishing premium rates for each health benefit plan in a class of business and shall apply them in the same manner in establishing premium rates for each such health benefit plan. Case characteristics shall be applied without regard to the risk characteristics of a small employer. ~~(1-25-95)~~(7-1-00)T

087. Rate Manual Must Clearly Illustrate Relationship Among Base Premium Rate And Any Difference In New Business Rate. The rate manual developed pursuant to Subsection 036.01 shall clearly illustrate the relationship among the base premium rates charged for each health benefit plan in the class of business. If the new business premium rate is different than the base premium rate for a health benefit plan, the rate manual shall illustrate the difference. (1-25-95)

098. Differences In Premium Rates Must Reflect Reasonable And Objective Differences. Differences among base premium rates for health benefit plans shall be based solely on the reasonable and objective

differences in the design and benefits of the health benefit plans and shall not be based in any way on the actual or expected health status or claims experience of the small employer groups that choose or are expected to choose a particular health benefit plan. A small employer carrier shall apply case characteristics and rate factors within a class of business in a manner that assures that premium differences among health benefit plans for identical small employer groups vary only due to reasonable and objective differences in the design and benefits of the health benefit plans and are not due to the actual or expected health status or claims experience of the small employer groups that choose or are expected to choose a particular health benefit plan. (1-25-95)

109. Premium Rates To Be Developed In Two Step Process. The rate manual developed pursuant to Subsection 036.01 shall provide for premium rates to be developed in a two step process. In the first step, a base premium rate shall be developed for the small employer group without regard to any risk characteristics of the group. In the second step, the resulting base premium rate may be adjusted by a risk load, subject to the provisions of Section 41-4706, Idaho Code, to reflect the risk characteristics of the group. (1-25-95)

140. Exception To Application Fee, Underwriter Fee, Or Other Fees. Except as provided in Subsection 036.121, a premium charged to a small employer for a health benefit plan shall not include a separate application fee, underwriting fee, or any other separate fee or charge. ~~(1-25-95)~~(7-1-00)T

121. Uniform Application Of Fees. A carrier may charge a separate fee with respect to a health benefit plan provided the fee is applied in a uniform manner to every health benefit plan in a class of business. All such fees are premium and shall be included in determining compliance with the Act and these Rules. (1-25-95)

132. Uniform Allocation Of Administration Expenses. The rate manual developed pursuant to Subsection 036.01 shall describe the method of allocating administrative expenses to the health benefit plans in the class of business for which the manual was developed. (4-5-00)

143. Rate Manual To Be Maintained For A Period Of Six Years. Each rate manual developed pursuant to Subsection 036.01 shall be maintained by the carrier for a period of six (6) years. Updates and changes to the manual shall be maintained with the manual. ~~(1-25-95)~~(7-1-00)T

154. Rate Manual And Practices Must Comply With Guidelines Issued By Director. The rate manual and rating practices of a small employer carrier shall comply with any guidelines issued by the Director. (1-25-95)

165. Application Of Restrictions Related To Changes In Premium Rates. The restrictions related to changes in premium rates are set forth in Section 41-4706(1)(c), Idaho Code, and shall be applied as follows: (1-25-95)

a. A small employer carrier shall revise its rate manual each rating period to reflect changes in base premium rates and changes in new business premium rates. (1-25-95)

b. If, for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate is less than or the same as the percentage change in the base premium rate, the change in the new business premium rate shall be deemed to be the change in the base premium rate for the purposes of Sections 41-4706(1)(c)(i) ~~and 41-4706(1)(f)(i)~~, Idaho Code. ~~(1-25-95)~~(7-1-00)T

c. If, for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate exceeds the percentage change in the base premium rate, the health benefit plan shall be considered a health benefit plan into which the small employer carrier is no longer enrolling new small employers for the purposes of Sections 41-4706(1)(c)(i) ~~and (f)~~, Idaho Code. ~~(1-25-95)~~(7-1-00)T

d. If, for any rating period, the change in the new business premium rate for a health benefit plan differs from the change in the new business premium rate for any other health benefit plan in the same class of business by more than twenty percent (20%), the carrier shall make a filing with the Director containing a complete explanation of how the respective changes in new business premium rates were established and the reason for the difference. The filing shall be made within thirty (30) days of the beginning of the rating period. (1-25-95)

e. A small employer carrier shall keep on file for a period of at least six (6) years the calculations used to determine the change in base premium rates and new business premium rates for each health benefit plan for each rating period. (1-25-95)

176. Change In Premium Rate. Except as provided in Subsections 036.187 and 036.198, a change in premium rate for a small employer shall produce a revised premium rate that is no more than the following: ~~(1-25-95)~~(7-1-00)T

a. The base premium rate for the small employer, given its present composition, (as shown in the rate manual as revised for the rating period), multiplied by; (1-25-95)

b. One (1) plus the sum of: (1-25-95)

i. The risk load applicable to the small employer during the previous rating period; and (1-25-95)

ii. Fifteen percent (15%) (prorated for periods of less than one (1) year). (1-25-95)

187. Rating Restrictions On Plans Where Carrier Is No Longer Enrolling New Business. In the case of a health benefit plan into which a small employer carrier is no longer enrolling new small employers, a change in premium rate for a small employer shall produce a revised premium rate that is no more than the base premium rate for the small employer (given its present composition and as shown in the rate manual in effect for the small employer at the beginning of the previous rating period), multiplied by Subsections 036.187.a. and 036.187.b. below. ~~(4-5-00)~~(7-1-00)T

a. One (1) plus the lesser of: (1-25-95)

i. The change in the base rate; or (1-25-95)

ii. The percentage change in the new business premium for the most similar health benefit plan into which the small employer carrier is enrolling new small employers. (1-25-95)

b. One (1) plus the sum of: (1-25-95)

i. The risk load applicable to the small employer during the previous rating period; and (1-25-95)

ii. Fifteen percent (15%) (prorated for periods of less than one (1) year). (1-25-95)

198. Limitations On Revised Premium Rate. Notwithstanding the provisions of Subsections 036.176 and 036.187, a change in premium rate for a small employer shall not produce a revised premium rate that would exceed the limitations on rates provided in Section 41-4706(1)(b), Idaho Code. ~~(1-25-95)~~(7-1-00)T

209. Waiver Request For A Taft-Hartley Trust. A representative of a Taft-Hartley trust (including a carrier upon the written request of such a trust) may file a written request with the Director for the waiver of application of the provisions of Section 41-4706(1), Idaho Code, with respect to such trust. (1-25-95)

210. Provisions For Which Trust Is Seeking Waiver. A request made under Subsection 036.219 shall identify the provisions for which the trust is seeking the waiver and shall describe, with respect to each provision, the extent to which application of such provision would: ~~(1-25-95)~~(7-1-00)T

a. Adversely affect the participants and beneficiaries of the trust; and (1-25-95)

b. Require modifications to one (1) or more of the collective bargaining agreements under or pursuant to which the trust was or is established or maintained. (1-25-95)

221. Waiver Shall Not Apply To Individual Or Associate Member. A waiver granted under this provision shall not apply to an individual who participates in the trust because the individual is an associate member of an employee organization or the beneficiary of such an individual. (1-25-95)

(BREAK IN CONTINUITY OF SECTIONS)

046. REQUIREMENT TO INSURE ENTIRE GROUPS.

01. Offer Of Coverage. A small employer carrier that offers coverage to a small employer shall offer to provide coverage to each eligible employee and to each dependent of an eligible employee. Except as provided in Subsection 046.02, the small employer carrier shall provide the same health benefit plan to each such employee and dependent. (1-25-95)

02. Choice Of Health Benefit Plans. A small employer carrier may offer the employees of a small employer the option of choosing among one or more health benefit plans, provided that each eligible employee may choose any of the offered plans. Except as provided in Section 41-4708(3), Idaho Code, (with respect to exclusions for pre-existing conditions), the choice among benefit plans may not be limited, restricted or conditioned based upon the risk characteristics of the eligible employees or their dependents. (1-25-95)

03. Participation Requirement. The small employer carrier may impose reasonable minimum participation requirements for issuance of coverage to small employers, subject to prior approval from the Director. (1-25-95)

04. Employer Census And Supporting Documentation. A small employer carrier shall require each small employer that applies for coverage, as part of the application process, to prepare or provide an employer census of dependents and eligible employees as defined in Sections 41-4703(1~~3~~1) and 41-4703(1~~5~~3), Idaho Code. The small employer carrier shall require the small employer to provide appropriate supporting documentation (such as the W-2 Summary Wage and Tax Form) or a certification of information by a Small Employer as to the current census information. ~~(4-5-00)~~(7-1-00)T

05. Waiver For Documentation Of Coverage. A small employer carrier shall secure a waiver with respect to each eligible employee and each dependent of such an eligible employee who declines an offer of coverage under a health benefit plan provided to a small employer. The waiver shall be signed by the eligible employee (on behalf of such employee or the dependent of such employee) and shall certify that the individual who declined coverage was informed of the availability of coverage under the health benefit plan. The waiver form shall require that the reason for declining coverage be stated on the form, and shall include a statement informing the eligible employee of the special enrollment rights provided within the Idaho Code, and shall include a written warning of the penalties imposed on late enrollees. Waivers shall be maintained by the small employer carrier for a period of six (6) years. ~~(1-25-95)~~(7-1-00)T

06. Refusal To Provide Information. A small employer carrier shall not issue coverage to a small employer that refuses to provide the list required under Subsection 046.0~~4~~4 or a waiver required under Subsection 046.0~~4~~5, except for the following: ~~(4-5-00)~~(7-1-00)T

a. The excluded individual has coverage under a health benefit plan or other health benefit arrangement that provides benefits similar to or exceeding benefits provided under the basic health benefit plan. (1-25-95)

07. Small Employer Carrier Shall Not Issue Coverage. A small employer carrier shall not issue coverage to a small employer if the carrier, or an agent for such carrier, has reason to believe that the small employer has induced or pressured an eligible employee (or dependent of an eligible employee) to decline coverage due to ~~the individual's risk characteristics~~ a health status related factor of the individual. ~~(1-25-95)~~(7-1-00)T

08. Agent Notification To Small Employer Carrier. An agent shall notify a small employer carrier, prior to submitting an application for coverage with the carrier on behalf of a small employer, of any circumstances that would indicate that the small employer has induced or pressured an eligible employee (or dependent of an eligible employee) to decline coverage due to the individual's risk characteristics. (1-25-95)

09. New Entrants. New entrants to a small employer group shall be offered an opportunity to enroll in the health benefit plan currently held by such group based upon the provisions of Section 41-4708(3), Idaho Code. A new entrant that does not exercise the opportunity to enroll in the health benefit plan within the period provided by the small employer carrier may be treated as a late enrollee by the carrier, provided that the period provided to enroll in the health benefit plan extends at least thirty (30) days after the date the new entrant is notified of his or her opportunity to enroll. The period of continuous coverage shall not include any waiting period for the effective date of the new coverage applied by the employer ~~or the carrier~~ to all new enrollees under the Employee Benefit Plan. If a small employer carrier has offered more than one health benefit plan to a small employer group pursuant to Subsection 046.02, the new entrant shall be offered the same choice of health benefit plans as the other members of the group. ~~(4-5-00)(7-1-00)T~~

10. Small Employer Carrier Shall Not Apply Waiting Period Or Similar Limitation. A small employer carrier shall not apply a waiting period, elimination period or other similar limitation of coverage (other than an exclusion for pre-existing medical conditions consistent with Section 41-4708(3), Idaho Code). ~~This provision does not preclude application of any waiting periods applicable to all new enrollees under the health benefit plan.~~ ~~(4-5-00)(7-1-00)T~~

11. No Restrictions Or Limitations On Coverage Related To Risk Characteristics. New entrants to a group shall be accepted for coverage by the small employer carrier without any restrictions or limitations on coverage related to the risk characteristics of the employees or their dependents, except that a carrier may exclude or limit coverage for pre-existing medical conditions, consistent with the provisions provided in Section 41-4708(3), Idaho Code. (1-25-95)

12. Risk Load. A small employer carrier may assess a risk load to the premium rate associated with a new entrant, consistent with the requirements of Section 41-4706, Idaho Code. The risk load shall be the same risk load charged to the small employer group immediately prior to acceptance of the new entrant into the group. (1-25-95)

13. Rescission Employer Misstatements. When material application misstatements are found, rescission action by the carrier shall be taken at the carrier's option against the coverage of an entire small employer (including employees and dependents) and shall be limited to circumstances under which the application misstatements have been made by the small employer. When rescission action is taken, per Section 41-4707(1)(b), Idaho Code, premiums must be refunded less any claims which had been paid prior to the date the rescission was initiated. At the carrier's option, the carrier shall seek to recover any amounts of claims paid in excess of premiums paid. The applicable contract or coverage shall be considered null and void. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

060. QUALIFYING PREVIOUS AND QUALIFYING EXISTING COVERAGES.

01. Previous Coverage Or Existing Coverage. In determining whether a health benefit plan or other health benefit arrangement (whether public or private) shall be considered qualifying previous coverage or qualifying existing coverage for the purposes of Sections 41-4703(197), 41-4703(253), and 41-4708(3)(c), Idaho Code, a small employer carrier shall interpret the Act no less favorably to an insured individual than the following: ~~(4-5-00)(7-1-00)T~~

a. A health benefit plan, certificate, or other health benefit arrangement, ~~with the exception of a policy issued under Title 41, Chapter 52, Idaho Code,~~ shall be considered employer-based if an employer sponsors the plan or arrangement or makes a contribution to the plan or arrangement; ~~and.~~ ~~(4-5-00)(7-1-00)T~~

b. ~~A health benefit plan, certificate or other benefit arrangement shall be considered to provide benefits similar to or exceeding the benefits provided under the basic health benefit plan if the policy, certificate or other benefit arrangement provides benefits that:~~ ~~(1-25-95)~~

~~i. Have an actuarial value (as considered for a normal distribution of groups) that is not substantially less than the actuarial value of the basic health benefit plan; or (1-25-95)~~

~~ii. Provides coverage for hospitalization and physician services that is substantially similar to or exceeds the coverage for such services in the basic health benefit plan. (1-25-95)~~

~~e. In making a determination under Subsection 060.01.b., a small employer carrier shall evaluate the previous or existing policy, certificate or other benefit arrangement taken as a whole and shall not base its decision solely on the fact that one portion of the previous or existing policy, certificate or benefit arrangement provides less coverage than the comparable portion of the basic health benefit plan. (1-25-95)~~

~~02. Particular Service. For the purposes of Section 41-4708(3)(c), Idaho Code, an individual will be considered to have qualifying previous coverage with respect to a particular service if the previous policy, certificate or other benefit arrangement covering such individual met the definition of qualifying previous coverage contained in Section 41-4703(25), Idaho Code, and provided any benefit with respect to the service. (4-5-00)~~

032. Source Of Previous Or Existing Coverage. A small employer carrier shall ascertain the source of previous or existing coverage of each eligible employee and each dependent of an eligible employee at the time such employee or dependent initially enrolls into the health benefit plan provided by the small employer carrier. The small employer carrier shall have the responsibility to contact the source of such previous or existing coverage to resolve any questions about the benefits or limitations related to such previous or existing coverage. (1-25-95)

03. Certification of Creditable Coverage. Small employer carriers shall provide written certification of creditable coverage to individuals in accordance with Subsection 060.03. (7-1-00)T

a. A small employer carrier shall be deemed to have satisfied the certification requirements of Subsection 060.03 if another person provides the certificate, but only to the extent that information relating to the individual's creditable coverage and waiting or affiliation period has been provided by another person. (7-1-00)T

b. To the extent coverage under a health benefit plan consists of group coverage the plan shall be deemed to have satisfied the certification requirements of Subsection 060.03 if the small employer carrier offering the coverage is required to provide the certificates of creditable coverage to individuals pursuant to an agreement between the plan and the carrier. (7-1-00)T

c. A small employer carrier is not required to provide information regarding health benefit plan coverage provided to an individual by another person. (7-1-00)T

i. If an individual's coverage under a policy ceases before the individual's coverage under the group health plan ceases, the entity that issued the policy shall provide sufficient information to the small employer carrier, or to another person designated by the carrier, to enable the carrier, or other person, to provide a certificate that reflects the period of coverage under the policy, after the individual's coverage under the group health plan ceases. (7-1-00)T

ii. The provision of the information pursuant to Subsection 060.03.c.i. to the new carrier shall satisfy the entity's obligation to provide an automatic certificate pursuant to Subsection 060.03. (7-1-00)T

iii. The carrier providing the information about creditable coverage pursuant to Subsection 060.03 shall cooperate with other carriers in responding to any request for additional information. (7-1-00)T

iv. If the individual's coverage under a group health plan ceases, the carrier that issued the group policy shall provide an automatic certificate of coverage. (7-1-00)T

d. A small employer carrier shall provide a certification of creditable coverage, without charge, to participants or dependents who are or were covered under the group health benefit plan. (7-1-00)T

e. A small employer carrier shall provide a certificate at the time a request is made on behalf of an

individual if the request is made not later than twenty-four (24) months after the date the individual's coverage ceased under the plan. (7-1-00)T

i. Each small employer carrier shall establish a procedure for individuals to request and receive certificates under Subsection 060.03. Upon a receipt of the request, the small employer carrier shall provide the certificate by the earliest date that the carrier, acting in a reasonable and prompt fashion, can provide the certificate. (7-1-00)T

f. A certificate provided pursuant to Subsection 060.03 must include the following: (7-1-00)T

i. The date the certificate was issued; (7-1-00)T

ii. The name of the group health plan that provided the coverage described in the certificate; (7-1-00)T

iii. The name of the participant or dependent with respect to whom the certificate applies, and any other information necessary for the plan providing the coverage specified in the certificate to identify the individual, such as the individual's identification number under the plan; (7-1-00)T

iv. The name, address, and telephone number of the plan administrator required to provide the certificate; (7-1-00)T

v. The telephone number to call for further information regarding the certificate; and (7-1-00)T

vi. Either, a statement that the individual has at least twelve (12) months of creditable coverage, disregarding days of creditable coverage before a significant break in coverage; or (7-1-00)T

vii. The date any waiting period or affiliation period, if applicable, began and the date creditable coverage began; and (7-1-00)T

viii. The date creditable coverage ended, unless the certificate indicates that the creditable coverage is continuing as of the date of the certificate. (7-1-00)T

g. Small employer carriers may provide a certificate required to be provided pursuant to Subsection 060.03 by first-class mail, at the participant's last known address. (7-1-00)T

h. The model for the certification of coverage may be found on the Department of Insurance Internet Web site at www.doi.state.id.us and select the link "Health Information". (7-1-00)T

(BREAK IN CONTINUITY OF SECTIONS)

067. RESTRICTIVE RIDERS.

Health benefit plans. Except as permitted in Section 41-4708(3), Idaho Code, a small employer carrier shall not modify or restrict any health benefit plan with respect to any eligible employee or dependent of an eligible employee, through riders, endorsements or otherwise, for the purpose of restricting or excluding the coverage or benefits provided to such employee or dependent for specific diseases, medical conditions, including but not limited to pregnancy, or services otherwise covered by the plan. ~~(4-5-00)~~(7-1-00)T

(BREAK IN CONTINUITY OF SECTIONS)

075. RULES RELATED TO FAIR MARKETING.

01. Small Employer Carrier Shall Actively Market. A small employer carrier shall actively market each of its health benefit plans to small employers in this state. A small employer carrier may not suspend the marketing or issuance of the basic, standard, or catastrophic health benefit plans unless the carrier has good cause and has received the prior approval of the Director. (7-1-98)

02. Marketing Basic, Standard, Or Catastrophic Plans. In marketing the basic, standard, or catastrophic health benefit plans to small employers, a small employer carrier shall use at least the same sources and methods of distribution that it uses to market other health benefit plans to small employers. Any producer authorized by a small employer carrier to market health benefit plans to small employers in the state shall also be authorized to market the basic, standard, or catastrophic health benefit plans. (7-1-98)

03. Offer Must Be In Writing. A small employer carrier shall offer all small group health benefit plans to any small employer that applies for or makes an inquiry regarding health insurance coverage from the small employer carrier. The offer shall be in writing and shall include at least the following information: (4-5-00)

a. A general description of the benefits and base rates contained in all actively marketed, including but not limited to the mandated, health benefit plans; and ~~(4-5-00)~~(7-1-00)T

b. Information describing how the small employer may enroll in the plans. The offer may be provided directly to the small employer or delivered through a producer. (1-25-95)

04. Timeliness Of Price Quote. A small employer carrier shall provide a price quote to a small employer (directly or through an authorized producer) within ten (10) working days of receiving a request for a quote and such information as is necessary to provide the quote. A small employer carrier shall notify a small employer (directly or through an authorized producer) within five (5) working days of receiving a request for a price quote of any additional information needed by the small employer carrier to provide the quote. (1-25-95)

05. Toll-Free Telephone Service. A small employer carrier shall establish and maintain a toll-free telephone service to provide information to small employers regarding the availability of small employer health benefit plans in this state. The service shall provide information to callers on how to apply for coverage from the carrier. The information may include the names and phone numbers of producers located geographically proximate to the caller or such other information that is reasonably designed to assist the caller to locate an authorized producer or to otherwise apply for coverage. (1-25-95)

06. Restrictions As To Contribution To Association. The small group carrier shall not require a small employer to join or contribute to any association or group as a condition of being accepted for coverage by the small employer carrier, except that, if membership in an association or other group is a requirement for accepting a small employer into a particular health benefit plan, a small employer carrier may apply such requirement, subject to the requirements of Section 41-4708~~(1)(b)(ii)~~, Idaho Code. ~~(1-25-95)~~(7-1-00)T

07. No Requirement To Qualify For Other Insurance Product. A small employer carrier may not require, as a condition to the offer of sale of a health benefit plan to a small employer, that the small employer purchase or qualify for any other insurance product or service. (1-25-95)

08. Plans Subject To Requirement Of The Act And This Rule. Carriers offering group health benefit plans in this state shall be responsible for determining whether the plans are subject to the requirements of the Act and this Rule. (4-5-00)

09. Annual Filing Requirement. A small employer carrier shall file annually the following information with the Director related to health benefit plans issued by the small employer carrier to small employers in this state on forms prescribed by the Director: (1-25-95)

a. The number of small employers that were covered under health benefit plans in the previous calendar year (separated as to newly issued plans and renewals); (1-25-95)

b. The number of small employers that were covered under the basic, standard, or catastrophic health benefit plan in the previous calendar year (separated as to newly issued plans and renewals). (7-1-98)

c. The number of small employer health benefit plans in force in each county (or by five digit zip code) of the state as of December 31 of the previous calendar year; (1-25-95)

d. The number of small employer health benefit plans that were voluntarily not renewed by small employers in the previous calendar year; (1-25-95)

e. The number of small employer health benefit plans that were terminated or non renewed (for reasons other than nonpayment of premium) by the carrier in the previous calendar year; and (1-25-95)

f. The number of health benefit plans that were issued to residents that were uninsured for at least sixty-three (63) days prior to issue. (7-1-98)

10. Total Number Of Residents. All carriers shall file annually with the Director, on forms prescribed by the Director, the total number of residents, including spouses and dependents, covered during the previous calendar year under all health benefit plans issued in this state. This includes residents covered under reinsurance by way of excess loss or stop loss plans. (~~1-25-95~~)(7-1-00)T

11. Filing Date. The information described in Subsections 075.09 and 075.10 shall be filed no later than March 15, each year. (~~4-5-00~~)(7-1-00)T

12. Specific Data. For purposes of this section, health benefit plan information shall include policies or certificates of insurance for specific disease, hospital confinement indemnity and stop loss coverages. (1-25-95)

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.70 - RULE TO IMPLEMENT THE SMALL EMPLOYER HEALTH INSURANCE
AVAILABILITY ACT PLAN DESIGN

DOCKET NO. 18-0170-0101

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2001.

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 41-211, 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 January 19, 2001.

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

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

The rule amends IDAPA 18.01.70, health benefit plans limitations and exclusions, to comply with requirements of the federal Women's Health and Cancer Rights Act. Coordination of benefits provisions are also amended, to conform to IDAPA 18.01.74, "Coordination of Benefits," which defines the application of coordination of benefit provisions.

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

The amendments are based on federal requirements under the Women's Health And Cancer Rights Act.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed and temporary rules, contact Joan Krosch, Health Insurance Coordinator, at (208) 334-4300.

Anyone may submit written comments regarding the proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before January 26, 2001.

Dated this 15th day of November, 2000.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0170-0101

003. ADMINISTRATIVE APPEALS.

All contested cases shall be governed by the provisions of Chapter 2, Title 41, Idaho Code, Chapter 52, Title 67, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General".

~~(1-25-95)~~(1-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

015. COORDINATION OF BENEFITS.

Coordination of benefits shall be utilized on the small employer basic, standard, and catastrophic plans based upon ~~the current NAIC birthday rule so long as such~~ IDAPA 18.01.74, "Coordination of Benefits" ~~would not be in conflict with Chapter 22, Title 41, Idaho Code. This provision will expire upon final adoption of the NAIC Coordination of Benefits model rule or upon order Director.~~

~~(7-1-98)~~(1-1-01)T

016. LIMITATIONS AND EXCLUSIONS.

01. Services Not Medically Necessary. Excluded. Any service not medically necessary or appropriate unless specifically included within the coverage provisions. (1-25-95)

02. No Coverage. Custodial, convalescent or intermediate level care or rest cures. (1-25-95)

03. Experimental Or Investigational. Services which are experimental or investigational. (1-25-95)

04. Workers' Compensation, Medicare, CHAMPUS. Services eligible for coverage by Workers' Compensation, Medicare or CHAMPUS. (1-25-95)

05. No Charges. Services for which no charges are made or for which no charges would be made in the absence of insurance or for which the insured has no legal obligation to pay. (1-25-95)

06. No Medical Diagnosis. Services for weight control, nutrition, and smoking cessation, including self-help and training programs as well as prescription drugs, used in conjunction with such programs and services. (7-1-98)

07. Cosmetic Surgery. Cosmetic surgery and services, except for treatment or surgery for ~~non-~~congenital ~~injury or surgery anomaly~~. Mastectomy reconstruction is covered ~~if within two (2) years of mastectomy as described in the Womens Health and Cancer Rights Act.~~ (1-25-95)(1-1-01)T

08. Artificial Insemination, Infertility, Sexual Dysfunction. Artificial insemination and infertility treatment. Treatment of sexual dysfunction not related to organic disease. (1-25-95)

09. Induced Infertility. Services for reversal of elective, surgically or pharmaceutically induced infertility. (1-25-95)

10. Vision. Vision therapy, tests, glasses, contact lenses and other vision aids. Radial keratotomy, myopic keratomileusis and any surgery involving corneal tissue to alter or correct myopia, hyperopia or stigmatic error. Vision tests and glasses will be covered for children under the age of twelve (12), except in catastrophic health benefit plans. (7-1-98)

11. Limitation Foot Care. For treatment of weak, strained, or flat feet, including orthopedic shoes or other supportive devices, or for cutting, removal, or treatment of corns, calluses, or nails other than corrective surgery, or for metabolic or peripheral vascular disease. (7-1-98)

- 12. Manipulative Therapy And Related Treatment.** Manipulative therapy and related treatment, including heat treatments and ultrasound, of the musculoskeletal structure for other than fractures and dislocations of the extremities will be subject to one thousand dollars (\$1,000) per year limit, subject to the policy deductible, co-insurance, or co-payment. (4-5-00)
- 13. Dental, Orthodontic Services.** (7-1-98)
- a. For Basic and Standard plans: Dental and orthodontic services, except those needed for treatment of a medical condition or injury or as specifically allowed in the policy for children under the age of twelve (12). (7-1-98)
- b. For Catastrophic plans: Dental care or treatment, except for injury sustained while insured under this policy, or as a result of nondental disease covered by the policy. (7-1-98)
- 14. Hearing Tests.** Hearing tests without illness being suspect. (1-25-95)
- 15. Hearing Aids, Supplies.** Hearing aids and supplies, tinnitus maskers, cochlear implants and exams for the prescription or fitting of hearing aids. (1-25-95)
- 16. Speech Tests.** Speech tests and therapy except as specifically allowed in the policy for children under the age of twelve (12). (1-25-95)
- 17. Private Room Accommodation Charges.** Private room accommodation charges in excess of the institution's most common semi-private room charge except when prescribed as medically necessary. (1-25-95)
- 18. Services Performed By A Member Of The Insured's Family.** Services performed by a member of the insured's family or of the insured's spouse's family. Family includes parents or grandparents of the insured or spouse and any descendants of such parents or grandparents. (1-25-95)
- 19. No Coverage Prior To Effective Date Of Coverage.** Care incurred before the effective date of the person's coverage. (1-25-95)
- 20. Covered Injury Or Disease.** Immunizations and medical exams and tests of any kind not related to treatment of covered injury or disease, except as specifically stated in the policy. (1-25-95)
- 21. Act Of War Or Armed Conflict.** Injury or sickness caused by war or armed international conflict. (1-25-95)
- 22. Operation And Treatment, Sexual Change.** Sex change operations and treatment in connection with transsexualism. (1-25-95)
- 23. Counseling.** Marriage and family and child counseling except as specifically allowed in the policy. (1-25-95)
- 24. Acupuncture.** (7-1-98)
- a. For Basic and Standard plans: Acupuncture except when used as anesthesia during a covered surgical procedure. (7-1-98)
- b. For Catastrophic plans: Acupuncture. (7-1-98)
- 25. Private Duty Nursing.** Private duty nursing except as specifically allowed in the policy. (1-25-95)
- 26. Employer Maintained Medical Or Dental Care.** Services received from a medical or dental department maintained by or on behalf of an employer, a mutual benefit association, labor union, trust, or similar person or group. (1-25-95)

- 27. Termination.** Services incurred after the date of termination of a covered person's coverage except as allowed by the extension of benefits provision of the policy, if any. (7-1-98)
- 28. Personal Convenience Items.** Expenses for personal hygiene and convenience items such as air conditioners, humidifiers, and physical fitness equipment. (1-25-95)
- 29. Failure To Keep A Scheduled Visit.** Charges for failure to keep a scheduled visit, charges for completion of any form, and charges for medical information. (1-25-95)
- 30. Screening Examinations.** Charges for screening examinations except as otherwise provided in the policy. (1-25-95)
- 31. No Allowance.** Charges for wigs or cranial prostheses, hair analysis, hair loss and baldness. (1-25-95)
- 32. Preexisting Conditions.** Pre-existing conditions, except as provided specifically in the policy. (1-25-95)

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.72 - RULE TO IMPLEMENT THE INDIVIDUAL HEALTH
INSURANCE AVAILABILITY ACT

DOCKET NO. 18-0172-0101

NOTICE OF TEMPORARY AND PROPOSED RULE

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 41-211, 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 January 19, 2001.

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

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

Recommended changes bring compliance with amendments to Title 41, Chapter 52, Idaho Code, Individual Health Insurance Availability Act, and the new Title 41, Chapter 55, Idaho Code, Idaho Individual High Risk Reinsurance Pool, based on the provisions of HB 750. Amendments also clarify requirements of the "certification of creditable coverage" to insured's as reflected in the Health Insurance Portability and Accountability Act of 1996.

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

The recommended amendments are based on state and federal legislative requirements and will confer a benefit to the Idaho consumers in the availability of individual health insurance and further provides clarification as to the issuance of the "certification of creditable coverage" by the individual carriers to health benefit plan participants upon the discontinuance of coverage.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: Not Applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Joan Krosch, Health Insurance Coordinator, at (208) 334-4300.

Anyone may submit written comments regarding the proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before January 26, 2001.

Dated this 15th day of November, 2000.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0172-0101

000. LEGAL AUTHORITY.

This rule is promulgated and adopted pursuant to the authority vested in the Director under Chapters 2, ~~and 52, and 55~~, Title 41, Idaho Code. ~~(4-5-00)(7-1-00)T~~

(BREAK IN CONTINUITY OF SECTIONS)

003. ADMINISTRATIVE APPEALS.

All contested cases shall be governed by the provisions of Chapter 2, Title 41, Idaho Code, Chapter 52, Title 67, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". ~~(4-5-00)(7-1-00)T~~

004. DEFINITIONS.

As used in this Rule: (7-1-98)

01. Geographic Area. Geographic areas are limited to six (6) designated areas, with no area being smaller than a county. (7-1-98)

02. Risk Characteristic. Risk Characteristic means the health status, claims experience, duration of coverage, or any similar characteristic related to the health status or claims experience of an individual. Such characteristics can include family composition. (7-1-98)

03. Risk Load. Risk Load means the percentage above the applicable base premium rate that is charged by an individual carrier to the rates of the eligible individual, to reflect the risk characteristics of the eligible individual. (7-1-98)

04. Idaho Resident. Idaho resident means a person who is able to provide satisfactory proof of having resided in Idaho, as their place of domicile for a continuous six (6) month period, for purposes of being an eligible individual pursuant to Section 41-5203(140), Idaho Code. The six (6) month residency requirements would be waived for eligible individuals based on the Health Insurance Portability and Accountability Act of 1996. ~~(7-1-98)(7-1-00)T~~

(BREAK IN CONTINUITY OF SECTIONS)

011. ASSESSMENTS.

Annual Assessment To Fund Losses. The Board shall, prior to March 1st of each year, determine and file with the Director an estimate of the assessments needed to fund the losses incurred by the Idaho Small Employer and Individual Health Reinsurance ~~Program in the previous calendar year~~. The March 1, 2001 assessment anticipated by Section 41-4711, Idaho Code, will consist of the amounts needed to cover the claims cost of the individual policies issued on or before June 30, 2000. This interim assessment shall be based on the assessment formula set forth in Section 41-4711(12)(c), Idaho Code. Initial or interim assessments paid, on behalf of the Idaho Individual High Risk Reinsurance Pool, will be credited to each carrier's account when the amounts needed to fund losses and pay program expenses are known. ~~(7-1-98)(7-1-00)T~~

(BREAK IN CONTINUITY OF SECTIONS)

036. RESTRICTIONS RELATING TO PREMIUM RATES.

01. Rate Manual. An individual carrier shall develop a rate manual for all individual business. Base premium rates and new business premium rates charged to eligible individuals by the individual carrier shall be computed solely from the applicable rate manual developed pursuant to this subsection. To the extent that a portion of the premium rates charged by an individual carrier is based on the carrier's discretion, the manual shall specify the criteria and factors considered by the carrier in exercising such discretion. (7-1-98)

02. Requirements For Adjustments To Rating Method. An individual carrier shall not modify the rating method used in the rate manual for its individual business until the change has been approved as provided in this paragraph. The Director may approve a change to a rating method if the Director finds that the change is reasonable, actuarially appropriate, and consistent with the purposes of the Act and this Rule. (7-1-98)

03. Information Required For Review Of Modification Of Rating Method. A carrier may modify the rating method for its individual business only with prior approval of the Director. A carrier requesting to change the rating method for its individual business shall make a filing with the Director at least thirty (30) days prior to the proposed date of the change. The filing shall contain at least the following information: (7-1-98)

- a. The reasons the change in rating method is being requested; (7-1-98)
- b. A complete description of each of the proposed modifications to the rating method; (7-1-98)
- c. A description of how the change in rating method would affect the premium rates currently charged to eligible individuals in the health benefit plan, including an estimate from a qualified actuary of the number of individuals (and a description of the types of individuals) whose premium rates may change by more than ten percent (10%) due to the proposed change in rating method (not generally including increases in premium rates applicable to all individuals in a health benefit plan); (7-1-98)
- d. A certification from a qualified actuary that the new rating method would be based on objective and credible data and would be actuarially sound and appropriate; and (7-1-98)
- e. A certification from a qualified actuary that the proposed change in rating method would not produce premium rates for eligible individuals that would be in violation of Section 41-5206, Idaho Code. (7-1-98)

04. Change In Rating Method. For the purpose of Section 036 a change in rating method shall mean: (7-1-98)

- a. A change in the number of case characteristics used by an individual carrier to determine premium rates for health benefit plans in its individual business (an individual carrier shall not use case characteristics other than age, individual tobacco use, geography or gender without prior approval of the Director); (7-1-98)
- b. A change in the method of allocating expenses among health benefit plans; or (7-1-98)
- c. A change in a rating factor with respect to any case characteristic if the change would produce a change in premium for any individual that exceeds ten percent (10%). (7-1-98)
- d. For the purpose of Subsection 036.04, a change in a rating factor shall mean the cumulative change with respect to such factor considered over a twelve (12) month period. If an individual carrier changes rating factors with respect to more than one case characteristic in a twelve (12) month period, the carrier shall consider the cumulative effect of all such changes in applying the ten percent (10%) test. (7-1-98)

05. Rate Manual To Specify Case Characteristics And Rate Factors To Be Applied. The rate manual developed pursuant to Subsection 036.01 shall specify the case characteristics and rate factors to be applied by the individual carrier in establishing premium rates for the health benefit plans. (7-1-98)

06. Case Characteristics Other Than Age, Individual Tobacco Use, Geography And Gender - Must Have Prior Approval Of Director. An individual carrier may not use case characteristics other than those

specified in Section 41-5206(1)(gf), Idaho Code, without the prior approval of the Director. An individual carrier seeking such an approval shall make a filing with the Director for a change in rating method under Subsection 036.02. ~~(7-1-98)~~(7-1-00)T

07. Case Characteristics Shall Be Applied In A Uniform Manner. An individual carrier shall use the same case characteristics in establishing premium rates for each health benefit plan and shall apply them in the same manner in establishing premium rates for each such health benefit plan. Case characteristics shall be applied without regard to the risk characteristics of an eligible individual. (7-1-98)

08. Rate Manual Must Clearly Illustrate Relationship Among Base Premium Rate And Any Difference In New Business Rate. The rate manual developed pursuant to Subsection 036.01 shall clearly illustrate the relationship among the base premium rates charged for each health benefit plan. If the new business premium rate is different than the base premium rate for a health benefit plan, the rate manual shall illustrate the difference. (7-1-98)

09. Differences In Premium Rates Must Reflect Reasonable And Objective Differences. Differences among base premium rates for health benefit plans shall be based solely on the reasonable and objective differences in the design and benefits of the health benefit plans and shall not be based in any way on the actual or expected health status or claims experience of the eligible individual or groups that choose or are expected to choose a particular health benefit plan. An individual carrier shall apply case characteristics and rate factors within its health benefit plans in a manner that assures that premium differences among health benefit plans for identical individuals vary only due to reasonable and objective differences in the design and benefits of the health benefit plans and are not due to the actual or expected health status or claims experience of the individuals that choose or are expected to choose a particular health benefit plan. ~~(7-1-98)~~(7-1-00)T

10. Premium Rates To Be Developed In Two Step Process. The rate manual developed pursuant to Subsection 036.01 shall provide for premium rates to be developed in a two (2) step process. In the first step, a base premium rate shall be developed for the eligible individual without regard to any risk characteristics. In the second step, the resulting base premium rate may be adjusted by a risk load, subject to the provisions of Section 41-5206, Idaho Code, to reflect the risk characteristics of the individual. (7-1-98)

11. Exception To Application Fee, Underwriter Fee Or Other Fees. Except as provided in Subsection 036.12, a premium charged to an individual for a health benefit plan shall not include a separate application fee, underwriting fee, or any other separate fee or charge. (7-1-98)

12. Uniform Application Of Fees. A carrier may charge a separate fee with respect to a health benefit plan provided the fee is applied in a uniform manner to all health benefit plans. All such fees are premium and shall be included in determining compliance with the Act and this rule. (7-1-98)

13. Uniform Allocation Of Administration Expenses. An individual carrier shall allocate administrative expenses to the basic, standard, and catastrophic health benefit plans on no less favorable of a basis than expenses are allocated to other health benefit plans. The rate manual developed pursuant to Subsection 036.01 shall describe the method of allocating administrative expenses to the health benefit plans for which the manual was developed. (7-1-98)

14. Rate Manual To Be Maintained For A Period Of Six Years. Each rate manual developed pursuant to Subsection 036.01 shall be maintained by the carrier for a period of six (6) years. Updates and changes to the manual shall be maintained with the manual. (7-1-98)

15. Rate Manual And Practices Must Comply With Guidelines Issued By Director. The rate manual and rating practices of an individual carrier shall comply with any guidelines issued by the Director. (7-1-98)

16. Application Of Restrictions Related To Changes In Premium Rates. The restrictions related to changes in premium rates are set forth in Section 41-5206(1)(b), Idaho Code, and shall be applied as follows: (7-1-98)

- a. An individual carrier shall revise its rate manual each rating period to reflect changes in base

premium rates and changes in new business premium rates. (7-1-98)

b. If, for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate is less than or the same as the percentage change in the base premium rate, the change in the new business premium rate shall be deemed to be the change in the base premium rate for the purposes of Sections 41-5206(1)(b)(i) and 41-5206(1)(d)(i), Idaho Code. (4-5-00)

c. If for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate exceeds the percentage change in the base premium rate, the health benefit plan shall be considered a health benefit plan into which the individual carrier is no longer enrolling new eligible individuals for the purposes of Sections 41-5206(1)(b)(i)(ii)(iii) and (e)(i), Idaho Code. ~~(4-5-00)~~(7-1-00)T

d. If, for any rating period, the change in the new business premium rate for a health benefit plan differs from the change in the new business premium rate for any other health benefit plan by more than twenty percent (20%), the carrier shall make a filing with the Director containing a complete explanation of how the respective changes in new business premium rates were established and the reason for the difference. The filing shall be made within thirty (30) days of the beginning of the rating period. (7-1-98)

e. An individual carrier shall keep on file for a period of at least six (6) years the calculations used to determine the change in base premium rates and new business premium rates for each health benefit plan for each rating period. (7-1-98)

17. Change In Premium Rate. Except as provided in Subsection 036.18, a change in premium rate for an eligible individual shall produce a revised premium rate that is no more than the following: (4-5-00)

a. The base premium rate for the eligible individual, given its present composition, (as shown in the rate manual as revised for the rating period), multiplied by: (7-1-98)

b. One (1) plus the sum of: (7-1-98)

i. The risk load applicable to the eligible individual during the previous rating period; and (7-1-98)

ii. Fifteen percent (15%) (prorated for periods of less than one (1) year). (7-1-98)

18. Rating Restrictions On Plans Where Carrier Is No Longer Enrolling New Business. In the case of a health benefit plan into which an Individual carrier is no longer enrolling new Individuals, a change in premium rate for an Individual shall produce a revised premium rate that is no more than the base premium rate for the Individual (given its present composition and as shown in the rate manual in effect for the Individual at the beginning of the previous rating period), multiplied by Subsection 036.18.a. and 036.18.b.; (4-5-00)

a. One (1) plus the lesser of: (7-1-98)

i. The change in the base rate; or (7-1-98)

ii. The percentage change in the new business premium for the most similar health benefit plan into which the Individual carrier is enrolling new Individuals. (7-1-98)

b. One (1) plus the sum of: (7-1-98)

i. The risk load applicable to the Individual during the previous rating period; and (7-1-98)

ii. Fifteen percent (15%) (prorated for periods of less than one (1) year). (7-1-98)

19. Limitations On Revised Premium Rate. Notwithstanding the provisions of Subsections 036.17 and 036.18, a change in premium rate for an Individual shall not produce a revised premium rate that would exceed the limitations on rates provided in Section 41-5206, Idaho Code. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

046. REQUIREMENT TO INSURE INDIVIDUALS.

01. Offer Of Coverage. An individual carrier that offers coverage to an individual shall offer to provide coverage to each eligible individual and to each eligible dependent of an eligible individual. (7-1-98)

02. No Restrictions Or Limitations On Coverage Related To Risk Characteristics. Individuals shall be accepted for coverage by the individual carrier without any restrictions or limitations on coverage related to the risk characteristics of the Individual or their dependents, except that a carrier may exclude or limit coverage for pre-existing medical conditions, consistent with the provisions provided in Section 41-5208(3), Idaho Code. (7-1-98)

03. Risk Load. An individual carrier may assess a risk load to the premium rate associated with a new entrant, consistent with the requirements of Section 41-5206, Idaho Code. The risk load shall be the same risk load charged to the Individual immediately prior to acceptance of the new entrant into the health benefit plan. (7-1-98)

04. Rescission. When material application misstatements are found, rescission action by the carrier shall be taken at the carrier's option. When rescission action is taken, premiums must be refunded less any claims which had been paid prior to the date the rescission was initiated. At the carrier's option, the carrier shall seek to recover any amounts of claims paid in excess of premiums paid. The applicable contract or coverage shall be considered null and void. (7-1-98)

05. Coverage Rescinded For Fraud Or Misrepresentation. Any individual whose coverage is subsequently rescinded for fraud or misrepresentation shall not be deemed to be an "eligible individual" for a period of twelve (12) months from the effective date of the termination of the individual coverage and shall not be deemed to have "qualifying previous coverage" under Chapter 22, 47, ~~or~~ 52, or 55, Title 41, Idaho Code; provided such limitations cannot be in conflict with the Health Insurance Portability and Accountability Act of 1996. (7-1-98)(7-1-00)T

06. Certification Of Creditable Coverage. (7-1-00)T

a. Individual carriers shall provide written certification of creditable coverage to individuals in accordance with Subsection 046.06.b. (7-1-00)T

b. The certification of creditable coverage shall be provided: (7-1-00)T

i. At the time an individual ceases to be covered under the health benefit plan or otherwise becomes covered under a COBRA continuation provision; (7-1-00)T

ii. In the case of an individual who becomes covered under a COBRA continuation provision, at the time the individual ceases to be covered under that provision; and (7-1-00)T

iii. Such certification shall automatically be provided by the individual carrier or at the time a request is made on behalf of an individual if the request is made not later than twenty-four (24) months after the date of cessation of coverage described in Subsections 046.06.b.i. and 046.06.b.ii., whichever is later. (7-1-00)T

c. The certificate of creditable coverage shall contain: (7-1-00)T

i. Written certification of the period of creditable coverage of the individual under the health benefit plan; and (7-1-00)T

ii. The waiting period, if any, and if applicable, affiliation period imposed with respect to the individual for any coverage under the health benefit plan. (7-1-00)T

(BREAK IN CONTINUITY OF SECTIONS)

060. QUALIFYING PREVIOUS AND QUALIFYING EXISTING COVERAGES.

01. Previous Coverage Or Existing Coverage. In determining whether a health benefit plan or other health benefit arrangement (whether public or private) shall be considered qualifying previous coverage or qualifying existing coverage for the purposes of Sections 41-5203(22Q), and 41-5208(3), Idaho Code, an individual carrier shall interpret the Act no less favorably to an insured individual than the following: ~~(4-5-00)(7-1-00)T~~

a. ~~A health benefit plan, certificate or other benefit arrangement shall be considered to provide benefits similar to or exceeding the benefits provided under the basic health benefit plan if the policy, certificate or other benefit arrangement provides benefits that:~~ ~~(7-1-98)~~

i. ~~Have an actuarial value that is not substantially less than the actuarial value of the basic health benefit plan; or~~ ~~(7-1-98)~~

ii. ~~Provides coverage for hospitalization and physician services that is substantially similar to or exceeds the coverage for such services in the basic health benefit plan.~~ ~~(7-1-98)~~

b. ~~In making a determination under Subsection 060.01.a., an individual carrier shall evaluate the previous or existing policy, certificate or other benefit arrangement taken as a whole and shall not base its decision solely on the fact that one portion of the previous or existing policy, certificate or benefit arrangement provides less coverage than the comparable portion of the basic health benefit plan.~~ ~~(4-5-00)~~

02. Source Of Previous Or Existing Coverage. An individual carrier shall ascertain the source of previous or existing coverage of each eligible individual and each dependent of an eligible individual at the time such individual or dependent initially enrolls into the health benefit plan provided by the individual carrier. ~~(4-5-00)(7-1-00)T~~

(BREAK IN CONTINUITY OF SECTIONS)

067. RESTRICTIVE RIDERS.

~~Health Benefit Plans:~~ Except as permitted in Section 41-5208(3), Idaho Code, an individual carrier shall not modify or restrict any health benefit plan with respect to any eligible individual or dependent of an eligible individual, through riders, endorsements or otherwise, for the purpose of restricting or excluding the coverage or benefits provided to such individual or dependent for specific diseases, medical conditions or services otherwise covered by the plan. ~~(7-1-98)(7-1-00)T~~

(BREAK IN CONTINUITY OF SECTIONS)

075. RULES RELATED TO FAIR MARKETING.

01. Individual Carrier Shall Actively Market. An individual carrier shall actively market each of its health benefit plans to individuals in this state. An individual carrier may not suspend the marketing or issuance of the basic, standard, or catastrophic health benefit plans unless the carrier has good cause and has received the prior approval of the Director. ~~(7-1-98)~~

02. Marketing Basic, Standard, And Catastrophic Plans. In marketing the basic, standard, and catastrophic health benefit plans to individuals, an individual carrier shall use at least the same sources and methods

of distribution that it uses to market other health benefit plans to individuals. Any producer authorized by an individual carrier to market health benefit plans to individuals in the state shall also be authorized to market the basic, standard, and catastrophic health benefit plans. (4-5-00)

03. Offer Must Be In Writing. An individual carrier shall offer at least the basic, standard, and catastrophic health benefit plans to any individual that applies for or makes an inquiry regarding health insurance coverage from the individual carrier. The offer shall be in writing and shall include at least the following information: (4-5-00)

- a. A general description of the benefits contained in the basic, standard, and catastrophic health benefit plans and any other health benefit plan being offered to the individual; and (7-1-98)
- b. Information describing how the individual may enroll in the plans. (7-1-98)
- c. The offer may be provided directly to the individual or delivered through a producer. (7-1-98)

04. Timeliness Of Price Quote. An individual carrier shall provide a price quote to an individual (directly or through an authorized producer) within fifteen (15) working days of receiving a request for a quote and such information as is necessary to provide the quote. An individual carrier shall notify an individual (directly or through an authorized producer) within ten (10) working days of receiving a request for a price quote of any additional information needed by the individual carrier to provide the quote. (7-1-98)

05. Restrictions As To Application Process. An individual carrier may not apply more stringent or detailed requirements related to the application process for the basic, standard, and catastrophic health benefit plans than are applied for other health benefit plans offered by the carrier. (7-1-98)

06. Denial Of Coverage. If an individual carrier denies coverage under a health benefit plan to an individual on the basis of a risk characteristic, the denial shall be in writing and shall be maintained in the individual carrier's office. This written denial shall state with specificity the risk characteristic(s) of the individual that made it ineligible for the health benefit plan it requested (for example, health status). The denial shall be accompanied by a written explanation of the availability of the basic, standard, and catastrophic health benefit plans from the individual carrier. The explanation shall include at least the following: (7-1-98)

- a. A general description of the benefits contained in each such plan; (7-1-98)
- b. A price quote for each such plan; and (7-1-98)
- c. Information describing how the individual may enroll in such plans. (7-1-98)
- d. The written information described in this paragraph may be provided within the time periods provided in Subsection 075.04 directly to the individual or delivered through an authorized producer. (7-1-98)

07. ~~Lowest Priced Basic, Standard, And Catastrophic Plan~~ Premium Rate Charged. The price quote required under Subsection 075.06.b. shall be for the lowest ~~priced basic, standard, and catastrophic~~ premium rate charged under the rating system for a health benefit plan for which the individual is eligible. ~~(7-1-98)~~(7-1-00)T

08. Toll-Free Telephone Service. An individual carrier shall establish and maintain a toll-free telephone service to provide information to individuals regarding the availability of individual health benefit plans in this state. The service shall provide information to callers on how to apply for coverage from the carrier. The information may include the names and phone numbers of producers located geographically proximate to the caller or such other information that is reasonably designed to assist the caller to locate an authorized producer or to otherwise apply for coverage. (7-1-98)

09. No Requirement To Qualify For Other Insurance Product. An individual carrier may not require, as a condition to the offer of sale of a health benefit plan to an individual, that the individual purchase or qualify for any other insurance product or service. (7-1-98)

10. Plans Subject To Requirement Of The Act And This Rule. Carriers offering individual health benefit plans in this state shall be responsible for determining whether the plans are subject to the requirements of the Act and this Rule. Carriers shall elicit the following information from applicants for such plans at the time of application. (7-1-98)

11. Annual Filing Requirement. An individual carrier shall file annually the following information with the Director related to health benefit plans issued by the individual carrier to individuals in this state on forms prescribed by the Director: (7-1-98)

a. The number of individuals that were covered under health benefit plans in the previous calendar year (separated as to newly issued plans and renewals); (7-1-98)

b. The number of individuals that were covered under the basic, standard, and catastrophic health benefit plan in the previous calendar year (separated as to newly issued plans and renewals). (7-1-98)

c. The number of individual health benefit plans in force in each county (or by five (5) digit zip code) of the state as of December 31 of the previous calendar year; (7-1-98)

d. The number of individual health benefit plans that were voluntarily not renewed by Individuals in the previous calendar year; (7-1-98)

e. The number of individual health benefit plans that were terminated or non renewed (for reasons other than nonpayment of premium) by the carrier in the previous calendar year; and (7-1-98)

f. The number of health benefit plans that were issued to residents that were uninsured for at least the sixty-three (63) days prior to issue. (7-1-98)

12. Total Number Of Residents. All carriers shall file annually with the Director, on forms prescribed by the Director, the total number of residents, including spouses and dependents, covered during the previous calendar year under all health benefit plans issued in this state. This includes residents covered under reinsurance by way of excess loss and stop loss plans. (~~7-1-98~~)(7-1-00)T

13. Filing Date. The information described in Subsections 075.12 and 075.13 shall be filed no later than March 15, each year. (7-1-98)

14. Specific Data. For purposes of ~~this~~ Subsection 073.14, health benefit plan information shall include policies or certificates of insurance for specific disease, hospital confinement indemnity, reinsurance by way of excess loss, and stop loss coverages. (~~7-1-98~~)(7-1-00)T

(BREAK IN CONTINUITY OF SECTIONS)

081. STATUS OF CARRIERS AS INDIVIDUAL CARRIERS.

01. Market Status. Each carrier providing health benefit plans in this state shall make a filing to the Director if it intends to continue or discontinue to operate as an individual carrier in this state under the terms of this Rule. (7-1-98)

02. Restrictions As To The Offering Of Insurance. Subject to Subsection 081.03, a carrier shall not offer health benefit plans to individuals, or continue to provide coverage under health benefit plans previously issued to individuals in this state, unless the filing provided pursuant to Subsection 081.01 indicates that the carrier intends to operate as a individual carrier in this state. (7-1-98)

03. Specific Compliance Requirements. If the filing made pursuant Subsection 081.01 indicates that a carrier does not intend to operate as a individual carrier in this state, the carrier may continue to provide coverage

under health benefit plans previously issued to individuals in this state only if the carrier complies with the following provisions: (7-1-98)

a. The carrier complies with the requirements of ~~the Act~~ Title 41, Chapters 21, 42, and 52, Idaho Code, (other than Sections 41-5209, 41-5210, and 41-4711, Idaho Code) with respect to each of the health benefit plans previously issued to individuals by the carrier. (~~7-1-98~~)(7-1-00)T

b. The carrier provides coverage to each new dependent to a health benefit plan previously issued to an individual by the carrier. The provisions of the Act (other than Sections 41-5209, 41-5210, and 41-4711, Idaho Code) and this Rule shall apply to the coverage issued to such new dependents. (7-1-98)

c. The carrier complies with the requirements of Section 067 of this Rule as they apply to individuals whose coverage has been terminated by the carrier and to individuals whose coverage has been limited or restricted by the carrier. (7-1-98)

04. Not Eligible For Reinsurance Program. A carrier that continues to provide coverage pursuant to this subsection shall not be eligible to participate in the reinsurance program established under Sections 41-4711 and 41-5505, Idaho Code. (~~7-1-98~~)(7-1-00)T

05. Precluded From Operating In Idaho. If the filing made pursuant Subsection 081.01 indicates that a carrier does not intend to operate as a individual carrier in this state, the carrier shall be precluded from operating as an individual carrier in this state (except as provided for in Subsections 081.03.a. through 081.~~403~~.c.) for a period of five (5) years from the date of the filing. Upon a written request from such a carrier, the Director may reduce the period provided for in the previous sentence if the Director finds that permitting the carrier to operate as an individual carrier would be in the best interests of the individuals in the state. (~~7-1-98~~)(7-1-00)T

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE
18.01.73 - RULE TO IMPLEMENT THE INDIVIDUAL HEALTH INSURANCE
AVAILABILITY ACT PLAN DESIGN

DOCKET NO. 18-0173-0101

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2001.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5261(2), 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 41-211, 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 January 19, 2001.

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

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

IDAPA 18.01.73, as proposed, reflects the new benefit plan designs as defined in Section 41-5111, Idaho Code, regarding the Idaho Individual High Risk Reinsurance Pool. Changes reflect the four new health benefit plan designs, defined benefits, exclusions and limitations for the basic, standard, catastrophic A and catastrophic B. The rule has also been updated to reflect the Idaho Code provisions in regard to Coordination of Benefits.

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

To fulfill the requirements of Title 41, Chapter 55, Idaho Code, regarding the Idaho Individual High Risk Reinsurance Pool.

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

Not Applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed and temporary rule, contact Joan Krosch, Health Insurance Coordinator, at (208) 334-4250.

Anyone may submit written comments regarding the proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before January 26, 2001.

Dated this 15th day of November, 2000.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0173-0101

000. LEGAL AUTHORITY.

This rule is promulgated and adopted pursuant to the authority vested in the Director under Chapters 2, ~~47 and~~ 52, and ~~55~~, Title 41, Idaho Code. ~~(6-30-95)(1-1-01)T~~

(BREAK IN CONTINUITY OF SECTIONS)

003. ADMINISTRATIVE APPEALS.

All contested cases shall be governed by the provisions of Chapter 2, Title 41, Idaho Code, Chapter 52, Title 67, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". ~~(6-30-95)(1-1-01)T~~

004. DEFINITIONS.

For the purposes of this Rule, the following terms will be used as defined below: (6-30-95)

01. Benefit Percentage. Benefit percentage is the percentage of the cost of a health care service paid by the insurer under a health insurance plan, as defined in the Schedule of Benefits. (6-30-95)

02. Calendar Year. Calendar year is a period of one (1) year which starts on January 1st and ends on December 31st. (6-30-95)

03. Coinsurance. Coinsurance is a percentage of the cost of a health care service, paid by the ~~patient~~ insured under a health insurance plan, as defined in the schedule of benefits. ~~(6-30-95)(1-1-01)T~~

04. Copayment. Copayment is a specified charge that must be paid each time care is received of a particular type or in a designated setting. The instances in which a copayment will be required are specified in the schedule of benefits. The Copayments must be paid before any other payment will be made under the policy. The copayment will not count toward any deductible or out-of-pocket expense required under the policy. ~~(6-30-95)(1-1-01)T~~

05. Deductible. Deductible means the amount of the covered charge each insured is obligated to pay each calendar year before the plan will pay for covered medical services. All covered charges are subject to the Deductible amount unless specifically noted otherwise. (1-1-01)T

056. Out-Of-Pocket Expense. Out-of-pocket expense is the medical expense that an insured ~~must~~ is obligated to pay, which includes deductibles and coinsurance but not copayment, as defined in the schedule of benefits. The out-of-pocket expense does not include deductibles, copayments, pharmacy expenses, and expenses for non-covered services and supplies. After the out-of-pocket expense has been reached, services will be provided at one hundred percent (100%) except for specific deductibles, copayments, pharmacy benefits, non-covered services and supplies. ~~(6-30-95)(1-1-01)T~~

067. Pre-Existing Condition. Pre-existing condition is defined in Section 41-5208(3), Idaho Code. (6-30-95)

078. Physician Provider. Physician Provider means any of the following licensees duly licensed ~~by the state of Idaho~~ to practice in any of the following categories of health care professions: ~~(6-30-95)(1-1-01)T~~

a. Licensed general hospital; (1-1-01)T

~~a~~b. Chiropractor; (6-30-95)

- ~~bc.~~ Dentist; (6-30-95)
- ~~ed.~~ Optometrist; (6-30-95)
- ~~de.~~ Pharmacist; (6-30-95)
- ~~ef.~~ Physician and surgeon, of either medicine and surgery or of osteopathic medicine and surgery; (6-30-95)
- ~~fg.~~ Podiatrist; and (6-30-95)
- ~~gh.~~ Any other licensed facility or practitioner who is acting within the scope of that license and who performs a service which is payable under the policy when performed by any of the above health care ~~practitioners~~ providers. ~~(6-30-95)~~(1-1-01)T
- ~~hi.~~ A physician provider does not include a person who lives with the insured or is part of the insured's family (insured, insured's spouse, or a child, brother, sister, or parent of insured or insured's spouse). ~~(6-30-95)~~(1-1-01)T

089. Eligible Expense. Eligible expense means the expense incurred for a covered service or supply. A physician or other licensed ~~practitioner~~ facility or provider has to order or prescribe the service or supply. Expense is considered incurred on the date the service or supply is received. Expense does not include any charge:

- ~~(6-30-95)~~(1-1-01)T
- a. For a service or supply which is not medically necessary; ~~or~~ ~~(6-30-95)~~(1-1-01)T
- b. Which is in excess of reasonable and customary charge for a service or supply; ~~(6-30-95)~~(1-1-01)T
- c. Which is in excess of any contractual arrangements; (1-1-01)T
- d. For any services or supplies which an Insured would have no legal obligation to pay in the absence of coverage under this policy or any similar coverage; or (1-1-01)T
- e. For which no charge or a different charge is usually made in the absence of insurance coverage. (1-1-01)T

0910. Medically Necessary Service Or Supply. Medically necessary service or supply means one which is ordered by a ~~physician~~ provider and which ~~is~~ the Carrier's medical staff or qualified party or entity determines is:

- ~~(6-30-95)~~(1-1-01)T
- a. Provided for the diagnosis or direct treatment of an injury or sickness; (6-30-95)
- b. Appropriate and consistent with the symptoms and findings of diagnosis and treatment of the insured persons injury or sickness; (6-30-95)
- c. Is not considered experimental or investigative; (6-30-95)
- d. Provided in accord with generally accepted medical practice; (6-30-95)
- e. The most appropriate supply or level of service which can be provided on a cost effective basis (including, but not limited to, in-patient vs. out-patient care, electric vs. manual wheelchair, surgical vs. medical or other types of care); (6-30-95)
- f. The fact that the insured's ~~physician~~ provider prescribes services or supplies does not automatically mean such service or supply are medically necessary and covered by the policy. ~~(6-30-95)~~(1-1-01)T

101. ~~Medical Emergency Services.~~ Medical Emergency services means ~~a severe onset of a condition which those health care services that are provided in a hospital or other emergency facility after the sudden onset of a medical condition that manifests itself by symptoms of such sufficient severity including, but not limited to, severe pain, that the absence of immediate medical attention could reasonably be expected by a prudent person who possesses an average knowledge of health and medicine, to result in:~~ (6-30-95)(1-1-01)T

a. ~~Results in symptoms which occur suddenly and unexpectedly; and~~ Placing the Insured's health in serious jeopardy; (6-30-95)(1-1-01)T

b. ~~Requires immediate physician's care to prevent death or serious impairment of the insured's health~~ Serious impairment to bodily functions; or (6-30-95)(1-1-01)T

c. ~~Poses a serious threat to the insured or to others~~ Serious dysfunction of any bodily organ or part. (6-30-95)(1-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

010. COORDINATION OF BENEFITS.

Coordination of Benefits shall be utilized on the Individual basic, standard, and catastrophic A and catastrophic B plans based upon IDAPA 18.01.74, the current NAIC birthday rule so long as such Coordination of Benefits would not be in conflict with Chapter 22, Title 41, Idaho Code. This provision will expire upon final adoption of the NAIC "Coordination of Benefits" model rule or upon order of the Director. (7-1-98)(1-1-01)T

011. LIMITATIONS AND EXCLUSIONS.

01. Not Medically Necessary. Any service not medically necessary or appropriate unless specifically included within the coverage provisions. (6-30-95)

02. Custodial, Convalescent, Intermediate. Custodial, convalescent or intermediate level care or rest cures. (6-30-95)

03. Experimental, Investigational. Services which are experimental or investigational. (6-30-95)

04. Workers Compensation, Medicare Or CHAMPUS. Services ~~eligible for coverage~~ covered by Workers' Compensation, Medicare or CHAMPUS. (6-30-95)(1-1-01)T

05. No Charges, No Legal Obligation To Pay. Services for which no charges are made or for which no charges would be made in the absence of insurance or for which the insured has no legal obligation to pay. (6-30-95)

06. No Medical Diagnosis. Services for weight control, nutrition, and smoking cessation, including self-help and training programs, as well as prescription drugs used in conjunction with such programs and services. (7-1-98)

07. Cosmetic Surgery. Cosmetic surgery and services, except for treatment or surgery for ~~non-~~ congenital ~~injury or surgery~~ anomalies. Mastectomy reconstruction is covered ~~if within two (2) years of mastectomy~~ as described in the Women's Health and Cancer Rights Act. (6-30-95)(1-1-01)T

08. Artificial Insemination And Infertility Treatment. Artificial insemination and infertility treatment. Treatment of sexual dysfunction not related to organic disease. (6-30-95)

09. Reversal Of Elective Infertility. Services for reversal of elective, surgically or pharmaceutically induced infertility. (6-30-95)(1-1-01)T

10. Vision Therapy. Vision therapy, tests, glasses, contact lenses and other vision aids. Radial keratotomy, myopic keratomileusis and any surgery involving corneal tissue to alter or correct myopia, hyperopia or stigmatic error. (6-30-95)

11. Weak, Strained, Or Flat Feet. For treatment of weak, strained, or flat feet, including orthopedic shoes, orthotic devices, or other supportive devices, or for cutting, removal, or treatment of corns, calluses, or nails other than corrective surgery, or for metabolic or peripheral vascular disease. ~~(6-30-95)~~(1-1-01)T

12. Manipulative Therapy And Related Treatment. Manipulative therapy ~~and related treatment~~, including heat treatments and ultrasound, of the musculoskeletal structure ~~for and~~ other ~~than~~ fractures and dislocations of the extremities will be subject to ~~one thousand dollars (\$1,000) per year limit, subject to the policy deductible, co-insurance, or co-payment~~ the rehabilitation therapy limit described in the Schedule of Benefits. ~~(4-5-00)~~(1-1-01)T

13. Dental, Tempormandibular Joint (TMJ) And Orthodontic Services. (7-1-98)

a. For Basic and Standard plans: Dental and orthodontic services, except those needed for treatment of ~~a medical condition or injury or as specifically allowed in the policy for children under the age of twelve (12) an~~ accidental injury to sound natural teeth incurred while covered by the plan and limited to six (6) months from the date of injury. ~~(7-1-98)~~(1-1-01)T

b. For Catastrophic plans: ~~Dental care or treatment, except for injury sustained while insured under this policy, or as a result of nondental disease covered by the policy.~~ (7-1-98)

14. Hearing Tests And Hearing Aids. Hearing tests without illness being ~~suspect~~ indicated. (6-30-95)

~~15. Hearing Aids.~~ Hearing aids and supplies, tinnitus maskers, cochlear implants and exams for the prescription or fitting of hearing aids. ~~(6-30-95)~~(1-1-01)T

~~16. Excludes. *Speech tests and therapy.*~~ (6-30-95)

~~17. Private Room.~~ Private room accommodation charges in excess of the institution's most common semi-private room charge except when prescribed as medically necessary. (6-30-95)

~~18. Services Performed By A Member Of Family. *Services performed by a member of the insured's family or of the insured's spouse's family. Family includes parents or grandparents of the insured or spouse and any descendants of such parents or grandparents.*~~ (6-30-95)

~~19. Prior To Effective Date.~~ Care incurred before the effective date of the person's coverage. (6-30-95)

~~20. Immunizations And Medical Exams And Tests.~~ Immunizations and medical exams and tests of any kind not related to treatment of covered injury or disease, except as specifically stated in the policy. (6-30-95)

~~21. Injury Or Sickness.~~ Injury or sickness caused by war or armed international conflict ~~or incurred as a result of voluntary participation in an assault, felony, insurrection or riot.~~ ~~(6-30-95)~~(1-1-01)T

~~22. Sex Change Operations.~~ Sex change operations and treatment in connection with transsexualism. (6-30-95)

~~23. Marriage and Family Counseling.~~ Marriage and family ~~and child~~ counseling except as specifically allowed in the policy. ~~(6-30-95)~~(1-1-01)T

~~24. Acupuncture.~~ Acupuncture, except when used as pain management by a licensed provider. ~~(7-1-98)~~(1-1-01)T

a. For Basic and standard plans: ~~Acupuncture except when used as anesthesia during a covered~~

- ~~surgical procedure.~~ (7-1-98)
- ~~b. For Catastrophic plans: Acupuncture.~~ (7-1-98)
- 252. Private Duty Nursing.** Private duty nursing except as specifically allowed in the policy. (6-30-95)
- 263. Medical Services Received From Employer, Labor Union Association.** Services received from a medical or dental department maintained by or on behalf of an employer, a mutual benefit association, labor union, trust, or similar person or group. (6-30-95)
- 274. Termination.** Services incurred after the date of termination of a covered person's coverage, ~~except as allowed by extension of benefits provision in the policy, if any.~~ (7-1-98)(1-1-01)T
- 285. Personal Hygiene And Convenience Items.** Expenses for personal hygiene and convenience items such as air conditioners, humidifiers, and physical fitness equipment. (6-30-95)
- 296. Failure To Keep A Scheduled Visit.** Charges for failure to keep a scheduled visit, charges for completion of any form, and charges for medical information. (6-30-95)
- ~~307.~~ **Screening Examinations.** Charges for screening examinations except as otherwise provided in the policy. (6-30-95)
- ~~3128.~~ **Wigs Or Hair Loss.** Charges for wigs or cranial prostheses, hair analysis, hair loss and baldness. (6-30-95)
- ~~329.~~ **Pre-Existing Conditions.** Pre-existing conditions, except as provided specifically in the policy. (6-30-95)
- 30. Obesity.** Medical or surgical procedures primarily for treatment of obesity or for reversal, revision, or complications thereof. (1-1-01)T

012. BENEFITS.

Based on the provisions of Section 41-5511, Idaho Code, the Guaranteed Issue Schedule of Benefits Attachments for Basic Benefit Plan, Standard Benefit Plan, Catastrophic "A" Benefit Plan, and Catastrophic "B" Benefit Plan have been replaced by the new Idaho Individual High-Risk Plan Designs, as follows: (1-1-01)T

<u>BASIC BENEFIT PLAN</u>	
<u>Schedule of Benefits</u>	
<u>All Benefit Areas - Lifetime Benefit Maximum per Carrier</u>	<u>\$500,000</u>
<u>Preventive Services - Benefit Area "A" (annual benefit maximum)</u> Subject to Deductible and Coinsurance Mammography benefits are not limited to the preventive services benefit	<u>\$200</u>
<u>Benefit Areas B, C, D, E, F</u>	
<u>Calendar Year Deductible - Individual</u>	<u>\$500</u>
<u>Benefit Percentage</u>	<u>50%</u>
<u>Coinsurance Percentage</u>	<u>50%</u>
<u>Individual (Out-of-Pocket Expense Maximum not including Deductible or Co-Payments)</u>	<u>\$20,000</u>

<u>BASIC BENEFIT PLAN</u>	
<u>Normal Maternity Benefit Deductible - Benefit Area "B"</u> <u>Not applicable to involuntary complications of pregnancy</u>	<u>\$5,000</u>
<u>Organ Transplant - Benefit Area "C" (lifetime maximum benefit)</u>	<u>\$150,000</u>
<u>Skilled Nursing Facility - Benefit Area "C" (annual benefit maximum)</u>	<u>45 days</u>
<u>Rehabilitation Therapy - Benefit Area "C"</u> <u>(annual inpatient benefit maximum)</u>	<u>\$25,000</u>
<u>Rehabilitation Therapy - Benefit Area "D"</u> <u>(combined annual outpatient benefit max)</u>	<u>\$2,000</u>
<u>Home Health Care Benefits - Benefit Area "D"</u> <u>(annual benefit maximum)</u>	<u>\$5,000</u>
<u>Hospice Care - Benefit Area "D" (annual benefit maximum)</u>	<u>\$5,000</u>
<u>Ambulance Service - Benefit Area "E" (annual benefit maximum)</u>	<u>\$2,000</u>
<u>Durable Medical Equipment - Benefit Area "E"</u> <u>(annual benefit maximum)</u>	<u>\$10,000</u>
<u>Psychiatric and Substance Abuse Services - Benefit Area "F"</u> <u>Covered benefit as an inpatient or outpatient combined</u> <u>(annual benefit maximum)</u>	<u>\$5,000</u>
<u>Pharmacy - Benefit Area "G"</u>	
<u>Calendar Year Pharmaceutical Deductible - Individual</u>	<u>\$250</u>
<u>Benefit Percentage</u>	<u>50%</u>
<u>Coinsurance Percentage</u>	<u>50%</u>
<u>Does not apply to Out-of-Pocket Expense limit</u>	

(1-1-01)T

<u>STANDARD BENEFIT PLAN</u>	
<u>Schedule of Benefits</u>	
<u>All Benefit Areas - Lifetime Benefit Maximum per Carrier</u>	<u>\$1,000,000</u>
<u>Preventive Services - Benefit Area "A" (annual benefit maximum)</u> <u>Subject to Deductible and Coinsurance</u> <u>Mammography benefits are not limited to the preventive services benefit</u>	<u>\$200</u>
<u>Benefit Areas B, C, D, E, F</u>	
<u>Calendar Year Deductible - Individual</u>	<u>\$1,000</u>
<u>Benefit Percentage</u>	<u>70%</u>
<u>Coinsurance Percentage</u>	<u>30%</u>
<u>Individual (Out-of-Pocket Expense Maximum not including Deductible or Co-Payments)</u>	<u>\$10,000</u>

<u>STANDARD BENEFIT PLAN</u>	
<u>Normal Maternity Benefit Deductible - Benefit Area "B"</u> <u>Not applicable to involuntary complications of pregnancy</u>	<u>\$5,000</u>
<u>Organ Transplant - Benefit Area "C" (lifetime maximum benefit)</u>	<u>\$150,000</u>
<u>Skilled Nursing Facility - Benefit Area "C" (annual benefit maximum)</u>	<u>45 days</u>
<u>Rehabilitation Therapy - Benefit Area "C"</u> <u>(annual inpatient benefit maximum)</u>	<u>\$25,000</u>
<u>Rehabilitation Therapy - Benefit Area "D"</u> <u>(combined annual outpatient benefit max)</u>	<u>\$2,000</u>
<u>Home Health Care Benefits - Benefit Area "D"</u> <u>(annual benefit maximum)</u>	<u>\$5,000</u>
<u>Hospice Care - Benefit Area "D" (annual benefit maximum)</u>	<u>\$5,000</u>
<u>Ambulance Service - Benefit Area "E" (annual benefit maximum)</u>	<u>\$2,000</u>
<u>Durable Medical Equipment - Benefit Area "E"</u> <u>(annual benefit maximum)</u>	<u>\$10,000</u>
<u>Psychiatric and Substance Abuse Services - Benefit Area "F"</u> <u>Covered benefit as an inpatient or outpatient combined</u> <u>(annual benefit maximum)</u>	<u>\$5,000</u>
<u>Pharmacy - Benefit Area "G"</u> <u>Calendar Year Pharmaceutical Deductible - Individual</u> <u>Benefit Percentage</u> <u>Coinsurance Percentage</u> <u>Does not apply to Out-of-Pocket Expense limit</u>	<u>\$250</u> <u>50%</u> <u>50%</u>

(1-1-01)T

<u>CATASTROPHIC "A" BENEFIT PLAN</u>	
<u>Schedule of Benefits</u>	
<u>All Benefit Areas - Lifetime Benefit Maximum per Carrier</u>	<u>\$1,000,000</u>
<u>Preventive Services - Benefit Area "A" (annual benefit maximum)</u> <u>Subject to Deductible and Coinsurance</u> <u>Mammography benefits are not limited</u> <u>to the preventive services benefit</u>	<u>\$200</u>
<u>Benefit Areas B, C, D, E, F</u> <u>Calendar Year Deductible - Individual</u> <u>Benefit Percentage</u> <u>Coinsurance Percentage</u> <u>Individual (Out-of-Pocket Expense Maximum</u> <u>not including Deductible or Co-Payments)</u>	<u>\$2,000</u> <u>70%</u> <u>30%</u> <u>\$10,000</u>

CATASTROPHIC "A" BENEFIT PLAN	
<u>Normal Maternity Benefit Deductible - Benefit Area "B"</u> <u>Not applicable to involuntary complications of pregnancy</u>	<u>\$5,000</u>
<u>Organ Transplant - Benefit Area "C" (lifetime maximum benefit)</u>	<u>\$150,000</u>
<u>Skilled Nursing Facility - Benefit Area "C" (annual benefit maximum)</u>	<u>45 days</u>
<u>Rehabilitation Therapy - Benefit Area "C"</u> <u>(annual inpatient benefit maximum)</u>	<u>\$25,000</u>
<u>Rehabilitation Therapy - Benefit Area "D"</u> <u>(combined annual outpatient benefit max)</u>	<u>\$2,000</u>
<u>Home Health Care Benefits - Benefit Area "D"</u> <u>(annual benefit maximum)</u>	<u>\$5,000</u>
<u>Hospice Care - Benefit Area "D" (annual benefit maximum)</u>	<u>\$5,000</u>
<u>Ambulance Service - Benefit Area "E" (annual benefit maximum)</u>	<u>\$2,000</u>
<u>Durable Medical Equipment - Benefit Area "E"</u> <u>(annual benefit maximum)</u>	<u>\$10,000</u>
<u>Psychiatric and Substance Abuse Services - Benefit Area "F"</u> <u>Covered benefit as an inpatient or outpatient combined</u> <u>(annual benefit maximum)</u>	<u>\$5,000</u>
<u>Pharmacy - Benefit Area "G"</u>	
<u>Calendar Year Pharmaceutical Deductible - Individual</u>	<u>\$500</u>
<u>Benefit Percentage</u>	<u>50%</u>
<u>Coinsurance Percentage</u>	<u>50%</u>
<u>Does not apply to Out-of-Pocket Expense limit</u>	

(1-1-01)T

CATASTROPHIC "B" BENEFIT PLAN	
Schedule of Benefits	
<u>All Benefit Areas - Lifetime Benefit Maximum per Carrier</u>	<u>\$1,000,000</u>
<u>Preventive Services - Benefit Area "A" (annual benefit maximum)</u> <u>Subject to Deductible and Coinsurance</u> <u>Mammography benefits are not limited to the preventive services benefit</u>	<u>\$200</u>
<u>Benefit Areas B, C, D, E, F</u>	
<u>Calendar Year Deductible - Individual</u>	<u>\$5,000</u>
<u>Benefit Percentage</u>	<u>80%</u>
<u>Coinsurance Percentage</u>	<u>20%</u>
<u>Individual (Out-of-Pocket Expense Maximum</u> <u>not including Deductible or Co-Payments)</u>	<u>\$10,000</u>

<u>CATASTROPHIC “B” BENEFIT PLAN</u>	
<u>Normal Maternity Benefit Deductible - Benefit Area “B”</u> <u>Not applicable to involuntary complications of pregnancy</u>	<u>\$5,000</u>
<u>Organ Transplant - Benefit Area “C” (lifetime maximum benefit)</u>	<u>\$150,000</u>
<u>Skilled Nursing Facility - Benefit Area “C” (annual benefit maximum)</u>	<u>45 days</u>
<u>Rehabilitation Therapy - Benefit Area “C”</u> <u>(annual inpatient benefit maximum)</u>	<u>\$25,000</u>
<u>Rehabilitation Therapy - Benefit Area “D”</u> <u>(combined annual outpatient benefit max)</u>	<u>\$2,000</u>
<u>Home Health Care Benefits - Benefit Area “D”</u> <u>(annual benefit maximum)</u>	<u>\$5,000</u>
<u>Hospice Care - Benefit Area “D” (annual benefit maximum)</u>	<u>\$5,000</u>
<u>Ambulance Service - Benefit Area “E” (annual benefit maximum)</u>	<u>\$2,000</u>
<u>Durable Medical Equipment - Benefit Area “E”</u> <u>(annual benefit maximum)</u>	<u>\$10,000</u>
<u>Psychiatric and Substance Abuse Services - Benefit Area “F”</u> <u>Covered benefit as an inpatient or outpatient combined</u> <u>(annual benefit maximum)</u>	<u>\$5,000</u>
<u>Pharmacy - Benefit Area “G”</u>	
<u>Calendar Year Pharmaceutical Deductible - Individual</u>	<u>\$500</u>
<u>Benefit Percentage</u>	<u>50%</u>
<u>Coinsurance Percentage</u>	<u>50%</u>
<u>Does not apply to Out-of-Pocket Expense limit</u>	

(1-1-01)T

0123. -- 999. (RESERVED).

IDAPA 21 - DIVISION OF VETERANS SERVICES

21.01.01 - RULES GOVERNING ELIGIBILITY FOR ADMISSION, RESIDENCY AND MAINTENANCE CHARGES IN IDAHO STATE VETERANS HOMES – DOMICILIARY CARE

DOCKET NO. 21-0101-0001 (REPEAL)

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 65-202 and 66-907, 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.

There is no change between the text of the proposed rule and the text of the pending rule. The pending rule is being adopted as proposed and this chapter is being repealed in its entirety. The text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume 00-10, page 466. This rule is being rewritten under Docket No. 21-0101-0002, which was published in the October 4, 2000, Idaho Administrative Bulletin, pages 467 through 490.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Joni Harkless at (208) 334-3513.

DATED this 31st day of October, 2000.

Gary Bermeosolo, Administrator
Division of Veterans Services
320 Collins Road
Boise, ID 83702, Phone: (208) 334-3513
Fax: (208) 334-2627

IDAPA 21, TITLE 01, Chapter 01

RULES GOVERNING ELIGIBILITY FOR ADMISSION, RESIDENCY AND MAINTENANCE CHARGES IN IDAHO STATE VETERANS HOMES – DOMICILIARY CARE

This chapter is being repealed in its entirety.

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 00-10, October 4, 2000, page 466.

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 21 - DIVISION OF VETERANS SERVICES
21.01.01 - RULES GOVERNING ADMISSION, RESIDENCY, AND MAINTENANCE CHARGES
IN IDAHO STATE VETERANS HOMES AND DIVISION OF VETERANS
SERVICES ADMINISTRATIVE PROCEDURE

DOCKET NO. 21-0101-0002 (REWRITE)

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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 65-202 and 66-907, Idaho Code; Title 38, Chapter 1, Section 101(2), United States Code; and U.S. Department of Veterans Affairs 38 CFR, Parts 17, 51, and 58.

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.

There is no change between the text of the proposed rule and the text of the pending rule. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume 00-10, pages 467 through 490.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Joni Harkless at (208) 334-3513.

DATED this 31st day of October, 2000.

Gary Bermeosolo, Administrator
Division of Veterans Services
320 Collins Road
Boise, ID 83702
Phone: (208) 334-3513
Fax: (208) 334-2627

IDAPA 21, TITLE 01, Chapter 01

RULES GOVERNING ADMISSION, RESIDENCY, AND MAINTENANCE CHARGES IN IDAHO STATE
VETERANS HOMES AND DIVISION OF VETERANS SERVICES ADMINISTRATIVE PROCEDURE

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 00-10, October 4, 2000, pages 467 through 490.

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 21 - DIVISION OF VETERANS SERVICES

21.01.02 - RULES GOVERNING ELIGIBILITY FOR ADMISSION, RESIDENCY AND MAINTENANCE CHARGES IN IDAHO STATE VETERANS HOMES – RESIDENTIAL CARE

DOCKET NO. 21-0102-0001 (REPEAL)

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 65-202 and 66-907, 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.

There is no change between the text of the proposed rule and the text of the pending rule. The pending rule is being adopted as proposed and this chapter is being repealed in its entirety. The original text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume 00-10, page 491.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Joni Harkless at (208) 334-3513.

DATED this 31st day of October, 2000.

Gary Bermeosolo, Administrator
Division of Veterans Services
320 Collins Road
Boise, ID 83702
Phone: (208) 334-3513
Fax: (208) 334-2627

IDAPA 21, TITLE 01, Chapter 02

RULES GOVERNING ELIGIBILITY FOR ADMISSION, RESIDENCY AND MAINTENANCE CHARGES IN IDAHO STATE VETERANS HOMES – RESIDENTIAL CARE

This chapter is being repealed in its entirety.

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 00-10, October 4, 2000, page 491.

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 21 - DIVISION OF VETERANS SERVICES
21.01.02 - RULES GOVERNING EMERGENCY RELIEF FOR VETERANS
DOCKET NO. 21-0102-0002 (REWRITE)
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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 65-202, 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.

There is no change between the text of the proposed rule and the text of the pending rule. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume 00-10, pages 492 through 495.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Joni Harkless at (208) 334-3513.

DATED this 31st day of October, 2000.

Gary Bermeosolo, Administrator
Division of Veterans Services
320 Collins Road
Boise, ID 83702
Phone: (208) 334-3513
Fax: (208) 334-2627

IDAPA 21, TITLE 01, Chapter 02

RULES GOVERNING EMERGENCY RELIEF FOR VETERANS

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 00-10, October 4, 2000, pages 492 through 495.

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 21 - DIVISION OF VETERANS SERVICES

21.01.03 - RULES GOVERNING ELIGIBILITY FOR ADMISSION, RESIDENCY AND MAINTENANCE CHARGES IN IDAHO STATE VETERANS HOMES – NURSING CARE

DOCKET NO. 21-0103-0001 (REPEAL)

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 65-202 and 66-907, 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.

There is no change between the text of the proposed rule and the text of the pending rule. The pending rule is being adopted as proposed and this chapter is being repealed in its entirety. The original text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume 00-10, page 496.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Joni Harkless at (208) 334-3513.

DATED this 31st day of October, 2000.

Gary Bermeosolo, Administrator
Division of Veterans Services
320 Collins Road
Boise, ID 83702, Phone: (208) 334-3513
Fax: (208) 334-2627

IDAPA 21, TITLE 01, Chapter 03

RULES GOVERNING ELIGIBILITY FOR ADMISSION, RESIDENCY AND MAINTENANCE CHARGES IN IDAHO STATE VETERANS HOMES – NURSING CARE

This chapter is being repealed in its entirety.

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 00-10, October 4, 2000, page 496.

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 21 - DIVISION OF VETERANS SERVICES
21.01.03 - RULES GOVERNING MEDICAID QUALIFIED UNITS
IN IDAHO STATE VETERANS HOMES

DOCKET NO. 21-0103-0002 (REWRITE)

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is July 1, 2000. The pending 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 65-202 and 66-907, Idaho Code.

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

This rule is necessary to facilitate the requirement contained in H0799 that the Idaho State Veterans Homes become Medicaid-certified. H0799 was passed by the 2000 Idaho Legislature and signed by the Governor on April 14, 2000.

Subsection 21.01.03.005 has been amended based on comment. As a result of the amendment, authority for waiving the requirement that Idaho State Veterans Home nursing care residents who cannot, or choose not to, qualify for Medicaid shall be required to pay for services in full from other than Medicaid funds does not rest with the Division Administrator. Any waivers of this requirement will be handled through the Governor's Office.

Only the section that has changes is printed in this bulletin. The original text of the proposed rule was published under Docket No. 21-0103-0002 (Rewrite) in the October 4, 2000, Volume 00-10, Idaho Administrative Bulletin, pages 497 through 499.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Joni Harkless at (208) 334-3513.

DATED this 31st day of October, 2000.

Gary Bermeosolo, Administrator
Division of Veterans Services
320 Collins Road
Boise, ID 83702
Phone: (208) 334-3513
Fax: (208) 334-2627

IDAPA 21, TITLE 01, Chapter 03

RULES GOVERNING MEDICAID QUALIFIED UNITS
IN IDAHO STATE VETERANS HOMES

There are substantive changes from the proposed rule text.

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

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 00-10, October 4, 2000, pages 497 through 499.

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 AMENDED TEXT OF DOCKET NO. 21-0103-0002

005. MEDICAID ELIGIBILITY.

On and after July 1, 2000, all new nursing care residents at the Idaho State Veterans Homes, including re-admitted residents, must either apply for and become eligible for Medicaid benefits, or must pay the maximum monthly nursing care charge as it may be established from time to time. Eligibility for Medicaid benefits is determined entirely by the Idaho Department of Health and Welfare and its agents. Those who cannot, or choose not to, qualify for Medicaid shall be required to pay for services in full from other than Medicaid funds. ~~This requirement may be waived by the Division Administrator, in his sole discretion, should its application be unfair or cause an undue hardship.~~ Care and services for those residents who are Medicaid eligible shall be billed to and paid by Medicaid following the date the respective Veterans Home becomes a qualified Medicaid facility. ~~(7-1-00)T~~(7-1-00)T

IDAPA 21 - DIVISION OF VETERANS SERVICES
21.01.04 - RULES GOVERNING EMERGENCY RELIEF FOR VETERANS
DOCKET NO. 21-0104-0001 (REPEAL)
NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 65-202, 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.

This chapter is being repealed to facilitate the Division of Veterans Services' move from the Department of Health and Welfare to the Department of Self-Governing Agencies. There is no change between the text of the proposed rule and the text of the pending rule. The pending rule is being adopted as proposed and this chapter is being repealed in its entirety. The original text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume 00-10, page 500.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Joni Harkless at (208) 334-3513.

DATED this 31st day of October, 2000.

Gary Bermeosolo, Administrator
Division of Veterans Services
320 Collins Road, Boise, ID 83702
Phone: (208) 334-3513 / Fax: (208) 334-2627

IDAPA 21, TITLE 01, Chapter 04

RULES GOVERNING EMERGENCY RELIEF FOR VETERANS

This chapter is being repealed in its entirety.

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 00-10, October 4, 2000, page 500.

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 22 – IDAHO STATE BOARD OF MEDICINE

22.01.01 - RULES OF THE BOARD OF MEDICINE FOR LICENSURE TO PRACTICE MEDICINE AND SURGERY AND OSTEOPATHIC MEDICINE AND SURGERY

DOCKET NO. 22-0101-0001

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 upon adjournment of the legislature unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-1806(2), 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. To comply with a recent Idaho Supreme Court decision stating that sections of the current rule that define sexual relations with patients as a standard of care violation, exceed the statutory authority of the agency. Clarification is added to a section of the rules relating to physical or mental illness to comply with federal Americans with Disabilities Act requirements. References to an agency that performed foreign medical school site reviews are removed, as the agency no longer performs that function. Reference to annual license issue and renewal are removed to allow two-year licensure. Interview language is changed to reflect change to statute (HB215). The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume 00-10 pages 501 through 508.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208)-327-7000.

DATED this 26th day of October, 2000.

Nancy M. Kerr
Executive Director
Idaho State Board of Medicine
1755 Westgate Drive
PO Box 83720, Boise, Idaho 83720-0058
(208) 327-7000, Fax (208) 327-7005

IDAPA 22, TITLE 01, Chapter 01

RULES OF THE BOARD OF MEDICINE FOR LICENSURE TO PRACTICE MEDICINE AND SURGERY AND OSTEOPATHIC MEDICINE AND SURGERY

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 00-10, October 4, 2000, pages 501 through 508.

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 24 - BUREAU OF OCCUPATIONAL LICENSES
24.04.01 - RULES OF THE IDAHO BOARD OF COSMETOLOGY
DOCKET NO. 24-0401-0001
NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-821, 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 any change.

Waives the thirty (30) day application deadline for applicants who fail the examination on the first attempt; provides for nail technology and esthetics instructors, this change would extend certain requirements for examination of instructors to include persons providing nail technology, esthetics or electrology instruction; allows instructor applicants who fail the examination on the first attempt to re-examine without additional training.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume Number 00-10, pages 530 through 533.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dee Ann Randall, (208) 334-3233.

DATED this 19th day of October, 2000.

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

IDAPA 24, TITLE 04, Chapter 01

RULES OF THE IDAHO BOARD OF COSMETOLOGY

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 00-10, October 4, 2000, pages 530 through 533.

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 24 - BUREAU OF OCCUPATIONAL LICENSES
24.04.01 - RULES OF THE IDAHO BOARD OF COSMETOLOGY

DOCKET NO. 24-0401-0002

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-821, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume Number 00-10, pages 534 through 554.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dee Ann Randall, (208) 334-3233.

DATED this 26th day of October, 2000.

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

IDAPA 24, TITLE 04, Chapter 01

RULES OF THE IDAHO BOARD OF COSMETOLOGY

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 00-10, October 4, 2000, pages 534 through 554.

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 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 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 67-4223, Idaho Code.

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

The changes in this rule will help the agency more safely manage visitor use within Idaho's state Parks. In Subsection 150.02 the words "posted speed" has been added to clarify the definition of speeding. Subsection 151.07 was renumbered incorrectly as 151.08. In Subsection 175.05 a grammatical changes has been made and in Section 575 the word "current" has been removed to avoid confusion.

The proposed rule has been amended in response to public comment and grammatical corrections have been made pursuant to Section 67-5227, Idaho Code.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume No. 00-10, pages 573 through 576.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Larry Stevens 208 887-4863.

DATED this 13th day of November, 2000.

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

IDAPA 26, TITLE 01, Chapter 20

RULES GOVERNING THE ADMINISTRATION OF PARK AND RECREATION AREAS AND FACILITIES

**There are substantive changes from the proposed rule text.
Text added to the pending rule is in italics.**

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 00-10, October 4, 2000, pages 573 through 576.

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 AMENDED TEXT OF DOCKET NO. 26-0120-0001

Section 150

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)()

Subsection 150.02

02. Overdriving Road Conditions And Speeding Prohibited. No person shall drive a vehicle at a speed greater than the posted speed or a reasonable and prudent speed under the conditions, whichever is less. 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. ()

Subsection 150.07

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

Section 175

175. PUBLIC BEHAVIOR.

Subsection 175.06

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

Section 575

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 Idaho Fish and Game rules. (1-1-94)()

IDAPA 26 - IDAHO DEPARTMENT OF PARKS AND RECREATION

26.01.30 - IDAHO SAFE BOATING RULES

DOCKET NO. 26-0130-0001

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-4223, 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.

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 accessible.

There are no changes from the published proposed rule and the pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume No. 00-10, pages 577 and 578.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Doug Strong 208 334-4199.

DATED this 13th day of November, 2000.

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

IDAPA 26, TITLE 01, Chapter 30

IDAHO SAFE BOATING RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 00-10, October 4, 2000, pages 576 and 577.

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 PENDING RULE

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

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

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.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume No. 00-10, pages 580 and 581.

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 27th day of October, 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 00-10, October 4, 2000, pages 580 and 581.

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. 27-0101-0003
NOTICE OF PENDING RULE

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

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

This rule change will add the substance carisoprodol to the list of Schedule IV controlled substances as provided under Section 37-2702, Idaho Code.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume No. 00-10, pages 582 through 586.

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 9th day of November, 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 00-10, October 4, 2000, pages 582 through 586.

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 31 - IDAHO 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 PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Idaho Public Utilities Commission 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has adopted a pending rule. This action is authorized pursuant to Section 61-515, 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.

No written comments were submitted concerning the proposed changes. Consequently, the pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume 00-10, pages 589 through 591.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Donald L. Howell, II, Deputy Attorney General, (208) 334-0312.

DATED this 1st day of November, 2000.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
472 W. Washington St. (83702-5983)
PO Box 83720
Boise, ID 83720-0074
Tel: (208) 334-0338
FAX: (208) 334-3762

IDAPA 31, TITLE 11, Chapter 01

SAFETY AND ACCIDENT REPORTING RULES FOR UTILITIES REGULATED
BY THE IDAHO PUBLIC UTILITIES COMMISSION

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 00-10, October 4, 2000, pages 589 through 591.

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 31 - IDAHO 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 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has adopted a pending rule. This action is authorized pursuant to Sections 61-302, 61-303, 61-503, and 61-507, Idaho Code.

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

The Commission received six comments regarding the rules, most generally supporting adoption of the proposed rules. Idaho Power Company did offer several suggestions to clarify language in the proposed rules (in particular Rules 107, 207 and 313). The Commission adopts these suggestions in its pending rules.

The Commission received two comments opposing a proposed change to Rule 201 that would require “monthly” billing instead of “regular” billing. Based upon these comments the Commission has withdrawn this proposed change but has retained the non-controversial proposed change regarding the address and toll-free telephone numbers for utilities. Three utility commentors also opposed changing Rule 310 that would have restricted utilities from disconnecting customers when their accounts were two months in arrears. Based upon these comments the Commission has withdrawn its proposed amendments to Rule 310.

Commentors also suggested that the Commission increase the maximum deposit amount (Rule 105); allow utilities to refuse service to a disconnected customer (Rule 303); and eliminate the requirement that utilities offer customers a “winter payment plan” (Rule 306). These suggestions go beyond the scope of the proposed rules and the public would not reasonably expect such changes would be adopted. Consequently, the Commission declines to adopt these suggestions pursuant to Section 67-5227, Idaho Code. The Commission’s General Order No. 208 issued November 13, 2000 discusses in greater detail the comments and the reasons for adopting the pending rules.

In light of the comments noted above, the proposed rules have been amended pursuant to Section 67-5227, Idaho Code. Only the sections that have changes are printed in this Bulletin. The original text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume No. 00-10, pages 593 through 599.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Beverly Barker, Deputy Administrator, (208) 334-0302.

DATED this 15th day of November, 2000.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
472 W. Washington St. (83702-5983)
PO Box 83720
Boise, ID 83720-0074
Tele: (208) 334-0338
FAX: (208) 334-3762

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

Section 107

107. RETURN OF DEPOSIT (RULE 107).

Subsection 107.02

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

Section 201

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)

Subsection 201.11

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)()

Section 207

207. BILLING PROHIBITED (Rule 207).

No utility shall bill for non-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 non-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. ()

Section 310

Changes made in the proposed rule have been removed and the text has reverted back to the codified text.

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)

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

Section 313

313. PAYMENT ARRANGEMENTS (RULE 313).

Subsection 313.03

03. **Application Of Payment.** Unless the customer designates otherwise, Ppayments 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. (7-1-93)()

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 PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Public Utilities Commission 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has adopted a pending rule. This action is authorized pursuant to Sections 61-502, 61-601 and 62-622(5), 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.

Qwest Corporation and the Commission Staff filed comments supporting adoption of the proposed rules. The Commission also received comments from Verizon Northwest. Verizon generally supported the Commission's proposed changes, but urged the Commission to modify its proposed change to Rule 107 and delete Rule 310.01 which prohibits local exchange companies from terminating local service if a customer's unpaid bill is less than \$50. The Commission did not adopt these suggested changes because such changes are not logical outgrowths of the proposed rules.

Staff also recommended that the deletion of an obsolete reference contained in Rule 302.02. The Commission adopted this suggestion. Consequently, proposed Rule 302.02 has been amended in response to public comment and to make a clerical correction and is amended pursuant to Section 67-5227, Idaho Code.

Only the section that has changes are printed in this Bulletin. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume No. 00-10, pages 600 through 604.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Beverly Barker, Deputy Administrator, (208) 334-0302.

DATED this 1st day of November, 2000.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
472 W. Washington St. (83702-5983)
PO Box 83720
Boise, ID 83720-0074
Tel: (208) 334-0338
FAX: (208) 334-3762

IDAPA 31, TITLE 41, Chapter 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)

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 00-10, October 4, 2000, pages 600 through 604.

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 AMENDED TEXT OF DOCKET NO. 31-4101-0001

SECTION 302

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)~~()

Subsection 302.02

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)~~()

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
39.01.04 - RULES GOVERNING DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
DOCKET NO. 39-0104-0001 (REPEAL)
NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. 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 replace CFR 49 Part 23.

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.

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.

The pending rule is being adopted as proposed and the chapter is being repealed. The original text of the proposed rule was published in the October 2000 Idaho Administrative Bulletin, Volume 00-10, page 709.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Julie Caldwell, EEO Contract Compliance Officer, 334-8458.

DATED this 14th day of November, 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

IDAPA 39, TITLE 01, Chapter 04

RULES GOVERNING DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

This chapter is being repealed in it entirety.

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 00-10, October 4, 2000, page 709.

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 39 - IDAHO TRANSPORTATION DEPARTMENT
39.02.02 - RULES GOVERNING VEHICLE AND VESSEL DEALER LICENSE
REQUIREMENTS - MOTOR VEHICLES

DOCKET NO. 39-0202-0001

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 49-1602 and 49-1606(7), 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.

This rulemaking modifies the rule to conform with SB1031, 1999, effective January 1, 2000, and SB1342, 2000, effective July 1, 2000. SB1031 provides for titling of vessels and requires dealer licensing for those selling five or more new or previously titled vessels per year. The term "vessel" is added throughout the rule for clarification, as the provisions are applicable to vehicle and vessel dealers alike. SB1342 redefines the term "temporary supplemental lot" and relaxes the requirements as to the proximity of a supplemental lot to the dealer's principal place of business.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 2000 Idaho Administrative Bulletin, Volume 00-9, pages 201 and 202.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ed Pemble, Vehicle Services Manager, 334-8660.

DATED this 14th day of November, 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

IDAPA 39, TITLE 02, Chapter 02

RULES GOVERNING VEHICLE AND VESSEL DEALER LICENSE
REQUIREMENTS - MOTOR VEHICLES

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 00-10, October 4, 2000, pages 201 and 202.

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 39 - IDAHO TRANSPORTATION DEPARTMENT
39.02.71 - RULES GOVERNING DRIVERS LICENSE VIOLATION POINT COUNT SYSTEM

DOCKET NO. 39-0271-0001

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 49-201 and 49-326, 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.

Certain citation language as listed is no longer used and must be revised to comply with Section 49-1424, Idaho Code. Also, certain citations and associated point counts were inadvertently omitted in a previous rulemaking and must be replaced to be in compliance with the code sections listed in the list of moving traffic convictions and/or violations point count.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 6, 2000 Idaho Administrative Bulletin, Volume 00-9, pages 203 through 206.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jane Caviness, Driver Services Manager, 332-7830.

DATED this 14th day of November, 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

IDAPA 39, TITLE 02, Chapter 71
RULES GOVERNING DRIVERS LICENSE VIOLATION POINT COUNT SYSTEM

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 00-9, September 6, 2000, pages 203 through 206.

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 39 - IDAHO TRANSPORTATION DEPARTMENT
39.03.13 - RULES GOVERNING OVERWEIGHT PERMITS

DOCKET NO. 39-0313-0001

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 40-312 and 49-1004, 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.

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.

In **Subsection 200.01.e.**, Orange Routes, the weight limit for the tridem axle should be “fifty-seven thousand five hundred (57,500) pounds”.

Only the section to be changed is printed in this bulletin. With the exception of the change listed above, the pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2000 Idaho Administrative Bulletin, Volume 00-10, pages 710 through 712.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Regina Phipps, Vehicle Size & Weight Specialist, 334-8418.

DATED this 14th day of November, 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

IDAPA 39, TITLE 03, Chapter 13
RULES GOVERNING OVERWEIGHT PERMITS

There are substantive changes from the proposed rule text.
Text added to the pending rule is in italic.

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

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 00-10, October 4, 2000, pages 710 through 712.

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 AMENDED TEXT OF DOCKET NO. 39-0313-0001

SECTION 200

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)~~ ()

Subsection 200.01.e.

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 seven hundred (58,700) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula $W = 675((LN/N-1) + 12N + 36)$. ()

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 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) 40-312 and 49-1004, 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.

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.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume 00-10, pages 713 and 714.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Regina Phipps, Vehicle Size & Weight Specialist, 334-8418.

DATED this 14th day of November, 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

IDAPA 39, TITLE 03, Chapter 16

RULES GOVERNING OVERSIZE PERMITS FOR NON-REDUCIBLE VEHICLES AND/OR LOADS

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 00-10, October 4, 2000, pages 713 and 714.

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 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 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) 40-312 and 49-1004, Idaho Code.

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

The 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.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume 00-10, page 715.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Regina Phipps, Vehicle Size & Weight Specialist, 334-8418.

DATED this 14th day of November, 2000

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129, Boise ID 83707-1129
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IDAPA 39, TITLE 03, Chapter 17

RULES GOVERNING PERMITS FOR MANUFACTURED HOMES,
MODULAR BUILDINGS, AND OFFICE TRAILERS

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 00-10, October 4, 2000, page 715.

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 39 - IDAHO TRANSPORTATION DEPARTMENT
39.03.19 - RULES GOVERNING ANNUAL OVERLEGAL PERMITS

DOCKET NO. 39-0319-0001

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 40-312 and 49-1004, 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.

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.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume 00-10, pages 716 through 719.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Regina Phipps, Vehicle Size & Weight Specialist, 334-8418.

DATED this 14th day of November, 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

IDAPA 39, TITLE 03, Chapter 19

RULES GOVERNING ANNUAL OVERLEGAL PERMITS

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 00-10, October 4, 2000, pages 716 through 719.

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 39 - IDAHO TRANSPORTATION DEPARTMENT
39.03.42 - RULES GOVERNING USE OF STATE RIGHT-OF-WAY

DOCKET NO. 39-0342-0001

NOTICE OF PENDING FEE RULE

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

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) 40-310(9), 40-311(1), 40-312(3), 40-313(2), 49-202(19), (23) and (28), 49-221, and 67-5203, 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.

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 Model Rules of Practice and Procedures of the Idaho 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.

The final sentence in **Subsection 100.02.a.** and all of **Subsection 100.02.e.** is being deleted, as the statement is repeated in Subsection 100.02.c. ("During the progress of the work, all 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".)

In **Subsection 200.03**, State highway "right-of-way" has been changed to "rights-of-way" to reflect the reference to multiple locations.

In **Subsection 200.04**, "District Engineer" has been deleted to clarify that the permitting process is not restricted, but shall be administered by the department or a delegated representative.

In **Subsection 300.06**, "Department's" has been changed to "Department" to correct an error in grammar.

In **Subsection 400.14.b.**, "approach" has been changed to "approaches" to correct an error in grammar.

In **Subsection 400.14**, an additional subsection "400.14.c" has been added. It reads, "In curb and gutter areas, approaches shall be paved to the right-of-way line".

In **Subsection 801.03**, following the first word, "Encroachments" and before the phrase "shall not interfere...", the words "over a State highway if they do" have been deleted.

Only the sections that have changes are printed in this bulletin. With the exception to the changes shown above, the pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2000 Idaho Administrative Bulletin, Volume 00-10, pages 723 through 751.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 40-314(3), Idaho Code.

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.

Because of the fee being imposed or increased through this rule-making, this pending rule will not be adopted as final nor will it become effective until it has been approved, amended, or modified by concurrent resolution of the legislature.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Steve Holland, TSEA, 334-8565.

DATED this 14th day of November, 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

IDAPA 39, TITLE 03, Chapter 42

RULES GOVERNING USE OF STATE RIGHT-OF-WAY

**There are substantive changes from the proposed rule text.
Text added to the pending rule is in italics.**

**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 00-10, October 4, 2000, pages 723 through 751.**

**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 AMENDED TEXT OF DOCKET NO. 39-0342-001

Section 100

100. GENERAL.

Subsection 100.02.a.

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)()

Subsection 100.02.e.

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. ()

Sections 200

200. APPLICATIONS AND PERMITS.

Subsection 200.03

03. Local Highway Agency Authority. Department may delegate authority to a local highway agency to issue permits to use State highway rights-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. ()

Subsection 200.04

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)()

Section 300

300. GENERAL REGULATIONS FOR APPROACHES.

Subsection 300.06

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. ()

Sections 400

400. LOCATION AND DESIGN STANDARDS FOR APPROACHES.

Subsection 400.14

14. Base And Surfacing. ()

Subsection 400.14.b. and 400.14.c.

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 approaches that are occasionally used shall be paved a minimum of one point five (1.5) meters/five (5) feet from the edge of pavement. ()

c. In curb and gutter areas, approaches shall be paved to the right-of-way line. ()

Section 801

~~400801.~~ PROHIBITIONS.

Subsection 801.03

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. ()

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.47 - RULES GOVERNING CERTIFICATION OF LOCAL IMPROVED ROAD MILEAGE

DOCKET NO. 39-0347-0001

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 40-312 and 40-709, 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.

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.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume 00-10, pages 752 and 753.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Gary Sanderson, Planning Services Manager, 334-8211.

DATED this 14th day of November, 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

IDAPA 39, TITLE 03, Chapter 19

RULES GOVERNING CERTIFICATION OF LOCAL IMPROVED ROAD MILEAGE

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 00-10, October 4, 2000, pages 7752 and 7753.

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 45 - HUMAN RIGHTS COMMISSION
45.01.01 - RULES OF THE IDAHO HUMAN RIGHTS COMMISSION
DOCKET NO. 45-0101-0001
NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section 67-5906(12), Idaho Code.

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

Presently, the Commission has no rule regulating who may represent a party in proceedings before the Commission. The Commission has adopted 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 1376098 (9th Cir. 2000)). The Commission has adopted an amendment to that rule deleting reference to the exception.

The pending rule has been adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume No. 00-10, pages 754 and 755.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Jo-Ann Bowen at (208) 334-2873.

DATED this 13th day of November, 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

IDAPA 45, TITLE 01, Chapter 01

RULES OF THE IDAHO HUMAN RIGHTS COMMISSION

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 00-10, October 4, 2000, pages 754 and 755.

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 47 - DIVISION OF VOCATIONAL REHABILITATION

47.01.01 - GENERAL ADMINISTRATION

DOCKET NO. 47-0101-0001

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 33-2301, Idaho Code, and the 1998 Amendments of the Rehabilitation Act of 1973.

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.

A correction is being made to Subsection 100.03. In the publication of the proposed rule, language that should have been deleted was inadvertently left in and new language was not included. The text is being printed here following this notice in its corrected form. With this exception, the pending rule is are being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume No. 00-10 pages 756 through 760.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Sue Payne (208) 334-3390.

DATED this 30th day of October, 2000.

Barry J. Thompson
Interim Administrator
Idaho Division of Vocational Rehabilitation
650 W. State Street, Room 150
P.O. Box 83720
Boise, ID 83720-0096
(208) 334-3390, Fax: (208) 334-5305

IDAPA 47, TITLE 01, Chapter 01

GENERAL ADMINISTRATION

There is a correction being made to the proposed rule text.

Only that Subsection that has the correction to the original proposed text is being printed in the Bulletin.

This correction is being printed in legislative format
as it would have originally been published.

The complete text of the proposed rule was published in the Idaho Administrative
Bulletin, Volume 00-10, October 4, 2000, pages 756 through 760.

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 CORRECTED TEXT OF DOCKET NO. 47-0101-0001

Section 100

100. CLIENT APPEALS.

Subsection 100.03

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~~ deny or delay the right to 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

No changes were made to Subsections 100.03.a. through 100.03.c.

IDAPA 47 - DIVISION OF VOCATIONAL REHABILITATION

47.01.02 - FIELD SERVICES

DOCKET NO. 47-0102-0001

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 1, 2000. The pending 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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 33-2301, Idaho Code, and the 1998 Amendments of the Rehabilitation Act of 1973.

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

In the publication of the temporary and proposed rule, the word "motorized" was inadvertently left out of Subsection 500.04. That Subsection is being re-published, following this notice, in its corrected form and as it was originally submitted by the agency. With this exception the pending rule is being adopted as proposed.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume No. 00-10 pages 761 through 768.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Sue Payne (208) 334-3390.

DATED this 30th day of October, 2000.

Barry J. Thompson
Interim Administrator
Idaho Division of Vocational Rehabilitation
650 W. State Street, Room 150
P.O. Box 83720
Boise, ID 83720-0096
(208) 334-3390, Fax: (208) 334-5305

IDAPA 47, TITLE 01, Chapter 02

FIELD SERVICES

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 00-10, October 4, 2000, pages 761 through 768.

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 AMENDED TEXT OF DOCKET NO. 47-0102-0001

SECTION 500

500. SERVICES FOR WHICH IDAHO DIVISION OF VOCATIONAL REHABILITATION FINANCIAL PARTICIPATION WILL NOT BE AVAILABLE.

Subsection 500.04

04. Vehicular Purchase. Financial assistance will not be available for the purchase of a vehicle. For the purpose of this rule, "vehicle" is defined as any motorized 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). Division funds may be utilized to render an already owned vehicle accessible for their use (i.e., hand controls, van conversions, and installation of lifts.).

~~(11-1-00)F~~(11-1-00)T

IDAPA 47 - DIVISION OF VOCATIONAL REHABILITATION

47.01.03 - MANAGEMENT SERVICES

DOCKET NO. 47-0103-0001

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 1, 2000. The pending 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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 33-2301, Idaho Code, and the 1998 Amendments of the Rehabilitation Act of 1973.

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

In Subsection 100.08, the word "participation" was inadvertently changed to "participant" and this is being corrected back to how it was originally submitted. With this exception, the pending rules is being adopted as proposed.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the October 4, 2000 Idaho Administrative Bulletin, Volume No. 00-10 pages 769 through 772.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Sue Payne (208) 334-3390.

DATED this 30th day of October, 2000.

Barry J. Thompson
Interim Administrator
Idaho Division of Vocational Rehabilitation
650 W. State Street, Room 150
P.O. Box 83720, Boise, ID 83720-0096
(208) 334-3390
Fax: (208) 334-5305

IDAPA 47, TITLE 01, Chapter 03

MANAGEMENT SERVICES

There are substantive changes from the proposed rule text.

Only those subsections 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 00-10, October 4, 2000, pages 769 through 772.

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 REVISED SUBSECTION OF DOCKET NO. 47-0103-0001

Section 100

100. RATES OF PAYMENT.

Subsection 100.08

08. Maintenance. The maximum monthly maintenance payment will not exceed the monthly maximums for individual SSI payments as established by the Social Security Administration. Maintenance is a supportive service. Maintenance is for the additional costs incurred by the ~~participant~~ participation in the VR plan or during diagnosis and evaluation when cost of food and shelter represent extra cost imposed by the diagnostic or evaluative services. ~~(11-1-00)T~~(11-1-00)T

IDAPA 52 - IDAHO STATE LOTTERY COMMISSION
52.01.02 - GAMING RULES OF THE IDAHO STATE LOTTERY COMMISSION
DOCKET NO. 52-0102-0001
NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2001 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-7401 et seq., Idaho Code.

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

The 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.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2000, Idaho Administrative Bulletin, Volume No. 00-10, pages 794 through 802.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Amber French at (208) 334-2277.

DATED this 14th day of November, 2000.

Amber French
Criminal Investigator
Agency/Division Idaho State Lottery
1199 Shoreline Lane, Ste #100, Boise ID 83702
PO Box 6537, Boise ID 83707
phone 334-2277, fax 334-2391

IDAPA 52, TITLE 01, Chapter 02

GAMING RULES OF THE IDAHO STATE LOTTERY COMMISSION

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 00-10, October 4, 2000, pages 794 through 802.

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

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0101

NOTICE OF TEMPORARY RULE

EFFECTIVE DATE: The temporary rule was effective November 10, 2000.

AUTHORITY: In compliance with Sections 67-5226(1) and 67-5221(1), Idaho Code, notice is hereby given that the Board of Environmental Quality (Board) has adopted a temporary rule. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

DESCRIPTIVE SUMMARY: This temporary rule revises the Air Pollution Emergency Rule found at Sections 550 through 562 of the "Rules for the Control of Air Pollution in Idaho," IDAPA 58.01.01. Recent smoke related events caused elevated concentrations of ambient particulates (PM-2.5 and PM-10) that reached potentially unhealthful levels in various parts of Idaho. Prior to adoption of the temporary rule, Stage 1 of the Air Pollution Emergency Rule did not contain specific numerical action levels. Decisions about invoking a Stage 1 emergency episode have generally been based on 24 hour average concentrations. This temporary rule adds to the Air Pollution Emergency Rule specific particulate action levels and criteria based on a 24 hour averaging time as well as one hour averaging time to better protect sensitive sub-populations such as those with heart and lung disease and the elderly. In addition, the rule adds Stage 1 visibility criteria for those areas that do not have access to particulate monitoring data. The Air Pollution Emergency Rule applies to elevated ambient concentrations of air pollutants regardless of the sources of these pollutants. This rule modification does not have the expressed or implied purpose of regulating agricultural or prescribed burning but, rather, it is proposed to protect the public health in the event of unhealthful ambient concentrations of particulate or other air pollutants.

NEGOTIATED RULEMAKING: Negotiated rulemaking will be conducted. The Notice of Negotiated Rulemaking appears in this issue of the Idaho Administrative Bulletin under Docket No. 58-0101-0101. This temporary rule will be used as the preliminary draft of the negotiated rule.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in that the rule is necessary to protect the public health and the environment.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Tim Teater at (208)373-0502, tteater@deq.state.id.us.

Dated this 15th day of November, 2000.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton, Boise, Idaho 83706-1255
Fax No. (208)373-0481
pgradwoh@deq.state.id.us

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0101-0101

552. STAGES.

The Department has defined four (4) stages of atmospheric stagnation and/or degraded air quality. (5-1-94)

01. Stage 1 - Air Pollution Forecast And Caution. An internal watch by the Department shall be actuated by a National Weather Service report that an Atmospheric Stagnation Advisory has been issued, or the equivalent local forecast of stagnant atmospheric conditions. ~~(5-1-94)~~(11-10-00)T

02. Stage 2 - Alert. This is the first stage at which air pollution control actions by industrial sources are to begin. (5-1-94)

03. Stage 3 - Warning. The warning stage indicates that air quality is further degraded and that control actions are necessary to maintain or improve air quality. (5-1-94)

04. Stage 4 - Emergency. The emergency stage indicates that air quality has degraded to a level that will substantially endanger the public health and that the most stringent control actions are necessary. (5-1-94)

553. EFFECT OF STAGES.

Once an episode stage is reached or the Department determines that reaching a particular stage is imminent, emergency action corresponding to that stage will remain in effect until air quality measurements indicate that another stage (either lower or higher) has been attained. At such time, actions corresponding to the next stage will go into effect. This procedure will continue until the episode is terminated. The air quality criteria used to define each of the episode stages for carbon monoxide, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide are specified in Section 556. The levels will be determined by the Department through its analysis of meteorological and ambient air quality monitoring data. ~~(4-5-00)~~(11-10-00)T

(BREAK IN CONTINUITY OF SECTIONS)

556. CRITERIA FOR DEFINING LEVELS WITHIN STAGES.

The air quality criteria defining each of these levels for carbon monoxide (CO), nitrogen dioxide (NO₂), ozone (O₃), particles with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers (PM-10), particles with an aerodynamic diameter less than or equal to a nominal two point five (2.5) micrometers (PM-2.5), and sulfur dioxide (SO₂) are: ~~(4-5-00)~~(11-10-00)T

01. Stage 1 - Forecast And Caution. ~~None.~~ A Stage 1 Forecast and Caution shall be declared by the Department when particulate concentrations or visibility attributable to particulate matter reaches, or is forecasted to reach, and continue, at or above the levels listed below. The Department may call a Stage 1 Forecast and Caution, if it determines, after evaluating the pertinent meteorology and weather conditions and source parameters such as source type, strength and projected duration, that a Stage 1 Forecast and Caution is required to protect the public health. ~~(5-1-94)~~(11-10-00)T

a. Pollutant Levels.

<u>CO</u>	<u>NA</u>
<u>NO₂</u>	<u>NA</u>
<u>O₃</u>	<u>NA</u>
<u>SO₂</u>	<u>NA</u>
<u>PM-2.5</u>	<u>100 ug/m3 1 hour average</u>
<u>PM-2.5</u>	<u>50 ug/m3 24 hour average</u>
<u>PM-10</u>	<u>385 ug/m3 1 hour average</u>

PM-10	150 mg/m3 24 hour average
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(11-10-00)T

b. Visibility. When PM-10 or PM 2.5 monitoring readings are not available, the Department may declare a Stage 1 – Forecast and Caution: based on visibility readings according to the following scale:

<u>CO</u>	<u>NA</u>
<u>NO₂</u>	<u>NA</u>
<u>O₃</u>	<u>NA</u>
<u>SO₂</u>	<u>NA</u>
<u>PM</u>	2.75 – 4.50 miles visibility

(11-10-00)T

02. Stage 2 - Alert.

CO - 17 mg/m3 (15 ppm)	8-hour average
NO ₂ - 1130 ug/m3 (0.6 ppm)	1-hour average
- 282 ug/m3 (0.15 ppm)	24-hour average
O ₃ - 400 ug/m3 (0.2 ppm)	1-hour average
PM-10 - 350 ug/m3	24-hour average
SO ₂ - 800 ug/m3 (0.3 ppm)	24-hour average

(4-5-00)

03. Stage 3 - Warning.

CO - 34 mg/m3 (30 ppm)	8-hour average
NO ₂ - 2260 ug/m3 (1.2 ppm),	1-hour average
- 565 ug/m3 (0.3 ppm)	24-hour average
O ₃ - 800 ug/m3 (0.4 ppm)	1-hour average
PM-10 - 420 ug/m3	24-hour average
SO ₂ - 1600 ug/m3 (0.6 ppm)	24-hour average

(4-5-00)

04. Stage 4 - Emergency.

CO - 46 mg/m3 (40 ppm)	8-hour average
NO ₂ - 3000 ug/m3 (1.6 ppm)	1-hour average
- 750 ug/m3 (0.4 ppm)	24-hour average

O ₃ - 1000 ug/m ³ (0.5 ppm)	1-hour average
PM-10 - 500 ug/m ³	24-hour average
SO ₂ - 2100 ug/m ³ (0.8 ppm)	24-hour average

(4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

558. INFORMATION TO BE GIVEN.

01. Information To Be Given. On the basis of degrading air quality as determined by the Director, and the criteria for emergency episode stages as shown in Section 556, the Director will utilize appropriate news media to insure that the following information is announced to the public: (5-1-94)

- a. Definition of the extent of the problem; (5-1-94)
- b. Indication of the action taken by the Director; (5-1-94)
- c. Air pollution forecast for next few days; (5-1-94)
- d. Notice of when the next statement from the Department will be issued; (5-1-94)
- e. Listing of all general procedures which the public, commercial, institutional and industrial sectors are required to follow; (5-1-94)
- f. Specific warnings and advice to those persons who because of acute or chronic health problems, may be most susceptible to the effects of the episode. (~~5-1-94~~)(11-10-00)T

(BREAK IN CONTINUITY OF SECTIONS)

561. GENERAL RULES.

All persons in the designated stricken area shall be governed by the following rules for each emergency episode stage. The Director may waive one (1) or more of the required measures at each episode stage if, on the basis of information available to him, he judges that a measure is an inappropriate response to the specific episode conditions which then exist. (5-1-94)

- 01. Stage 1 - Air Pollution Forecast And Caution.** There shall be no open burning of any kind. (~~5-1-94~~)(11-10-00)T
- 02. Stage 2 - Alert.** (5-1-94)
 - a. There shall be no open burning of any kind. (5-1-94)
 - b. The use of ~~wigwag~~ burners and incinerators for the disposal of any form of solid waste shall be prohibited. (~~5-1-94~~)(11-10-00)T
 - c. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 pm (noon) and 4:00 p.m. (5-1-94)
 - d. Commercial, industrial and institutional facilities utilizing coal or residual fuel oil are required to

- switch to natural gas or distillate oil if available. (5-1-94)
- 03. Stage 3 - Warning.** (5-1-94)
- a. There shall be no open burning of any kind. (5-1-94)
- b. The use of ~~wigwam~~ burners and incinerators for the disposal of any form of solid waste or liquid waste shall be prohibited. (~~5-1-94~~)(11-10-00)T
- c. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 pm (noon) and 4:00 p.m. (5-1-94)
- d. Commercial, industrial and institutional facilities utilizing coal or residual fuel are required to either: (5-1-94)
- i. Switch completely to natural gas or distillate oil; or (5-1-94)
- ii. If these low sulfur fuels are not available, curtail the use of existing fuels to the extent possible without causing injury to persons or damage to equipment. (5-1-94)
- 04. Stage 4 - Emergency.** This will be called only with specific concurrence of Governor. (5-1-94)
- a. There shall be no open burning of any kind. (5-1-94)
- b. The use of ~~wigwam~~ burners and incinerators for the disposal of any form of solid or liquid waste shall be prohibited. (~~5-1-94~~)(11-10-00)T
- c. All places of employment described below shall immediately cease operations: (5-1-94)
- i. All mining and quarrying operations; (5-1-94)
- ii. All construction work except that which must proceed to avoid injury to persons; (5-1-94)
- iii. All manufacturing establishments except those required to have in force an air pollution emergency plan; (5-1-94)
- iv. All wholesale trade establishments, i.e. places of business primarily engaged in selling merchandise to retailers or industrial, commercial, institutional or professional users, or to other wholesalers, or acting as agents in buying merchandise for or selling merchandise to such persons or companies except those engaged in the distribution of drugs, surgical supplies and food; (5-1-94)
- v. All offices of local, county and State government including authorities, joint meetings, and other public bodies excepting such agencies which are determined by the chief administrative officer of local, county, or State government authorities, joint meetings and other public bodies to be vital for public safety and welfare and the enforcement of the provisions of this order; (5-1-94)
- vi. All retail trade establishments except pharmacies, surgical supply distributors, and stores primarily engaged in the sale of food; (5-1-94)
- vii. Banks, credit agencies other than banks, securities and commodities brokers, dealers, exchanges and services; offices of insurance carriers, agents and brokers, real estate offices; (5-1-94)
- viii. Wholesale and retail laundries, laundry services and cleaning and dyeing establishments; photographic studios; beauty shops, barber shops, shoe repair shops; (5-1-94)
- ix. Advertising offices, consumer credit reporting, adjustment and collection agencies; duplicating, addressing, blueprinting; photocopying, mailing, mailing list and stenographic services; equipment rental services,

commercial testing laboratories; (5-1-94)

x. Automobile repair, automobile services, garages except those located adjacent to state or interstate highways; (5-1-94)

xi. Establishments rendering amusement and recreational services including motion picture theaters; (5-1-94)

xii. Elementary and secondary schools, colleges, universities, professional schools, junior colleges, vocational schools, and public and private libraries. (5-1-94)

d. All commercial and manufacturing establishments not included in this order will institute such actions as will result in maximum reduction of regulated air pollutant(s) from their operation by ceasing, curtailing, or postponing operations which emit regulated air pollutants to the extent possible without causing injury to persons or damage to equipment. These actions include limiting boiler lancing or soot blowing operations for fuel burning equipment to between the hours of 12:00 pm (noon) and 4:00 p.m. (4-5-00)

e. When the emergency episode is declared for carbon monoxide, the use of motor vehicles is prohibited except in emergencies or with the approval of local or state police or the Department. (5-1-94)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0102

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule was effective November 10, 2000.

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

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

February 6, 2001, 7 p.m.
Department of Environmental Quality Conference Center
1410 N. Hilton, Boise, Idaho.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208)373-0418.

DESCRIPTIVE SUMMARY: This rulemaking revises Subsection 210.16.c., Demonstration of Preconstruction Compliance with Toxic Standards, Environmental Remediation Source. The Department's petroleum remediation policy has, for several years, successfully allowed the rapid and effective remediation of petroleum spills and leaks into soil and ground water while protecting the environment and public health. However, there is a potential conflict with Section 513 of the Rules for the Control of Air Pollution in Idaho, which deals with good engineering practices and dispersion techniques in permitting sources with stacks. Therefore, in order for the Department's petroleum remediation policy to continue to function, this conflict must be resolved. This rulemaking will allow the Department to continue to consider certain dispersion techniques that are now integrated into the Department's petroleum remediation policy.

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

After consideration of public comments, DEQ intends to present the final proposal to the Board in 2001 for adoption of a pending rule. The rule is expected to be final upon the conclusion of the 2002 session of the Idaho Legislature.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted because the rulemaking schedule did not allow for the timing of it.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in that the rule is necessary to protect the public health and the environment.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact Tim Teater at (208)373-0502, tteater@deq.state.id.us.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. All written comments must be received by the undersigned on or before February 7, 2001.

Dated this 15th day of November, 2000.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
Fax No. (208)373-0481
pgradwoh@deq.state.id.us

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0101-0102

210. DEMONSTRATION OF PRECONSTRUCTION COMPLIANCE WITH TOXIC STANDARDS.

In accordance with Subsection 203.03, the applicant shall demonstrate preconstruction compliance with Section 161 to the satisfaction of the Department. The accuracy, completeness, execution and results of the demonstration are all subject to review and approval by the Department. (6-30-95)

01. Identification Of Toxic Air Pollutants. The applicant may use process knowledge, raw materials inputs, EPA and Department references and commonly available references approved by EPA or the Department to identify the toxic air pollutants emitted by the stationary source or modification. (6-30-95)

02. Quantification Of Emission Rates. (6-30-95)

a. The applicant may use standard scientific and engineering principles and practices to estimate the emission rate of any toxic air pollutant at the point(s) of emission. (6-30-95)

i. Screening engineering analyses use unrefined conservative data. (6-30-95)

ii. Refined engineering analyses utilize refined and less conservative data including, but not limited to, emission factors requiring detailed input and actual emissions testing at a comparable emissions unit using EPA or Department approved methods. (6-30-95)

b. The uncontrolled emissions rate of a toxic air pollutant from a source or modification is calculated using the maximum capacity of the source or modification under its physical and operational design without the effect of any physical or operational limitations. (6-30-95)

i. Examples of physical and operational design include but are not limited to: the amount of time equipment operates during batch operations and the quantity of raw materials utilized in a batch process. (6-30-95)

ii. Examples of physical or operational limitations include but are not limited to: shortened hours of operation, use of control equipment, and restrictions on production which are less than design capacity. (6-30-95)

c. The controlled emissions rate of a toxic air pollutant from a source or modification is calculated using the maximum capacity of the source or modification under its physical and operational design with the effect of any physical or operational limitation that has been specifically described in a written and certified submission to the Department. (6-30-95)

d. The T-RACT emissions rate of a toxic air pollutant from a source or modification is calculated using the maximum capacity of the source or modification under its physical and operational design with the effect of: (6-30-95)

i. Any physical or operational limitation other than control equipment that has been specifically

described in a written and certified submission to the Department; and (6-30-95)

ii. An emission standard that is T-RACT. (6-30-95)

03. Quantification Of Ambient Concentrations. (6-30-95)

a. The applicant may use the modeling methods provided in Subsection 202.02 to estimate the ambient concentrations at specified receptor sites for any toxic air pollutant emitted from the point(s) of emission. (6-30-95)

i. For screening modeling, the models use arbitrary meteorological data and predict maximum one (1) hour concentrations for all specified receptor sites. For toxic air pollutants listed in Section 586, multiply the maximum hourly concentration output from the model by a persistence factor of one hundred twenty five one-thousandths (0.125) to convert the hourly average to an annual average. For toxic air pollutants listed in Section 585, multiply the maximum hourly concentration output from the model by a persistence factor of four tenths (0.4) to convert the hourly concentration to a twenty-four (24) hour average. (6-30-95)

ii. For refined modeling, the models use site specific information. If actual meteorological data is used and the model predicts annual averages for toxic air pollutants listed in Section 586 and twenty-four (24) hour averages for toxic air pollutants listed in Section 585, persistence factors need not be used. (6-30-95)

b. The point of compliance is the receptor site that is estimated to have the highest ambient concentration of the toxic air pollutant of all the receptor sites that are located either at or beyond the facility property boundary or at a point of public access; provided that, if the toxic air pollutant is listed in Section 586, the receptor site is not considered to be at a point of public access if the receptor site is located on or within a road, highway or other transportation corridor transecting the facility. (6-30-95)

c. The uncontrolled ambient concentration of the source or modification is estimated by modeling the uncontrolled emission rate. (6-30-95)

d. The controlled ambient concentration of the source or modification is estimated by modeling the controlled emission rate. (6-30-95)

e. The approved net ambient concentration from a modification for a toxic air pollutant at each receptor is calculated by subtracting the estimated decreases in ambient concentrations for all sources at the facility contributing an approved creditable decrease at the receptor site from the estimated ambient concentration from the modification at the receptor. (6-30-95)

f. The approved offset ambient concentration from a source or modification for a toxic air pollutant at each receptor is calculated by subtracting the estimated decreases in ambient concentrations for all sources contributing an approved offset at the receptor from the estimated ambient concentration for the source or modification at the receptor. (6-30-95)

g. The T-RACT ambient concentration of the source or modification is estimated by using refined modeling and the T-RACT emission rate. (6-30-95)

h. The approved interpollutant ambient concentration from a source or modification for a toxic air pollutant at each receptor is calculated as follows: (6-30-95)

i. Step 1: Calculate the estimated decrease in ambient concentrations for each toxic air pollutant from each source contributing an approved interpollutant trade at the receptor by multiplying the approved interpollutant ratio by the overall decrease in the ambient concentration of the toxic air pollutant at the receptor site. (6-30-95)

ii. Step 2: Calculate the total estimated decrease at the receptor by summing all of the individual estimated decreases calculated in Subsection 210.03.h.i. for that receptor. (6-30-95)

iii. Step 3: Calculate the approved interpollutant ambient concentration by subtracting the total

estimated decrease at the receptor from the estimated ambient concentration for the source or modification at the receptor. (6-30-95)

04. Preconstruction Compliance Demonstration. The applicant may use any of the Department approved standard methods described in Subsections 210.05 through 210.08, and may use any applicable specialized method described in Subsections 210.09 through 210.12 to demonstrate preconstruction compliance for each identified toxic air pollutant. (6-30-95)

05. Uncontrolled Emissions. (6-30-95)

a. Compare the source's or modification's uncontrolled emissions rate for the toxic air pollutant to the applicable screening emission level listed in Sections 585 or 586. (6-30-95)

b. If the source's or modification's uncontrolled emission rate is less than or equal to the applicable screening emission level, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

06. Uncontrolled Ambient Concentration. (6-30-95)

a. Compare the source's or modification's uncontrolled ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. (6-30-95)

b. If the source's or modification's uncontrolled ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

07. Controlled Emissions And Uncontrolled Ambient Concentration. (6-30-95)

a. Compare the source's or modification's controlled emissions rate for the toxic air pollutant to the applicable screening emission level listed in Sections 585 or 586 and compare the source's or modification's uncontrolled ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. (6-30-95)

b. If the source's or modification's controlled emission rate is less than or equal to the applicable screening emission level and if the source's or modification's uncontrolled ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

08. Controlled Ambient Concentration. (6-30-95)

a. Compare the source's or modification's controlled ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. (6-30-95)

b. If the source's or modification's controlled ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

c. The Department shall include an emission limit for the toxic air pollutant in the permit to construct that is equal to or, if requested by the applicant, less than the emission rate that was used in the modeling. (6-30-95)

09. Net Emissions. (6-30-95)

a. As provided in Section 007 (definition of net emissions increase) and Sections 460 and 461, the owner or operator may net emissions to demonstrate preconstruction compliance. (4-5-00)

b. Compare the modification's approved net emissions increase (expressed as an emission rate) for the toxic air pollutant to the applicable screening emission level listed in Sections 585 or 586. (6-30-95)

c. If the modification's approved net emissions increase is less than or equal to the applicable screening emission level, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

d. The Department shall include emission limits and other permit terms for the toxic air pollutant in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. (6-30-95)

10. Net Ambient Concentration. (6-30-95)

a. As provided in Section 007 (definition of net emission increase) and Sections 460 and 461, the owner or operator may net ambient concentrations to demonstrate preconstruction compliance. (4-5-00)

b. Compare the modification's approved net ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. (6-30-95)

c. If the modification's approved net ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

d. The Department shall include emission limits and other permit terms for the toxic air pollutant in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. (6-30-95)

11. Toxic Air Pollutant Offset Ambient Concentration. (6-30-95)

a. As provided in Sections 206 and 460, the owner or operator may use offsets to demonstrate preconstruction compliance. (6-30-95)

b. Compare the source's or modification's approved offset ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. (6-30-95)

c. If the source's or modification's approved offset ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

d. The Department shall include emission limits and other permit terms for the toxic air pollutant in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. (6-30-95)

12. T-RACT Ambient Concentration For Carcinogens. (6-30-95)

a. As provided in Subsections 210.12 and 210.13, the owner or operator may use T-RACT to demonstrate preconstruction compliance for toxic air pollutants listed in Section 586. (6-30-95)

i. This method may be used in conjunction with netting (Subsection 210.09), and offsets (Subsection 210.11). (6-30-95)

ii. This method is not to be used to demonstrate preconstruction compliance for toxic air pollutants listed in Section 585. (6-30-95)

b. Compare the source's or modification's approved T-RACT ambient concentration at the point of compliance for the toxic air pollutant to the amount of the toxic air pollutant that would contribute an ambient air

cancer risk probability of less than one to one hundred thousand (1:100,000) (which amount is equivalent to ten (10) times the applicable acceptable ambient concentration listed in Section 586). (6-30-95)

c. If the source's or modification's approved T-RACT ambient concentration at the point of compliance is less than or equal to the amount of the toxic air pollutant that would contribute an ambient air cancer risk probability of less than one to one hundred thousand (1:100,000), no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

d. The Department shall include emission limits and other permit terms for the toxic air pollutant in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. (6-30-95)

13. T-RACT Determination Processing. (6-30-95)

a. The applicant may submit all information necessary to the demonstration at the time the applicant submits the complete initial application or the applicant may request the Department to review a complete initial application to determine if Subsection 210.12 may be applicable to the source or modification. (6-30-95)

b. Notwithstanding Subsections 209.01.a. and 209.01.b., if the applicant requests the Department to review a complete initial application and Subsection 210.12 is determined to be applicable, the completeness determination for the initial application will be revoked until a supplemental application is submitted and determined complete. When the supplemental application is determined complete, the timeline for agency action shall be reinitiated. (6-30-95)

14. T-RACT Determination. T-RACT shall be determined on a case-by-case basis by the Department as follows: (6-30-95)

a. The applicant shall submit information to the Department identifying and documenting which control technologies or other requirements the applicant believes to be T-RACT. (5-1-94)

b. The Department shall review the information submitted by the applicant and determine whether the applicant has proposed T-RACT. (5-1-94)

c. The technological feasibility of a control technology or other requirements for a particular source shall be determined considering several factors including, but not limited to: (5-1-94)

i. Process and operating procedures, raw materials and physical plant layout. (5-1-94)

ii. The environmental impacts caused by the control technology that cannot be mitigated, including, but not limited to, water pollution and the production of solid wastes. (5-1-94)

iii. The energy requirements of the control technology. (5-1-94)

d. The economic feasibility of a control technology or other requirement, including the costs of necessary mitigation measures, for a particular source shall be determined considering several factors including, but not limited to: (5-1-94)

i. Capital costs. (5-1-94)

ii. Cost effectiveness, which is the annualized cost of the control technology divided by the amount of emission reduction. (5-1-94)

iii. The difference in costs between the particular source and other similar sources, if any, that have implemented emissions reductions. (5-1-94)

e. If the Department determines that the applicant has proposed T-RACT, the Department shall determine which of the options, or combination of options, will result in the lowest emission of toxic air pollutants,

develop the emission standards constituting T-RACT and incorporate the emission standards into the permit to construct. (5-1-94)

f. If the Department determines that the applicant has not proposed T-RACT, the Department shall disapprove the submittal. If the submittal is disapproved, the applicant may supplement its submittal or demonstrate preconstruction compliance through a different method provided in Section 210. If the applicant does not supplement its submittal or demonstrate preconstruction compliance through a different method provided in Section 210, the Department shall deny the permit. (6-30-95)

15. Short Term Source Factor. For short term sources, the applicant may utilize a short term adjustment factor of ten (10). For a carcinogen, multiply either the applicable acceptable ambient concentration (AACC) or the screening emission rate, but not both, by ten (10), to demonstrate preconstruction compliance. This method may be used for TAPs listed in Section 586 only and may be utilized in conjunction with standard methods for quantification of emission rates (Subsections 210.05 through 210.08). (4-5-00)

16. Environmental Remediation Source. (6-30-95)

a. For Remediation sources subject to or regulated by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901-6992k) and the "Idaho Rules and Standards for Hazardous Waste," (IDAPA 58.01.05.000 et seq.) or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901-6992k) or a consent order, if the estimated ambient concentration at the point of impact is greater than the acceptable ambient impacts listed in Sections 585 and 586, Best Available Control Technology shall be applied and operated until the estimated uncontrolled emissions from the remediation source are below the acceptable ambient concentration. (6-30-95)

b. For Remediation sources not subject to or regulated by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901-6992k) and the "Idaho Rules and Standards for Hazardous Waste," (IDAPA 58.01.05.000 et seq.) or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901-6992k) or a consent order, shall, for the purposes of these rules, be considered the same as any other new or modified source of toxic air pollution. (6-30-95)

c. For an environmental remediation source that functions to remediate or recover any release, spill, leak, discharge or disposal of any petroleum product or petroleum substance, the Department may waive the requirements of Section 513 of these rules. (11-10-00)T

17. Interpollutant Trading Ambient Concentration. (6-30-95)

a. As provided in Subsections 209.01.c., 210.17 through 210.19, the owner or operator may use interpollutant trading to demonstrate preconstruction compliance. This method may be used in conjunction with netting (Subsection 210.10), and offsets (Subsection 210.11) (6-30-95)

b. Compare the source's or modification's approved interpollutant ambient concentration at the point of compliance for the toxic air pollutant emitted by the source or modification to the applicable acceptable ambient concentration listed in Sections 585 or 586. (6-30-95)

c. If the source's or modification's approved interpollutant ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration listed in Sections 585 or 586, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

d. The Department shall include emission limits for all of the toxic air pollutants involved in the trade in the permit to construct. The Department shall also include other permit terms in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. (6-30-95)

18. Interpollutant Trading Determination Processing. (6-30-95)

a. The applicant may submit all information necessary to the demonstration at the time the applicant

submits the complete initial application or the applicant may request the Department to review a complete initial application to determine if Subsection 210.17 may be applicable to the source or modification. (6-30-95)

b. Notwithstanding Subsections 209.01.a. and 209.01.b., if the applicant requests the Department to review a complete initial application and Subsection 210.17 is determined to be applicable, the completeness determination for the initial application will be revoked until a supplemental application is submitted and determined complete. When the supplemental application is determined complete, the timeline for agency action shall be reinitiated. (6-30-95)

19. Interpollutant Determination. (6-30-95)

a. The applicant may request an interpollutant trade if the Department determines that: (6-30-95)

i. The facility complies with an emission standard at least as stringent as best available control technology (BACT); and (6-30-95)

ii. The owner or operator has instituted all known and available methods of pollution prevention at the facility to reduce, avoid or eliminate toxic air pollution prior to its generation including, but not limited to, recycling, chemical substitution, and process modification provided that such pollution prevention methods are compatible with each other and the product or service being produced; and (6-30-95)

iii. The owner or operator has taken all available offsets; and (6-30-95)

iv. The owner or operator has identified all geographical areas and populations that may be impacted by the proposed interpollutant trade. (6-30-95)

b. Interpollutant trades shall be approved or denied on a case-by-case basis by the Department. Denials shall be within the discretion of the Department. Approvals shall be granted only if: (6-30-95)

i. The Department of Health and Welfare's Division of Health approves the interpollutant trade; and (6-30-95)

ii. The Department of Environmental Quality determines that the interpollutant trade will result in a overall benefit to the environment; and (6-30-95)

iii. An EPA approved database or other EPA approved reference provides relative potency factors, or comparable factors, or other data that is sufficient to allow for adequate review and approval of the proposed trade by the Department and the Department of Health and Welfare's Division of Health is submitted for all of the toxic air pollutants being traded; and (6-30-95)

iv. The reductions occur at the same facility where the proposed source or modification will be constructed; and (6-30-95)

v. The interpollutant trade will not cause an increase in sum of the ambient concentrations of the carcinogenic toxic air pollutants involved in the particular interpollutant trade at any receptor site; and (6-30-95)

vi. The total cancer risk with the interpollutant trade will be less than the total cancer risk without the interpollutant trade; and (6-30-95)

vii. The total non-cancer health risk with the interpollutant trade will be less than the total non-cancer health risk without the interpollutant trade. (6-30-95)

20. NSPS And NESHAP Sources. (6-30-95)

a. If the owner or operator demonstrates that the toxic air pollutant from the source or modification is regulated by the Department at the time of permit issuance under 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63, no further procedures for demonstrating preconstruction compliance will be required under Section 210 for that toxic

air pollutant as part of the application process. (6-30-95)

b. If the owner or operator demonstrates that the toxic air pollutant from the source or modification is regulated by the EPA at the time of permit issuance under 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63 and the permit to construct issued by the Department contains adequate provisions implementing the federal standard, no further procedures for demonstrating preconstruction compliance will be required under Section 210 for that toxic air pollutant as part of the application process. (6-30-95)

21. Permit Compliance Demonstration. Additional procedures and requirements to demonstrate and ensure actual and continuing compliance may be required by the Department in the permit to construct. (5-1-94)

22. Interpretation And Implementation Of Other Sections. Except as specifically provided in other sections of these rules, the provisions of Section 210 are not to be utilized in the interpretation or implementation of any other section of these rules. (6-30-95)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-9902
(Originally published as 16-0101-9902)

NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2001 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-sixth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Sections 39-105 and 39-107, Idaho Code. The transportation conformity portion of this rulemaking is required under 40 CFR 51.390(a). In addition, the this rulemaking updates citations to the federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for commencing the proposed rulemaking is set forth in the initial proposal published in the Idaho Administrative Bulletin, Volume 00-7, July 5, 2000, pages 80 through 96. In response to a request made by EPA Region X, Sections 107 and 564 has been revised to include additional exceptions to the incorporation by reference of transportation conformity at 40 CFR Part 93. Section 566 has been revised for consistency with other rule changes. The remaining sections have been adopted as initially proposed and have not been republished with this notice. DEQ's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised by the public and an explanation of the reasons for changes between the text of the proposed rule and the text of the pending rule, is included in the rulemaking record, which can be obtained by contacting the undersigned.

GENERAL INFORMATION: For more information about the DEQ's programs and activities, visit its web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rule, contact Mike Edwards at (208)373-0502 or medwards@deq.state.id.us.

Dated this 3rd day of November, 2000.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton, Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pgradwoh@deq.state.id.us

IDAPA 58, TITLE 01, Chapter 01

RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

There are substantive changes from the proposed rule text.
Text added to the pending rule is in italic.

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 00-7, July 5, 2000, pages 80 through 96.

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 AMENDED TEXT OF DOCKET NO. 58-0101-9902

SECTION 107

107. INCORPORATIONS BY REFERENCE.

Subsection 107.03.p.

03. Documents Incorporated By Reference. The following documents are incorporated by reference into these rules: (5-1-94)

p. ~~63 Fed. Reg. 32,743-53 (June 16, 1998) (to be codified at 40 CFR Part 60), amending 40 CFR Part 60, Subparts Cc and WWW. Determining Conformity of Federal Actions to State or Federal Implementation Plans: Conformity to State or Federal Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws. 40 CFR Part 93, Subpart A, Sections 93.100 through 93.129, revised as of July 1, 2000, except that Sections 93.102(c), 93.104(d), 93.104(e)(2), 93.105, 93.109(c)-(f), 93.118(e), 93.119(f)(3), 93.120(a)(2), 93.121(a)(1), and 93.124(b) are expressly omitted from the incorporation by reference.~~ (4-5-00)()

SECTION 564

564. INCORPORATION BY REFERENCE.

With the exception of Sections ~~93.102(c), 93.104(d), 93.104(e)(2), 93.105, 93.109(c)-(f), 93.118(e), 93.119(f)(3), 93.120(a)(2), 93.121(a)(1), and 93.124(b)~~, 40 CFR Part 93, Subpart A, Sections 93.100-93.129, are incorporated by reference into these rules at Section 107 of these rules. ()

SECTION 566

566. DEFINITIONS FOR THE PURPOSE OF SECTIONS 563 THROUGH 574 AND 582.

Terms used but not defined in Sections 563 through 574 and 582 shall have the meaning given them by the CAA, Titles 23 and 49 U.S.C., other Environmental Protection Agency (EPA) regulations, or other USDOT regulations, in that order of priority. For the purpose of Sections 563 through 574 and 582: ()

No changes have been made to Subsections 566.01 through 566.16

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-9905
(Originally published as 16-0101-9905)

NOTICE OF PROPOSED FEE RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Department of Environmental Quality (DEQ) is commencing proposed rulemaking to promulgate a final rule. The action is authorized by Sections 39-105 and 39-107, Idaho Code. In addition, it is a federal requirement that the Department of Environmental Quality (DEQ) collect sufficient money to fund an operating permit program in accordance with Title V of the Clean Air Act. See 40 CFR 70.4(b)(7) and (8).

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

January 16, 2001, 7 p.m.
Department of Environmental Quality Conference Center
1410 N. Hilton, Boise, Idaho.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208)373-0418.

DESCRIPTIVE SUMMARY: This rule amends the registration fees for Tier 1 sources. The Clean Air Act Amendments of 1990 require that fees be collected from sources subject to the Title V requirements to pay all reasonable direct and indirect costs of developing and implementing a Title V program. Title V establishes a "presumptive minimum" fee amount to pay for the costs of maintaining program activities. Permitting authorities are required to collect at least the presumptive minimum amount unless they can demonstrate that the program can be effectively administered at a lower cost. This rule temporarily decreases the sum total of fees collected as set out in the current rule at \$30 per ton of actual emissions. The fee structure is revised to a three-part fee structure - annual registration fee, annual fee per ton with a fee cap, and fee for modification or renewal of a Tier 1 permit - that uses a sliding scale based on annual emissions. Fees for facilities emitting less than 200 tons per year may increase. No fees per ton would be paid on emissions greater than 3,333 tons per year. The rule requires that the fee structure be reviewed every two (2) years to assure that the fund meets the presumptive minimum as defined by the U.S. Environmental Protection Agency.

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

After consideration of public comments, DEQ intends to present the final proposal to the Board in 2001 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2001 session of the Idaho Legislature.

FEE SUMMARY: This proposed rule decreases collection of registration fees for two years and draws on the fund balance to reach a level equal to the agency appropriation from the fee account. During the two year fee reduction, expenditures may reach approximately 1.5 times annual collections. Collection of the fees is authorized by Section 39-115(3), Idaho Code.

NEGOTIATED RULEMAKING: Except for a few minor changes made by DEQ, the fee structure contained in the text of the rule has been drafted by the Idaho Association of Commerce and Industry and presented to the Board of Environmental Quality after the end of the negotiated rulemaking meetings. A consensus was not reached in the negotiated rulemaking process. Based on discussions held and concerns raised during a negotiation conducted pursuant to Section 67-5220, Idaho Code, and IDAPA 04.11.01.812 through 815, not all of the participants of the rulemaking group may agree with the proposed structure. The negotiation was open to the public. Participants in the negotiation included industry representatives. Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Volume 99-9, September 1, 1999, pages 51 through 52, and Volume 00-9, September 6, 2000, pages 210 through 211.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the proposed rulemaking, contact Marjorie MartzEmerson at (208)373-0502, mmartzem@deq.state.id.us.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. All written comments must be received by the undersigned on or before January 24, 2001.

Dated this 15th day of November, 2000.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
Fax No. (208)373-0481
pgradwoh@deq.state.id.us

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0101-9905

525. REGISTRATION AND REGISTRATION FEES.

The purpose of Sections 525 through 538 is to establish criteria for the registration of emissions and the payment of fees for Tier I permits. The fee structure is to provide flexibility and financial stability to the Department program. (3-7-95)L()

(BREAK IN CONTINUITY OF SECTIONS)

527. REGISTRATION.

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

- 01. Facility Information.** The name, address, telephone number and location of the facility; (5-1-94)
- 02. Owner/Operator Information.** The name, address and telephone numbers of the owners and operators; (5-1-94)
- 03. Facility Emission Units.** The number and type of emission units present at the facility or the Tier I permit number for the facility; (3-19-99)
- 04. Pollutant Registration.** The emissions from the previous calendar year, or other twelve (12) month period requested by the registrant and approved by the Department for oxides of sulfur (SOx), oxides of nitrogen (NOx), particulate matter and volatile organic compounds (VOC) based on one (1) or more of the following methods chosen by the registrant: (3-19-99)

- a. Actual annual emissions; (3-19-99)
- b. An estimate of the actual annual emissions calculated using the unit's actual operating hours, production rates, in-place control equipment, and types of materials processed, stored, or combusted during the preceding calendar year; (3-19-99)
- c. Allowable emissions based on permit limitations. (3-19-99)

05. Radionuclide Registration. The amount of radionuclides from facilities regulated under 40 CFR Part 61, Subpart H, for which the registrant wishes to be registered to emit from each source in curies per year except that no amount in excess of or less than an existing permit, consent order, or judicial order will be allowed. (5-1-94)

06. Regulated Air Pollutant Registration Fee. ~~A registration fee of thirty dollars (\$30) per ton for all regulated air pollutants listed in Subsection 527.04. The registration fee may be paid in two (2) installments as provided in Subsection 532.01. The registration fee set out in Subsection 527.06 shall be reviewed at least every two (2) years to assure the funds meet the presumptive minimum as defined by EPA. The annual registration fee set forth in Subsection 527.06.a. may be paid in two (2) installments as provided in Subsection 532.01. Fees for permit modifications or permit renewals in Subsection 527.06.b. shall be submitted with the application.~~ ~~(4-5-00)~~()

- a. The Tier I annual fee schedule shall be as follows:
 - i. A fixed annual fee for Tier I major sources with regulated air pollutants listed in Subsection 527.04 emissions as follows: ()
 - (1) Seven thousand (7,000) tons per year and above shall pay fifty thousand dollars (\$50,000); ()
 - (2) Four thousand five hundred (4,500) tons per year and above shall pay thirty thousand dollars (\$30,000); ()
 - (3) Three thousand (3,000) tons per year and above shall pay twenty thousand dollars (\$20,000); ()
 - (4) One thousand (1,000) tons per year and above shall pay fifteen thousand dollars (\$15,000); ()
 - (5) Five hundred (500) tons per year and above shall pay seven thousand five hundred dollars (\$7,500); ()
 - (6) Two hundred (200) tons per year and above shall pay five thousand dollars (\$5,000); and ()
 - (7) Less than two hundred (200) tons per year shall pay two thousand five hundred dollars (\$2,500); ()

plus

 - ii. A per ton annual fee of thirty dollars (\$30) per ton for all regulated air pollutant emissions for Tier I major sources listed in Subsection 527.04 as follows: ()
 - (1) Greater than or equal to four thousand five hundred (4,500) tons per year not to exceed one hundred thousand dollars (\$100,000); ()
 - (2) Greater than or equal to three thousand (3,000) but less than four thousand five hundred (4,500) tons per year not to exceed fifty thousand dollars (\$50,000); ()
 - (3) Greater than or equal to one thousand (1,000) but less than three thousand (3,000) tons per year not to exceed twenty five thousand dollars (\$25,000); ()
 - (4) Greater than or equal to five hundred (500) but less than one thousand (1,000) tons per year not to exceed seventeen thousand five hundred dollars (\$17,500); ()

(5) Greater than or equal to two hundred (200) but less than five hundred (500) tons per year not to exceed seven thousand five hundred dollars (\$7,500); and ()

(6) Less than two hundred (200) tons per year not to exceed two thousand five hundred dollars (\$2,500). ()

b. Sources requesting Section 300 permit modifications or renewals shall pay an additional fee. Fees shall be: ()

i. Permit renewal fee, ten thousand dollars (\$10,000); ()

ii. Fees for minor modifications as determined by the Department shall be one thousand dollars (\$1,000); and ()

iii. Fees for other modifications shall be five thousand dollars (\$5,000). ()

c. In the event the monies collected pursuant to Subsection 527.06 fail to meet the presumptive minimum established by 40 CFR Part 70, any shortfall shall be expended from the Idaho air quality permitting fund as necessary in accordance with Section 39-118D(2), Idaho Code. ()

07. Radionuclide Registration Fee. A registration fee of five dollars per curie per year (\$5/curie/year) for facilities regulated under 40 CFR Part 61, Subpart H. The registration fee may be paid in two (2) installments as provided in Subsection 532.01. (5-1-94)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0101

NOTICE OF NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation in an informal, negotiated rulemaking process prior to the initiation of formal rulemaking procedures by the agency. The negotiated rulemaking action is authorized by Section 39-105, Idaho Code. The formal rulemaking action is authorized by Sections 39-105 and 39-107, Idaho Code.

MEETING SCHEDULE: Persons interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting:

January 25, 2000, 1 p.m. to 3 p.m.
Department of Environmental Quality, Conference Room B
1410 N. Hilton, Boise, Idaho

The meeting site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the meeting. For arrangements, contact the undersigned at (208)373-0418.

AVAILABILITY OF PRELIMINARY DRAFT: The temporary rule published in this issue of the Idaho Administrative Bulletin under Docket No. 58-0101-0101 will be used as the preliminary draft of the negotiated rule.

DESCRIPTIVE SUMMARY: The Board of Environmental Quality recently adopted a temporary rule to revise the Air Pollution Emergency Rule found at Sections 550 through 562 of the Rules for the Control of Air Pollution in Idaho, IDAPA 58.01.01. Recent smoke related events caused elevated concentrations of ambient particulates (PM-2.5 and PM-10) that reached potentially unhealthful levels in various parts of Idaho. Prior to adoption of the temporary rule, Stage 1 of the Air Pollution Emergency Rule did not contain specific numerical action levels. Decisions about invoking a Stage 1 emergency episode have generally been based on 24 hour average concentrations. This temporary rule adds to the Air Pollution Emergency Rule specific particulate action levels and criteria based on a 24 hour averaging time as well as one hour averaging time to better protect sensitive sub-populations such as those with heart and lung disease and the elderly. In addition, the rule adds Stage 1 visibility criteria for those areas that do not have access to particulate monitoring data. The Air Pollution Emergency Rule applies to elevated ambient concentrations of air pollutants regardless of the sources of these pollutants. This rule modification does not have the expressed or implied purpose of regulating agricultural or prescribed burning but, rather, it is proposed to protect the public health in the event of unhealthful ambient concentrations of particulate or other air pollutants. This rulemaking should be of interest to anyone who engages in open burning and those considered to be members of a sensitive sub-population such as the elderly and those with heart or lung disease.

The goal of the negotiated rulemaking process is to develop by consensus the text of a recommended rule. If a consensus is reached, a draft of the rule, incorporating the consensus and any other appropriate information, recommendations, or materials, will be transmitted to the Department of Environmental Quality (DEQ) for consideration and use in the formal rulemaking process. If a consensus is unable to be achieved on particular issues, the negotiated rulemaking process may result in a report specifying those areas on which consensus was and was not reached, together with arguments for and against positions advocated by various participants. At the conclusion of the negotiated rulemaking process, DEQ intends to continue this rulemaking with the publication of a proposed rule, using and taking into consideration the results of the negotiated rulemaking process. DEQ intends to present the rule to the Board for adoption of a pending rule in 2001.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the negotiated rulemaking, contact Tim Teater at (208) 373-0502, tteater@deq.state.id.us.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposal to initiate negotiated rulemaking. All written comments must be received by the undersigned on or before January 24, 2000.

Dated this 15th day of November, 2000.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418
Fax No. (208)373-0481
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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0002

NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2001 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-sixth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Idaho Code Section 67-5224, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., 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.

DEQ received comments from the public concerning the proposed rule. DEQ's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised by the public and an explanation of the reasons for changes between the text of the proposed rule and the text of the pending rule, is included in the rulemaking record, which can be obtained by contacting the undersigned. Section 252 has been adopted as initially proposed and has not been republished. The remaining sections have been revised as provided at Section 67-5227, Idaho Code. Subsection 070.07 has been published for the purpose of correcting a typographical error that occurred in the publication of the pending rule adopted under Docket No. 16-0102-9704, Idaho Administrative Bulletin, Volume 00-1, January 5, 2000, pages 98 through 103.

A detailed summary of the reasons for commencing the proposed rulemaking is set forth in the initial proposal published in the Idaho Administrative Bulletin, Volume 00-9, September 6, 2000, pages 212 through 251.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Chris Mebane at (208)373-0502 or cmebane@deq.state.id.us.

Dated this 3rd day of November, 2000.

Paula J. Gradwohl
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Attorney General's Office
1410 N. Hilton, Boise, Idaho 83706-1255
(208)373-0418 / Fax No. (208)373-0481
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IDAPA 58, TITLE 01, Chapter 02

WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

There are substantive changes from the proposed rule text.
Text added to the pending rule is in italics.

Only those Subsections 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 00-9, September 6, 2000, pages 212 through 251.

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 AMENDED TEXT OF DOCKET NO. 58-0102-0002

SECTION 070

070. APPLICATION OF STANDARDS.

Subsection 070.07

07. Application Of Standards To Intermittent ~~And Ephemeral~~ Waters. ~~Water quality~~ standards *only* apply to intermittent waters during optimum flow periods sufficient to support the uses for which the water body is designated. For recreation ~~and water supply uses~~, optimum flow is equal to or greater than five (5) cubic feet per second (cfs). For aquatic life uses, optimum flow is equal to or greater than one (1) cfs. ~~Water quality standards do not apply to ephemeral waters.~~ ~~(4-5-00)()~~

SECTION 110

110. PANHANDLE BASIN.

Subsection 110.09

09. South Fork Coeur d'Alene Subbasin. The South Fork Coeur d'Alene Subbasin, HUC 17010302, is comprised of twenty (20) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	South Fork Coeur d'Alene River - Canyon Creek to mouth	COLD	SCR	
P-2	Pine Creek - East Fork Pine Creek to mouth	COLD SS	SCR	
P-3	Pine Creek - source to East Fork Pine Creek	COLD SS	PCR	DWS
P-4	East Fork Pine Creek - source to mouth			
P-5	Hunter Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
P-6	Government Gulch - source to mouth	COLD SS	SCR	
P-7a	Big Creek - source to mining impact area	COLD SS	PCR	DWS
P-7b	Big Creek - mining impact area to mouth	COLD SS	SCR	
P-8a	Shields Gulch - source to mining impact area	COLD SS	PCR	DWS
P-8b	Shields Gulch - mining impact area to mouth		SCR	
P-9a	Lake Creek - source to mining impact area	COLD SS	PCR	DWS
P-9b	Lake Creek - mining impact area to mouth	COLD SS	SCR	
P-10	Placer Creek - source to mouth			
P-11	South Fork Coeur d'Alene River - from and including Daisy Gulch to Canyon Creek		SCR	
P-12	Willow Creek - source to mouth			
P-13	South Fork Coeur d'Alene River - source to Daisy Gulch	COLD SS	PCR	DWS
P-14	Canyon Creek - from and including Gorge Gulch to mouth		SCR	
P-15	Canyon Creek - source to Gorge Gulch	COLD SS	PCR	DWS
P-16	Ninemile Creek - from and including East Fork Ninemile Creek to mouth	COLD SS	SCR	
P-17	Ninemile Creek - source to East Fork Ninemile Creek	COLD SS	PCR	DWS
P-18	Moon Creek - source to mouth			
P-19	West Fork Moon Creek - source to mouth			
P-20	Bear Creek - source to mouth	COLD SS	PCR	DWS

(4-5-00)

SECTION 120

120. CLEARWATER BASIN.

Surface waters found within the Clearwater basin total ten (10) subbasins and are designated as follows: (4-5-00)

Subsection 120.01

01. Palouse Subbasin. The Palouse Subbasin, HUC 17060108, is comprised of thirty-three (33) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	Cow Creek - source to Idaho/Washington border	COLD	SCR	
C-2	South Fork Palouse River - Gnat Creek to Idaho/Washington border	COLD SS	SCR	
C-3	South Fork Palouse River - source to Gnat Creek	COLD SS	SCR	
C-4 _a	Gnat Creek - source to mouth <u>T40N, R05W, Sec. 26</u>			
C-4 _b	<u>Gnat Creek - T40N, R05W, Sec. 26 to mouth</u>			
C-5	Paradise Creek - source to Idaho/Washington border	COLD	SCR	
C-6 _a	Missouri Flat Creek - source to Idaho/Washington border <u>T40N, R5W, Sec. 17</u>			
C-6 _b	<u>Missouri Flat Creek - T40N, R5W, Sec. 17 to Idaho/Washington border</u>			
C-7 _a	Fourmile Creek - source to Idaho/Washington border <u>T40N, R5W, Sec. 5</u>			
C-7 _b	<u>Fourmile Creek - T40N, R5W, Sec. 5 to Idaho/Washington border</u>			
C-8 _a	Silver Creek - source to Idaho/Washington border <u>T43, R5W, Sec. 29</u>			
C-8 _b	<u>Silver Creek - T43, R5W, Sec. 29 to Idaho/Washington border</u>			
C-9	Palouse River - Deep Creek to Idaho/Washington border	COLD	SCR	
C-10	Palouse River - Hatter Creek to Deep Creek	COLD	SCR	
C-11 _a	Flannigan Creek - source to mouth <u>T41N, R05W, Sec. 23</u>	<u>COLD</u>	<u>SCR</u>	
C-11 _b	<u>Flannigan Creek - T41N, R05W, Sec. 23 to mouth</u>			
C-12	Rock Creek - confluence of West and East Fork Rock Creeks to mouth			
C-13 _a	West Fork Rock Creek - source to mouth <u>T41N, R04W, Sec. 30</u>			
C-13 _b	<u>West Fork Rock Creek - T41N, R04W, Sec. 30 to mouth</u>			
C-14 _a	East Fork Rock Creek - source to mouth <u>T41N, R 04W, Sec. 29</u>			
C-14 _b	<u>East Fork Rock Creek - T41N, R 04W, Sec. 29 to mouth</u>			
C-15 _a	Hatter Creek - source to mouth <u>T40N, R04W, Sec. 3</u>	<u>COLD</u>	<u>SCR</u>	
C-15 _b	<u>Hatter Creek - T40N, R04W, Sec. 3 to mouth</u>			
C-16	Palouse River - Strychnine Creek to Hatter Creek	COLD SS	PCR	DWS
C-17	Flat Creek - source to mouth			
C-18	Palouse River - source to Strychnine Creek	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
C-19	Little Sand Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-20	Big Sand Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-21	North Fork Palouse River - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-22	Strychnine Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-23	Meadow Creek - East Fork Meadow Creek to mouth			
C-24	East Fork Meadow Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-25	Meadow Creek - source to East Fork Meadow Creek	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-26	White Pine Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-27 _a	Big Creek - source to mouth <u>T42N, R03W, Sec. 08</u>	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
<u>C-27_b</u>	<u>Big Creek - source to T42N, R03W, Sec. 08</u>			
C-28	Jerome Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-29	Gold Creek - Crane Creek <u>T42N, R04W, Sec. 28</u> to mouth			
C-30	Gold Creek - source to Crane Creek <u>T42N, R04W, Sec. 28</u>	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
C-31 _a	Crane Creek - source to mouth <u>T42N, 04W, Sec. 28</u>			
<u>C-31_b</u>	<u>Crane Creek - T42N, 04W, Sec. 08 to mouth</u>			
C-32 _a	Deep Creek - source to mouth <u>T42, R05, Sec. 02</u>			
<u>C-32_b</u>	<u>Deep Creek - T42, R05, Sec. 02 to mouth</u>			
C-33 _a	Cedar Creek - source to Idaho/Washington border <u>T43N, R05W, Sec. 28</u>			
<u>C-33_b</u>	<u>Cedar Creek - T43N, R05W, Sec. 28 to Idaho/Washington border</u>			

(4-5-00)()

SECTION 130

130. SALMON BASIN.

Surface waters found within the Salmon basin total twelve (12) subbasins and are designated as follows: (4-5-00)

Subsection 130.03

03. Upper Salmon Subbasin. The Upper Salmon Subbasin, HUC 17060201, is comprised of one

hundred thirty-two (132) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Salmon River - Pennal Gulch to Pashimeroi River	COLD SS	PCR	DWS SRW
S-2	Morgan Creek - West Creek to mouth			
S-3	Morgan Creek - source to West Creek			
S-4	West Creek - Blowfly Creek to mouth			
S-5	Blowfly Creek - source to mouth			
S-6	West Creek - source to Blowfly Creek			
S-7	Challis Creek - Darling Creek to mouth			
S-8	Darling Creek - source to mouth			
S-9	Challis Creek - Bear Creek to Darling Creek			
S-10	Eddy Creek - source to mouth			
S-11	Bear Creek - source to mouth			
S-12	Challis Creek - source to Bear Creek			
S-13	Mill Creek - source to mouth			
S-14	Salmon River - Garden Creek to Pennal Gulch	COLD SS	PCR	DWS SRW
S-15	Garden Creek - source to mouth			
S-16	Salmon River - East Fork Salmon River to Garden Creek	COLD SS	PCR	DWS SRW
S-17	Bayhorse Creek - source to mouth			
S-18	Lyon Creek - source to mouth			
S-19	Salmon River - Squaw Creek to East Fork Salmon River	COLD SS	PCR	DWS SRW
S-20	Kinnikinic Creek - source to mouth			
S-21	Squaw Creek - Cash Creek to mouth	COLD SS	SCR	
S-22	Cash Creek - source to mouth			
S-23	Squaw Creek - confluence of Aspen and Cinnabar Creeks to Cash Creek	COLD SS	SCR	
S-24	Aspen Creek - source to mouth			
S-25	Cinnabar Creek - source to mouth			
S-26	<u>Bruno Creek - source to mouth</u>			
S-26 7	Salmon River - Thompson Creek to Squaw Creek	COLD SS	PCR	DWS SRW

Unit	Waters	Aquatic Life	Recreation	Other
S-278	Thompson Creek - source to mouth	COLD SS	SCR	
S-29	Pat Hughes Creek -source to mouth	COLD	SCR	
S-30	Buckskin Creek - source to mouth	COLD	SCR	
S-2831	Salmon River - Yankee Fork Creek to Thompson Creek	COLD SS	PCR	DWS SRW
S-2932	Yankee Fork Creek - Jordan Creek to mouth	COLD SS	PCR	DWS SRW
S-303	Ramey Creek - source to mouth			
S-314	Yankee Fork Creek - source to Jordan Creek	COLD SS	PCR	DWS SRW
S-325	Fivemile Creek - source to mouth			
S-336	Elevenmile Creek - source to mouth			
S-347	McKay Creek - source to mouth			
S-358	Twentymile Creek - source to mouth			
S-369	Tenmile Creek - source to mouth			
S-3740	Eightmile Creek - source to mouth			
S-3841	Jordan Creek - from and including Unnamed Tributary (T13N, R15E, Sec. 29) to mouth			
S-3942	Jordan Creek - source to Unnamed Tributary (T13N, R15E, Sec. 29)			
S-403	West Fork Yankee Fork Creek - Lightning Creek to mouth			
S-414	Lightning Creek - source to mouth			
S-425	West Fork Yankee Fork Creek - source to Lightning Creek			
S-436	Cabin Creek - source to mouth			
S-447	Salmon River - Valley Creek to Yankee Fork Creek	COLD SS	PCR	DWS SRW
S-458	Basin Creek - East Basin Creek to mouth			
S-469	East Basin Creek - source to mouth			
S-4750	Basin Creek - source to East Basin Creek			
S-4851	Valley Creek - Trap Creek to mouth			
S-4952	Stanley Creek - source to mouth			
S-503	Valley Creek - source to Trap Creek			
S-514	Trap Creek - Meadow Creek to mouth			
S-525	Trap Creek - source to Meadow Creek			
S-536	Meadow Creek - source to mouth			
S-547	Elk Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-558	Stanley Creek - source to mouth			
S-569	Crooked Creek - source to mouth			
S-5760	Iron Creek - source to mouth			
S-5861	Goat Creek - source to mouth			
S-5962	Meadow Creek - source to mouth			
S-603	Salmon River - Redfish Lake Creek to Valley Creek	COLD SS	PCR	DWS SRW
S-614	Redfish Lake Creek - Redfish Lake to mouth			
S-625	Fishhook Creek - source to mouth			
S-636	Redfish Lake			
S-647	Redfish Lake Creek - source to Redfish Lake			
S-658	Salmon River - Unnamed Tributary (T19N, R13E, Sec. 25) to Redfish Lake Creek	COLD SS	PCR	DWS SRW
S-669	Decker Creek - Huckleberry Creek to mouth			
S-670	Decker Creek - source to Huckleberry Creek			
S-6871	Huckleberry Creek - source to mouth			
S-6972	Salmon River - Fisher Creek to Decker Creek	COLD SS	PCR	DWS SRW
S-703	Salmon River - Alturas Lake Creek to Fisher Creek	COLD SS	PCR	DWS SRW
S-714	Hell Roaring Creek - source to mouth			
S-725	Alturas Lake Creek - Alturas Lake to mouth			
S-736	Toxaway/Farley Lake - source to mouth			
S-747	Pettit Lake			
S-758	Alturas Lake			
S-769	Alturas Lake Creek - source to Alturas Lake			
S-7780	Alpine Creek - source to mouth			
S-781	Salmon River - source to Alturas Lake Creek	COLD SS	PCR	DWS SRW
S-7982	Beaver Creek - source to mouth			
S-803	Smiley Creek - source to mouth			
S-814	Frenchman Creek - source to mouth			
S-825	Pole Creek - source to mouth			
S-836	Champion Creek - source to mouth			
S-847	Fourth of July Creek - source to mouth			
S-858	Fisher Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-869	Williams Creek - source to mouth			
S-8790	Gold Creek - source to mouth			
S-8891	Little Casino Creek - source to mouth			
S-892	Big Casino Creek - source to mouth			
S-903	Rough Creek - source to mouth			
S-944	Warm Springs Creek - Swimm Creek to mouth			
S-925	Warm Springs Creek - Pigtail Creek to Swimm Creek			
S-936	Pigtail Creek - source to mouth			
S-947	Warm Springs Creek - source to Pigtail Creek			
S-958	Swimm Creek - source to mouth			
S-969	Slate Creek - source to mouth			
S-97100	Holman Creek - source to mouth			
S-98101	Sullivan Creek - source to mouth			
S-99102	East Fork Salmon River - Herd Creek to mouth	COLD SS	PCR	DWS SRW
S-1003	East Fork Salmon River - Germania Creek to Herd Creek	COLD SS	PCR	DWS SRW
S-1044	Big Lake Creek - source to mouth			
S-1025	Big Boulder Creek - source to mouth			
S-1036	Little Boulder Creek - source to mouth			
S-1047	Germania Creek - Chamberlain Creek to mouth			
S-1058	Chamberlain Creek - source to mouth			
S-1069	Germania Creek - source to Chamberlain Creek			
S-10710	East Fork Salmon River - confluence of South and West Fork Salmon Rivers to Germania	COLD SS	PCR	DWS SRW
S-10811	West Fork East Fork Salmon River - source to mouth			
S-10912	South Fork East Fork Salmon River - source to mouth			
S-1103	Ibex Creek - source to mouth			
S-1144	West Pass Creek - source to mouth			
S-1125	Bowery Creek - source to mouth			
S-1136	Pine Creek - source to mouth			
S-1147	McDonald Creek - source to mouth			
S-1158	Herd Creek - confluence of West Fork Herd Creek and East Pass Creek to mouth			
S-1169	East Pass Creek - source to mouth			
S-14720	Taylor Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-14821	West Fork Herd Creek - source to mouth			
S-14922	East Fork Herd Creek - source to mouth			
S-1203	Lake Creek - source to mouth			
S-1244	Road Creek - Corral Basin Creek to mouth			
S-1225	Road Creek - source to Corral Basin Creek			
S-1236	Mosquito Creek - source to mouth			
S-1247	Corral Basin Creek - source to mouth			
S-1258	Horse Basin Creek - source to mouth			
S-1269	Spar Canyon Creek - source to mouth			
S-12730	Bradshaw Gulch - source to mouth			
S-12831	Warm Spring Creek - Hole-in-Rock Creek to mouth			
S-12932	Warm Spring Creek - source to Hole-in-Rock Creek			
S-1303	Broken Wagon Creek - source to mouth			
S-1344	Hole-in-Rock Creek - source to mouth			
S-1325	Pennal Gulch - source to mouth			

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SECTION 140

140. SOUTHWEST IDAHO BASIN.

Surface waters found within the Southwest basin total nineteen (19) subbasins and are designated as follows:

(4-5-00)

Subsection 140.09

09. North And Middle Fork Boise Subbasin. The North and Middle Fork Boise Subbasin, HUC 17050111, is comprised of seventeen (17) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Middle Fork Boise River - source to mouth	COLD SS	PCR	DWS SRW
SW-2	East Fork Roaring River -source to mouth	<u>COLD</u> <u>SS</u>	<u>PCR</u>	
SW-3	Hot Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
SW-4	Yuba River - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	

Unit	Waters	Aquatic Life	Recreation	Other
SW-5	Decker Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
SW-6	Queens River - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
SW-7	Little Queens River - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
SW-8	Black Warrior Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
SW-9	Browns Creek - source to mouth	COLD SS	PCR	
SW-10	North Fork Boise River - source to mouth	COLD SS	PCR	DWS SRW
SW-11	Johnson Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
SW-12	Bear River - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
SW-13	Big Owl/Little Owl Creeks - source to mouth	COLD SS	PCR	
SW-14	Crooked River - source to mouth	COLD SS	PCR	
SW-15	Rabbit Creek - source to mouth	COLD SS	PCR	
SW-16	Meadow Creek - source to mouth	<u>COLD</u>	<u>SCR</u>	
SW-17	French Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	

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Subsection 140.11

11. South Fork Boise Subbasin. The South Fork Boise Subbasin, HUC 17050113, is comprised of thirty-three (33) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Arrowrock Reservoir (Boise River)	COLD SS	PCR	DWS SRW
SW-2a	Willow Creek - source <u>Cottonwood Creek</u> to Arrowrock Reservoir	<u>COLD</u> <u>SS</u>	<u>PCR</u>	
<u>SW-2b</u>	<u>Willow Creek – source to Cottonwood Creek</u>			

Unit	Waters	Aquatic Life	Recreation	Other
SW-3	Wood Creek - source to mouth	COLD SS	PCR	
SW-4	South Fork Boise River - Anderson Ranch Dam to Arrowrock Reservoir	COLD SS	PCR	DWS SRW
SW-5	Anderson Ranch Reservoir (Boise River)	COLD SS	PCR	DWS SRW
SW-6	Little Camas Creek - Little Camas Reservoir Dam to Anderson Ranch Reservoir			
SW-7	Little Camas Creek Reservoir	<u>SC</u>	<u>PCR</u>	
SW-8	Little Camas Creek - source to Little Camas Creek Reservoir			
SW-9	Wood Creek - source to Anderson Ranch Reservoir			
SW-10	Lime Creek - source to Anderson Ranch Reservoir	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
SW-11	South Fork Lime Creek - source to mouth			
SW-12	Deer Creek - source to Anderson Ranch Reservoir	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
SW-13	South Fork Boise River - Willow Creek to Anderson Ranch Reservoir	COLD SS	PCR	DWS SRW
SW-14	Grouse Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>PCR</u>	
SW-15	South Fork Boise River - Little Smoky Creek to Willow Creek	COLD SS	PCR	DWS SRW
SW-16	Beaver Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
SW-17	Boardman Creek - source to mouth	<u>COLD</u> <u>SS</u>		
SW-18	Little Smoky Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
SW-19	Big Smoky Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>PCR</u>	
SW-20	Paradise Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>SCR</u>	
SW-21	South Fork Boise River - confluence of Ross Fork and Johnson Creeks to Little Smoky Creek	COLD SS	PCR	DWS SRW
SW-22	Johnson Creek - source to mouth			
SW-23	Ross Fork - source to mouth	<u>COLD</u> <u>SS</u>	<u>PCR</u>	
SW-24	Skeleton Creek - source to mouth	<u>COLD</u> <u>SS</u>	<u>PCR</u>	

Unit	Waters	Aquatic Life	Recreation	Other
SW-25	Willow Creek - source to mouth <u>South Fork Boise River</u>	COLD <u>SS</u>	PCR	
SW-26	Shake Creek - source to mouth	COLD SS	PCR	
SW-27	Feather Creek - source to mouth	COLD SS	PCR	
SW-28	Trinity Creek - source to mouth	COLD <u>SS</u>	PCR	
SW-29	Green Creek - source to mouth	COLD <u>SS</u>	PCR	<u>SCR</u>
SW-30	Dog Creek - source to mouth	COLD <u>SS</u>	PCR	
SW-31	Fall Creek - source to Anderson Ranch Reservoir	COLD <u>SS</u>	PCR	
SW-32	Smith Creek - source to mouth	COLD SS	PCR	
SW-33	Rattlesnake Creek - source to Arrowrock Reservoir	COLD <u>SS</u>	PCR	<u>SCR</u>

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SECTION 150

150. UPPER SNAKE BASIN.

Surface waters found within the Upper Snake basin total twenty-three (23) subbasins and are designated as follows:
 (4-5-00)

Subsection 150.04

04. Upper Henrys Subbasin. The Upper Henrys Subbasin, HUC 17040202, is comprised of fifty-five (55) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Henrys Fork - Warm River to Ashton Reservoir Dam	COLD SS	PCR	DWS SRW
US-2	Warm River - Moose Creek <u>Warm River Spring</u> to mouth	COLD SS	PCR	DWS SRW
US-3	Moose Creek - source to mouth <u>confluence with Warm River</u>			
US-4	Warm River - Partridge Creek to Moose Creek	COLD <u>SS</u>	PCR	DWS <u>SRW</u>
US- 4	Partridge Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
US-65	Warm River - source to Partridge Creek <u>Warm River Spring</u>	COLD SS	PCR	DWS SRW
US-76	Robinson Creek - Rock Creek to mouth			
US-87	Porcupine Creek - source to mouth	COLD SS	SCR	
US-98	Rock Creek - Wyoming Creek to mouth			
US-109	Wyoming Creek - Idaho/Wyoming border to mouth			
US-140	Rock Creek - source to Wyoming Creek			
US-12	Robinson Creek - Snow Creek to Rock Creek			
US-131	Robinson Creek - Idaho/Wyoming border and sources west of border to Snow <u>Rock</u> Creek			
US-142	Snow Creek - source to mouth			
US-153	Fish Creek - source to mouth			
US-16	North Fork Fish Creek - source to mouth			
US-174	Henrys Fork - Silver Lake <u>Thurman Creek</u> to Warm River	COLD SS	PCR	DWS SRW
US-185	Henrys Fork - Island Park Reservoir Dam to Silver Lake <u>Thurman Creek</u>	COLD SS	PCR	DWS SRW
US-196	Buffalo River - Elk Creek to mouth	COLD SS	PCR	DWS SRW
US-2017	Toms Creek - source to mouth			
US-218	Buffalo River - source to Elk Creek	COLD SS	PCR	DWS SRW
US-2219	Elk Creek - source to mouth			
US-230	Island Park Reservoir	COLD SS	PCR	DWS SRW
US-241	Henrys Fork - <u>Confluence of Big Springs and Henrys Lake Outlet</u> to Island Park Reservoir	COLD SS	PCR	DWS SRW
US-252	Moose Creek - source to mouth <u>confluence with Henrys Fork</u>			
US-23	Big Springs - source to mouth	<u>COLD</u> <u>SS</u>	<u>PCR</u>	<u>DWS</u> <u>SRW</u>
US-264	Thirsty Creek - Idaho/ Montana <u>Wyoming</u> border to mouth	COLD SS	SCR	
US-275	Henrys Lake Outlet - Henrys Lake Dam to Big Springs <u>mouth</u>	COLD SS	PCR	DWS SRW
US-28	Crooked Creek - source to mouth			
US-296	Meadows Creek - source to mouth			
US- 30 27	Reas Pass Creek - source to mouth <u>sink</u>			

Unit	Waters	Aquatic Life	Recreation	Other
US- 3128	Jones Creek - source to mouth			
US- 3229	Jesse Creek - source to mouth			
US- 330	Twin Creek - source to mouth			
US- 341	Tygee Creek - source to mouth <i>sink</i>			
US- 352	Henrys Lake	COLD	SCR	
US- 363	Howard Creek - source to mouth	COLD SS	SCR	
US- 374	Targhee Creek - source to mouth	COLD SS	SCR	
US- 385	Timber Creek - source to mouth			
US- 396	Duck Creek - source to mouth	COLD SS	SCR	
US- 4037	Rock Creek - source to mouth			
US- 4138	Hope Creek - source to mouth			
<i>US-39</i>	<i>Crooked Creek - source to mouth</i>			
US- 420	Hotel Creek - source to mouth	COLD SS	SCR	
US- 431	Yale Creek - source to mouth	COLD SS	SCR	
US- 442	Blue Creek - source to mouth			
US- 453	Sheep Creek - source to mouth			
US- 464	Icehouse Creek - source to Island Park Reservoir	COLD SS	SCR	
US- 475	Willow Creek - Sheridan Creek to Island Park Reservoir <i>Sheridan Creek - Kilgore Road (T13N, R41E, Sec. 07) to mouth</i>	COLD SS	SCR	
US- 486	Willow Creek - source to Sheridan Creek <i>mouth</i>			
US- 497	Myers Creek - source to mouth			
US-50	Sheridan Creek - Kilgore Road (T13N, R41E, Sec. 07) to mouth	COLD SS	SCR	
US- 5148	Sheridan Creek - source to Kilgore Road (T13N, R41E, Sec. 07)	COLD SS	SCR	
US- 5249	Sheridan Reservoir			
US- 530	Dry Creek - source to Sheridan Reservoir			
US- 541	Silver Lake <i>Thurman Creek - source to mouth</i>			
US- 552	Rattlesnake Creek - source to mouth			

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Subsection 150.05

05. Lower Henrys Subbasin. The Lower Henrys Subbasin, HUC 17040203, is comprised of sixteen (16) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Henry's Fork - Warm Slough to mouth <u>South Fork Teton River to hydrologic unit boundary</u>	COLD SS	PCR	DWS SRW
US-2	Henry's Fork - North Fork Teton River to South Fork Teton River	COLD SS	PCR	DWS SRW
US-23	Henry's Fork - Falls River to Warm Slough <u>North Fork Teton River</u>	COLD SS	PCR	DWS SRW
US-34	Falls River - Unnamed Tributary (T08N, R42E, Sec. 21) <u>Conant Creek to mouth</u>	COLD SS	PCR	DWS SRW
US-4	Unnamed Tributary - source to mouth (T08N, R42E, Sec. 21)			
US-5	Falls River - Conant Creek to Unnamed Tributary (T08N, R42E, Sec. 21)	COLD SS	PCR	DWS SRW
US-65	Conant Creek - Squirrel Creek to mouth			
US-76	Conant Creek - Idaho/Wyoming border to Squirrel Creek			
US-87	Squirrel Creek - Idaho/Wyoming border to mouth			
US-98	Falls River - Boone Creek to Conant Creek	COLD SS	PCR	DWS SRW
US-9	Falls River - Idaho/Wyoming border to Boone Creek	COLD SS	PCR	DWS SRW
US-10	Boone Creek - Idaho/Wyoming border to mouth			
US-11	Falls River - Idaho/Wyoming border to Boone Creek; Boundary Creek - Idaho/Wyoming border (T12N, R46E, Sec. 06) to Idaho/Wyoming border, (T12N, R46E, Sec. 31)			
US-12	Henry's Fork - Ashton Reservoir Dam to Falls River	COLD SS	PCR	DWS SRW
US-13	Sand Creek - Pine Creek to mouth			
US-14	Pine Creek - source to mouth			
US-15	Sand Creek - source to Pine Creek			
US-16	Warm Slough - source to mouth			

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Subsection 150.06

06. Teton Subbasin. The Teton Subbasin, HUC 17040204, is comprised of forty-four (44) water body

units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	South Fork Teton River - Teton River Forks to Henrys Fork	COLD SS	SCR	
US-2	North Fork Teton River - Teton River Forks to Henrys Fork	COLD SS	SCR	
US-3	Teton River - Teton Dam to Teton River Forks	COLD SS	PCR	DWS SRW
US-4	Teton River - Canyon Creek to Teton Dam	COLD SS	PCR	DWS SRW
US-5	Moody Creek - Long Hollow Creek to mouth			
US-65	Moody Creek - confluence of North and South Fork Moody Creeks to Long Hollow Creek canal			
US-76	South Fork Moody Creek - source to mouth			
US-87	North Fork Moody Creek - source to mouth			
US-9	Long Hollow Creek - source to mouth			
US-10	Tributaries to Canyon Creek Canal - source to mouth			
US-118	Canyon Creek - Crooked Warm Creek to mouth			
US-12	Canyon Creek - Warm Creek to Crooked Creek			
US-139	Canyon Creek - source to Warm Creek			
US-140	Calamity Creek - source to mouth			
US-151	Warm Creek - source to mouth			
US-16	Crooked Creek - source to mouth			
US-172	Teton River - Milk Creek to Canyon Creek	COLD SS	PCR	DWS SRW
US-183	Milk Creek - source to mouth			
US-194	Teton River - Badger Creek Felt Dam outlet to Milk Creek	COLD SS	PCR	DWS SRW
US-15	Teton River - Felt Dam pool			
US-2016	Teton River - Spring Creek to Badger Creek Highway 33 bridge to Felt Dam pool	COLD SS	PCR	DWS SRW
US-217	Teton River - Mahogany Creek to Spring Creek Cache Bridge (NW ¼, NE ¼, Sec. 1, T5N, R44E) to Highway 33 bridge	COLD SS	PCR	DWS SRW
US-18	Packsaddle Creek - diversion (NE ¼ Sec. 8, T5N, R44E) to mouth			
US-2219	Packsaddle Creek - source to mouth diversion (NE ¼ Sec. 8, T5N, R44E)			
US-20	Teton River - Teton Creek to Cache Bridge (NW ¼, NE ¼, Sec. 1, T5N, R44E)	COLD SS	PCR	DWS SRW

Unit	Waters	Aquatic Life	Recreation	Other
<u>US-21</u>	<u>Horseshoe Creek – pipeline diversion (SE ¼, NW ¼, Sec. 27, T5N, R44E) to mouth</u>			
<u>US-232</u>	<u>Horseshoe Creek - source to mouth pipeline diversion (SE ¼, NW ¼, Sec. 27, T5N, R44E)</u>			
<u>US-23</u>	<u>Twin Creek – source to mouth</u>			
<u>US-24</u>	<u>Mahogany Creek - pipeline diversion (NE ¼, Sec. 27, T4N, R44E) to mouth</u>			
<u>US-245</u>	<u>Mahogany Creek - source to mouth pipeline diversion (NE ¼, Sec. 27, T4N, R44E)</u>			
<u>US-256</u>	<u>Teton River - Patterson Creek to Mahogany Creek Trail Creek to Teton Creek</u>	<u>COLD</u> <u>SS</u>	<u>PCR</u>	<u>DWS</u> <u>SRW</u>
<u>US-27</u>	<u>Henderson Creek – source to sink</u>			
<u>US-28</u>	<u>Teton River – confluence of Warm Creek and Drake Creek to Trail Creek</u>	<u>COLD</u> <u>SS</u>	<u>PCR</u>	<u>DWS</u> <u>SRW</u>
<u>US-269</u>	<u>Patterson Creek - source pump diversion (SE ¼, Sec. 31, T4N, R44E) to mouth</u>			
<u>US-30</u>	<u>Patterson Creek – source to pump diversion (SE ¼, Sec. 31, T4N, R44E)</u>			
<u>US-27</u>	<u>Teton River – source to Patterson Creek</u>	<u>COLD</u> <u>SS</u>	<u>PCR</u>	<u>DWS</u> <u>SRW</u>
<u>US-31</u>	<u>Grove Creek – source to sink</u>			
<u>US-32</u>	<u>Drake Creek – source to mouth</u>			
<u>US-33</u>	<u>Little Pine Creek – source to mouth</u>			
<u>US-34</u>	<u>Warm Creek – source to mouth</u>			
<u>US-2835</u>	<u>Trail Creek - Moose Creek Trail Creek pipeline diversion (SW ¼, SE ¼, Sec 19, T3N, R46E) to mouth</u>			
<u>US-36</u>	<u>Game Creek – diversion (SW ¼, SW ¼, Sec. 17, T3N, R46E) to mouth</u>			
<u>US-37</u>	<u>Game Creek – source to diversion (SW ¼, SW ¼, Sec. 17, T3N, R46E)</u>			
<u>US-2938</u>	<u>Trail Creek - Idaho/Wyoming border to and including Moose Creek Trail Creek pipeline diversion (SW ¼, SE ¼, Sec 19, T3N, R46E)</u>			
<u>US-39</u>	<u>Moose Creek – Idaho/Wyoming border to mouth</u>			
<u>US-40</u>	<u>Fox Creek – SE ¼, SW ¼, Sec. 28, T4N, R45E to confluence with Teton River, including spring creek tributaries</u>			
<u>US-41</u>	<u>Fox Creek – North Fox Creek Canal (NW ¼, Sec 29 T4N, R46E) to SE ¼, SW ¼, Sec. 28, T4N, R45E</u>			

Unit	Waters	Aquatic Life	Recreation	Other
US- 304 2	Fox Creek - Idaho/Wyoming border to mouth <u>North Fox Creek Canal (NW ¼, Sec 29 T4N, R46E)</u>			
<u>US-43</u>	<u>Foster Creek spring creek complex – south to Fox Creek and north to Darby Creek</u>			
<u>US-44</u>	<u>Darby Creek – SW ¼, SE ¼, S10, T4N, R45E, to mouth, including spring creek tributaries</u>			
US- 314 5	Darby Creek - Idaho/Wyoming border to mouth <u>SW ¼, SE ¼, Sec. 10, T4N, R45E</u>			
<u>US-46</u>	<u>Dick Creek spring complex – south to Darby Creek and north to Teton Creek</u>			
<u>US-47</u>	<u>Teton Creek – Highway 33 bridge to mouth, including spring creek tributaries</u>			
US- 324 8	Teton Creek - Idaho/Wyoming border to mouth <u>Highway 33 bridge</u>			
<u>US-49</u>	<u>Driggs Springs spring creek complex – located between Teton Creek and Woods Creek</u>			
<u>US-50</u>	<u>Woods Creek – source to mouth, including spring creek tributaries and spring creek complex north of Woods Creek to latitude 43 degrees, 45.5 minutes north.</u>			
US- 335 1	Dry Creek - source to mouth <u>Idaho/Wyoming border to sinks (SE ¼, NE ¼, S12, T5N, R45E)</u>			
<u>US-52</u>	<u>South Leigh Creek – SE ¼, NE ¼, Sec. 1 T5N, R44E to mouth</u>			
US- 345 3	South Leigh Creek - Idaho/Wyoming border to mouth <u>SE ¼, NE ¼, Sec. 1 T5N, R44</u>			
US- 354	Spring Creek - North Leigh Creek to mouth			
US- 365 5	North Leigh Creek - Idaho/Wyoming border to mouth			
US- 375 6	Spring Creek - source to North Leigh Creek, <u>including spring creek complex north of Spring Creek to latitude 43 degrees, 49.9 minutes north</u>			
<u>US-57</u>	<u>Badger Creek – spring (NW ¼, SW ¼, Sec. 26 T7N, R44E) to mouth</u>			
US- 358	Badger Creek - confluence of North and South Fork Badger Creeks to mouth <u>diversion (NW ¼, SW ¼, Sec. 9, T6N, R45E) to spring (NW ¼, SW ¼, Sec. 26 T7N, R44E)</u>			
<u>US-59</u>	<u>Badger Creek – source to diversion (NW ¼, SW ¼, Sec. 9, T6N, R45E)</u>			
<u>US-60</u>	<u>South Fork Badger Creek – diversion (NE ¼, NE ¼, Sec. 12, T6N, R45E) to mouth</u>			
US- 396 1	South Fork Badger Creek - source <u>Idaho/Wyoming border to mouth diversion (NE ¼, NE ¼, Sec. 12, T6N, R45E)</u>			
US- 406 2	North Fork Badger Creek - source <u>Idaho/Wyoming border</u> to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
US- 4163	Bitch Creek - Swanner Creek to mouth			
US- 4264	Swanner Creek - source <u>Idaho/Wyoming border</u> to mouth			
US-43	Horse Creek - source to mouth			
US- 4465	Bitch Creek - source <u>Idaho/Wyoming border</u> to Horse <u>Swanner</u> Creek			

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

SECTION 250

250. SURFACE WATER QUALITY CRITERIA FOR AQUATIC LIFE USE DESIGNATIONS.

Subsection 250.02.e.iii.(2)

02. Cold Water. Waters designated for cold water aquatic life are to exhibit the following characteristics: (4-5-00)

e. Salmonid spawning: waters designated for salmonid spawning are to exhibit the following characteristics during the spawning period and incubation for the particular species inhabiting those waters: (7-1-93)

iii. Ammonia. (8-24-94)

(2) Four (4) day average concentration of un-ionized ammonia is not to exceed the criteria defined at Subsection 250.02.c.ii. (~~4-5-00~~)()

SECTION 260

260. VARIANCES FROM WATER QUALITY STANDARDS.

Subsection 260.02.b. and 260.02.c.

02. Specific Variances. The following are specific variances granted by the Department in accordance with Subsection 260.01: (3-1-95)

b. The South Fork Coeur d'Alene River Sewer District (Page Wastewater Treatment Facility) is granted variances from meeting water quality standards in Section 250 for ammonia and chlorine, and Section 210 for cadmium, lead, and zinc, discharged to the West Page Swamp, located in T49N, R2E, S32, Boise Prime Meridian. ()

c. The variances provided in Subsection 260.02.b. are conditioned upon the discharges showing reasonable progress toward reducing their discharge of ammonia and chlorine. Reasonable progress shall be measured according to the terms of the state's certification of the discharges. ()

SECTIONS 284 THROUGH 299

284-- 299. (RESERVED).

**IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE**

DOCKET NO. 58-0105-0001

NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2001 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-sixth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Idaho Code Section 67-5224, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Chapters 44 and 58, Title 39, Idaho Code. In addition, 40 CFR 271.21(e) and Section 39-4404, Idaho Code, require the Department of Environmental Quality (DEQ) to adopt amendments to federal law as proposed under this docket.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, Volume 00-9, September 6, 2000, pages 252 through 257. The rule has been adopted as initially proposed. The rulemaking record can be obtained by contacting the undersigned. The public did not submit comments directed towards this proposed rule docket. Comments were received on proposed rule dockets 58-0100-0002 and 58-0123-0001 which requested that the Rules and Standards for Hazardous Waste be revised to provide a right to appeal hazardous waste permit decisions to the Board of Environmental Quality rather than the Director. To make this change it would be necessary to change the definition of the Environmental Appeals Board found at IDAPA 58.01.05.003.05 to mean the Idaho Board of Environmental Quality rather than the Director of the Idaho Department of Environmental Quality when used in context of 40 CFR, except where noted. This request is beyond the scope of this rulemaking and the change has not been made. However, DEQ intends to address this issue during its 2001 annual rulemaking.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rule, contact John Brueck at (208)373-0502 or jbrueck@deq.state.id.us.

Dated this 3rd day of November, 2000.

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IDAPA 58, TITLE 01, Chapter 05

RULES AND STANDARDS FOR HAZARDOUS WASTE

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 00-9, September 6, 2000, pages 252 through 257.

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

**IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.12 - RULES FOR ADMINISTRATION OF WASTEWATER FACILITY LOANS**

**DOCKET NO. 58-0112-0001
(Originally published as 16-0112-0001)**

NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2001 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-sixth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Sections 39-105 and 39-107, Idaho Code, and Chapter 36, Title 39, Idaho Code (amended by Senate Bill 1535).

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for commencing the proposed rulemaking is set forth in the initial proposal published in the Idaho Administrative Bulletin, Volume 00-9, September 6, 2000, pages 258 through 272. The Department of Environmental Quality (DEQ) received no comments from the public but did receive a comment from the Legislative Services Office. Changes have been made to Sections 021 and 051 as requested by the Legislative Services Office, and a grammatical correction was made to Section 020. The remaining sections have been adopted as initially proposed and have not been republished. DEQ's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised by the public and an explanation of the reasons for changes between the text of the proposed rule and the text of the pending rule, is included in the rulemaking record, which can be obtained by contacting the undersigned.

GENERAL INFORMATION: For more information about the DEQ's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Bill Jerrel at (208)373-0502, wjerrel@deq.state.id.us.

Dated this 3rd day of November, 2000.

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IDAPA 58, TITLE 01, Chapter 12

RULES FOR ADMINISTRATION OF WASTEWATER FACILITY LOANS

**There are substantive changes from the proposed rule text.
Text added to the pending rule is in italics.**

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 00-9, September 6, 2000, pages 258 through 272.

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 AMENDED TEXT OF DOCKET NO. 58-0112-0001

SECTION 020

020. INTEGRATED PRIORITY SYSTEM.

Subsection 020.02

02. Priority Rating Water Quality Project Ranking. ~~Under The integrated priority rating system, point source and eligible nonpoint source water pollution control projects shall first be primarily ranked based on a weighted numerical points system wherein each succeeding prevention, control or abatement need is weighted less heavily than the preceding need. Priority criteria, listed herein in descending numerical weight, shall contain the following points~~ the following factors: (1-1-89)(____)

SECTION 021

021. SUPPLEMENTAL GRANTS.

In conjunction with loans, the Department may award supplemental grants, not to exceed ninety percent (90%) of total eligible costs, to municipalities ~~from the Water Pollution Control Account~~ in the following manner: (1-1-89)(____)

Subsections 021.02.a., 021.02.a.i., 021.02.a.ii., and 021.02.b.

02. Costs In Excess Of Financial Ability. (1-1-89)(____)

a. Municipalities may receive supplemental grant assistance for eligible costs that exceed the amount a loan recipient is able to pay ~~as determined by the following Department guidelines. The annual user charge including operation, maintenance, replacement reserve and loan repayment, for a residential user exceeds one and three-fourths percent (1.75%) of the median household income, as determined by the most recent decennial U.S. census when the applicant's median household income is less than ten thousand dollars (\$10,000) annually; or~~ In order to qualify for a supplemental grant, a loan recipient must have the following: (1-1-89)(____)

i. A median household income that does not exceed eighty percent (80%) of the statewide nonmetropolitan median household income from the most recent census data. If the applicant's service area is not within the boundaries of a municipality, the applicant may use the census data for the county in which it is located; and (____)

ii. An annual cost of wastewater service for residential customers which exceeds two percent (2%) of the median household income. The annual cost includes all operating, maintenance, replacement and debt service costs, both for the existing system and for upgrades, being financed with state revolving funds. (____)

b. ~~The annual user charge, including operation, maintenance, replacement reserve and loan repayment, for a residential user exceeds two percent (2%) of the median household income, as determined by the most recent decennial U.S. census when the applicant's median household income is between ten thousand dollars (\$10,000) and seventeen thousand dollars (\$17,000) annually; or If an applicant meets the requirement of Subsections 021.02.i. and 021.02.ii., a supplemental grant may be made for the amount of the project that causes the annual cost of wastewater service to exceed two percent (2%) of the median household income, subject to available funds.~~ (1-1-89)(____)

e. ~~The annual user charge, including operation, maintenance, replacement reserve and loan repayment, for a residential user exceeds two and one fourth percent (2.25%) of the median household income, as determined by the most recent decennial U.S. census when the applicant's median household income exceeds seventeen thousand dollars (\$17,000) annually.~~ (1-1-89)

SECTION 051

051. ACCOUNTING AND AUDITING PROCEDURES.

~~Loan recipients Municipalities receiving loans must maintain project accounts in accordance with generally accepted government accounting standards principles issued by the Government Accounting Standards Board (GASB). These standards are usually defined as, but not limited to, those contained in the U.S. General Accounting Office (GAO) publication "Standards for Audit of Governmental Organization, Programs, Activities, and Functions," published February 27, 1981. Eligible nonpoint source water pollution control implementation funding project sponsors will be audited on an annual basis according to generally accepted accounting procedures government auditing standards issued by the U.S. General Accounting Office (GAO).~~ (1-1-89)(____)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.22 - RULES FOR ADMINISTRATION OF PLANNING GRANTS
FOR DRINKING WATER FACILITIES

DOCKET NO. 58-0122-0001
(Originally 16-0122-0001)

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The amendments to the temporary rule were effective November 10, 2000. This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2001 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-sixth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that the Board has adopted a pending rule and amended a temporary rule. The action is authorized by Sections 39-105 and 39-107, Idaho Code, and Chapter 36, Title 39, Idaho Code (amended by Senate Bill 1387).

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and of any changes between the text of the proposed rule and the text of the pending rule.

In July 2000 the Board adopted a temporary rule to implement the provisions of the 2000 legislation enacted under Senate Bill 1387 (codified at Sections 39-3624 through 39-3627, Idaho Code) wherein the Department of Environmental Quality (DEQ) has been given the authority to provide grants to public drinking water systems in Idaho. When the Board adopted the temporary rule, members of the Board expressed concern that certain sections of the rule were not clear as written and asked that DEQ make revisions to clarify the rule before adoption of a pending rule. In September 2000, DEQ published the temporary/proposed rule, inviting the public to comment on the rule. Idaho Administrative Bulletin, Volume 00-9, September 6, 2000, pages 273 through 283. DEQ received no comments from the public but did receive a comment from the Legislative Services Office. Changes have been made to Sections 006, 007, 010, 020, 030, 031, 040, 050, and 060 for clarification purposes as requested by the Board and the Legislative Services Office and to correct citations to other rules. The remaining sections have been adopted as initially proposed and have not been republished. Rather than keep the temporary rule in place while the pending rule awaits legislative review, the Board amended the temporary rule with the same revisions which have been made to the proposed rule. The rulemaking record can be obtained by contacting the undersigned.

GENERAL INFORMATION: For more information about the DEQ's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Alan Stanford at (208)373-0502, astanfor@deq.state.id.us.

Dated this 3rd day of November, 2000.

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IDAPA 58, TITLE 01, Chapter 22

RULES FOR ADMINISTRATION OF PLANNING GRANTS FOR DRINKING WATER FACILITIES

There are substantive changes from the proposed rule text.

Only those sections and subsections 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 00-9, September 6, 2000, pages 273 through 283.

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 AMENDED TEXT OF DOCKET NO. 58-0122-0001

SECTION 006

006. POLICY.

It is the policy of the Idaho Board of Environmental Quality, through the Idaho Department of Environmental Quality, to administer the Drinking Water Grant Program. The Drinking Water Grant Program provides assistance to eligible public drinking water systems for the planning of facilities to help ensure safe and adequate supplies of drinking water. It is also the intent of the Board of Environmental Quality to assign a priority rating to those projects which shall facilitate the compliance of any eligible public drinking water system with national primary drinking water regulations applicable to the system, ~~Idaho Rules for Public Drinking Water Systems~~, IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," and the Safe Drinking Water Act, 42 U.S.C. Sections 300f et seq.

~~(7-26-00)F(11-10-00)T~~

SECTION 007

007. SYSTEM ELIGIBILITY.

Subsection 007.01

01. Eligible Systems. ~~Public and private~~ eCommunity water systems and nonprofit noncommunity water systems. ~~(7-26-00)F(11-10-00)T~~

(No change to Subsection 007.02)

(BREAK IN CONTINUITY OF SECTIONS)

SECTION 010

010. DEFINITIONS.

Subsection 010.04

- 04. Community Water System.** A public drinking water system that: ~~(7-26-00)F(11-10-00)T~~
- a. Serves at least fifteen (15) service connections used by year round residents of the area served by the system; or ~~(7-26-00)T~~
- b. Regularly serves at least twenty-five (25) year-round residents. ~~(7-26-00)T~~

Subsection 010.18

- 18. Maximum Contaminant Level (MCL).** The maximum permissible level of a contaminant in water which is delivered to any user of a public drinking water system. ~~(7-26-00)F(11-10-00)T~~

Subsections 010.21 and 010.22

- 21. Noncommunity Water System.** A public drinking water system that is not a community water system and is governed by Section 501 of the Internal Revenue Code and includes, but is not limited to, state agencies, municipalities and nonprofit organizations such as churches and schools. ~~(7-26-00)F(11-10-00)T~~
- 22. Nontransient Noncommunity Water System (NTNCWS).** A public drinking water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. ~~(7-26-00)F(11-10-00)T~~

Subsection 010.25

- 25. Qualifying Entity.** ~~Public and private~~ Community water systems and nonprofit noncommunity water systems. ~~(7-26-00)F(11-10-00)T~~

(BREAK IN CONTINUITY OF SECTIONS)

SECTION 020

020. PRIORITY RATING SYSTEM.

Projects are identified for placement on priority lists by surveying eligible entities directly on an annual basis. Information is also received from Department staff and consulting engineers. Limited grant funds are awarded to projects based on priority ratings. Projects are rated by Department staff on a standard priority rating form using public health and water quality criteria. ~~(11-10-00)T~~

(No change to Subsections 020.01 through 020.05)

(BREAK IN CONTINUITY OF SECTIONS)

SECTION 030

030. PROJECT FUNDING.

Grant funds awarded under this program will be used entirely to prepare an engineering report which identifies the most cost effective, environmentally sound drinking water system alternative to achieve or maintain compliance with the Idaho Rules for Public Drinking Water Systems, IDAPA 58.01.08, "Idaho Rules for Public Drinking Water

Systems,” and the Safe Drinking Water Act, 42 U.S.C., Sections 300f et seq., and which is approvable by the Department. ~~The engineering report will be prepared in accordance with Chapter 5 of the Handbook and certified by a registered professional engineer licensed in the state of Idaho. The report must be reviewed and approved by the Department. The planning period shall be twenty (20) years for all facilities except distribution and transmission systems may be forty (40) years. The most cost effective environmentally sound alternative may be selected based in part on public comments received from at least one (1) public hearing attended by intended users within the jurisdiction of the qualifying agency conducted in accordance with state law.~~ (7-26-00)F(11-10-00)T

01. Engineering Report. (11-10-00)T

a. The engineering report will be prepared in accordance with Chapter 5 of the Handbook and certified by a registered professional engineer licensed in the state of Idaho. The engineering report will include, as a minimum, the following: (11-10-00)T

- i. Description of existing conditions for the proposed project area; (11-10-00)T
- ii. Description of future conditions for the proposed project area; (11-10-00)T
- iii. Development and initial screening of alternatives; (11-10-00)T
- iv. Final screening of principal alternatives and plan adoption; (11-10-00)T
- v. Selected plan description and implementation arrangements; (11-10-00)T
- vi. Relevant engineering data supporting the final alternative; and (11-10-00)T
- vii. Environmental information document (EID) as described in Section 040. (11-10-00)T

b. The engineering report must be reviewed and approved by the Department. (11-10-00)T

c. The planning period shall be twenty (20) years for all facilities except distribution and transmission systems may be forty (40) years. (11-10-00)T

d. The most cost effective environmentally sound alternative may be selected based in part on public comments received from at least one (1) public hearing attended by intended users within the jurisdiction of the grantee conducted in accordance with state law. (11-10-00)T

~~**02. Limitation On Funding Assistance.** The maximum grant funding provided in a state planning grant award shall not exceed fifty percent (50%) of the total eligible costs for grants awarded. (7-26-00)T~~

~~**03. Eligible Project Costs.** Costs eligible for funding shall be determined from the scope of the project and may include, but are not limited to: (7-26-00)T~~

~~(No changes to Subsections 030.03.a. through 030.03.g.)~~

~~**04. Ineligible Costs.** Costs which are ineligible for funding for the planning of the drinking water facilities include but are not limited to: (7-26-00)T~~

~~(No changes to Subsections 030.04.a. through 030.04.k)~~

SECTION 031 (ENTIRE SECTION)

031. REVIEW AND EVALUATION OF GRANT APPLICATIONS.

01. Submission Of Application. Those eligible systems which received high priority ranking shall be invited to submit an application. The applicant shall submit to the Department, a completed application in a form

prescribed by the Department.

~~(7-26-00)F~~(11-10-00)T

02. Application Requirements. Applications shall contain the following documentation approved or approvable by the Department: (7-26-00)T

a. An authorizing resolution passed by a majority of the governing body authorizing an elected official or chief financial officer of the qualifying entity to commit funding; and (7-26-00)T

b. Contracts for engineering services, including justification for the firm selected; (7-26-00)T

c. A certification of professional liability indemnification for a total aggregate of one hundred thousand dollars (\$100,000) or twice the amount of the engineering firm's fee, whichever is greater, which covers all such services rendered for all project steps whether or not such services or steps are state funded; and (7-26-00)T

d. A statement regarding how the non-grant portion of the project will be funded. (7-26-00)T

e. For incorporated nonprofit applicants only, Articles of Incorporation and/or Bylaws showing nonprofit and incorporated status according to Chapter 3, Title 30, Idaho Code. (11-10-00)T

03. ~~Acceptance~~ Determination Of Completeness Of Application. Applications will be ~~accepted~~ reviewed to determine completeness in accordance with ~~the state priority list target dates and no applications will be accepted for projects not rated on the priority list unless approved by the Board in instances of a public health emergency as provided in~~ Subsections ~~020-01-a~~ 031.02 and 031.04. ~~(7-26-00)F~~(11-10-00)T

04. ~~Basis Of Evaluation~~ For Determining Completeness Of Applications. The evaluation by the Department for the approval of grant applications will include, but not be limited to, consideration of the following items: ~~(7-26-00)F~~(11-10-00)T

a. An authorizing resolution passed by a majority of the governing body authorizing an elected official or chief financial officer of the qualifying entity to commit funding. (11-10-00)T

~~a~~b. Adequate justification for selected engineering services. An engineer selected by the applicant must as a minimum: (7-26-00)T

i. Be procured through the selection guidelines and procedures prescribed under Idaho law; and (7-26-00)T

ii. Be a registered professional engineer currently licensed by the Idaho Board of Professional Engineers and Land Surveyors; and (7-26-00)T

iii. Not be debarred or otherwise prevented from providing services under another federal or state financial assistance program; and (7-26-00)T

iv. Be covered by professional liability indemnification to protect the public from the engineer's negligent acts and errors of omission of a professional nature. The total aggregate of the engineer's professional liability shall be one hundred thousand dollars (\$100,000) or twice the amount of the engineer's fee, whichever is greater. (7-26-00)T

~~b~~c. An incorporated nonprofit applicant must show by its Articles of Incorporation and/or Bylaws that it is nonprofit and incorporated according to Chapter 3, Title 30, Idaho Code. (7-26-00)T

~~e~~d. Demonstration of the financial capability to fund the non-grant portion of the project. (7-26-00)T

05. ~~Notification Of Disapproval~~ Regarding Completeness Of Application. ~~Written notification of disapproval with the reasons for denial~~ regarding whether the application is complete, and if it is incomplete, an explanation of missing documentation, will be sent to the applicant. The applicant may provide the missing documentation. ~~(7-26-00)F~~(11-10-00)T

06. **Reapplication For Grant.** *The action of disapproving, recalling or terminating a grant in no way precludes or limits the former applicant from reapplying for another grant when project deficiencies are resolved and project readiness is secured, provided the applicant remains on the approved priority list.* (7-26-00)F

(BREAK IN CONTINUITY OF SECTIONS)

SECTION 040 (ENTIRE SECTION)

040. ENVIRONMENTAL REVIEW.

01. Overview Of Process. The applicant will complete an environmental ~~review~~ information document (EID) as part of and in conjunction with an engineering report. The review will be done in accordance with Chapter 5 of the Handbook. The applicant shall also consult with the Department at an early stage in the preparation of the engineering report to determine the required level of environmental review. The environmental information document (EID) will include, as a minimum, the following: (11-10-00)T

- a. Description of purpose and need for proposed action: (11-10-00)T
- b. Description of the proposed alternative, including the proposed action: (11-10-00)T
- c. Description of the affected environment: (11-10-00)T
- d. Discussion of the environmental impacts of the proposed action: (11-10-00)T
- e. The means to mitigate adverse environmental impacts: (11-10-00)T
- f. Description of public participation process: (11-10-00)T
- g. List of referenced documents: (11-10-00)T
- h. List of agencies consulted; and (11-10-00)T
- i. Mailing list of interested parties. (11-10-00)T

02. Department Action. Based on review of ~~existing information~~ the environmental information document (EID), the Department shall ~~assess potential environmental impacts and shall instruct the applicant to either take one (1) of the following actions:~~ (7-26-00)F(11-10-00)T

a. ~~Submit a request for Issue a~~ Categorical Exclusion (CE) with supporting backup documentation as specified by the Department; (7-26-00)F(11-10-00)T

b. ~~Prepare an Environmental Information Document (EID) in a format specified by the Department~~ Issue a Finding of No Significant Impact (FNSI). The Department shall first issue a draft FNSI and allow a thirty (30) day public comment period before making its final decision regarding significant impacts; or (7-26-00)F(11-10-00)T

c. ~~Prepare an Environmental Impact Statement (EIS) in a format specified by the Department.~~ Require the grantee to prepare an environmental impact statement (EIS). An EIS must be prepared when the Department determines the project will significantly affect the environment. A draft EIS must first be prepared and submitted to the Department. The applicant must also arrange for a thirty (30) day public comment period and a public hearing regarding the EIS. A final EIS following the public comment period must be submitted to the Department for approval. (7-26-00)F(11-10-00)T

023. Use Of Environmental Reviews Prepared By Other Agencies. If an environmental review for the project has been conducted by another state, federal, or local agency, the Department may, in its discretion, issue its own determination by adopting the document of the other agency. (7-26-00)T

034. Validity Of Review. Environmental reviews are valid for five (5) years. If a grant application is received for a project with an environmental review which is more than five (5) years old, the Department shall reevaluate the project, environmental conditions, and public comments and shall: (7-26-00)T

a. Reaffirm the earlier decision; or (7-26-00)T

b. Require supplemental information to the earlier Environmental Impact Statement, Environmental Information Document, or request for Categorical Exclusion. Based upon a review of the updated document, the Department shall issue and distribute a revised notice of Categorical Exclusion, finding of no significant impact, or record of decision. (7-26-00)T

(BREAK IN CONTINUITY OF SECTIONS)

SECTION 050

050. GRANT OFFER AND ACCEPTANCE.

Subsection 050.01

01. Grant Offer. Grant offers will be delivered by certified mail to ~~successful~~ applicants by representatives of the Department or by registered mail who received high priority ranking, were invited to submit an application, and provided a complete application. (~~7-26-00~~)F(11-10-00)T

Subsection 050.04

04. Estimate Of Reasonable Cost. Each grant project contract will include an estimate of the reasonable eligible cost of ~~the project~~ conducting the planning study. (~~7-26-00~~)F(11-10-00)T

(BREAK IN CONTINUITY OF SECTIONS)

SECTION 060 (ENTIRE SECTION)

060. PAYMENTS.

01. Eligibility Determination. Grant funds will only be provided for eligible costs as defined at Section 010. Eligible costs include, but are not limited to, those costs described in Subsection 030.02. The Department shall review the engineering contract submitted with the application to determine eligibility of costs for payment. The Department shall also review other costs, if any, to determine eligibility for payment. (11-10-00)T

02. Payments For State Grants. Notification that payment is warranted will be provided according to the latest approved payment schedule by submission of reports showing expenditures upon which state payments in a proportional amount of eligible costs will be made. Requests for payment shall be submitted to the Department on a form provided by the Department. The Department shall pay for those costs that are determined to be eligible. (~~7-26-00~~)F(11-10-00)T

023. Grant Increases. Grant amendment increase requests as a result of an increase in eligible project costs will be considered, provided funds are available. Documentation and justification supporting the unavoidable

need for a grant increase must be submitted to the Department for approval prior to incurring any costs above the approved eligible cost ceiling. (7-26-00)T

034. Grant Decreases. If the actual eligible cost is determined to be lower than the estimated eligible cost the grant amount will be reduced proportionately. (7-26-00)T

045. Final Project ~~Audit~~ Review To Determine Actual Eligible Costs. The Department may conduct a final project ~~audit by the Department will~~ review to determine the actual eligible costs. The financial records of the grantee may be reviewed by the Department. The ~~audit~~ review may be deferred until the ~~audit~~ review of the design/ construction loan is performed. (~~7-26-00~~)T(11-10-00)T

056. Final Payment. The final payment consisting of five percent (5%) of the total state grant will not be made until after final approval of the engineering, completion of the environmental review process, and the ~~audit~~ project review has been completed or deferred. (~~7-26-00~~)T(11-10-00)T

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.23 - RULES OF ADMINISTRATIVE PROCEDURE BEFORE THE
BOARD OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0123-0001

NOTICE OF EXTENSION OF PUBLIC COMMENT PERIOD

AUTHORITY: In compliance with Sections 67-5222, Idaho Code, notice is hereby given that this agency has extended the period for public comment. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise statement of the reason for extending the public comment period:

The proposed rule was published in the Idaho Administrative Bulletin, Volume 00-8, August 2, 2000, pages 166 through 184 with a comment deadline of September 6, 2000. The Department of Environmental Quality (DEQ) has extended the comment period to solicit additional public comment before presenting a final proposal to the Board of Environmental Quality for adoption of a pending rule.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Paula Gradwohl at (208)373-0418 or pgradwoh@deq.state.id.us.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. All written comments must be received by the undersigned on or before February 28, 2001.

Dated this 29th day of November, 2000.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
Phone: (208)373-0418
Fax No: (208)373-0481
pgradwoh@deq.state.id.us

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

59.01.08 - PERSI GAIN SHARING RULES

DOCKET NO. 59-0108-0101

NOTICE OF TEMPORARY AND PROPOSED RULE

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

AUTHORITY: In compliance with Sections 67-5222(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, 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 January 17, 2001.

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

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

In HB 510, the 2000 Legislature authorized the Retirement Board to allocate extraordinary earnings in the PERSI defined benefit plan subject to certain restrictions and limitations. The allocation of extraordinary earnings is also described as gain sharing. Under the statutory structure, if extraordinary gains exist, the board has discretion to determine whether any or all of the gains will be allocated. If allocated, they are allocated to three groups identified in the statute – active members, retirees, and employers. These rules set forth definitions, how extraordinary gains will be determined, how the allocations will be made between each group, and within each group. It includes both minimum and maximum limits for allocations.

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:

This rule change will confer a benefit on PERSI members and employers and is necessary to comply with deadlines imposed by amendments made to governing law by the legislature.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Retirement Board has exclusive fiduciary responsibility for plan operations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rules, contact Alan H. Winkle, Executive Director of PERSI, 334-3365.

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 January 24, 2001.

DATED this 15th day of November, 2000.

Alan H. Winkle
Executive Director
Public Employee Retirement System of Idaho
607 N. 8th, Boise, ID 83702
P.O. Box 83720, Boise, ID 83720-0078
Phone: 208-334-3365
FAX: 208-334-3804

THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0108-0101

IDAPA 59, TITLE 01, Chapter 08

59.01.08 - PERSI GAIN SHARING RULES

Subchapter A -- General Provisions
(Rules 001 through 099)

001. LEGAL AUTHORITY (Rule 1).

PERSI rules are adopted under the legal authority of Sections 50-1507, 50-1508, 50-1524, 59-1301, 59-1305, 59-1314, 59-1372, 59-1383, 59-1392, 72-1405, and 72-1406, Idaho Code. (12-1-00)T

002. TITLE AND SCOPE (Rule 2).

01. Title. The title of this chapter is IDAPA 59.01.08, "PERSI Gain Sharing Rules". (12-1-00)T

02. Scope. This chapter relates to the allocation of extraordinary gains from the PERSI Base Plan to active members, retirees and employees. (12-1-00)T

003. WRITTEN INTERPRETATIONS--AGENCY GUIDELINES (Rule 3).

Written interpretations of these rules, to the extent they exist, are available from PERSI, at the following locations:

PERSI Boise Office
607 North Eighth Street
Boise, Idaho 83702
Phone: 208/334-3365 or 1-800-451-8228
Fax: 208/334-3804

PERSI Pocatello Office
850 E. Center, Suite D
Pocatello, Idaho 83201
Phone: 208/236-6225 or 1-800-762-8228
Fax: 208/236-6159

PERSI Coeur d'Alene Office
2005 Ironwood Parkway, Suite 142
Coeur d'Alene, Idaho 83814
Phone: 208/769-1474 or 1-800-962-8228
Fax: 208/769-1476 (12-1-00)T

004. ADMINISTRATIVE APPEAL (Rule 4).

Administrative appeals are conducted pursuant to IDAPA 59.01.01, "Rules of Administrative Procedure of the Public Employee Retirement System of Idaho". (12-1-00)T

005. PUBLIC RECORDS ACT COMPLIANCE (Rule 5).

All public records not exempt from disclosure are available by making a written request to the "Records Custodian" at PERSI's Boise office listed in Rule 3. Requested records must be identified with specificity. (12-1-00)T

006. DEFINITIONS (Rule 6).

PERSI adopts through incorporation by reference as if set forth fully herein all of the definitions listed in IDAPA

59.01.02, Section 005, “Eligibility Rules of the Public Employee Retirement System of Idaho”. In addition, the following definitions shall also apply to this chapter. In the event of any conflict between the definitions incorporated from the Eligibility Rules, and the definitions set forth in this chapter, for purposes of applying the provisions of this chapter, the definitions set forth in this chapter will control unless the context clearly indicates otherwise. (12-1-00)T

01. Active Member. A member participates in the active member allocation only if they are active and have at least twelve (12) months of accrued membership service on the last day of the fiscal year. For purposes of allocating extraordinary gains, active members also include: (12-1-00)T

a. Seasonal employees who have a pattern of employment that includes at least six (6) months of membership service in each of the preceding three (3) consecutive years; and (12-1-00)T

b. Employees who are on leave of absence on the last day of the fiscal year and either: (12-1-00)T

i. Return to active service for at least thirty (30) days before December 31 immediately following the end of the fiscal year; or (12-1-00)T

ii. Are entitled to benefits under the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA). (12-1-00)T

02. Actuary. This is the actuary retained by the board. (12-1-00)T

03. Base Plan Or Account. This is the PERSI defined benefit plan not including gain sharing allocations or interest thereon, or the individual accounts therein. (12-1-00)T

04. Choice Plan Or Account. This includes two (2) elements: (12-1-00)T

a. The defined contribution component of the PERSI plan consisting of gain sharing allocations together with earnings thereon or the individual accounts therein; and (12-1-00)T

b. The plan designated to receive voluntary and employer contributions as provided in Section 59-1308, Idaho Code, or the individual accounts therein. (12-1-00)T

05. Employer. This includes any PERSI employer who accrued contribution liability during the fiscal year. (12-1-00)T

06. Fiscal Year. This is the twelve (12) month period ending each June 30. (12-1-00)T

07. Gain Sharing. This refers to the process of allocating extraordinary gains from the base plan into the defined contribution component of the PERSI plan as permitted in Section 414(k) of the Internal Revenue Code and as provided by Section 59-1309, Idaho Code, and IDAPA 59.01.08, “PERSI Gain Sharing Rules”. (12-1-00)T

08. Permissive Service Credits. This includes all credits obtained through voluntary purchase but does not include service obtained through repayment of a separation benefit under Section 59-1363. (12-1-00)T

09. Retiree. Retiree includes any member, contingent annuitant, or surviving spouse, receiving regular monthly allowances at the close of the fiscal year. It also includes members receiving a monthly disability retirement allowance, surviving spouses who elected an annuity option under Section 59-1361(5), Idaho Code, and members who were inactive at the close of the fiscal year but retire on or before the first day of January following the end of the fiscal year, retroactive to the first day of June of the fiscal year or earlier. (12-1-00)T

007. CITATION (Rule 7).

The official citation of this Chapter is IDAPA 59.01.08.000, et seq. For example, this Section's citation is IDAPA 59.01.08.007. In documents submitted to PERSI or issued by PERSI these rules may be cited as PERSI Gain Sharing Rules with Section number less leading zeros. For example, this rule may be cited as PERSI Gain Sharing Rule 7. Within these rules, where a rule number is cited without reference to a chapter, the citation is to the numbered rule within that chapter. For example, a reference to “Rule 2” within this chapter would be a reference to Gain Sharing

Rule 2. (12-1-00)T

008. EFFECTIVE DATE (Rule 8).

Unless otherwise indicated, the effective date of each rule is noted in brackets at the end of each Rule. (12-1-00)T

009. -- 099. (RESERVED).

Subchapter B— Determining the Amount of Extraordinary Gains
(Rules 100 through 199)

100. EXISTENCE OF EXTRAORDINARY GAINS (Rule 100).

The existence of extraordinary gains triggers the possibility that allocations will be made as provided in Section 59-1309, Idaho Code. However, the existence of extraordinary gains does not obligate the retirement board to make an allocation. The board may choose not to allocate extraordinary gains, or it may choose to allocate all or part of the extraordinary gains. Extraordinary gains exist when, at the close of the fiscal year, the value of plan assets exceeds plan liabilities as determined by the actuary, plus a sum necessary to absorb a one (1) standard deviation market event without increasing contribution rates, as determined by the board. The amount of extraordinary gains available for possible distribution equals the amount by which the assets exceed the sum of the liabilities and the one standard deviation. (12-1-00)T

101. VALUE OF PLAN ASSETS (Rule 101).

This is the total assets held in the PERSI base plan, as reported in the actuarial valuation at the end of the fiscal year. (12-1-00)T

102. PLAN LIABILITIES (Rule 102).

This is the actuarial liability of the PERSI base plan, including but not limited to, the cost of the proposed COLA to be effective in March following the close of the fiscal year, the cost of any benefit enhancements to the base plan approved by the legislature, and the cost of actuarial gains and losses, as reported in the actuarial valuation for the fiscal year. (12-1-00)T

103. ONE STANDARD DEVIATION (Rule 103).

This is the amount of reserve necessary to absorb normal market fluctuations and is a function of the risk associated with investment holdings and strategies, and will be determined by the board based on those factors. (12-1-00)T

104. BOARD DISCRETION (Rule 104).

The board retains full discretion in determining whether to allocate extraordinary gains when they exist. Because of the broad range of factors that might be relevant to such a determination, and to assure that the board will not be limited in exercising its discretion, these rules do not attempt to identify any of the factors that might be considered in the board's fiduciary capacity. When extraordinary gains exist, the board will decide whether they will be allocated no later than the first day of December following the end of the fiscal year. Such decision shall be in writing and shall constitute an amendment to the plan document for purposes of the Internal Revenue Code of 1986, as amended, or any successor thereto. In the absence of any such decision, the allocation for that year shall be zero (0.00). (12-1-00)T

105. -- 199. (RESERVED).

Subchapter C - Allocating Extraordinary Gains Between Groups
(Rules 200 through 299)

200. ALLOCATION BETWEEN GROUPS (Rule 200).

01. Extraordinary Gains. If extraordinary gains exist, and the board determines that all or part of such gains should be allocated, an allocation will be made among the three (3) groups identified by Section 59-1309, Idaho Code. The three (3) groups are: (12-1-00)T

a. Active PERSI members; (12-1-00)T

b. PERSI retirees; and (12-1-00)T

c. PERSI employers. (12-1-00)T

02. Allocation Of Extraordinary Gains. Until otherwise determined by the board, extraordinary gains will be allocated as follows: (12-1-00)T

a. Active members - 38 percent (38%); (12-1-00)T

b. Retirees - twelve percent (12%); and (12-1-00)T

c. Employers - fifty percent (50%). (12-1-00)T

201. -- 299. (RESERVED).

Subchapter D – Allocations Within Active Member Group
(Rules 300 through 399)

300. ACTIVE MEMBER ALLOCATION (Rule 300).

After the amount to be allocated to the active member group has been determined, it shall be allocated among the members of the group. The active member allocation determines each member's initial share before considering any applicable individual limits. Each member's initial share shall be determined by dividing that member's accumulated contributions in the base plan at the close of the fiscal year by the total accumulated contributions in the base plan of all members of the group at the close of the fiscal year, multiplied by the amount allocated to the active member group. In no event shall a member's initial share, before considering individual limits, exceed the maximum annual contribution limit under Section 415(c) of the Internal Revenue Code applicable for the limitation year. [The limit for 2000 is thirty thousand dollars (\$30,000)]. (12-1-00)T

301. MINIMUM ALLOCATION AMOUNT (Rule 301).

Due to the costs associated with maintaining individual choice accounts, no allocation shall be made to any member whose allocation share does not exceed thirty-eight dollars (\$38) after considering individual limits, unless the member had a PERSI choice account on the last day of the fiscal year and has not withdrawn funds before the allocation date. (12-1-00)T

302. ACTIVE MEMBER (Rule 302).

A member participates in the active member allocation only if he is an active member as defined in this chapter. Whenever a member is placed on leave of absence under circumstances making that member eligible for benefits under USERRA, the employer shall notify PERSI in writing within thirty (30) days and attach a copy of the member's orders. (12-1-00)T

303. ACCUMULATED CONTRIBUTIONS (Rule 303).

For purposes of allocating extraordinary gains within the active member group, accumulated contributions do not include contributions or interest related to the purchase of permissive service credits or contributions or interest in the Choice Plan or accounts. (12-1-00)T

304. TRANSFER TO DEFINED CONTRIBUTION CHOICE ACCOUNTS (Rule 304).

After each member's initial share has been determined, it will be transferred to an individual account as permitted under Section 414(k) of the Internal Revenue Code, subject to individual limits imposed by the Internal Revenue Code. The board may transfer allocations anytime after necessary compensation data is received and processed by the board. (12-1-00)T

305. LIMITATIONS ON ALLOCATION (Rule 305).

In no event shall a member's final allocation exceed the limits imposed by Section 415(c) of the Internal Revenue Code, based on compensation earned during the calendar year that included the end of the fiscal year. (12-1-00)T

306. INTERVENING RETIREMENT (Rule 306).

When a member is included in the active member pool but retires prior to the transfer of allocations, the member's allocation will be made as a one-time payment directly to the member rather than a transfer to an individual account. Such allocations will not be limited by Rule 305 but will be subject to the limitations of Rule 404. (12-1-00)T

307. INTERVENING WITHDRAWAL OF CONTRIBUTIONS (Rule 307).

When a member is included in the active member pool but terminates prior to the transfer of allocations, the allocation will be made to the member's individual account if the member has not withdrawn contributions from the Base account prior to the date of transfer of the allocation. No member who has withdrawn contributions from the Base account prior to the transfer of the allocation is eligible to receive an allocation. (12-1-00)T

308. INTERVENING DEATH OF ACTIVE MEMBER (Rule 308).

When a member would have been included in the active member allocation but dies prior to the transfer of allocations, no allocation shall be made to the member, beneficiary or estate except that an optional death benefit recipient will receive the active member's allocation as limited by Rule 305. (12-1-00)T

309. TREATMENT OF GAIN SHARING ALLOCATIONS IN THE CHOICE ACCOUNT (Rule 309).

Gain sharing allocations transferred to individual Choice Accounts have no effect on an individual's Base Plan benefit. Gain sharing allocations, and the earnings thereon, will be accounted for separately from other Choice Plan contributions but will be treated as one plan for purposes of reporting, investing, distributions, and fees to the extent they are applicable. Related provisions of the Plan adopted by the Board to facilitate voluntary and employer contributions are incorporated herein to the extent not inconsistent with these rules and sections 59-1308 and 59-1309, Idaho Code. However, no loans or hardship withdrawals may be taken against gain sharing account balances. (12-1-00)T

310. -- 399. (RESERVED).

Subchapter E – Allocations Within Retiree Group
(Rules 400 through 499)

400. RETIREE ALLOCATION (Rule 400).

After the amount to be allocated to the retiree group has been determined, it shall be allocated among the members of the group. The retiree allocation determines each member's share before considering any applicable individual limits. Each member's initial share shall be determined by dividing that retiree's monthly benefit at the close of the fiscal year by the total monthly benefits payable to all members of the group at the close of the fiscal year, multiplied by the amount allocated to the retiree group. (12-1-00)T

401. RETIREE (Rule 401).

For purposes of allocating extraordinary gains, a member must be a retiree as defined in this chapter. (12-1-00)T

402. MONTHLY BENEFIT (Rule 402).

This is the monthly benefit for the last month of the fiscal year but does not include benefits related to other months that may also have been paid during the last month of the fiscal year. In no event shall a retiree's share be determined based on more than the retiree's annual benefit, not including any gain sharing allocations, divided by twelve (12). (12-1-00)T

403. PAYMENT OF ALLOCATION (Rule 403).

After each retiree's initial share has been determined, it will be paid no later than February 1 following the close of the fiscal year directly to the retiree either together with the retiree's monthly benefit or separately, subject to individual limits imposed by the Internal Revenue Code. (12-1-00)T

404. LIMITATIONS ON ALLOCATION (Rule 404).

Prior to allocation, a retiree's initial share shall be further limited as necessary to comply with the limits of Section 415(b) of the Internal Revenue Code. (12-1-00)T

405. INTERVENING DEATH OF A RETIREE (Rule 405).

When a retiree is included in the retiree allocation but dies prior to the transfer of allocations, no allocation shall be made unless benefit payments are continuing to be made to a contingent annuitant. (12-1-00)T

406. INTERVENING REEMPLOYMENT (Rule 406).

When a retiree is included in the retiree allocation but becomes reemployed as defined in Section 59-1356, Idaho Code, prior to the date of distribution, the retiree allocation shall be made in the form of an active member allocation, and shall be subject to active member limitations. (12-1-00)T

407. NEGATED RETIREMENT (Rule 407).

Gain sharing allocations received by a retiree are not included in the amounts required to be repaid when negating retirement under Retirement Rule 148. (12-1-00)T

408. – 499. (RESERVED).

Subchapter F – Allocations Within Employer Group
(Rules 500 through 599)

500. EMPLOYER ALLOCATION (Rule 500).

After the amount to be allocated to the employer group has been determined, it shall be allocated among the members of the group. Each employer's share shall be determined by dividing that employer's contribution liability for the fiscal year by the total contribution liability for all members of the group for the fiscal year, multiplied by the amount allocated to the employer group. (12-1-00)T

501. EMPLOYER (Rule 501).

Participation in the employer pool is limited to those entities defined as an employer in this chapter. (12-1-00)T

502. CONTRIBUTION LIABILITY (Rule 502).

This includes only employer contributions that are accrued during the fiscal year and required to be paid by Section 59-1322, Idaho Code, unreduced by gain sharing credits. It does not include contributions made to fund sick leave pools, to pay costs of other plans such as the Firefighters Retirement Fund, or to contributions required by Sections 33-107A and 33-107B, Idaho Code. For purposes of any gain sharing related to the fiscal year ending June 30, 2000, all proper adjustments made to employer contributions will be considered in determining contribution liability. Thereafter, only adjustments related to fiscal year contributions will be considered. (12-1-00)T

503. CREDIT OF ALLOCATION (Rule 503).

After each employer's share has been determined, it will be credited against the employer's future contribution invoices. The credits shall be applied only to offset future employee and employer contributions required to be remitted by Section 59-1325(1), Idaho Code, until the credit is exhausted. An employer may elect to use the credits solely against employer contributions to the extent that no carry-over credits (as described in rule 504) result. (12-1-00)T

504. CARRY-OVER OF CREDIT (Rule 504).

Should the credit exceed the employer's contribution invoices for the succeeding twelve (12) month period, any remaining credits will carry over to the following year together with an additional credit representing an interest payment. The interest credit shall equal the balance of remaining credits multiplied by a ratio representing the regular rate of interest. This process shall be repeated annually until all credits have been used. (12-1-00)T

505. WITHDRAWAL OF EMPLOYER (Rule 505).

When an employer is included in the employer pool but withdraws from the system as provided in Section 59-1326, Idaho Code, prior to allocation of credits, the employer shall not be entitled to receive any credits. When an employer is entitled to carry-over credits but withdraws prior to using all its credits, it shall not be entitled to additional credits based on interest payments. (12-1-00)T

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