

# IDAHO ADMINISTRATIVE BULLETIN

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# Preface

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

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

## **CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN**

*The Bulletin is cited by year and issue number. For example, Bulletin 00-1 refers to the first Bulletin issued in calendar year 2000, Bulletin 01-1 refers to the first Bulletin issued in calendar year 2001, etc. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 1 refers to January; Volume No. 2 refers to February; and so forth. Example: The Bulletin published in January of 2001 is cited as Volume 01-1, the December 1999 Bulletin is cited as Volume 99-12. The March 2000 Bulletin is cited as Volume 00-3.*

## **RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE**

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

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

## **TYPES OF RULEMAKINGS PUBLISHED IN THE ADMINISTRATIVE BULLETIN**

*The state of Idaho administrative rulemaking process comprises five distinct activities; Negotiated, Proposed, Temporary, Pending, and Final rulemaking. Not all rulemakings consist of all five. At a minimum a rulemaking includes proposed, pending, and final rulemaking. Many rules are adopted as temporary rules when meeting required statutory criteria and agencies often engage in negotiated rulemaking at the beginning of the process to facilitate consensus building in controversial or complex rulemakings. In the majority of cases, the process begins with proposed rulemaking and ends with final rulemaking. The following is a brief explanation of each type of administrative rule.*

### **NEGOTIATED RULEMAKING**

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

### **PROPOSED RULEMAKING**

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

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

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

### **TEMPORARY RULEMAKING**

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

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

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

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

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

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

### **PENDING RULEMAKING**

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

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

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

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

### **FINAL RULEMAKING**

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

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

### **AVAILABILITY OF THE ADMINISTRATIVE CODE AND BULLETIN**

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

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## SUBSCRIPTIONS AND DISTRIBUTION

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

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

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

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

**Internet Access** - The Administrative Code and Administrative Bulletin, individual chapters and dockets, are available on the Internet at the following address: <http://www2.state.id.us/adm/adminrules/>

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

## HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

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

### **IDAPA 38.05.01.060.02.c.ii.**

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

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

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

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

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

"02." refers to Subsection 060.02.

"c." refers to Paragraph 060.02.c.

"ii." refers to Subparagraph 060.02.c.ii.

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## DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rulemaking actions (documents) are assigned a "DOCKET NUMBER". The "Docket Number" is a series of numbers separated by a hyphen "-", (38-0501-0101). The docket numbers are published sequentially by IDAPA designation (e.g. the two-digit agency code). The following example is a breakdown of a typical rule docket:

### "DOCKET NO. 38-0501-0101"

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

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

"0101" denotes the year and sequential order of the docket submitted and published during the year; in this case the first rulemaking action of the chapter published in calendar year 2001.

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

### "(BREAK IN CONTINUITY OF SECTIONS)"

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

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

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

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

**"...in accordance with IDAPA 38.05.01.201."**

"38" denotes the IDAPA number of the agency.

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

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

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

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

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

**BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2002**

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02-1	January, 2002	<b>*November 14, 2001</b>	January 2, 2002	January 23, 2002
02-2	February, 2002	December 19, 2001	February 6, 2002	February 27, 2002
02-3	March, 2002	January 23, 2002	March 6, 2002	March 27, 2002
02-4	April, 2002	February 20, 2002	April 3, 2002	April 24, 2002
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02-9	September, 2002	July 24, 2002	September 4, 2002	September 25, 2002
02-10	October, 2002	<b>**August 21, 2002</b>	October 2, 2002	October 23, 2002
02-11	November, 2002	September 25, 2002	November 6, 2002	November 27, 2002
02-12	December, 2002	October 23, 2002	December 4, 2002	December 25, 2002

**BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2003**

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03-1	January, 2003	<b>*November 13, 2002</b>	January 1, 2003	January 22, 2003
03-2	February, 2003	December 18, 2002	February 5, 2003	February 26, 2003
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03-11	November, 2003	September 24, 2003	November 5, 2003	November 26, 2003
03-12	December, 2003	October 22, 2003	December 3, 2003	December 24, 2003

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

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

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<b>IDAPA 22</b>	<b>MEDICINE</b> , Board of	<b>VOLUME 6</b>
<b>IDAPA 23</b>	<b>NURSING</b> , Board of	<b>VOLUME 6</b>
<b>IDAPA 24</b>	<b>OCCUPATIONAL LICENSES</b> , Board of Board of Architectural Examiners Board of Barber Examiners Board of Chiropractic Physicians Board of Cosmetology Board of Environmental Health Specialist Examiners Board of Hearing Aid Dealers and Fitters Board of Landscape Architects Board of Morticians Board of Examiners of Nursing Home Administrators Board of Optometry Board of Podiatry Board of Psychologist Examiners Board of Social Work Examiners Idaho Counselor Board Board of Dentistry Board of Acupuncture Real Estate Appraiser Board Board of Residential Care Facility Administrators	<b>VOLUME 6</b>
<b>IDAPA 25</b>	<b>OUTFITTERS AND GUIDES LICENSING BOARD</b>	<b>VOLUME 6</b>
<b>IDAPA 50</b>	<b>PARDONS AND PAROLE</b> , Commission for	<b>VOLUME 9</b>
<b>IDAPA 26</b>	<b>PARKS AND RECREATION</b> , Department of	<b>VOLUME 6</b>
<b>IDAPA 59</b>	<b>PUBLIC EMPLOYEES RETIREMENT SYSTEM OF IDAHO - PERSI</b>	<b>VOLUME 9</b>
<b>IDAPA 27</b>	<b>PHARMACY</b> , Board of	<b>VOLUME 6</b>

<b>ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS AND THE 2001 ADMINISTRATIVE CODE VOLUME NUMBERS</b>		
<b>IDAPA 29</b>	<b>POTATO COMMISSION, Idaho</b>	<b>VOLUME 7</b>
<b>IDAPA 31</b>	<b>PUBLIC UTILITIES COMMISSION</b>	<b>VOLUME 7</b>
<b>IDAPA 41</b>	<b>PUBLIC HEALTH DISTRICTS</b>	<b>VOLUME 8</b>
<b>IDAPA 33</b>	<b>REAL ESTATE COMMISSION</b>	<b>VOLUME 7</b>
<b>IDAPA 56</b>	<b>RANGELAND RESOURCES COMMISSION, Idaho</b>	<b>VOLUME 9</b>
<b>IDAPA 34</b>	<b>SECRETARY OF STATE, Office of the</b>	<b>VOLUME 7</b>
<b>IDAPA 49</b>	<b>SHORTHAND REPORTERS, Board of Certified</b>	<b>VOLUME 8</b>
<b>IDAPA 36</b>	<b>TAX APPEALS, Idaho Board of</b>	<b>VOLUME 7</b>
<b>IDAPA 35</b>	<b>TAX COMMISSION, State</b>	<b>VOLUME 7</b>
<b>IDAPA 39</b>	<b>TRANSPORTATION, Department of</b>	<b>VOLUME 8</b>
<b>IDAPA 54</b>	<b>TREASURER, Office of the State</b>	<b>VOLUME 9</b>
<b>IDAPA 21</b>	<b>VETERANS SERVICES, Division of</b>	
<b>IDAPA 46</b>	<b>VETERINARY MEDICAL EXAMINERS, Board of</b>	<b>VOLUME 8</b>
<b>IDAPA 55</b>	<b>VOCATIONAL AND TECHNICAL EDUCATION, Division of</b>	<b>VOLUME 9</b>
<b>IDAPA 47</b>	<b>VOCATIONAL REHABILITATION, Division of</b>	<b>VOLUME 8</b>
<b>IDAPA 37</b>	<b>WATER RESOURCES, Department of</b>	<b>VOLUME 8</b>
<b>IDAPA 42</b>	<b>WHEAT COMMISSION, Idaho</b>	<b>VOLUME 8</b>

# IDAPA 01 - IDAHO BOARD OF ACCOUNTANCY

## 01.01.01 - IDAHO ACCOUNTANCY RULES

DOCKET NO. 01-0101-0201

### NOTICE OF RULEMAKING

#### TEMPORARY AND PROPOSED RULE - (REPEAL OF CHAPTER)

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2002.

**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) 54-204(1), 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 July 17, 2002.

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

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

This chapter is being repealed in its entirety. It is being replaced by a new chapter which is published immediately following this docket. The new chapter is being published under Docket No. 01-0101-0202.

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

HB 485 was passed during the 2002 Legislative Session with an effective date of July 1, 2002. Temporary rules are necessary to implement the new facets of the law at the time the law becomes effective.

**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 conducted. The Board of Accountancy held public hearings around the state, conducted surveys of interested parties, and sent multiple newsletters on the issues.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Barbara R. Porter, Executive Director, at 208-334-2490.

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 July 24, 2002.

DATED this 22nd Day of May, 2002.

Barbara R. Porter, Executive Director  
Idaho State Board of Accountancy  
1109 Main Street, Owyhee Plaza Suite 470  
PO Box 83720, Boise, Idaho 83720-0002  
Phone: 208-334-2490 / Fax: 208-334-2615  
E-mail: bporter@boa.state.id.us

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**IDAPA 01.01.01 IS BEING REPEALED IN ITS ENTIRETY.**

# IDAPA 01 - IDAHO BOARD OF ACCOUNTANCY

## 01.01.01 - IDAHO ACCOUNTANCY RULES

DOCKET NO. 01-0101-0202

### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

#### (REWRITE OF CHAPTER) - (FEE RULE)

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2002.

**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) 54-204(1) 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 July 17, 2002.

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

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

The rules implement the changes to the way Idaho licenses and regulates CPA based upon HB 485, which was passed during the 2002 Legislative Session. It is a complete rewrite regarding the way CPAs and LPAs are licensed and regulated in the state of Idaho. It reflects a national model on regulatory language. Specifics include: the education and experience requirements to sit for the CPA Exam and to become licensed; the ability for licensees to practice across state lines via a streamlined process; a recognition of foreign credentials; non-licensee ownership of firms; the acceptance of commissions and contingent fees; issuance of inactive and retired status licenses; and allowing licensees to issue plain paper financial statements.

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

HB 485 was passed during the 2002 Legislative Session with an effective date of July 1, 2002. Temporary rules are necessary to implement the new facets of the law at the time the law becomes effective.

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

The new law creates two new license types, Inactive and Retired. It also implements Substantial Equivalency as a basis for granting practice privileges to licensees from other states. The temporary rules implement the fees for these new license types. Our license year runs from July 1st to June 30th, so the new fees need to be assessed immediately upon the bill's effective date. Without the ability to assess the fees, the Idaho State Board of Accountancy would not be able to grant the new types of licenses. Inactive and Retired licenses would be \$100 per year. Practice Privileges would be \$50 per year.

The American Institute of CPAs is increasing its Uniform CPA Examination grading fee to \$36 per section effective November 2002. Spending authority to cover the increased cost was approved in the FY 2003 budget. The rule change is to cover the fee increase. The Board currently collects \$22.50 per section for the exam.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Board of Accountancy held public hearings around the state, conducted surveys of interested parties, and sent multiple newsletters on the issues.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Barbara R. Porter, Executive Director, at 208-334-2490.

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 July 24, 2002.

DATED this 22nd Day of May, 2002.

Barbara R. Porter, Executive Director  
Idaho State Board of Accountancy  
1109 Main Street, Owyhee Plaza Suite 470  
PO Box 83720, Boise, Idaho 83720-0002  
Phone: 208-334-2490 / Fax: 208-334-2615  
E-mail: bporter@boa.state.id.us

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 01-0101-0201**

**IDAPA 01**  
**TITLE 01**  
**Chapter 01**

**IDAPA 01 - IDAHO BOARD OF ACCOUNTANCY**

**01.01.01 - IDAHO ACCOUNTANCY RULES**

**SUBCHAPTER A -- ADMINISTRATION**

**000. LEGAL AUTHORITY (Rule 000).**

This chapter is adopted under the legal authority of Title 54, Chapter 2, Idaho Code. (7-1-02)T

**001. TITLE AND SCOPE (Rule 001).**

**01. Title.** These rules shall be cited as IDAPA 01.01.01, "Idaho Accountancy Rules". (7-1-02)T

**02. Scope.** These rules shall govern the administration of the certified public accountant examination, the issuance and renewal of licenses to practice as certified or licensed public accountants, the registration of firms, the regulation of individuals granted practice privileges, and the limitation of non-licensees. (7-1-02)T

**002. WRITTEN INTERPRETATIONS (Rule 002).**

Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the adoption of these rules are available for public inspection and copying at cost in the principal place of business of this agency. (7-1-02)T

**003. ADMINISTRATIVE APPEALS (Rule 003).**

All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedures of the Attorney General". (7-1-02)T

**004. INCORPORATION BY REFERENCE. (Rule 004).**

The following documents are hereby incorporated by reference into IDAPA 01.01.01 and can be obtained at the Board office. (7-1-02)T

**01. AICPA Standards.** 2002 AICPA Professional Standards, except as superceded by Section 54-206(8), Idaho Code. (7-1-02)T

**02. CPE Standards.** 2002 Statements on Standards for Continuing Professional Education Programs jointly approved by NASBA and AICPA. (7-1-02)T

**005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS (Rule 005).**

**01. Office Hours.** This office is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. (7-1-02)T

**02. Mailing Address.** The Board's mailing address is: Idaho State Board of Accountancy, PO Box 83720, Boise, Idaho 83720-0002. (7-1-02)T

**03. Street Address.** The principal place of business is 11th and Main, Owyhee Plaza. Suite 470, Boise, Idaho. (7-1-02)T

**006. PUBLIC RECORDS (Rule 006).**

**01. Documents Exempt From Public Disclosure.** Pursuant to Section 9-340B(1), Idaho Code, the Board office shall not disclose the filing of a complaint, the nature of a complaint, nor the details of an investigation. (7-1-02)T

**02. Documents Open For Public Inspection.** (7-1-02)T

**a.** Final, formal enforcement actions such as fines, assessment of expenses, revocations or suspensions. (7-1-02)T

**b.** Probations and conditions may be subject to public disclosure whenever the Board believes it is in the public interest. Following a hearing or the entry of a consent agreement, the Board may publish a summary of any order issued by it, in a newsletter or newspapers of general circulation. The Board may also advise anyone requesting such information of the contents of any order issued by it. (7-1-02)T

**c.** All rules issued by this agency. (7-1-02)T

**007. – 009. (RESERVED).**

**010. DEFINITIONS (Rule 010).**

The Idaho State Board of Accountancy adopts the definitions set forth in Section 54-206, Idaho Code. In addition, as used in this chapter: (7-1-02)T

**01. Administering Organization.** An entity that has met, and at all relevant times continues to meet, the standards specified by the Board for administering peer reviews. (7-1-02)T

**02. Board.** The Board or its designated representative. (7-1-02)T

**03. Candidate.** Applicants approved to sit for the CPA Examination. (7-1-02)T

**04. CPA Examination.** Uniform Certified Public Accountant Examination. (7-1-02)T

**05. CPE.** Continuing Professional Education. (7-1-02)T

**06. Monitoring Organization.** An independent body that oversees the self-regulatory programs of the

- SECPS. (7-1-02)T
- 07. Oversight Committee.** The Peer Review Oversight Committee. (7-1-02)T
- 08. Peer Review.** The study, appraisal or review, by a licensee who is not affiliated with the licensee or firm being reviewed, of one (1) or more aspects of the professional work of a licensee or firm that issues attest or compilation reports. (7-1-02)T
- 09. Reporting Form.** CPE reporting form. (7-1-02)T
- 10. SECPS.** Securities and Exchange Commission Practice Section of the AICPA. (7-1-02)T
- 11. Verification Of Employment And Experience Evaluation Form.** Work experience verification form. (7-1-02)T
- 12. Year Of Review.** The calendar year during which a peer review is conducted. (7-1-02)T
- 13. Year Under Review.** The twelve (12)-month period that is reviewed by the reviewers. (7-1-02)T
- 011. FILING OF DOCUMENTS WITH THE BOARD -- ELECTRONIC SIGNATURE (Rule 011).**  
All documents in rulemaking or contested cases must be filed with the Executive Director of the Board. Unless otherwise specifically required, only one (1) copy of the document must be filed. (7-1-02)T
- 01. Electronic Filing.** Filing by electronic or facsimile transmission is permitted. (7-1-02)T
- 02. Electronic Signature.** The Board will accept an electronic signature when the signature is unique to the person using it and it is capable of verification. (7-1-02)T
- 012. BOARD RESPONSIBILITIES (Rule 012).**  
The Board has these primary responsibilities: (7-1-02)T
- 01. Public Protection.** To protect the public; (7-1-02)T
- 02. Rules Of Conduct.** To adopt and enforce rules of professional ethics and conduct to be observed by certified public accountants and licensed public accountants in this state; (7-1-02)T
- 03. Exam Applicants.** To determine and review the qualifications of applicants for the Uniform CPA Examination; (7-1-02)T
- 04. CPA Examination.** To administer the Uniform CPA Examination; (7-1-02)T
- 05. Initial Licenses And Practice Privileges.** To grant CPA certificates and practice privileges to those who have met the legal requirements; (7-1-02)T
- 06. License And Practice Privileges Renewal.** To annually renew the licenses and practice privileges of qualifying certified public accountants and licenses of licensed public accountants; (7-1-02)T
- 07. CPE.** To monitor and enforce compliance with continuing professional education requirements; (7-1-02)T
- 08. Hearings.** To conduct administrative hearings in accordance with state statutes and Board rules; (7-1-02)T
- 09. Firm Registration.** To register public accounting firms; (7-1-02)T
- 10. Peer Review.** To monitor compliance with the peer review program; (7-1-02)T

**11. Enforcement.** To curtail activities by unlicensed persons representing themselves as certified public accountants or licensed public accountants; and (7-1-02)T

**12. Other.** To administer other provisions of Title 54, Chapter 2, Idaho Code. (7-1-02)T

**013. OFFICERS (Rule 013).**

The officers of the Board shall be chair, vice-chair, secretary, and treasurer. The Board shall annually elect officers for the ensuing year. The newly elected officers shall assume the duties of their respective offices at the conclusion of the meeting at which they are elected. (7-1-02)T

**014. DUTIES OF CHAIR (Rule 014).**

The chair shall preside at all meetings and shall perform such other duties as the Board may direct. In the absence of the chair, another officer shall perform the duties of the chair. (7-1-02)T

**015. MEETINGS -- QUORUM (Rule 015).**

Regular meetings may be held throughout the year. Special meetings shall be held at the call of the chair or on request of four (4) or more members of the Board. A majority of the Board shall constitute a quorum and may exercise the powers and perform the duties of the Board at a meeting properly noticed and called. (7-1-02)T

**016. DUTIES OF THE EXECUTIVE DIRECTOR (Rule 016).**

**01. CPA Examination.** The executive director shall determine when the prerequisites and procedures for examination qualification have been satisfactorily completed and shall submit a list of the approved names of exam applicants at each Board meeting. (7-1-02)T

**02. Licensure Or Practice Privileges.** The executive director shall determine when the prerequisites and procedures for licensure or practice privileges have been satisfactorily completed and shall submit a list of the approved names for licensure or practice privileges at each Board meeting. (7-1-02)T

**03. Minutes.** The executive director shall insure that accurate minutes of the meetings of the Board are kept. (7-1-02)T

**04. Records.** The executive director shall insure that complete records are kept of all applications for examination. The executive director shall keep a list of the names of persons issued licenses or granted practice privileges as certified public accountants, persons issued licenses to practice as licensed public accountants, registered firms, final formal disciplinary action, and such other records as deemed necessary by the Board or executive director. (7-1-02)T

**05. Other Duties.** The executive director shall perform other administrative duties as assigned by the Board. (7-1-02)T

**017. CONFERRING WITH BOARD MEMBERS (Rule 017).**

In the event any person contacts a Board member regarding any matter applicable to the Idaho Accountancy Act or Rules, any expression of opinion by that Board member will be exclusively his opinion and will in no way commit the Board. (7-1-02)T

**018. COMPLIANCE WITH THESE RULES (Rule 018).**

A licensee of the Board or an individual granted practice privileges is subject to the rules of the Board when rendering professional services. (7-1-02)T

**019. COMPUTATION OF TIME (Rule 019).**

The time in which any act provided by law, rule, order, or notice is to be done is computed by excluding the first day, and including the last day unless the last day is a Saturday, Sunday, or legal holiday and then it is also excluded. (7-1-02)T

**020. -- 099. (RESERVED).**

**SUBCHAPTER B – CPA EXAMINATION**

**100. CPA EXAMINATION (Rule 100).**

An applicant must pass the CPA Examination before applying for a CPA license. The CPA Examination will be graded by the American Institute of Certified Public Accountants and is subject to review and acceptance by the Board. The CPA examination will be held simultaneously in such places and such times as the Board may designate consistent with the dates for the CPA Examination. (7-1-02)T

**101. APPLICATIONS -- NOTIFICATION -- REQUEST TO DEFER -- CHANGE OF ADDRESS (Rule 101).**

**01. Applications.** Applications must be filed at the principal office of the Board. Applications for the May CPA Examination must be filed by March 1, and for the November CPA Examination by September 1. Examination fees as prescribed in Rule 700 must be included with the application. All supporting documentation must be received by the office of the Board no later than April 1 for the May examination and October 1 for the November examination. (7-1-02)T

**02. Notice.** Candidates will be informed of the time and place of the CPA Examination at least thirty (30) days prior to the examination. (7-1-02)T

**03. Request To Defer.** Candidates who have filed applications for the CPA Examination and who wish to defer the examination until a later date shall notify the Board in writing by April 15 for the May examination, and by October 15 for the November examination. A request to defer may not be applied to more than two (2) examinations in succession. (7-1-02)T

**04. Change Of Address.** Candidates must file a change of address with the Board within thirty (30) days of the change. (7-1-02)T

**102. FAILURE TO APPEAR (Rule 102).**

If, after proper notification, a candidate fails to appear for the CPA Examination, the examination fee will be forfeited unless a request to defer has been filed. (7-1-02)T

**103. COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT (Rule 103).**

The applicant must submit a written request, with supportive documentation from a physician, for special accommodations. The request must be submitted at the same time the application is submitted. The Board will respond to the applicant within fifteen (15) working days prior to the examination. (7-1-02)T

**104. OUT-OF-STATE APPLICANTS (Rule 104).**

Applicants who have been approved as candidates in other jurisdictions shall be allowed to write the examination in Idaho provided the request to write the examination has been authorized by the Board or officials responsible for administering the examinations in such other jurisdictions. The applicant shall remit the nonrefundable proctoring fees as prescribed in Rule 700 prior to the established deadlines. The Board will consider these applications in the order received and shall be subject to available space. (7-1-02)T

**105. EVIDENCE OF EDUCATIONAL QUALIFICATIONS (Rule 105).**

**01. Satisfactory Evidence.** Applicants for the CPA Examination must present evidence satisfactory to the Board that the applicant meets the requirements set forth in Section 54-208(1)(e), Idaho Code. (7-1-02)T

**02. Educational Requirements.** Educational qualifications shall also contain thirty (30) or more semester hours (or forty-five (45) or more quarter hours) in business administration subjects of which at least twenty (20) semester hours (or at least thirty (30) quarter hours) shall be in the study of accounting subjects. (7-1-02)T

**106. NOTIFICATION OF GRADES (Rule 106).**

Candidates will be notified in writing of their numerical grades within ninety (90) days after completion of the examination. Public or private announcement of grades will not be made until Board members have been advised and

given at least seven (7) days to consider the grades and register their exceptions. Grades determined by a majority of the members of the Board shall control. (7-1-02)T

**107. PASSING GRADES (Rule 107).**

A candidate shall be required to obtain a grade of seventy-five (75) or higher in each of the subjects of the examination in order to pass the examination. Rule 107 is subject to the provisions of Rule 108. (7-1-02)T

**108. CONDITIONAL CREDIT (Rule 108).**

**01. Credit For Subjects.** A candidate shall be required to pass all subjects of the CPA Examination. If, at a given sitting of the examination, a candidate passes two (2) or more but not all subjects, then the candidate shall be given credit for those subjects that the candidate has passed and need not sit for re-examination in those subjects, provided that: (7-1-02)T

**a.** The candidate wrote all subjects of the examination at that sitting; and (7-1-02)T

**b.** The candidate attained a minimum grade of fifty (50) on each subject not passed at that sitting. However, if a candidate passes three (3) subjects of the examination, the candidate shall be conditionally credited with the subjects passed without regard to the grade in the remaining subject. (7-1-02)T

**02. Time Frame To Pass Remaining Subjects.** The applicant must pass the remaining subjects of the examination within six (6) consecutive examinations given after the one at which the applicant earned conditional credit. The Board may extend the period in which a candidate must pass the remaining subjects, if the candidate submits satisfactory evidence that he was prevented from attendance at an examination by reason of overseas military service, disabling illness or other good cause. (7-1-02)T

**03. Subjects For Which Conditional Credit Has Not Been Given.** Applicants are required to sit for all subjects for which conditional credit has not been given. (7-1-02)T

**109. TRANSFER OF CREDIT, CPA EXAMINATION (Rule 109).**

An applicant may submit the results of any examination of the applicant on any subject covered by the CPA Examination in any other state having standards at least equivalent to those of this state, and these results may be adopted by the Board in lieu of examination in this state on the same subject and in accordance with the provisions of Section 54-210, Idaho Code and these rules. (7-1-02)T

**110. CHEATING (Rule 110).**

**01. Actions.** Cheating by an applicant in applying for or taking the CPA Examination will cause any grade otherwise earned on any part of the CPA Examination to be invalidated. Cheating may warrant summary expulsion from the examination room and disqualification from taking the CPA Examination for a specified number of subsequent sittings. (7-1-02)T

**02. Exam Site.** If the Board suspects that cheating has occurred or is occurring while the CPA Examination is in progress, the Board may summarily expel the candidate from the examination. If the Board permits a candidate to continue taking the examination, it may: (7-1-02)T

**a.** Admonish the candidate; (7-1-02)T

**b.** Seat the candidate in a segregated location for the rest of the examination; (7-1-02)T

**c.** Keep a record of the candidate's seat location and identification number, and the names and identification numbers of the candidates on either side of the candidate; or (7-1-02)T

**d.** Notify the AICPA of the circumstances, furnishing the candidate's identification number, so that after the initial grading is completed the candidate's papers can be compared for unusual similarities with the papers of others who may have been involved. (7-1-02)T

**03. Hearings.** If the Board believes that it has evidence that a candidate has cheated on the examination or a candidate has been expelled from the examination, the candidate shall be provided notice and opportunity for hearing pursuant to Rule 003. In such hearings, the Board shall decide: (7-1-02)T

- a.** Whether or not there was cheating, and if so what remedy should be applied; (7-1-02)T
- b.** Whether the candidate shall be given credit for any portion of the examination completed in that session; and (7-1-02)T
- c.** Whether the candidate shall be barred from taking the examination in future sittings, and if so, for how many sittings. (7-1-02)T

**04. Notice.** If a candidate is refused credit for any part of an examination taken, disqualified from taking any part of the examination, or barred from taking the examination in future sittings, the Board will provide information about findings and actions taken to any other state to which the candidate may apply for the examination. (7-1-02)T

**111. -- 199. (RESERVED).**

### **SUBCHAPTER C -- EXPERIENCE**

**200. GENERAL REQUIREMENT (Rule 200).**

An applicant must provide evidence of one (1) year of experience to receive a license. Experience shall be verified by a certified public accountant or licensed public accountant holding an active license during the relevant time period. (7-1-02)T

**201. EXPERIENCE (Rule 201).**

Experience must consist of providing any type of services or advice using accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills. Acceptable experience shall include employment in industry, government, academia, or public practice. The Board shall look at such factors as the nature, complexity, and diversity of the work. (7-1-02)T

**202. APPLICATION (Rule 202).**

An applicant shall complete and submit the Verification of Employment and Experience Evaluation Form. Supplementary statements may be attached. If the applicant's experience consists of employment in more than one (1) organization, a separate form must be submitted for each organization. An applicant may be required to appear before the Board to supplement or verify evidence of experience. (7-1-02)T

**203. VERIFICATION (Rule 203).**

All experience must be verified by a certified public accountant or licensed public accountant-licensed in Idaho, or a certified public accountant licensed in a state other than Idaho. The licensee shall maintain supporting documentation of the applicant's experience until thirty (30) days after the applicant is granted a license. The licensee will permit the Board to inspect the supporting documentation prior to issuing a license to the applicant. Any licensee who has been requested by an applicant to submit to the Board evidence of the applicant's experience and has refused to do so shall, upon request by the Board, explain in writing or in person the basis for such refusal. (7-1-02)T

**204. RELEVANT TIME PERIOD (Rule 204).**

One (1) year of experience shall consist of full or part time employment that extends over a period of no less than twelve (12) months and no more than thirty-six (36) months and includes no fewer than two thousand (2,000) hours of performance of services described in Rule 201. Experience must be earned within the ten (10) year period immediately preceding the latest application for licensure. (7-1-02)T

**205. ATTEST SERVICE EXPERIENCE (Rule 205).**

A licensee who is responsible for supervising attest services, and signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm, shall meet the experience requirements set out in the AICPA statements on quality control standards. (7-1-02)T

**206. CERTIFIED TRUE STATEMENT (Rule 206).**

Both the applicant and the certified public accountant or licensed public accountant who verifies the experience shall sign the Verification of Employment and Experience Evaluation Form. Each signature certifies to the truth and accuracy of all statements, answers and representations in the application including all supplementary statements. False or misleading statements shall constitute a violation of Section 54-219(1)(a), Idaho Code. (7-1-02)T

**207. -- 299. (RESERVED).**

**SUBCHAPTER D -- LICENSURE AND PRACTICE PRIVILEGES**

**300. REQUIREMENTS FOR INITIAL CERTIFIED PUBLIC ACCOUNTANT LICENSURE (Rule 300).**

Applications for initial licensure shall be made on a form provided by the Board. Applicants for licensure as certified public accountants must comply with the applicable sections of the Idaho Accountancy Act and the following requirements: (7-1-02)T

**01. Education.** (7-1-02)T

**a. Semester Hours.** An applicant for licensure must have at least one hundred fifty (150) semester hours (or two hundred twenty-five (225) quarter hours) of college education including a baccalaureate or higher degree conferred by a college or university acceptable to the Board. An applicant for licensure who was accepted for the May 2000 CPA Examination or prior examination does not have to fulfill additional educational requirements beyond those required at the time of acceptance to sit for the CPA Examination. (7-1-02)T

**b. Accreditation.** The Board shall recognize: (7-1-02)T

**i.** Any college or university accredited by the Northwest Association of Schools and Colleges (NASC) or any other regional accrediting association having the equivalent standards; (7-1-02)T

**ii.** Any independent senior college in Idaho certified by the State Department of Education for teacher training; and (7-1-02)T

**iii.** Accounting and business programs accredited by the American Assembly of Collegiate Schools of Business (AACSB) or any other accrediting agency having equivalent standards. (7-1-02)T

**c. Education Requirement.** An applicant shall be deemed to have met the education requirement if, as part of the one hundred fifty (150) semester hours of education, the applicant has met any one (1) of the following four (4) conditions: (7-1-02)T

**i.** Earned a graduate degree with a concentration in accounting from a program that is accredited in accounting by an accrediting agency approved by the Board; (7-1-02)T

**ii.** Earned a graduate degree from a program that is accredited in business by an accrediting agency approved by the Board and completed at least twenty-four (24) semester hours in accounting at the undergraduate or fifteen (15) semester hours at the graduate level, or an equivalent combination thereof, including coverage of, but not necessarily separate courses in, the subjects of financial accounting, auditing, taxation, and management accounting; (7-1-02)T

**iii.** Earned a baccalaureate degree from a program that is accredited in business by an accrediting agency approved by the Board and completed twenty-four (24) semester hours in accounting at the undergraduate or graduate level including coverage of, but not necessarily separate courses in, the subjects of financial accounting, auditing, taxation, and management accounting; and completed at least twenty-four (24) semester hours in business courses (other than accounting courses) at the undergraduate or graduate level; or (7-1-02)T

**iv.** Earned a baccalaureate or higher degree and completed at least twenty-four (24) semester hours in accounting at the upper division or graduate level at an institution approved by the Board and including coverage of,

but not necessarily separate courses in, the subjects of financial accounting, auditing, taxation, and management accounting; and completed at least twenty-four (24) semester hours in business courses (other than accounting courses) at the undergraduate or graduate level. (7-1-02)T

**02. Experience.** As prescribed in Subchapter C. (7-1-02)T

**03. Examination On Code Of Professional Conduct.** An applicant for initial licensure shall successfully complete a course in professional ethics, that is acceptable to the Board, at any time before a license will be issued. (7-1-02)T

**04. Initial License Application Fee.** As prescribed in Rule 701. (7-1-02)T

**301. ANNUAL LICENSE RENEWAL AND LATE FEE (Rule 301).**

**01. Renewal.** Licenses shall expire on June 30 of each year. Practice privileges shall be granted through June 30 of each year provided the individual maintains an active license in good standing in his state of principle place of business. To renew, an individual must submit a renewal form and appropriate fee by the prescribed date. The renewal form shall require the individual to provide a business address and phone number, residence address and phone number, business connection or employer, whether or not the individual's work is subject to peer review, affidavit of good moral character, and other information as deemed necessary by the Board. (7-1-02)T

**02. Non-Renewal.** Individuals choosing not to renew their license or practice privileges shall notify the Board, on the renewal form by the expiration date, of their intention. Upon such notification, the license or privileges shall be deemed lapsed. Individuals with lapsed licenses or practice privileges shall not publicly display their wall certificates, use the title CPA or LPA, or provide services that are reserved to licensees. (7-1-02)T

**03. Late Fee.** Licenses and practice privileges renewed after July 1, but before August 1, shall be subject to the late renewal fee as prescribed in Rule 703. After August 1, the Board may initiate suspension proceedings pursuant to Section 54-219, Idaho Code. (7-1-02)T

**302. NOTIFICATION OF CHANGE OF ADDRESS, FELONY CHARGES, OR ACTIONS TAKEN (Rule 302).**

Within thirty (30) days after its occurrence, a licensee or individual granted practice privileges shall notify the Board, in writing, of: (7-1-02)T

**01. Address Change.** A change in the licensee's business address, residence address, or business connection, employer, or principal place of business; (7-1-02)T

**02. Felony Charge.** Any felony charges; or (7-1-02)T

**03. Actions Taken.** The issuance, denial, restriction, revocation, or suspension of a certificate, license, or permit by another state or by any federal agency. (7-1-02)T

**303. PRACTICE PRIVILEGES (Rule 303).**

**01. Substantially Equivalent.** An individual who holds an active license in another state, whose principal place of business is not in this state, seeking practice privileges in this state, must certify, on a form prescribed by the Board, that either: (7-1-02)T

**a.** The individual's license is from a jurisdiction with education, examination, and experience requirements comparable to or exceeding such requirements in this state; or (7-1-02)T

**b.** The individual licensee's education, examination, and experience qualifications are comparable to or exceed such requirements of this state. (7-1-02)T

**02. Notice.** A qualified individual seeking practice privileges in this state must comply with the notice requirement as follows: (7-1-02)T

a. Notice shall be on forms prescribed by this Board providing such information as deemed necessary by the Board; (7-1-02)T

b. Notice is immediately due and shall be received by the Board within fifteen (15) days after the qualified individual knowingly avails himself of the laws of this state by either accepting an engagement or an assignment to render professional services to persons in this state, or offering to render professional services through direct solicitation or marketing targeted to persons in this state, whether or not the qualified individual physically enters this state; (7-1-02)T

c. The qualified individual shall accept responsibility for compliance with the Idaho Accountancy Act and these rules; (7-1-02)T

d. Notice shall include a statement from the qualified individual agreeing to notify the Board and submit a reciprocity license application if the individual moves his principal place of business to this state; and (7-1-02)T

e. Notice must be accompanied by the fee prescribed in Rule 701. (7-1-02)T

**03. Internet Disclosures.** An individual entering into an engagement to provide professional services via a web site, pursuant to practice privileges granted by Idaho, shall disclose, via their web site, their principle state of licensure, license number, and address. A firm offering or rendering professional services to Idaho businesses or residents via a web site shall provide, in the web site's homepage, a means for regulators and the public to contact a responsible licensee in charge at the firm regarding complaints, questions, or regulatory compliance. (7-1-02)T

**04. Exclusion.** Non-resident individuals shall not be deemed to have entered this state for purposes of Section 54-227, Idaho Code and notice is not required if the individual's contact with this state is limited to any of the following activities: (7-1-02)T

a. Teaching either a college or continuing professional education course; (7-1-02)T

b. Delivering a lecture; (7-1-02)T

c. Moderating a panel discussion; (7-1-02)T

d. Rendering professional services to the individual's employers or to persons employed by the individual's employer, including affiliated, parent, or subsidiary entities, provided such services are not rendered for the employer's clients; (7-1-02)T

e. Performing peer reviews for a qualified administering organization; (7-1-02)T

f. Providing professional services during no more than ten (10) days cumulatively in any calendar year in this state. (7-1-02)T

**304. RECIPROCAL LICENSURE (Rule 304).**

If the practice privilege standard set out in Section 54-227, Idaho Code is not applicable, the Board shall issue a license to an applicant provided that the applicant pays the application and licensure fees prescribed in Rule 701 and meets the one of the following: (7-1-02)T

**01. Interstate Reciprocity.** The requirements for a reciprocal license under Section 54-210(2), Idaho Code; (7-1-02)T

**02. Transfer Of Grades.** The requirements for transferring CPA Examination grades under Section 54-210(3), Idaho Code; or (7-1-02)T

**03. International Reciprocity.** The requirements for foreign reciprocal licensure under Section 54-210(4), Idaho Code provided that the Board shall rely on the International Qualifications Appraisal Board for

evaluation of foreign credential equivalency. Such licensees shall report any investigations undertaken, or sanctions imposed, by a foreign credentialing body against the licensee's foreign credential. Suspension or revocation of, or refusal to renew, the licensee's foreign accounting credential by the foreign credentialing body, or conviction of a felony or any crime involving dishonesty or fraud under the laws of a foreign country may be evidence of conduct reflecting adversely upon the licensee's fitness to retain the license and may be a basis for Board action. The Board shall notify the appropriate foreign credentialing authorities of any sanctions imposed against the licensee. The Board shall participate in joint investigations with foreign credentialing bodies and rely on evidence supplied by such bodies in disciplinary hearings. (7-1-02)T

**305. -- 399. (RESERVED).**

## **SUBCHAPTER E -- RULES OF PROFESSIONAL CONDUCT**

### **400. APPLICABILITY OF RULES (Rule 400).**

**01. Reliance.** A certified public accountant or licensed public accountant shall hold the affairs of his clients in strict confidence, observe the standards incorporated by reference in Rule 004, promote sound and informative financial reporting, and maintain high standards of personal conduct. (7-1-02)T

**02. Acceptance Of Licensure.** Acceptance of practice privileges or licensure as a certified public accountant or licensed public accountant establishes an affirmative obligation by said individual to be diligent in the performance of professional services, and to be fair and honest in relations with clients, fellow practitioners and the public. (7-1-02)T

**03. Rules.** These rules do not comprise all acts that may be considered incompatible with the obligations and responsibilities imposed by professional status or discreditable or harmful even though not specifically mentioned or described in the rules. The Board may revoke, suspend, refuse to renew, administratively penalize, reprimand, restrict, or place on probation a licensee, individual granted practice privileges or other individual. The action will not be taken until the individual has been given notice and opportunity for hearing. (7-1-02)T

**04. Applicability.** The Rules of Professional Conduct apply to all professional services offered or performed by licensees or individuals granted practice privileges, including tax and management advisory services. (7-1-02)T

**05. Responsibility.** All persons associated with the licensee in the rendering of professional services, who are either under the licensee's supervision or who are the licensee's partners or shareholders in the practice to the extent permitted by law, shall be responsible for compliance with the Rules of Professional Conduct. (7-1-02)T

**06. Observation Of Rules.** For the purposes of Subchapter E, individuals granted practice privileges shall be held to the same standards and requirements set forth for licensees. (7-1-02)T

**07. Interpretation Of Rules.** In the interpretation and enforcement of the Rules of Professional Conduct, the Board shall give consideration, but not necessarily dispositive weight, to relevant interpretations, rulings and opinions issued by other states, and by appropriately authorized standard setting bodies. (7-1-02)T

**08. Investigative Committee.** The Board may appoint an investigative committee of not less than three (3) members consisting of active licensees in good standing. The committee duties are to direct the review and investigation of complaints of violations of the Idaho Accountancy Act and these rules, and to provide reports to the Board. (7-1-02)T

### **401. COMMISSIONS AND CONTINGENT FEES (Rule 401).**

**01. Restrictions.** Licensees may accept commissions or contingent fees subject to the restrictions of Section 54-218, Idaho Code. (7-1-02)T

**02. Disclosures.** Any licensee who directly or indirectly accepts or agrees to accept such form of compensation shall disclose the terms of such compensation to the client. The disclosure must: (7-1-02)T

**a.** Be in writing and be clear and conspicuous; (7-1-02)T

**b.** State the amount of the compensation or the basis on which it will be computed; (7-1-02)T

**c.** Be made at or prior to the time of the recommendation or referral of the product or service for which the commission is paid, or prior to the client retaining the licensee to whom the client has been referred for which a referral fee is paid; and (7-1-02)T

**d.** Be made prior to the time the licensee undertakes representation of or performance of the service upon which a contingent fee will be charged. (7-1-02)T

**402. CONFIDENTIAL CLIENT INFORMATION (Rule 402).**

**01. Confidentiality.** A licensee shall not voluntarily disclose any confidential client information obtained in the course of performing professional services, unless the licensee has obtained the specific consent of the client, or of such client's heirs, successors or personal representatives, or others legally authorized to give such consent on behalf of the client. (7-1-02)T

**02. Exemptions.** Nothing in these rules shall affect a licensee's obligation to comply with a validly issued subpoena or summons enforceable by order of a court. Nor shall it be construed as prohibiting the disclosure of information that is required to be disclosed: (7-1-02)T

**a.** In reporting on the examination of financial statements; (7-1-02)T

**b.** In investigations; (7-1-02)T

**c.** In ethical investigations conducted in private professional organizations; (7-1-02)T

**d.** In the course of peer reviews; (7-1-02)T

**e.** To other persons active in the organization performing services for that client on a need to know basis; (7-1-02)T

**f.** To persons in the entity who need this information for the sole purpose of assuring quality control; or (7-1-02)T

**g.** By any act of law. (7-1-02)T

**03. Disciplinary Proceedings.** Members of the Board and investigative officers shall not disclose any confidential client information which comes to their attention from licensees in disciplinary proceedings or otherwise in carrying out their responsibilities, except that they may furnish such information to an investigative or disciplinary body as described in Rule 400. (7-1-02)T

**403. RECORDS (Rule 403).**

A licensee shall furnish to his client or former client, upon request made within a reasonable time after original issuance of the document in question: (7-1-02)T

**01. Tax Return.** A copy of a tax return of a client provided the licensee has been paid for the services rendered; and (7-1-02)T

**02. Other Document.** A copy of any report, or other document, issued by the licensee to or for the client provided the licensee has been paid for the services rendered; and (7-1-02)T

**03. Client Records.** Any accounting or other records belonging to, or obtained from or on behalf of,

the client which the licensee removed from the client's premises or received for the client's account. The licensee may make and retain copies of such documents when they form the basis for work performed by him. Client records must be returned upon request by the client, whether or not the engagement has been terminated or the licensee has been paid for services rendered; and (7-1-02)T

**04. Working Papers Including Audit Documentation.** A copy of the licensee's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records and are not otherwise available to the client. This would include adjusting, closing, combining, or consolidating journal entries; information normally contained in books of original entry and general ledgers or subsidiary ledgers; and tax and depreciation carry forward information. When an engagement has been completed, such information should be made available to the client upon request. The information should be provided in the medium in which it is requested, provided it exists in that medium. The licensee is not required to convert information that is not in electronic format to an electronic format. The licensee may require that all fees due the licensee, including fees for the above services, be paid before such information is provided. A licensee's working papers that do not become part of a client's records, which may include analyses and schedules prepared by the client at the request of the licensee, are the licensee's property, not client records, and need not be made available under any circumstances. (7-1-02)T

**05. Charges.** A licensee is not required to furnish records to a client or a former client more than once. A licensee may charge the client or former client actual costs for time and photocopying charges on subsequent requests. If the licensee previously provided work product to a client prior to being paid, then the licensee need not subsequently provide copies of the work product until the licensee is paid. (7-1-02)T

**404. DISCREDITABLE ACTS (Rule 404).**

A licensee shall not commit any act that reflects adversely on his fitness to provide professional services. (7-1-02)T

**405. ACTING THROUGH OTHERS (Rule 405).**

A licensee shall not permit others to carry out, on his behalf, either with or without compensation, acts which, if carried out by the licensee, would place the licensee in violation of the Rules of Professional Conduct. (7-1-02)T

**406. FIRM NAMES (Rule 406).**

**01. General.** A licensee shall not provide professional services under a firm name which is misleading as to the description of the legal form of the firm, or as to the person or persons who are owner(s), partners, officers, shareholders or members of the firm. Names of one (1) or more past owners, partners, shareholders or members who were licensed may be included in the firm name. A partner surviving the death or withdrawal of all other partners may continue to practice under a partnership name for up to two (2) years after becoming a sole practitioner. (7-1-02)T

**02. Certified Public Accountant(s).** A firm shall not designate itself as "Certified Public Accountant" or "Certified Public Accountants" unless a majority of its partners, shareholders, or members are actively licensed certified public accountants under the provisions of the Idaho Accountancy Act. The firm name shall not include the name of a non-licensee owner, except as allowed in Subsection 408.01 if the title "CPAs" is included in the firm name. (7-1-02)T

**03. Licensed Public Accountant.** A firm may not designate itself as a "Licensed Public Accountant" or "Licensed Public Accountants" unless a majority of its owners, partners, shareholders or members are actively licensed under the provisions of the Idaho Accountancy Act. The firm name shall not include the name of a non-licensee owner, except as allowed in Subsection 408.01 if the title "LPAs" is included in the firm name. (7-1-02)T

**04. Public Accountant.** A firm may not designate itself as a "Public Accountant" or "Public Accountants" unless a majority of its owners, partners, shareholders or members are actively licensed as "Certified Public Accountants" and "Licensed Public Accountants" under the provisions of the Idaho Accountancy Act. The firm name shall not include the name of a person who is not a CPA or LPA if the title "Public Accountant(s)" is included in the firm name. (7-1-02)T

**407. COMMUNICATIONS (Rule 407).**

**01. Response.** A licensee shall respond, by registered or certified mail, to any communication from the Board that requests a response. The response, unless otherwise specified, shall be sent within thirty (30) calendar days of the mailing of the Board's request. (7-1-02)T

**02. Complaints.** Upon the receipt or filing of a complaint against an individual over whom the Board has regulatory authority, the Board may transmit a copy of such complaint to the individual. Upon receipt of a transmitted complaint, the individual shall file a written answer to the complaint within twenty (20) calendar days of receipt, unless otherwise granted an extension of time by the Board. (7-1-02)T

**408. -- 499. (RESERVED).**

## **SUBCHAPTER F – CONTINUING PROFESSIONAL EDUCATION**

### **500. BASIC REQUIREMENTS (Rule 500).**

A licensee seeking license renewal shall show that he has completed no less than eighty (80) hours of CPE during the two (2) calendar years immediately preceding the date the reporting form is required, with a minimum of thirty (30) hours in any one (1) calendar year, and a maximum of fifty (50) hours recorded in any one (1) calendar year. The licensee shall demonstrate participation in a program of learning that meets the requirements prescribed in Rule 503. (7-1-02)T

### **501. WHO MUST COMPLY (Rule 501).**

**01. Licensees.** Certified public accountants and licensed public accountants must comply with these continuing education requirements. (7-1-02)T

**02. Practice Privileges.** Individuals granted practice privileges, who are applying for renewal of those privileges in this state, shall be determined to have met the CPE requirements of Subchapter F by meeting the CPE requirements in the state of the individual's principal place of business. (7-1-02)T

**a.** Individuals filing for renewal of practice privileges shall sign a statement, on a form provided by the Board, of their compliance with the CPE requirements in the state of the individual's principal place of business. (7-1-02)T

**b.** If the state of said individual's principal place of business has no CPE requirements, the individual must comply with all CPE requirements of this state. (7-1-02)T

### **502. EXCEPTIONS, EXTENSIONS, AND EXEMPTIONS (Rule 502).**

**01. Exceptions And Extensions.** The Board may make exceptions to the CPE requirements or grant extensions of time for completion of the CPE requirements, where reasons of health as certified by a medical doctor prevent compliance by the licensee, or other good cause exists. (7-1-02)T

**a.** Licensees asking for exceptions or extensions under these conditions must apply annually on the reporting form for the year in which the extension or exemption is sought, and within the time period set for CPE reporting, stating the reasons for asking for such exception or extension. Any licensee failing to file a timely application shall be subject to the late fee prescribed in Rule 703, in addition to any additional proceeding that may be instituted for violation of these rules. (7-1-02)T

**b.** A penalty of no more than fifty percent (50%) of the hours a licensee is short in meeting the calendar year CPE requirement may be assessed for extensions. In such cases, the licensee shall be required to complete the CPE hours and any assessed penalty no later than May 31. (7-1-02)T

**02. Exemptions For Inactive Or Retired.** Licensees who elect inactive or retired status at the time of license renewal shall be exempt from any CPE requirements provided that: (7-1-02)T

- a. The licensees do not perform or offer to perform for the public services involving: (7-1-02)T
  - i. The use of accounting or auditing skills including the issuance of reports on financial statements, or of management advisory, financial advisory or consulting services; or (7-1-02)T
  - ii. The preparation of tax returns, or the furnishing of advice on tax matters. (7-1-02)T
- b. Licensees granted such exemption must place the word “inactive” adjacent to their CPA or LPA title on any business card, letterhead or any other document or device. The Board shall issue a wall certificate for public display that indicates the license is inactive; (7-1-02)T
- c. Those individuals who are inactive and have reached sixty (60) years of age may substitute the word “retired” for the word “inactive”; (7-1-02)T
- d. Licensees granted the exemption as either “inactive” or “retired” shall annually pay the license renewal fee as prescribed in Rule 701; and (7-1-02)T
- e. Licensees granted the exemption must comply with a return to active status competency requirement as set out in Rule 510 before they may discontinue use of the word “inactive” or “retired” in association with their CPA or LPA title. (7-1-02)T

**503. PROGRAM REQUIREMENTS (Rule 503).**

**01. Minimum Standards.** The program must meet the minimum standards of quality of development, presentation, measurement, and reporting of credits set forth in the Statement on Standards for Continuing Professional Education Programs as referenced in Rule 004. (7-1-02)T

**02. Courses.** CPE courses that have been approved by NASBA’s Quality Assurance Service shall be deemed to meet the CPE requirements of this state. (7-1-02)T

**504. RESPONSIBILITY TO ESTABLISH QUALIFICATIONS OF PROGRAMS AND SUBJECT MATTER (Rule 504).**

Responsibility for documenting the acceptability of the program and the validity of the credits rests with the licensee who should retain such documentation for a period of five (5) years following completion of each learning activity. (7-1-02)T

**505. CONTINUING PROFESSIONAL EDUCATION COMMITTEE (Rule 505).**

**01. Appointment.** The Board may appoint a continuing professional education committee. The committee shall consist of not less than five (5) members who are active licensees of this state, in good standing, and who need not be members of this Board. The committee shall perform the following duties and is authorized to take all actions necessary to perform these duties: (7-1-02)T

- a. To evaluate reported CPE to determine whether it qualifies under the rules adopted by the Board. (7-1-02)T
- b. To consider applications for exceptions, extensions, and exemptions, and to assess penalties as permitted under Rule 502. (7-1-02)T
- c. To audit CPE reports and to consider other matters that may be assigned by the Board. (7-1-02)T

**02. Powers And Duties.** Any decision or ruling of this committee, in performance of these duties, will have the full power and effect of a ruling of the Board, but is subject to the Board’s review and approval. (7-1-02)T

**506. REPORTING, CONTROLS AND LATE FEES (Rule 506).**

**01. Reporting.** No later than January 31 of each year, individuals renewing their licenses must provide

a signed reporting form either: (7-1-02)T

- a. Applying for exception, extension, or exemption under Rule 502; or (7-1-02)T
- b. Disclosing the following information pertaining to the educational programs submitted for qualification under this rule: (7-1-02)T
  - i. Sponsoring organization; (7-1-02)T
  - ii. Instructor's name; (7-1-02)T
  - iii. Location of program; (7-1-02)T
  - iv. Title of program or description of content; (7-1-02)T
  - v. Dates attended; (7-1-02)T
  - vi. Hours of credit claimed; and (7-1-02)T
  - vii. Any other information as may be called for to verify they have met the requirements for participation in a program of CPE as set forth the Rule 503. (7-1-02)T

**02. Controls.** The Board shall review the signed reporting forms submitted by licensees, which are subject to formal verification. If a licensee submits a reporting form and it is not approved, the licensee shall be notified and administrative action shall be taken pursuant to Rules 507 through 509. (7-1-02)T

**03. Late Fees.** Until the licensee files the reporting form with supporting documentation, pays the fee for late filing as prescribed in Rule 703 and the license renewal fee, and any other penalty the Board may impose, a license will not be issued. (7-1-02)T

**507. REVIEW AND AUDIT OF CPE REPORTS (Rule 507).**

The Board shall perform an initial review of CPE reports submitted by each licensee. This review shall determine sufficiency and basic qualification of hours reported. A formal audit of CPE reported may be performed to determine whether hours reported qualify for credit under these rules. (7-1-02)T

**508. NOTIFICATION (Rule 508).**

The Board shall serve a notice of noncompliance upon the licensee if the Board determines that the licensee has not fulfilled the CPE requirement. The notice shall advise the licensee of the CPE deficiencies and provide opportunity for the licensee to submit documentation to address the deficiencies. (7-1-02)T

**509. ACTION (Rule 509).**

Following notice and hearing, the Board may suspend the license or take other action pursuant to Section 54-219, Idaho Code. (7-1-02)T

**510. NEW LICENSEES, RECIPROcity, REINSTATEMENT AND RE-ENTRY (Rule 510).**

**01. New Licensees.** A new licensee will be required to comply with the CPE requirement beginning January 1st of the calendar year following the year in which the license was granted. The new licensee shall file the annual reporting form indicating that the licensee is exempt from obtaining CPE hours during the first year of licensure. The licensee shall be required to complete a minimum of thirty (30) hours during the second calendar year of licensure. (7-1-02)T

**02. Reciprocity.** An individual who holds a valid and unrevoked certified public accountant license issued by any state, or comparable certificate or degree issued by any foreign country, and who receives a license to practice in this state, will be required to comply with the CPE requirement beginning January 1st of the calendar year following issuance of the license. The new licensee shall file the annual CPE reporting form, indicating the licensee is exempt from obtaining CPE hours during the first year of licensure. The licensee shall be required to complete a

minimum of thirty (30) hours during the second calendar year of licensure. (7-1-02)T

**03. Reinstatement.** An individual whose license has lapsed under Rule 301 shall complete no less than eighty (80) hours of CPE during the twelve (12) months immediately prior to applying for reinstatement. The applicant shall be required to identify and complete a program of learning designed to demonstrate the currency of the applicant's competencies directly related to his area of service. The applicant shall pay the license reinstatement fee prescribed in Rule 701 and shall have met the reinstatement requirements of Section 54-211, Idaho Code. (7-1-02)T

**04. Re-Entry From Inactive Or Retired Status.** A licensee, granted an exemption from the CPE requirement under Rule 502, may discontinue use of the word "inactive" or "retired" in association with the CPA or LPA title upon showing that the licensee has completed no less than eighty (80) hours of CPE during the twelve (12) months immediately prior to applying for return to active status. The licensee shall be required to identify and complete a program of learning designed to demonstrate the currency of the licensee's competencies directly related to the licensee's area of service. The licensee shall pay the annual license renewal fee prescribed in Rule 701. If a licensee applies for re-entry during a license period and has already paid the fee for an inactive or retired license, the licensee is required to pay the difference between the cost of an inactive or retired license and the annual license renewal fee. (7-1-02)T

**511. -- 599. (RESERVED).**

## **SUBCHAPTER G – FIRM REGISTRATION AND PEER REVIEW**

### **600. PURPOSE OF FIRM REGISTRATION AND PEER REVIEW (Rule 600).**

The purpose of the program is to monitor compliance with applicable accounting and auditing standards adopted by generally recognized standard setting bodies. The program shall emphasize appropriate education programs or remedial procedures which may be recommended or required where the firm does not comply with appropriate professional standards. In the event a firm is unwilling or unable to comply with professional standards, or a firm's failure to comply with professional standards is so egregious as to warrant continuing action, the Board shall take appropriate action to protect the public interest as authorized by Section 54-219, Idaho Code. The information discovered solely as a result of a firm's peer review shall not be grounds for suspension or revocation of a license. (7-1-02)T

### **601. ISSUANCE OF REPORTS AND FORM OF PRACTICE (Rule 601).**

A licensee shall provide or offer to provide attest services or issue reports on compilations only in a firm as defined by Section 54-206 (10), Idaho Code, except as provided under Section 54-221(4), Idaho Code. (7-1-02)T

### **602. PEER REVIEW PROGRAM PARTICIPATION (Rule 602).**

**01. Participation.** Any firm that issues reports on accounting and auditing engagements, including audits, reviews, compilations, and prospective financial information shall participate. A licensee who issues compilation reports through any form of business other than a firm shall participate in the peer review program. Such licensees must meet the requirements for registration and peer review as set forth in Subchapter G. (7-1-02)T

**02. Practice privileges.** Individuals applying for practice privileges in Idaho shall comply with the peer review requirements in the state of their principal place of business. The licensee must comply with the peer review requirements of this state, if the state of the licensee's principal place of business has no peer review requirement. (7-1-02)T

### **603. EXEMPTION FROM PARTICIPATION (Rule 603).**

**01. Firms.** A firm that does not perform any of the services set out in Rule 602 is exempt from peer review. The firm shall notify the Board of such exemption in writing at the time of renewal of its registration. A firm that begins providing these services must commence a peer review within eighteen (18) months of the date of the issuance of its initial report. (7-1-02)T

**02. Licensees Not In Public Practice.** A licensee who does not perform any of the services set out in

Rule 602 is exempt from firm registration and peer review. The licensee shall notify the Board of such exemption in writing at the time of initial CPA licensure and annually thereafter at the time of CPA or LPA license renewal.

(7-1-02)T

**03. Licensees Not Issuing Reports.** A licensee who issues financial statements pursuant to Section 54-221(5), Idaho Code is exempt from peer review. If the licensee does tax work as well as financial statements, a firm registration is required.

(7-1-02)T

**04. Good Cause.** The Board reserves the authority to exempt for good cause firms who would otherwise be required to file a letter under Rule 606.

(7-1-02)T

**604. SCHEDULING OF THE PEER REVIEW (Rule 604).**

**01. Frequency.** A firm performing any of the services set out in Rule 602 shall undergo, at its own expense, a peer review commensurate in scope with its practice, not less than once in each three (3) years.

(7-1-02)T

**02. Currently Enrolled.** A firm currently enrolled in a program of an approved administering organization will use the year of review assigned by the administering organization. The firm will notify the Board of the deadlines set by the administering organization.

(7-1-02)T

**03. Review Year.** Each firm shall enroll with one (1) of the approved administering organizations. Each firm shall adopt the review date assigned by the appropriate administering organization and shall notify the Board of such date.

(7-1-02)T

**04. New Firms.** Each new firm registered with the Board shall enroll in a program of an approved administering organization within one (1) year from its initial date of registration, shall adopt the review date assigned by the administering organization, and shall notify the Board of such date.

(7-1-02)T

**05. Mergers Or Combinations.** In the event that two (2) or more firms are merged or combined, the resulting firm shall retain the peer review year of the firm with the largest number of accounting and auditing hours.

(7-1-02)T

**06. Dissolutions Or Separations.** In the event that a firm is divided, the new firm(s) shall retain the review year of the former firm. In the event that the year under review is less than twelve (12) months, a review year shall be assigned so that the review occurs within eighteen (18) months of the commencement of the new firm(s).

(7-1-02)T

**07. Multi-State Practices.** With respect to a multi-state firm, the Oversight Committee may accept a peer review based solely upon work conducted outside of this state if the peer review is performed in accordance with requirements equivalent to those of this state.

(7-1-02)T

**08. Report Issuance.** It is the responsibility of the firm to anticipate its need for peer review services in sufficient time to enable the reviewer to issue the report within six (6) months after the review date.

(7-1-02)T

**09. Extensions.** The Board may accept an extension recommended by the administering organization for the conduct of a review, provided the Board is notified by the firm within thirty (30) days of the date of receipt of recommendation for such an extension.

(7-1-02)T

**10. Just Cause.** The Board may change a firm's peer review year for just cause.

(7-1-02)T

**605. MINIMUM STANDARDS (Rule 605).**

The minimum standards for peer review are contained in the Standards for Performing and Reporting on Peer Reviews section of the AICPA Standards. Peer reviews intended to meet the requirements of the AICPA peer review program shall be carried out in conformity with these standards under the supervision of an administering organization approved by the Board to administer peer reviews. Reviewed firms shall arrange and schedule their reviews in compliance with the procedures established by the administering organization and cooperate with the administering organization and with the Board in all matters related to the review.

(7-1-02)T

**606. REPORTING TO THE BOARD (Rule 606).**

**01. Firm Registration Form.** All firms, whether or not they perform any of the services set out in Rule 602, shall annually file a firm registration report no later than September 30. The registration shall be on such form as prescribed by the Board. Firm registrations filed after September 30 are subject to penalty for non-compliance pursuant to Rule 703. (7-1-02)T

**02. Peer Review Acceptance Letter.** A firm which has undergone peer review will file a copy of the letter accepting the review report from the administering organization. The letter will be filed within thirty (30) days after receipt. The Board reserves the right to obtain all other information relating to the peer review. (7-1-02)T

**607. ADMINISTERING ORGANIZATIONS (Rule 607).**

This section shall not require any licensee of a firm to become a member of any administering organization. Qualified administering organizations which register with, and are approved by the Board based on their adherence to the AICPA Peer Review minimum standards, shall include the: (7-1-02)T

**01. Monitoring Organizations.** AICPA practice monitoring organizations such as the SEC Practice Section (SECPS). (7-1-02)T

**02. Peer Review Program.** Peer review program of the American Institute of Certified Public Accountants (AICPA). (7-1-02)T

**03. State CPA Societies.** State CPA societies fully involved in the administration of the AICPA Peer Review Program and their successor organizations which meet the minimum standards. (7-1-02)T

**04. National Society Of Accountants (NSA).** Peer Review Program of NSA which adheres to the AICPA Peer Review minimum standards. (7-1-02)T

**608. FEE FOR APPROVAL OF ADMINISTERING ORGANIZATIONS (Rule 608).**

The Board may charge a fee as prescribed in Rule 702 to verify an administering organization's qualifications for conducting peer reviews and may use such outside resources for verification as it deems appropriate. (7-1-02)T

**609. OVERSIGHT (Rule 609).**

The Board shall appoint an Oversight Committee, consisting of no more than seven (7) members. No Oversight Committee members shall be current members of the Board. The Oversight Committee shall consist of CPA's or LPA's who hold active licenses and who possess extensive current experience in accounting and auditing services. The Oversight Committee shall act as an advisory committee to the Board, to oversee and monitor administering organizations to assure compliance with the minimum standards for performing and reporting on peer reviews. (7-1-02)T

**610. OVERSIGHT COMMITTEE DUTIES AND RESPONSIBILITIES (Rule 610).**

The duties and responsibilities of the Oversight Committee shall consist of the following: (7-1-02)T

**01. Monitor Administering Organizations.** Monitoring of the administering organizations to provide reasonable assurance that peer reviews are being conducted and reported in accordance with the peer review minimum standards. (7-1-02)T

**02. Review Policies.** Reviewing the policies and procedures of applicant administering organizations as to their conformity with Rule 613. (7-1-02)T

**03. Submit Reports.** Reporting to the Board on conclusions reached and making recommendations, including the continued approval of the administering organization, as a result of performing the functions of Rule 610. Reports submitted shall not contain information concerning specific firms or reviewers. (7-1-02)T

**04. Consult With The Board.** Consulting with the Board regarding appropriate handling of firms which have unresolved matters resulting from the peer review process or have not complied with or have disregarded

the peer review requirement. (7-1-02)T

- 05. Other Duties.** Such other related duties and responsibilities as may be assigned by the Board. (7-1-02)T

**611. OVERSIGHT COMMITTEE DUTIES FOR NON-SECPS ADMINISTERING ORGANIZATIONS (Rule 611).**

The oversight procedures to be performed by the committee in monitoring non-SECPS administering organizations may consist of the following: (7-1-02)T

- 01. Visit The Administering Organization Annually.** During such visit, Oversight Committee may: (7-1-02)T

**a.** Meet with the organization's peer review committee during the committee's consideration of peer review documents. (7-1-02)T

- b.** Review the organization's procedures for administering the peer review program. (7-1-02)T

**c.** Review, on the basis of a random selection, a number of reviews performed by the administering organization. The review shall include, at a minimum, a review of the report on the peer review, the letter of comments (if any), the firm's response to the matters discussed in the letter of comments, the administering organization's acceptance letter outlining any additional corrective or monitoring procedures, and the working papers on the selected reviews. The purpose of review by Oversight Committee is to determine whether the reviews are being conducted and reported on in accordance with the peer review minimum standards. (7-1-02)T

**d.** Expand the review of peer review documents if significant deficiencies, problems, or inconsistencies are encountered during the review of the materials. (7-1-02)T

**02. Oversight Report Review.** Alternatively, for those organizations participating in the AICPA oversight program in connection with involved state societies, Oversight Committee may obtain and review the oversight program report to insure that the reviews are being conducted and reported on in accordance with the peer review minimum standards. (7-1-02)T

**03. Annual Recommendation.** On the basis of the result of the foregoing procedures, Oversight Committee shall make an annual recommendation to the Board as to the continuing qualifications of the approved administering organizations. (7-1-02)T

**612. OVERSIGHT COMMITTEE PROCEDURES FOR THE SECPS (Rule 612).**

Where the administering organization is the SECPS, the Oversight Committee shall review the published annual report of the monitoring organization. The Oversight Committee shall conclude whether the procedures carried out by the monitoring organization and the disclosures contained in the annual report are indicative of an acceptable level of oversight. Based on the results of its review, Oversight Committee shall make an annual recommendation to the Board as to the continuing qualifications of SECPS as an approved administering organization. (7-1-02)T

**613. OVERSIGHT COMMITTEE PROCEDURES FOR ADMINISTERING ORGANIZATIONS (Rule 613).**

With respect to proposals made by an applicant administering organization, the Oversight Committee shall perform the following procedures: (7-1-02)T

**01. Policy Review.** Review the policies as drafted by the applicant administering organization to determine whether they will provide reasonable assurance of conforming with the minimum standards for peer reviews. (7-1-02)T

**02. Procedure Review.** Review the procedures as proposed by the applicant administering organization to determine whether they will ensure the following: (7-1-02)T

- a.** Reviewers assigned are appropriately qualified to perform the review for the specific firm.

- (7-1-02)T
- b. Reviewers will use appropriate materials. (7-1-02)T
  - c. The applicant administering organization will consult with the reviewers on problems arising during the peer review and that specified occurrences requiring consultation are outlined. (7-1-02)T
  - d. The applicant administering organization will review the results of the peer review. (7-1-02)T
  - e. The applicant administering organization has provided for an independent report acceptance body that meets the standards for peer review; the report acceptance body shall consider and accept the results of the review; the report acceptance body shall also require corrective actions of firms with significant deficiencies noted in the review process. (7-1-02)T

**614. RETENTION OF DOCUMENTS RELATING TO PEER REVIEWS (Rule 614).**

Documents relating to peer reviews shall be retained as follows: (7-1-02)T

**01. Documents.** All documentation necessary to establish that each peer review was performed in conformity with peer review standards adopted by the Board, shall be maintained. These documents may include the peer review working papers, the peer review report, comment letters and related correspondence indicating the firm's concurrence or nonconcurrence, and any proposed remedial actions and related implementation. (7-1-02)T

**02. Retention Period.** Documents shall be retained for a period of time corresponding to the designated retention period of the relevant administering organization and, upon request of the Oversight Committee, shall be made available to it. In no event shall the retention period be less than ninety (90) days from the date of acceptance of the review by the administering organization. (7-1-02)T

**615. PROGRAM COSTS AND FEES (Rule 615).**

All costs associated with the peer review program will be paid by program participants. The costs of the peer review will be agreed upon between the firm and the administering organization or the reviewing firm. The administrative costs incurred by the Board, including Oversight Committee administrative costs, will be paid through a fee paid by the firms as prescribed by Rule 702. Oversight Committee costs incurred in qualifying administering organizations will be paid by the applicant administering organization. (7-1-02)T

**616. CONFIDENTIALITY (Rule 616).**

The letter and any documentation submitted to the Board pursuant to Rule 606 is confidential as authorized by Section 9-340(B)(9), Idaho Code unless an Order is issued by the Board pursuant to Section 54-219, Idaho Code. (7-1-02)T

**617. PENALTY FOR FAILURE TO COMPLY (Rule 617).**

A penalty as prescribed in Rule 703 shall be assessed for each act of non-compliance with Subchapter G. The annual license of the principal(s) of a non-compliant firm will not be issued until the firm complies with all requirements of Subchapter G, provided the licensee has met all licensing requirements. (7-1-02)T

**618. -- 699. (RESERVED).**

**SUBCHAPTER H – FEES AND FINES**

**700. EXAMINATION FEES (Rule 700).**

**01. Original Application And Examination.** The original application and examination fee is two hundred and twenty-five dollars (\$225). (7-1-02)T

**02. Re-Examination.** The re-examination fee is two hundred dollars (\$200) for all parts; one hundred and thirty dollars (\$130) for two (2) parts; and sixty-five dollars (\$65) for one (1) part. (7-1-02)T

**03. Out-Of-State Applicant.** The fee for each out-of-state applicant applying to sit for the examination in Idaho is twenty dollars (\$20) for each subject of the examination. (7-1-02)T

**701. LICENSURE AND PRACTICE PRIVILEGES FEES (Rule 701).**

**01. Annual License Renewal.** The annual license renewal fee is one hundred twenty dollars (\$120). (7-1-02)T

**02. Initial License.** The initial license fee is one hundred twenty dollars (\$120). (7-1-02)T

**03. Reciprocity.** The application fee for licensure by reciprocity is one hundred seventy-five dollars (\$175), in addition to the initial license fee. (7-1-02)T

**04. Transfer-Of-Grades.** The application fee for licensure by transfer-of-grades is one hundred seventy-five dollars (\$175), in addition to the initial license fee. (7-1-02)T

**05. Wall Certificate.** The original or replacement wall certificate fee is ten dollars (\$10). (7-1-02)T

**06. International Reciprocity.** The application fee for licensure by international reciprocity is one hundred seventy-five dollars (\$175), in addition to the initial license fee. (7-1-02)T

**07. Practice Privileges.** The fee for practice privileges under Section 54-227, Idaho Code is fifty dollars (\$50) each licensure year. (7-1-02)T

**08. Reinstatement Fee.** The fee for reinstatement of a license shall be the sum of the license fees not paid for the preceding three license renewal cycles. (7-1-02)T

**09. Inactive Or Retired.** The fee for annual license renewal of an inactive or retired license is one hundred dollars (\$100). (7-1-02)T

**702. OTHER FEES (Rule 702).**

**01. Administering Organization.** The Board may impose a fifty dollar (\$50) fee for application as an administering organization. (7-1-02)T

**02. Firm Registration.** The fee for annual firm registration is one hundred dollars (\$100) per firm. (7-1-02)T

**703. LATE FEES AND FINES (Rule 703).**

**01. Late License And Practice Privileges Renewal Fee.** The fee for late license renewal or practice privileges renewal is fifty dollars (\$50). (7-1-02)T

**02. Late CPE Filing Fee.** The fee for late filing is one hundred dollars (\$100) for filing anytime during the month of February, one hundred and fifty dollars (\$150) for filing anytime during the month of March, two hundred dollars (\$200) for filing anytime during the month of April, two hundred and fifty dollars (\$250) for filing anytime during the month of May, and three hundred dollars (\$300) for filing anytime during the month of June. (7-1-02)T

**03. Non-Compliance With Firm Registration And Peer Review.** The fine shall be one hundred dollars (\$100) per licensee for each act of non-compliance defined in Rule 617. (7-1-02)T

**704. -- 999. (RESERVED).**

# IDAPA 01 - IDAHO BOARD OF ACCOUNTANCY

## 01.01.01 - IDAHO ACCOUNTANCY RULES

### DOCKET NO. 01-0101-0203 (FEE RULE)

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 54-204(1) 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 July 17, 2002.

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

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

The rules update the fee structure to allow the Board to recover the actual expenses incurred for providing services and administering programs.

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

HB 485 was passed in 2002 with an effective date of July 1, 2002. It is a complete rewrite regarding the way CPAs and LPAs are licensed and regulated in the state of Idaho. It reflects a national model on regulatory language.

All fees and fines were analyzed in relation to HB 485. Most fees and fines can be maintained at their current level, with the following exceptions.

1) The late license renewal fine has been at \$50 since 1993. The late filing fines for continuing education reporting and for firm registration are each \$100. This creates an inequity. Additionally, failure to timely renew a license initiates suspension activity. This requires notice and opportunity for hearing. Staff time to do so exceeds the \$50 that is collected. The costs are subsidized by licensees who renew timely. This change places the burden on those who are not in compliance. The proposed rule increases the late fee from \$50 to \$100.

2) Firm Registration fees were set in 1993 under the old rulemaking process, with a 1996 implementation date. Somehow the fee structure that the Board adopted was not incorporated into the rule. The inconsistency was not found until the rule drafting began to go with HB 485. This change brings the firm registration fee into line with the structure the Board previously developed. The current rule sets the fee at \$100 per firm. The proposed rule would charge \$25 for a firm with one licensee, and an additional \$5 per licensee within the firm up to a maximum of \$200 per firm.

3) Two administrative processes that provide services to candidates, applicants or licensees are not generating the revenue to cover their costs. Wall certificates cost about \$20 each to generate. Current charge is \$10. The proposed rule would increase the fee to \$20. Interstate exchange of information forms cost about \$10 each to complete. Currently there is no fee. The change allows the Board to recover its actual costs. The proposed rule authorizes a \$10 charge to complete the form.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The fee structure analysis was undertaken simultaneously with the other rule drafting activity which included input for a multitude of stakeholders.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Barbara R. Porter, Executive Director, at 208-334-2490.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2002.

DATED this 22nd Day of May, 2002.

Barbara R. Porter, Executive Director  
Idaho State Board of Accountancy  
1109 Main Street, Owyhee Plaza Suite 470  
PO Box 83720, Boise, Idaho 83720-0002  
Phone: 208-334-2490 / Fax: 208-334-2615  
E-mail: bporter@boa.state.id.us

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 01-0101-0203**

**701. LICENSURE AND PRACTICE PRIVILEGES FEES (Rule 701).**

- 01. Annual License Renewal.** The annual license renewal fee is one hundred twenty dollars (\$120). (7-1-02)T
- 02. Initial License.** The initial license fee is one hundred twenty dollars (\$120). (7-1-02)T
- 03. Reciprocity.** The application fee for licensure by reciprocity is one hundred seventy-five dollars (\$175), in addition to the initial license fee. (7-1-02)T
- 04. Transfer-Of-Grades.** The application fee for licensure by transfer-of-grades is one hundred seventy-five dollars (\$175), in addition to the initial license fee. (7-1-02)T
- 05. Wall Certificate.** The original or replacement wall certificate fee is ~~ten~~ twenty dollars (~~\$120~~). (7-1-02)F( )
- 06. International Reciprocity.** The application fee for licensure by international reciprocity is one hundred seventy-five dollars (\$175), in addition to the initial license fee. (7-1-02)T
- 07. Practice Privileges.** The fee for practice privileges under Section 54-227, Idaho Code is fifty dollars (\$50) each licensure year. (7-1-02)T
- 08. Reinstatement Fee.** The fee for reinstatement of a license shall be the sum of the license fees not paid for the preceding three license renewal cycles. (7-1-02)T
- 09. Inactive Or Retired.** The fee for annual license renewal of an inactive or retired license is one hundred dollars (\$100). (7-1-02)T

**702. OTHER FEES (Rule 702).**

- 01. Administering Organization.** The Board may impose a fifty dollar (\$50) fee for application as an administering organization. (7-1-02)T
- 02. Firm Registration.** The fee for annual firm registration is twenty dollars (\$20) per firm plus five dollars (\$5) for each licensee in the firm, up to a maximum of ~~one~~ two hundred dollars (~~\$200~~) per firm. (7-1-02)F( )
- 03. Interstate Exchange Of Information.** The fee to complete an interstate exchange of information

form is ten dollars (\$10) and shall be paid by the candidate, applicant, or licensee requesting such form. ( )

**703. LATE FEES AND FINES (Rule 703).**

**01. Late License And Practice Privileges Renewal Fee.** The fee for late license renewal or practice privileges renewal is ~~five~~ one hundred dollars (\$~~5~~100). (7-1-02)T( )

**02. Late CPE Filing Fee.** The fee for late filing is one hundred dollars (\$100) for filing anytime during the month of February, one hundred and fifty dollars (\$150) for filing anytime during the month of March, two hundred dollars (\$200) for filing anytime during the month of April, two hundred and fifty dollars (\$250) for filing anytime during the month of May, and three hundred dollars (\$300) for filing anytime during the month of June. (7-1-02)T

**03. Non-compliance With Firm Registration And Peer Review.** The fine shall be one hundred dollars (\$100) per licensee for each act of non-compliance defined in Rule 617. (7-1-02)T

## IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

### 02.02.12 - BONDED WAREHOUSE RULES

#### DOCKET NO. 02-0212-0201

### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2002.

**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 69-231, 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 July 17, 2002.

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

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

1. Clarification of when the Department will issue duplicate licenses.
2. Inclusion of the acceptance of records held in an electronic format.
3. Clarification of extensions of time for filing financial statements.
4. Clarification of exemptions of those that are not required to pay, collect or remit assessments.
5. Clarification of those required to pay indemnity fund assessments and the amount they are required to pay.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(b) Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Compliance with deadlines in amendments to governing law or federal programs. This rule is needed to implement the provisions of House Bill 645 passed by the 2002 Legislature and signed into law by the Governor on March 25, 2002.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: In order to comply with the provisions found in the "Seed Indemnity Fund" (HB 522) "withdraw from storage" is now being required to pay an assessment of \$.01 per cwt of commodity at the time of withdrawal.

**NEGOTIATED RULEMAKING:** Although negotiated rulemaking was not conducted, during the rulemaking process for the rules required for HB 522, conducted on April 17, 2002, IDAPA 02.02.12 was reviewed by reference and directly by section. There were no requests for further review of these rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Dennis Doshier (208) 332-8674.

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 July 24, 2002.

DATED this 10th day of May, 2002.

Patrick A. Takasugi, Director  
Idaho State Dept. of Agriculture  
2270 Old Penitentiary Road  
PO Box 790, Boise, ID 83701  
Phone: (208) 332-8500  
Fax: (208) 334-2170

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0212-0201**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Section 69-231, Idaho Code. (7-1-02)T

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is IDAPA 02.02.12, "Bonded Warehouse Rules". (7-1-02)T

**02. Scope.** These rules clarify the procedure for licensing, collection and remittance of assessment, determining claim value, maintaining electronic records use of electronic scales and remedies of the Department for non-compliance. (7-1-02)T

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. (7-1-02)T

**003. ADMINISTRATIVE APPEALS.**

There is no provision for administrative appeals before the Idaho State Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (7-1-02)T

**004. INCORPORATION BY REFERENCE.**

No documents are incorporated by reference in this chapter. (7-1-02)T

**005. ADDRESS, OFFICE HOURS, TELEPHONE AND FAX NUMBERS.**

**01. Physical Address.** The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. (7-1-02)T

**02. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Standard Time, Monday through Friday, except holidays designated by the state of Idaho. (7-1-02)T

**03. Mailing Address.** The mailing address for the central office is Idaho State Department of Agriculture, PO Box 790, Boise, Idaho 83701. (7-1-02)T

**04. Telephone Number.** The telephone number of the central office is (208) 332-8500. (7-1-02)T

**05. Fax Number.** The fax number of the central office is (208) 334-2170. (7-1-02)T

**006. PUBLIC RECORDS ACT COMPLIANCE.**

These rules are public records and are available for inspection and copying at the Department. (7-1-02)T

**007. -- 009. (RESERVED).**

**48010. DEFINITIONS.**

Words that are defined in Chapter 2, Title 69, Idaho Code, and that are used in Section 481, will have the same meaning when used in Section 481 except when specifically redefined by these rules. The Idaho State Department of Agriculture adopts the definitions set forth in Section 69-202, Idaho Code. In addition, the following definitions apply to Sections 480 through 486. (3-15-02)(7-1-02)T

**041. Cash Sale.** Payment to the producer by the warehouse or dealer contemporaneously with the transfer of commodity to the warehouse or dealer. (3-15-02)

**032. Commodity Indemnity Fund.** Commodity Indemnity Fund is a trust fund and will be referred to herein as CIF. (3-15-02)

**053. Credit-Sale Contract.** An agreement in writing containing the provisions of Section 69-249 Idaho Code, and where the producer transfers a specific quantity of commodity to a warehouse or dealer with a price or payment to the producer by the warehouse or dealer to be made at a later date or on the occurrence of a specific event expressed in the agreement. (3-15-02)

**024. Dealer.** Is limited to dealers licensed by the state of Idaho. (3-15-02)

**075. Deposit For Service.** Deposit of a commodity by a person for cleaning, processing, reconditioning or the rendering of other similar services by a warehouse, but does not include either a cash sale, credit-sale, or open storage. (3-15-02)

**06. Open Storage.** The deposit of commodity by the producer for a period of time with the subsequent disposition of the same commodity or a fungible commodity as agreed to by the parties. (3-15-02)

**047. Warehouse.** Is limited to warehouses licensed by the state of Idaho. (3-15-02)

**0101. LICENSING.**

**01. Posting Of License.** Immediately upon receipt of the license or any renewal, extension or modification thereof under Title 69, Chapter 2, Idaho Code, the licensed warehouseman shall post the license in a conspicuous place in ~~the~~ each place of business ~~office~~ or in any other place as the Director ~~of the Department of Agriculture~~ may determine. The Department will issue a duplicate license for each additional facility as needed.  
(~~9-1-92~~)(7-1-02)T

**02. Return Of Suspended Or Terminated License.** If a license issued to a warehouseman has lapsed or is suspended, revoked or canceled by the Director ~~of The Department of Agriculture~~, the license shall be returned to the Department. At the expiration of any period of suspension, revocation or cancellation the license shall be returned to the warehouseman to whom it was originally issued and shall be posted as prescribed by Subsection 0101.01 of these rules.  
(~~9-1-92~~)(7-1-02)T

**03. Suspension Due To Neglect.** If, through subsequent inspection of stock in a licensed warehouse or place of business or through other information, it is revealed or indicated that the commodities in storage are deteriorating due to the warehouseman's or operator's neglect, the license may be suspended until the matter has been corrected to the satisfaction of the Director. (9-1-92)

**04. Loss Of License.** Upon satisfactory proof of the loss or destruction of a license issued to a warehouseman, a duplicate may be issued under the same number or a new number at the discretion of the Director. (9-1-92)

**05. Sign To Be Posted.** Each licensed warehouseman shall maintain suitable signs on the licensed property in such manner as will give ample public notice of his tenancy. These signs shall be painted on the warehouse or elevator in letters not less than six (6) inches in height and shall contain the following words: "State No. \_\_\_\_". The number of each warehouse shall be assigned by the Director. (9-1-92)

**06. Bins Labeled.** All storage areas licensed for the storage of agricultural commodities shall be numbered and a diagram of the storage areas shall be kept in the office. This diagram shall show the exact dimensions and the maximum capacity of the storage area. All licensed warehouses shall comply with all state laws and regulations regarding the storage and sale of seed. (9-1-92)

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. OFFICE RECORDS.**

A warehouseman shall maintain complete and sufficient records to show all deposits, purchases, sales contracts,

storage obligations and loadouts of the warehouse in this state. Office records as set forth in ~~Section 69-226~~ Title 69, Chapter 2, Idaho Code, shall include, but not limited to, the following: ~~(9-1-92)(7-1-02)T~~

**01. Daily Position Record.** This shall show the total quantity of each kind and class of agricultural commodity received and loaded out, the amount remaining in storage at the close of each business day, and the warehouseman's total storage obligation for each kind and class of agricultural commodity at the close of each business day. (9-1-92)

**02. Storage Ledger.** This shall show the name and address of the depositor, the date purchased, the terms of the sale, and the quality and quantity of the agricultural commodity purchased by the warehouseman. When applicable, the storage ledger shall also show the tare, grade, size, net weight, and unsold amount of agricultural commodities. (9-1-92)

**03. Scale Weight Tickets.** These shall be pre-numbered and show the time when the commodities were delivered, the quantities delivered, who delivered the commodities, the ownership of the commodities, and the condition of the commodities upon delivery. At least one (1) copy of the scale weight ticket shall be filed in numerical order. (9-1-92)

**04. Receipts And Tickets.** Receipts and tickets in ~~his~~ the warehouseman's possession which have not been issued. ~~(9-1-92)(7-1-02)T~~

**05. Receipts And Tickets Issued By ~~him~~ The Warehouseman.** Receipts and tickets issued by ~~him~~ the warehouseman. ~~(9-1-92)(7-1-02)T~~

**06. Receipts And Tickets Returned And Cancelled.** Receipts and tickets returned to and cancelled by ~~him~~ the warehouseman. ~~(9-1-92)(7-1-02)T~~

**07. Insurance Documentation.** (9-1-92)

**08. Electronic Records.** If any electronic records are maintained outside of the state of Idaho, the Department must be allowed to examine them at any reasonable time and place as determined by the Department. ~~(7-1-02)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**130. LICENSE APPLICATION AND CONDITIONS OF ISSUANCE.**

**01. License Application.** Application for a license to operate a warehouse under the provisions of Title 69, Chapter 2, Idaho Code, shall be on a form prescribed by the Department and shall include: (9-1-92)

**a.** The full name of the person applying for the license and whether the applicant is an individual, partnership, association, corporation or other entity. (9-1-92)

**b.** The full name of each member of the firm or partnership, or the names of the officers and directors of the company or limited liability company, association or corporation. ~~(9-1-92)(7-1-02)T~~

**c.** The address of the principal place of business. ~~(9-1-92)(7-1-02)T~~

**d.** Information relating to any judgments against the applicants. (9-1-92)

**e.** The location of each warehouse the applicant intends to operate and the commodities expected to be stored. (9-1-92)

**f.** Any other reasonable information the Department finds necessary to carry out the purpose and

provisions of Title 69, Chapter 2, Idaho Code. (9-1-92)

**02. License, Conditions Of Issuance.** An application for license under Title 69, Chapter 2, Idaho Code, shall include: (9-1-92)

**a.** Application on a form prescribed by the Director. (9-1-92)

**b.** A current financial statement as specified by Section 69-206, Idaho Code. (9-1-92)

**c.** A sketch or drawing as specified in Section 69-206, Idaho Code. (9-1-92)

**d.** A bond as required by Section 69-208, Idaho Code. (9-1-92)

**e.** Proof of insurance as required by Section 69-206, Idaho Code. (9-1-92)

**f.** The license fee as prescribed by Section 69-211, Idaho Code. (9-1-92)

**g.** Compliance with all rules ~~and regulations~~ adopted pursuant to Title 69, Chapter 2, Idaho Code. ~~(9-1-92)~~(7-1-02)T

**h.** Any other reasonable information the Department finds necessary to carry out the purpose and provisions of Title 69, Chapter 2, Idaho Code. (9-1-92)

**03. Modification.** If a licensee wishes to add additional capacity to an existing license, the Director may modify the license if all requirements of Section 69-206, Idaho Code, are met. (9-1-92)

**(BREAK IN CONTINUITY OF SECTIONS)**

**300. FINANCIAL STATEMENTS.**

In order to obtain a bonded warehouse license, the applicant shall submit a current financial statement. The statement shall have been prepared not more than ninety (90) days prior to the date of application and shall conform to the applicable requirements of Title 69, Chapter 2, Idaho Code, as to annual financial statements. (9-1-92)

**01. Statement Compliance.** Each licensed warehouseman shall submit to the Department an annual financial statement which shall have been audited or reviewed by an independent certified public accountant or independent licensed public accountant. The statement shall be submitted to the Department no later than ninety (90) days after the end of the warehouseman's fiscal year. ~~The bureau may grant an extension of time for filing the financial statement, but in no case shall the extension exceed sixty (60) days provided that the application for the extension is made by a certified public accountant prior to the date the financial statement is due.~~ The warehouse license ~~shall~~ may be suspended or revoked for failure to comply with licensing requirements stated in Bonded Warehouse Rule ~~No. Section~~ 300 and Section(s) 69-206(6) and (7), Idaho Code. ~~(9-1-92)~~(7-1-02)T

**a.** The Department may grant an extension of no more than sixty (60) days, provided cause of an exceptional nature is provided, in writing, to the Department. (7-1-02)T

**b.** The request must be made by a certified public accountant or a licensed public accountant. (7-1-02)T

**c.** The request is made prior to the date the financial statement is due. (7-1-02)T

**d.** The director may make exceptions to the financial statement requirements provided sufficient cause is provided and to do so would be in the best interest of the State. (7-1-02)T

**02. Statement Content.** The statement shall include: (9-1-92)

- a. A balance sheet. (9-1-92)
- b. An income statement which includes annual gross sales of commodities purchased from producers covered under the act. (9-1-92)
- c. A statement of cash flows. (9-1-92)
- d. All accompanying notes to the financial statement. (9-1-92)

**(BREAK IN CONTINUITY OF SECTIONS)**

**330. AMENDING TARIFF.**

Tariffs may be amended by the licensed warehouseman by filing a new tariff with the Department. ~~Such amended tariff shall contain rates to be charged for the storage, receiving, load out and conditioning of all commodities stored by the warehouseman.~~ The previous tariff shall continue to apply on all commodities received prior to the effective date of the amended tariff until the anniversary date of deposit. The amended tariff will apply to any commodities received after the effective date of the amendment and on any commodities stored under the previous tariff commencing on the anniversary date of the storage period. ~~(9-1-92)(7-1-02)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**430. ~~AMOUNT OF ADDITIONAL BONDING REQUIREMENTS.~~**

~~**01. Bonding Requirement.** The amount of bond to be furnished for each warehouse shall be fixed at a rate of twenty cents (\$.20) per bushel of licensed capacity or six percent (6%) of the total value of the agricultural commodities stored, whichever is greater. (3-15-02)~~

~~**02. Additional Bonding Requirements.** If it appears the licensee does not have the ability to pay producers for commodities purchased, or when it appears the licensee does not have a sufficient net worth to outstanding financial obligations ratio, the Department may require the licensee to post a bond or other additional acceptable security in the amount of two thousand dollars (\$2,000) for each one thousand dollars (\$1,000) or fraction thereof of deficiency. (3-15-02)(7-1-02)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**480. COMMODITY INDEMNITY FUND PROGRAM.**

The Commodity Indemnity Fund Program shall apply to entities governed by Chapter 2, Title 69, Idaho Code, and Chapter 5, title 69, Idaho Code, warehouses and dealers, respectively, unless otherwise specified. (3-15-02)

**01. Rate Of Assessment.** The rate of assessment shall be two-tenths of one per cent (.2%) of the total value at the time of sale of the commodities pursuant to Section 69-257(2), Idaho Code, ~~of the total value at the time of sale of the commodities.~~ The maximum rate of assessment shall not exceed two-tenths of one percent (.2%) of the total gross dollar amount, without deductions, due the producer. The Director may establish a lower rate of assessment whenever he deems it advisable or as recommended by the advisory committee established by Section 69-261, Idaho Code. ~~(3-15-02)(7-1-02)T~~

a. The rate of assessment on commodity withdrawn by its producer from open storage shall be one cent (\$.01) per hundredweight (CWT) of commodity at the time of withdrawal. (3-15-02)

**b.** If the amount of the assessment for a producer on all deposits made in a calendar year is calculated to be less than fifty cents (\$.50), no assessment will be collected. If deposits exceed the fifty cent (\$.50) limit, all assessments will be collected. (3-15-02)

**02. Exemptions To Assessments.** ~~Non-producers and persons depositing commodities under arrangements excluded from participation in the CIF pursuant to Section 69-256, Idaho Code do not pay assessments. Depositors for service do not pay assessments nor participate in the CIF. Producers are not eligible to participate in CIF and no assessments shall be collected in the following cases.~~ (3-15-02)(7-1-02)T

**a.** ~~If a producer has a financial or management interest in a licensed warehouse or licensed commodity dealer, except members of a cooperative marketing association qualified under Title 22, Chapter 26, Idaho Code.~~ (7-1-02)T

**b.** ~~If a producer sells to another producer, none of which are a licensed warehouseman or a licensed commodity dealer.~~ (7-1-02)T

**c.** ~~If a producer deposits or delivers commodity to an unlicensed entity pursuant to Title 69, Chapters 2 or 5, Idaho Code.~~ (7-1-02)T

**d.** ~~Non-producers or producers delivering commodity that was grown on land not situated within the borders of the state of Idaho are exempt from paying assessments.~~ (7-1-02)T

**SECTION 481 HAS BEEN RENUMBERED AND MOVED TO SECTION 010**

**481. (RESERVED).**

**482. HOW ASSESSMENTS ARE TO BE CALCULATED.**

Assessments shall be collected by all warehouses ~~and dealers~~ from all producers who deposit commodities for storage or sale. Assessments are calculated as follows: (3-15-02)(7-1-02)T

**01. Cash Sale Or Credit Sale Contract.** In a cash sale or credit sale contract on the contract price of the commodity at the time of sale. (3-15-02)

**02. Open Storage Or Deposit For Service.** When commodity is withdrawn from ~~open~~ storage by the producer, the assessment will be one cent (\$.01) per hundred weight (CWT) at the time of withdrawal. (3-15-02)(7-1-02)T

**03. Unpaid Assessments.** If any assessment is unpaid and a failure occurs, the amount of the unpaid assessment will be deducted from any CIF recovery paid to the producer. (3-15-02)

**04. Incidental Costs And Expenses.** All incidental costs and expenses including, but not limited to transportation, cleaning, in and out charges, insurance, taxes or additional services or charges are not included in the calculation to determine the assessment. (3-15-02)

**(BREAK IN CONTINUITY OF SECTIONS)**

**485. PENALTIES FOR FAILURE TO COLLECT, ACCOUNT FOR, OR REMIT ASSESSMENTS.**

Failure to collect, account for, or remit assessments, or ~~to violate in any way~~ violations of the statutory requirements of Chapters 2 and 5, Title 69, Idaho Code, as it relates to the CIF are grounds for the immediate ~~call~~ demand on the warehouse, ~~or~~ dealer bond, letter of credit, or certificate of deposit and the undertaking by the Director of any other remedy provided by law. (3-15-02)(7-1-02)T

## IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

### 02.02.13 - COMMODITY DEALERS' RULES

DOCKET NO. 02-0213-0201

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2002.

**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 69-524, 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 July 17, 2002.

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

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

1. Clarification of when the Department will issue duplicate licenses.
2. Inclusion of the acceptance of records held in an electronic format.
3. Clarification of extensions of time for filing financial statements.
4. Clarification of exemptions of those that are not required to pay, collect or remit assessments.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Compliance with deadlines in amendments to governing law or federal programs. This rule is needed to implement the provisions of House Bill 644 passed by the 2002 Legislature and signed into law by the Governor on March 25, 2002.

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

**NEGOTIATED RULEMAKING:** Although negotiated rulemaking was not conducted, during the rulemaking process for the rules required for HB 522, conducted on April 17, 2002, IDAPA 02.02.12 was reviewed by reference and directly by section. There were no requests for further review of these rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Dennis Doshier at (208) 332-8674.

Anyone may submit written comments regarding the temporary and proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2002.

DATED this 10th Day of May, 2002.

Patrick A. Takasugi, Director  
Idaho State Dept. of Agriculture  
2270 Old Penitentiary Road  
PO Box 790  
Boise, ID 83701  
Phone: (208) 332-8500  
Fax: (208) 334-2170

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0213-0201**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Section 69-524, Idaho Code. (7-1-02)T

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is IDAPA 02.02.13, "Commodity Dealers' Rules". (7-1-02)T

**02. Scope.** These rules clarify the procedure for licensing, collection and remittance of assessments, determining claim value, maintaining electronic records, use of electronic scales and remedies of the Department for non-compliance. (7-1-02)T

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. (7-1-02)T

**003. ADMINISTRATIVE APPEALS.**

There is no provision for administrative appeals before the Idaho State Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (7-1-02)T

**004. INCORPORATION BY REFERENCE.**

No documents are incorporated by reference in this chapter. (7-1-02)T

**005. ADDRESS, OFFICE HOURS, TELEPHONE AND FAX NUMBERS.**

**01. Physical Address.** The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. (7-1-02)T

**02. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Standard Time, Monday through Friday, except holidays designated by the state of Idaho. (7-1-02)T

**03. Mailing Address.** The mailing address for the central office is Idaho State Department of Agriculture, PO Box 790, Boise, Idaho 83701. (7-1-02)T

**04. Telephone Number.** The telephone number of the central office is (208) 332-8500. (7-1-02)T

**05. Fax Number.** The fax number of the central office is (208) 334-2170. (7-1-02)T

**006. PUBLIC RECORDS ACT COMPLIANCE.**

These rules are public records and are available for inspection and copying at the Department. (7-1-02)T

**007. – 009. (RESERVED).**

**5010. DEFINITIONS.**

Words that are defined in Chapter 5, Title 69, Idaho Code, and that are used in Section 501, will have the same meaning when used in Section 501 except when specifically redefined by these rules. The Idaho State Department of Agriculture adopts the definitions set forth in Section 69-502, Idaho Code. In addition the following definitions apply to Sections 500 through 506. (3-15-02)(7-1-02)T

**041. Cash Sale.** Payment to the producer by the warehouse or dealer contemporaneously with the transfer of commodity to the warehouse or dealer. (3-15-02)

**032. Commodity Indemnity Fund.** Commodity Indemnity Fund is a trust fund and will be referred to herein as CIF. (3-15-02)

**053. Credit-Sale Contract.** An agreement in writing containing the provisions of Section 69-514 Idaho Code, and where the producer transfers a specific quantity of commodity to a warehouse or dealer with a price or payment to the producer by the warehouse or dealer to be made at a later date or on the occurrence of a specific event expressed in the agreement. (3-15-02)

**024. Dealer.** Is limited to dealers licensed by the state of Idaho. (3-15-02)

**025. Warehouse.** Is limited to warehouses licensed by the state of Idaho. (3-15-02)

**0101. LICENSING.**

**01. Posting Of License.** Immediately upon receipt of the license or any renewal, extension or modification thereof under Title 69, Chapter 5, Idaho Code, the licensed commodity dealer shall post the license in a conspicuous place in ~~the each place of business office or in any other place as the director may determine.~~ The Department will issue a duplicate license for each additional facility as needed. (~~7-1-93~~)(7-1-02)T

**02. Return Of Suspended Or Terminated License.** If a license issued to a commodity dealer has lapsed or is suspended, revoked or cancelled by the Director of the Department of Agriculture, the license shall be returned to the Department. At the expiration of any period of suspension, revocation or cancellation the license shall be returned to the commodity dealer to whom it was originally issued and shall be posted as prescribed by Subsection 0101.01 of these rules. (~~7-1-93~~)(7-1-02)T

**03. Loss Of License.** Upon satisfactory proof of the loss or destruction of a license issued to a commodity dealer, a duplicate may be issued under the same number or a new number at the discretion of the Director. (7-1-93)

**0142. -- 099. (RESERVED).**

**100. OFFICE RECORDS.**

A commodity dealer shall maintain complete and sufficient records to show all purchases and sales, including all contracts relating to these transactions. A warehouse licensed as a commodity dealer under Title 69, Chapter 5, Idaho Code, shall maintain complete and sufficient records to show all deposits, purchases, sales contracts, storage obligations and loadouts of the warehouse in this State. Office records as set forth in ~~Section 69-514~~ Title 69, Chapter 5, Idaho Code, shall include, but not be limited to, the following: (~~7-1-93~~)(7-1-02)T

**01. Daily Position Record.** This shall show the total quantity of each kind and class of agricultural commodity received and loaded out, the amount remaining in storage at the close of each business day and the warehouseman's total storage obligation for each kind and class of agricultural commodity at the close of each business day. (7-1-93)

**02. Settlement Sheets/Storage Ledgers.** Every commodity dealer shall use settlement sheets showing the dealer's name and location in making settlement with the seller, unless otherwise approved by the Director. All settlement sheets/storage ledgers shall include, but not be limited to, the following: (7-1-93)

- a. The seller's name and address. (7-1-93)
- b. The date of deliveries. (7-1-93)
- c. The scale ticket numbers. (7-1-93)
- d. The amount, kind and grade of commodity delivered. (7-1-93)
- e. The price per bushel or unit. (7-1-93)
- f. The date and amount of payment. (7-1-93)

**g.** The contract number if a deferred payment, deferred pricing or other sale contract is used. A copy of each settlement sheet shall be maintained in alphabetical order by the commodity dealer as part of the pay records. (7-1-93)

**h.** Electronic Records. If any electronic records are maintained outside of the state of Idaho, the Department must be allowed to examine them at any reasonable time and place as determined by the Department. (7-1-02)T

**03. Scale Weight Tickets.** These shall be pre-numbered and show the time when the commodities were delivered, the quantities delivered, who delivered the commodities, the ownership of the commodities and the condition of the commodities upon delivery. (7-1-93)

- a.** Tickets in ~~his~~ the commodity dealer's possession which have not been issued. (7-1-93)
- b.** Tickets issued by ~~him~~ the commodity dealer. (7-1-93)
- c.** Tickets returned to and cancelled by ~~him~~ the commodity dealer. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**200. LICENSING APPLICATION FORMAT.**

**01. License-Application.** Application for a license to operate as a commodity dealer under the provisions of Title 69, Chapter 5, Idaho Code, shall be on a form prescribed by the Department and shall include: (7-1-93)

- a.** The full name of the person applying for the license and whether the applicant is an individual, partnership, association, corporation or other entity. (7-1-93)
- b.** The full name of each member of the firm or partnership, or the names of the officers and directors of the company or limited liability company, association, or corporation. ~~(7-1-93)~~(7-1-02)T
- c.** The address of the principal place of business. (7-1-93)
- d.** The names of any businesses previously owned or operated by the applicant or any members, officers or directors if the applicant is a corporation, partnership or association. (7-1-93)
- e.** Information relating to any prior adjudication of bankruptcy relating to the business or any members, officers or directors thereof. (7-1-93)
- f.** Information relating to any judgments against the applicants. (7-1-93)
- g.** The location of each office the applicant intends to operate. (7-1-93)
- h.** Any other reasonable information the Department finds necessary to carry out the purpose and provisions of Title 69, Chapter 5, Idaho Code. (7-1-93)

**02. License Conditions Of Issuance.** An application for license under Title 69, Chapter 5, Idaho Code, shall include: (7-1-93)

- a.** Application on a form prescribed by the Director. (7-1-93)
- b.** A current financial statement as specified by Section 69-503 and 69-521, Idaho Code.

- ~~(7-1-93)~~(7-1-02)T
- c. A bond or bonds as required by Section 69-503~~6~~, Idaho Code. ~~(7-1-93)~~(7-1-02)T
  - d. The license fee as prescribed by Section 69-508, Idaho Code. (7-1-93)
  - e. Compliance with all rules ~~and regulations~~ adopted pursuant to Title 69, Chapter 5, Idaho Code. ~~(7-1-93)~~(7-1-02)T
  - f. Any other reasonable information the Department finds necessary to carry out the purpose and provisions of Title 69, Chapter 5, Idaho Code. (7-1-93)
- 03. License Modification.** At the request of the license holder a license may be modified to change existing license classification, providing all requirements of Section 69-508, Idaho Code, are met. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**300. FINANCIAL STATEMENT ~~STIPULATIONS.~~**

**01. Financial Statements.** In order to obtain a commodity dealer's license, the applicant shall submit a current financial statement. This statement shall have been prepared not more than ninety (90) days prior to the date of application and shall conform to the applicable requirements of Title 69, Chapter 5, Idaho Code, as to annual financial statements. (7-1-93)

**02. Statement Compliance.** Each licensed commodity dealer shall submit to the Department an annual financial statement which shall have been audited or reviewed by an independent certified public accountant or independent licensed public accountant. The statement shall be submitted to the Department no later than ninety (90) days after the end of the commodity dealer's fiscal year. ~~The bureau may grant an extension of time for filing the financial statement, but in no case shall the extension exceed sixty (60) days provided that the application for the extension is made by a certified public accountant prior to the date the financial statement is due.~~ The commodity dealer license ~~shall~~ may be suspended or revoked for failure to comply with licensing requirements stated in Subsection 300.01 of these rules and Section(s) 69-503(6) and 69-521, Idaho Code. ~~(7-1-93)~~(7-1-02)T

**a.** The Department may grant an extension of no more than sixty (60) days, provided cause of an exceptional nature is provided, in writing, to the Department. ~~(7-1-02)T~~

**b.** The request must be made by a certified public accountant or a licensed public accountant. ~~(7-1-02)T~~

**c.** The request is made prior to the date the financial statement is due. ~~(7-1-02)T~~

**d.** The director may make exceptions to the financial statement requirements provided sufficient cause is provided and to do so would be in the best interest of the state. ~~(7-1-02)T~~

**03. Statement Content.** The statement shall include: (7-1-93)

**a.** A balance sheet. (7-1-93)

**b.** An income statement which includes annual gross sales of commodities purchased from producers covered under the act. (7-1-93)

**c.** A statement of cash flows. (7-1-93)

**d.** All accompanying notes to the financial statement. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

401. -- ~~449~~50. (RESERVED).

~~450. AGENT REGISTRATION.~~

~~Agents representing licensed commodity dealers may register with the Department by making application with the Department upon a proper form. All agents so registered will receive an identification card showing the name of the agent, the name of the commodity dealer and the licensing period.~~ (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

500. COMMODITY INDEMNITY FUND PROGRAM.

The Commodity Indemnity Fund Program shall apply to entities governed by Chapter 2, Title 69, Idaho Code, and Chapter 5, Title 69, Idaho Code, warehouses and dealers, respectively, unless otherwise specified. (3-15-02)

**01. Rate Of Assessment.** ~~The rate of assessment shall be two-tenths of one percent (.2%) of the total value at the time of sale of the commodities gross dollar amount, without deductions, due the producer pursuant to Idaho Code Section 69-257(2), Idaho Code. The maximum rate of assessment shall not exceed two-tenths of one percent (.2%) of the total value at the time of sale of the commodities.~~ The Director may establish a lower rate of assessment whenever he deems it advisable or as recommended by the advisory committee established by ~~Idaho Code Section 69-261, Idaho Code.~~ (3-15-02)(7-1-02)T

**02. Exemptions To Assessment.** ~~Non-producers and persons depositing commodities under arrangements excluded from participation in the CIF pursuant to Section 69-256, Idaho Code do not pay assessments.~~ Producers are not eligible to participate in CIF and no assessments shall be collected in the following cases. (3-15-02)(7-1-02)T

**a.** ~~If a producer has a financial or management interest in a licensed warehouse or licensed commodity dealer, except members of a cooperative marketing association qualified under Title 22, Chapter 26, Idaho Code.~~ (7-1-02)T

**b.** ~~If a producer sells to another producer, none of which are a licensed warehouseman or a licensed commodity dealer.~~ (7-1-02)T

**c.** ~~If a producer deposits or delivers commodity to an unlicensed entity pursuant to Title 69, Chapters 2 or 5, Idaho Code.~~ (7-1-02)T

**d.** ~~Non-producers or producers delivering commodity that was grown on land not situated within the borders of the state of Idaho are exempt from paying assessments.~~ (7-1-02)T

**SECTION 501 HAS BEEN RENUMBERED AND MOVED TO SECTION 010**

**501. (RESERVED).**

**502. HOW ASSESSMENTS ARE TO BE CALCULATED.**

Assessments shall be collected by all warehouses ~~and licensed as commodity~~ dealers from all producers who deposit commodities for storage or sale. Assessments are calculated as follows: (3-15-02)(7-1-02)T

**01. Cash Sale Or Credit Sale Contract.** In a cash sale or credit sale contract on the contract price of the commodity at the time of sale. (3-15-02)

**02. Unpaid Assessments.** If any assessment is unpaid and a failure occurs, the amount of the unpaid assessment will be deducted from any CIF recovery paid to the producer. (3-15-02)

**03. Incidental Costs And Expenses.** All incidental costs and expenses including, but not limited to transportation, cleaning, in and out charges, insurance, taxes or additional services or charges are not included in the calculation to determine the assessment. (3-15-02)

**503. RECORDKEEPING AND PAYMENT SCHEDULE.**

**01. Permanent Record.** Each warehouse and dealer shall maintain a permanent record showing producer's name and address, lot or identification number, date assessment collected, amount of assessment, commodity assessed, quantity of commodity, gross dollars of settlement and check number issued to producer. (3-15-02)

**02. Payment Due Dates.** On or before the twentieth day of the month following the close of the quarter, on a form prescribed by the Department, the assessments imposed by Title 69, Chapters 2 and 5 ~~of Title 69~~, Idaho Code, collected by warehouses and dealers, are due and payable to the Department. A quarter (1/4) will consist of three (3) months beginning on the first day of January, April, July, and October. ~~(3-15-02)~~(7-1-02)T

**03. Notice.** The notice and rate of assessment or a copy of the official notice of suspension of assessment shall be posted in a conspicuous place in the warehouse or dealer facility. (3-15-02)

**504. TRUST FUNDS.**

All assessments collected by warehouses and dealers in compliance with Title 69, Chapters 2 and 5, ~~Title 69~~, Idaho Code, shall, immediately upon payment to and collection by the warehouse or dealer, be trust fund money and held for payment to the Department for the CIF. Such money shall not, for any purpose, be considered to be a part of the proceeds of any transaction between a depositor and warehouse or dealer for which the collection and payment of the assessment was related and shall not be subject to an encumbrance, security interest, execution or seizure on account of any debt owed by the warehouse or dealer to any of their creditors. ~~(3-15-02)~~(7-1-02)T

**505. PENALTIES FOR FAILURE TO COLLECT, ACCOUNT FOR, OR REMIT ASSESSMENTS --  
OTHER VIOLATIONS.**

Failure to collect, account for, or remit assessments, or ~~to violate in any way~~ violations of the statutory requirements of Title 69, Chapters 2 and 5, ~~Title 69~~, Idaho Code, as it relates to the CIF are grounds for the immediate ~~cash demand~~ demand on the warehouse, ~~or dealer bond, or certificate of deposit,~~ and the undertaking by the Director of any other remedy provided by law. ~~(3-15-02)~~(7-1-02)T

**IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE**

**02.02.15 - RULES GOVERNING THE SEED INDEMNITY FUND**

**DOCKET NO. 02-0215-0201 (FEE RULE)**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2002.

**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 22-5129, 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 July 17, 2002.

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

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

The Seed Indemnity Fund Law becomes effective July 1, 2002. HB 522 was passed by the 2002 Legislature and signed by the Governor on March 25, 2002. The Seed Indemnity Fund Law provides for a Seed Indemnity Fund and a seed buyer license. As a condition of licensing, seed buyers are required to fill out an application, provide a current and sufficient policy of insurance covering loss, and provide a sufficient bond. Seed buyers are responsible for the collection and remittance of seed indemnity fund assessments.

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

The Seed Indemnity Fund becomes effective July 1, 2002. These rules are necessary to comply with deadlines pursuant to Title 22, Chapter 51, Idaho Code, "Seed Indemnity Fund Law".

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

The Seed Indemnity Fund Law becomes effective July 1, 2002. By statute the initial rate of assessment on seed crop transferred, will be .5% of the gross dollar amount and the initial assessment for seed stored for withdrawal shall not exceed 1/2¢ per pound, pursuant to Section 22-5121, Idaho Code. The Seed Indemnity Fund Law also requires Seed Buyers to be licensed. Pursuant to Section 22-5103(3)(a) Seed Buyers will pay an application fee up to \$500.00, except those persons holding a license issued pursuant to Title 22, Chapter 4, Idaho Code, "The Pure Seed Law".

**NEGOTIATED RULEMAKING:** Negotiated rulemaking was conducted at a public hearing that was held on April 17, 2002, as an informal forum for public input to negotiate the rulemaking in order to reach a consensus on the content of the rule. Participants were invited and a draft copy of the rule was sent to them prior to the public hearing as well as made available at the time of the meeting. The hearing was open for anyone to attend and to participate.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Darrel McRoberts at 332-8660, or Russell A. Dapsauski at (208) 332-8612.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to undersigned and must be delivered on or before July 24, 2002.

DATED this 10th day of May, 2002.

Patrick A. Takasugi, 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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0215-0201**

**IDAPA 02**  
**TITLE 02**  
**Chapter 15**

**02.02.15 - RULES GOVERNING THE SEED INDEMNITY FUND**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Title 22, Chapter 51, Section 22-5129, Idaho Code. (7-1-02)T

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is IDAPA 02.02.15, "Rules Governing the Seed Indemnity Fund". (7-1-02)T

**02. Scope.** These rules clarify the procedure for licensing, collection and remittance of assessments, determining claim value, maintaining electronic records, use of electronic scales and remedies of the ISDA for non-compliance. (7-1-02)T

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. (7-1-02)T

**003. ADMINISTRATIVE APPEALS.**

There is no provision for administrative appeals before the Idaho State Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (7-1-02)T

**004. INCORPORATION BY REFERENCE.**

No documents are incorporated by reference in this chapter. (7-1-02)T

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

**01. Office.** The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. (7-1-02)T

**02. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Standard Time, Monday through Friday, except holidays designated by the state of Idaho. (7-1-02)T

**03. Mailing Address.** The mailing address for the central office is Idaho State Department of Agriculture, PO Box 790, Boise, Idaho 83701. (7-1-02)T

**04. Telephone Number.** The telephone number of the central office is (208) 332-8500. (7-1-02)T

- 05. Fax Number.** The fax number of the central office is (208) 334-2170. (7-1-02)T
- 006. PUBLIC RECORDS ACT COMPLIANCE.**  
These rules are public records and are available for inspection and copying at the ISDA. (7-1-02)T
- 007. -- 009. (RESERVED).**
- 010. DEFINITIONS.**  
The Idaho State Department of Agriculture adopts the definitions set forth in Section 22-5102, Idaho Code. In addition, as used in this chapter, "type" means the class of seed (i.e. foundation, certified, registered, noncertified). (7-1-02)T
- 011. ABBREVIATIONS.**
- 01. GAAP.** Generally Accepted Accounting Principles. (7-1-02)T
- 02. ISDA.** Idaho State Department of Agriculture. (7-1-02)T
- 03. SIF.** The Idaho Seed Indemnity Fund. (7-1-02)T
- 04. USPS.** United States Postal Service. (7-1-02)T
- 012. DELIVERY VOUCHER.**  
If there are no receipts or scale weight tickets issued at the time of seed crop delivery, a delivery voucher may be issued. A delivery voucher is a document that may be used as written evidence of transfer in accordance with Section 22-5102(16), Idaho Code, evidencing delivery of producer's seed crop to seed buyer and shall include but is not limited to: (7-1-02)T
- 01. Producer.** This shall include the full name, address and phone number of the producer. (7-1-02)T
- 02. Seed Buyer.** This shall include the full name, address and phone number of the seed buyer. (7-1-02)T
- 03. Ship To.** This shall include the full name, address and phone number of the seed facility that the seed crop is to be transferred. (7-1-02)T
- 04. Transportation Company.** This shall include the name, address and phone number of the transportation company delivering the seed crop to the seed facility. The truck, trailer and seal number, if applicable, driver name (printed), signature and date of transfer. (7-1-02)T
- 05. Seed Crop Shipped.** This shall include for each seed crop delivery, the type, kind, variety, estimated volume or weight and date of shipment and container identification markings. (7-1-02)T
- 013. WAREHOUSE RECEIPTS.**  
Shall include but not be limited to: (7-1-02)T
- 01. Name Of Producer.** (7-1-02)T
- 02. Name And Address Of Seed Buyer.** (7-1-02)T
- 03. Kind Of Seed Crop.** (7-1-02)T
- 04. Date Of Delivery.** (7-1-02)T
- 05. Weight Of Seed Crop Delivered.** (7-1-02)T

**06. Lot Identification.** (7-1-02)T

**014. SCALE WEIGHT TICKETS.**

Scale weight tickets for electronic scales that are recorded and maintained electronically are exempt from the sequentially numbered and in triplicate requirement. (7-1-02)T

**015. -- 025. (RESERVED).**

**026. LICENSE.**

**01. Posting Of License.** Immediately upon receipt of the license or any renewal, extension or modification thereof under Title 22, Chapter 51, Idaho Code, the licensed seed buyer shall post the license in a conspicuous place in each place of business or in any other place as the director may determine. The ISDA will issue a duplicate license for each additional seed facility. (7-1-02)T

**02. License Fee.** If an applicant is not licensed pursuant to the "Pure Seed Law," Title 22, Chapter 4, Idaho Code, the license fee shall be equal to the out-of-state license fees, pursuant to Title 22, Chapter 4, and shall be deposited to the state treasury and credited to the SIF. (7-1-02)T

**03. Return Of Suspended Or Terminated License.** If a license issued to a seed buyer has lapsed or is suspended, revoked or canceled by the director, the license and all duplicates shall be returned to the ISDA. At the expiration of any period of suspension, revocation or cancellation, the license shall be returned to the seed buyer to whom it was originally issued and shall be posted as prescribed by Section 026, of these rules. (7-1-02)T

**04. Loss Of License.** Upon satisfactory proof of the loss or destruction of a license issued to a seed buyer, a duplicate may be issued under the same number or a new number at the discretion of the director. (7-1-02)T

**05. License Reinstatement Fee.** If license renewal material is received by the ISDA after the current license has expired, but no later than thirty (30) days past due, a reinstatement fee of one hundred dollars (\$100) shall be assessed. If license renewal material is received after the thirty (30) day late period it will be considered an original license application and will be assessed a license fee equal to the requirements of Section 026. The exemption for license fees in Section 22-5103(3a), Idaho Code, will not apply to license renewals that have been received by the ISDA later than thirty (30) days. Fees collected by this subsection shall be deposited in the state treasury and credited to the SIF account. (7-1-02)T

**06. Additional License Application Information.** The ISDA may request additional license information that may include, but not limited to: (7-1-02)T

**a.** Names of officers of corporations or limited liability companies. (7-1-02)T

**b.** Company information as required in the application form. (7-1-02)T

**c.** Outstanding producer financial obligations. (7-1-02)T

**d.** Name and address of banks that handle business accounts. (7-1-02)T

**07. License Duration.** Licenses issued under the provisions of Title 22, Chapter 51, Idaho Code, expire on the 30th day of June of each year. (7-1-02)T

**027. -- 035. (RESERVED).**

**036. AMOUNT OF BOND FOR SEED STORED FOR WITHDRAWAL.**

For the purpose of calculating the bond required pursuant to Section 22-5105, Idaho Code, the value for seed stored for withdrawal shall be calculated by either using the commonly accepted market price of similar seed crops within the same geographic location or equal to the average value of the same kind of seed crop owned by the seed buyer, whichever is greater, as determined by ISDA. (7-1-02)T

**037. -- 046. (RESERVED).**

**047. MAINTENANCE OF RECORDS.**

All records and accounts required under Title 22, Chapter 51, Idaho Code, shall be kept separate and distinct from all records and accounts of any other business of the seed buyer and shall be subject to inspection by the director at any reasonable time. Electronic records may be maintained out of Idaho provided they are available for examination by the ISDA within the state at any reasonable time. (7-1-02)T

**048. -- 049. (RESERVED).**

**050. INSURANCE REQUIREMENTS.**

**01. Insurance Coverage.** Pursuant to Section 22-5114, Idaho Code, the seed buyer shall maintain a commercial property policy for loss against, but not limited to: (7-1-02)T

- a.** Loss from fire; (7-1-02)T
- b.** Loss from internal explosion; (7-1-02)T
- c.** Loss from lightning; (7-1-02)T
- d.** Loss from tornado. (7-0-02)T

**02. Insurance Deductible.** The maximum deductible allowed for insurance required by Section 22-5114, Idaho Code, shall be fifty thousand dollars (\$50,000). However, a larger deductible may be allowed at the discretion of the director. The request shall be submitted in writing and kept on file. (7-1-02)T

**03. Seed Stored For Withdrawal.** The amount of insurance coverage shall be sufficient to cover the full replacement value of similar or better kind and quality of seed crop. (7-1-02)T

**04. Self-Insurance.** A request for self-insurance shall be submitted to the ISDA in writing and signed by the seed buyer or his representative. Supporting evidence of ability to pay seed crop obligations, in the event of a loss due to fire, internal explosions, lightning, or tornadoes, shall be attached to the self-insurance request. (7-1-02)T

**a.** The director may accept or reject the self-insurance request. The director's findings will be in writing and kept on file. (7-1-02)T

**b.** If a seed buyer is self-insured and the seed crop within the licensed seed buyer's facility has been damaged or destroyed, the seed buyer shall make complete settlement to all producers within thirty (30) days of the loss. Failure of the seed buyer to make such settlement shall be grounds for revocation of the seed buyer's license. If the seed buyer and producer agree to other terms, set out in writing, the settlement does not need to be made within the thirty (30) day time period. If only a portion of the seed crop is damaged, settlement may be made on a pro-rata basis to the producer. (7-1-02)T

**05. Insurance Settlement.** When the seed crop within a licensed seed buyer's facility has been damaged or destroyed, the seed buyer shall make complete settlement to all producers having seed crops transferred to the seed buyer or stored for withdrawal within ten (10) days after settlement with the insurance company. Failure of the seed buyer to make such settlement shall be grounds for revocation of the seed buyer's license. If the seed buyer and producer agree to other terms, set out in writing, the settlement does not need to be made within the ten (10) day time period. If only a portion of the seed crop is damaged, settlement may be made on a pro-rata basis to the producer. (7-1-02)T

**051. -- 059. (RESERVED).**

**060. NONCOMPLIANCE -- REQUIREMENTS.**

If a seed buyer is not meeting its obligations to producers, does not have the ability to pay producers, or refuses to submit records and papers for lawful inspection, the ISDA shall give written notice to the seed buyer and direct the

seed buyer to comply with all of the following requirements within ten (10) working days or as agreed to by the ISDA. (7-1-02)T

**01. Additional Security Requirements.** If it appears the licensee does not have the ability to pay producers for seed crops transferred, or when it appears the licensee does not have a sufficient net worth to outstanding financial obligations ratio, the ISDA may require the licensee to post a bond or other additional acceptable security in the amount of two thousand dollars (\$2,000) for each one thousand dollars (\$1,000) or fraction thereof of deficiency. (7-1-02)T

**02. Provide An Audited Or Reviewed Financial Statement.** The ISDA may require the licensee to submit an audited or reviewed financial statement prepared for the current financial accounting year by an independent certified public accountant or licensed public accountant. The audited or reviewed financial statement shall be prepared in accordance with GAAP. The ISDA may request a follow-up review of the submitted financial statement. (7-1-02)T

**061. -- 069. (RESERVED).**

**070. HOW ASSESSMENTS ARE TO BE CALCULATED.**

Pursuant to Section 22-5121, Idaho Code, all seed buyers shall collect assessments from producers who transfer seed crop or store for withdrawal. Assessments are calculated as follows: (7-1-02)T

**01. Contract.** Assessments shall be collected on the gross dollar amount, without any deduction, owed to, or paid, or to be paid, on behalf of the producer of the seed crop. (7-1-02)T

**02. Seed Stored For Withdrawal.** On the clean or estimated clean weight at the time the seed crop is withdrawn from the seed facility: (7-1-02)T

**a.** The initial rate of assessment for cereal grain, lentil, pea, and dry edible bean and oil seed stored for withdrawal shall not exceed one hundredth (1/100) cent per pound. (7-1-02)T

**b.** The initial rate of assessment for all seed crops stored for withdrawal other than seed crops pursuant to Section 070, shall not exceed one half (1/2) cent per pound. (7-1-02)T

**c.** The SIF advisory board shall review the assessment rate annually and make recommendations for change, as necessary, to the director. (7-1-02)T

**d.** If the amount of assessment for a producer on all seed stored for withdrawal made in a calendar year is calculated to be less than fifty cents (\$.50), no assessment will be collected. (7-1-02)T

**03. Incidental Costs And Expenses.** All incidental costs and expenses including, but not limited to transportation, cleaning, in and out charges, insurance, taxes and additional services or charges shall not be included in the calculation to determine the assessment. (7-1-02)T

**04. Unpaid Assessments.** If any assessment is unpaid and a failure occurs, the amount of the unpaid assessment will be deducted from any SIF recovery paid to the producer. (7-1-02)T

**071. -- 079. (RESERVED).**

**080. COLLECTION AND REMITTANCE OF SIF ASSESSMENTS.**

SIF assessments shall be collected from obligations owed to the producer or at the time of withdrawal by the seed buyer and remitted to the ISDA. (7-1-02)T

**081. -- 089. (RESERVED).**

**090. CLAIM FORMS AND PAYMENT FROM THE FUND.**

**01. Claim Forms.** Claim forms will be provided either via the USPS, by electronic transfer by the

ISDA, or other commercial means. (7-1-02)T

**02. Contract.** If the seed crop is contracted, the value of the contract price of the seed crop, at the time of payment, may be used to determine payment from the SIF. (7-1-02)T

**03. Not Contracted Or Stored For Withdrawal.** If the seed crop is not contracted or stored for withdrawal, the value for payment from the SIF shall be determined by a survey of prices, for similar seed crops and similar seed facilities, within the same geographic location as the failed seed buyer. (7-1-02)T

**091. -- 099. (RESERVED).**

**100. EXEMPTIONS.**

Producers are not eligible to participate in SIF and no assessments shall be collect from: (7-1-02)T

**01. Producers With A Financial Or Management Interest.** Producers that have a financial or management interest in a seed facility, except members of a cooperative marketing association qualified under Title 22, Chapter 26, Idaho Code. (7-1-02)T

**02. Producers That Sell Or Transfer To Another Producer.** Producers that sell to another producer, none of which are seed buyers. (7-1-02)T

**03. Deliveries Or Transfers To Unlicensed Seed Facilities.** Producers that deliver or transfer seed crops to an unlicensed facility. (7-1-02)T

**101. -- 999. (RESERVED).**

## IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

### 02.04.03 - RULES OF THE DEPARTMENT OF AGRICULTURE GOVERNING ANIMAL INDUSTRY

#### DOCKET NO. 02-0403-0202

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rules is July 1, 2002.

**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 Sections 25-203, 25-207, 25-223, 25-305, 25-601, and [25-3704] 25-3504, 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 July 17, 2002.

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

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

In order to clarify and simplify IDAPA 02.04.03, the Sections dealing with brucellosis and the importation of animals are being removed and put into two new chapters. These Sections from IDAPA 02.04.03 are being moved and renumbered into IDAPA 02.04.20, "Rules Governing Brucellosis," and IDAPA 02.04.21, "Rules Governing the Importation of Animals". Legislative format to strike and remove the text from IDAPA 02.04.03 is not being used in this docket, rather the text is simply being moved to the new chapters. The Sections where the text is being deleted and moved are now "RESERVED" Sections. The new chapters are being published in the Bulletin under Docket Nos. 02-0420-0201 and 02-0421-0201 following this docket.

**The following Sections from IDAPA 02.04.03 have been renumbered and moved to IDAPA 02.04.20.**

The information in IDAPA 02.04.03, Sections 080 and 110 is now found in IDAPA 02.04.20, Section 010 and incorporated materials.

IDAPA 02.04.03, Section 085 is now found in IDAPA 02.04.20, Sections 021, 023, 024, 025, 026, 103, 130, and incorporated material.

IDAPA 02.04.03, Sections 090, 095, 100, and 105 are now found in incorporated material.

IDAPA 02.04.03, Sections 115, 120, 125, 130, and 135 are now found in IDAPA 02.04.20, Sections 400, 420, 421, 422, and incorporated material.

IDAPA 02.04.03, Section 140 is now found in IDAPA 02.04.20, Sections 030, 026, 031, 103, 130, and incorporated material.

IDAPA 02.04.03, Section 345 is now found in IDAPA 02.04.20, Sections 120, 122, and incorporated material.

IDAPA 02.04.03, Section 355 is now found in IDAPA 02.04.20, Sections 200, 201, 202, 203, 204, 250, 251, 252, 253, 254, and 255.

IDAPA 02.04.03, Section 360 is repealed.

**The following Sections from IDAPA 02.04.03 have been renumbered and moved to IDAPA 02.04.21.**

The information found in IDAPA 02.04.03, Section 195 is now found in IDAPA 02.04.21, Sections 701, and 702.

IDAPA 02.04.03, Section 210 is now found in IDAPA 02.04.21, Sections 010, 050, 051, 100 through 108, 110, 200, 201, 210, through 212, 220, 230, 240, 250, 260, 300, 400, 500, 700 through 707, 710, 720, 800, and incorporated material.

IDAPA 02.04.03, Section 216 is now found in IDAPA 02.04.21, Section 109.

IDAPA 02.04.03, Section 340 is now found in IDAPA 02.04.21, Section 290.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(a), 67-5226(1)(b), and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: The rule is necessary to protect the public health, safety or welfare; comply with deadlines in amendments to governing law; and to confer a benefit.

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

**NEGOTIATED RULEMAKING:** Negotiated rulemaking was conducted with an advisory committee comprised of persons having an interest in brucellosis regulation.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Dr. Bob Hillman, or John Chatburn, Idaho Department of Agriculture, at (208) 332-8540.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2002.

DATED this 21st day of May 2002.

Mike Everett, Deputy Director  
Idaho State Department of Agriculture  
P.O. Box 790  
Boise, Idaho 83701-0790  
(208) 332-8500  
(208) 334-4062 FAX

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0403-0202**

~~076. -- 079.~~ ~~(RESERVED).~~

**SECTIONS 080 THROUGH 140 ARE BEING DELETED AND MOVED FROM THIS CHAPTER**

~~141-076.~~ -- 144. (RESERVED).

**(BREAK IN CONTINUITY OF SECTIONS)**

~~191. -- 194.~~ ~~(RESERVED).~~

**SECTION 195 IS BEING DELETED AND MOVED FROM THIS CHAPTER**

~~196~~. -- 199. (RESERVED).

**(BREAK IN CONTINUITY OF SECTIONS)**

~~206. -- 209.~~ ~~(RESERVED).~~

~~211. -- 215.~~ ~~(RESERVED).~~

*SECTIONS 210 AND 216 ARE BEING DELETED AND MOVED FROM THIS CHAPTER*

~~217~~06. -- 219. (RESERVED).

*(BREAK IN CONTINUITY OF SECTIONS)*

221. -- 339. (RESERVED).

*SECTIONS 340 AND 345 ARE BEING DELETED AND MOVED FROM THIS CHAPTER*

~~341. -- 344.~~ (RESERVED).

~~346~~1. -- 349. (RESERVED).

*(BREAK IN CONTINUITY OF SECTIONS)*

~~351. -- 354.~~ (RESERVED).

*SECTIONS 355 AND 360 ARE BEING DELETED AND MOVED FROM THIS CHAPTER*

~~356. -- 359.~~ (RESERVED).

~~365~~1. -- 363. (RESERVED).

# IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

## 02.04.20 - RULES GOVERNING BRUCELLOSIS

DOCKET NO. 02-0420-0201

### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rules is July 1, 2002.

**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 Sections 25-203, 25-207, 25-223, 25-601, and [25-3704] 25-3504, Idaho Code.

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

**July 9, 2002, 7 p.m.**  
Nampa Civic Auditorium  
11 3rd Street South, Nampa, ID

**July 10, 2002, 7 p.m.**  
College of Southern Idaho  
315 Falls Avenue, Twin Falls, ID

**July 11 2002, 7 p.m**  
Red Lion Hotel  
621 21st Street, Lewiston, ID

**July 15, 2002, 7 p.m**  
University Place Auditorium  
1776 Science Center Drive, Idaho Falls, ID

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

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

This temporary and proposed rule consolidates the brucellosis rules formerly found in IDAPA 02.04.03, Sections 80 through 140, 345, 355, and 360 into a new chapter IDAPA 02.04.20. Additionally, these rules update and modernize the brucellosis program in accordance with the National Brucellosis Program Standards and the changes in HB 523 which passed the 2002 Idaho Legislature.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(a), 67-5226(1)(b), and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: The rule is necessary to protect the public health, safety or welfare; comply with deadlines in amendments to governing law; and confer a benefit.

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

**NEGOTIATED RULEMAKING:** Negotiated rulemaking was conducted with an advisory committee comprised of persons having an interest in brucellosis regulation.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Dr. Bob Hillman, or John Chatburn, Idaho Department of Agriculture, at (208) 332-8540.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2002.

DATED this 21st day of May, 2002.

Mike Everett, Deputy Director  
Idaho State Department of Agriculture  
P.O. Box 790  
Boise, Idaho 83701-0790  
(208) 332-8500 / (208) 334-4062 FAX

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0420-0201**

**IDAPA 02**  
**TITLE 04**  
**Chapter 20**

**02.04.20 - RULES GOVERNING BRUCELLOSIS**

**000. LEGAL AUTHORITY.**

This chapter is adapted under the legal authority of Title 25, Chapters 2, 6 and [37] 35, Idaho Code. (7-1-02)T

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is "Rules Governing Brucellosis." (7-1-02)T

**02. Scope.** These rules govern prevention, surveillance, diagnosis, control, management and eradication of brucellosis in the state of Idaho. The official citation of this chapter is IDAPA 02.04.20.000 et.seq. For example, this Section's citation is IDAPA 02.04.20.001. (7-1-02)T

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. (7-1-02)T

**003. ADMINISTRATIVE APPEAL.**

Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (7-1-02)T

**004. INCORPORATION BY REFERENCE.**

The following documents are incorporated by reference and copies of these documents may be obtained from the Idaho State Department of Agriculture Central Office and the State Law Library: (7-1-02)T

**01. The February 1, 1998 edition of the Brucellosis Eradication Uniform Methods and Rules.** (7-1-02)T

**02. The September 30, 1998 edition of the Brucellosis in Cervidae: Uniform Methods and Rules.** (7-1-02)T

**03. The April 1998 edition of the Swine Brucellosis Control/Eradication: State-Federal-Industry Uniform Methods and Rules.** (7-1-02)T

**04. The Code of Federal Regulations Title 9, Subchapter C, January 1, 2002.** (7-1-02)T

**005. ADDRESS, OFFICE HOURS, TELEPHONE, AND FAX NUMBERS.**

**01. Physical Address.** The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712-0790. (7-1-02)T

**02. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (7-1-02)T

**03. Mailing Address.** The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. (7-1-02)T

**04. Telephone Number.** The telephone number for the Division of Animal Industries at the central

office is (208) 332-8500. (7-1-02)T

**05. Fax Number.** The fax number for the Division of Animal Industries at the central office is (208) 334-4062. (7-1-02)T

**006. IDAHO PUBLIC RECORDS ACT.**

These rules are public records available for inspection and copying at the Central Office of the Idaho State Department of Agriculture and the State Law Library. (7-1-02)T

**007. -- 009. (RESERVED).**

**010. DEFINITIONS.**

The following definitions shall apply in the interpretation and enforcement of this chapter. (7-1-02)T

**01. Accredited Veterinarian.** A veterinarian approved by the Administrator and USDA/APHIS/VS in accordance with provisions of Title 9, Part 161, Code of Federal Regulations to perform functions of State-Federal animal disease control programs. (7-1-02)T

**02. Administrator.** The administrator of the Division of Animal Industries, Idaho State Department of Agriculture or his designee. (7-1-02)T

**03. Approved *Brucella* Vaccine.** A vaccine product that is approved by and produced under license of the USDA for administration to cattle, domestic bison, swine or domestic cervidae for the purpose of enhancing the resistance to brucellosis. (7-1-02)T

**04. Approved Feedlot.** A feedlot approved by the Administrator to feed female cattle and domestic bison, which have not been officially vaccinated against brucellosis. (7-1-02)T

**05. Brucellosis.** An infectious disease of animals and humans caused by bacteria of the genus *Brucella*. (7-1-02)T

**06. Brucellosis Emergency.** The declaration of an animal health emergency by the director as the result of the diagnosis of brucellosis in cattle, domestic bison, swine or domestic cervidae in the state of Idaho or in areas outside the state that could result in transmission of brucellosis to Idaho cattle, domestic bison, swine, or domestic cervidae. (7-1-02)T

**07. Cattle.** All bovidae. (7-1-02)T

**08. Department.** The Idaho State Department of Agriculture. (7-1-02)T

**09. Director.** The director of the Idaho State Department of Agriculture or his designee. (7-1-02)T

**10. Division of Animal Industries.** Idaho State Department of Agriculture, Division of Animal Industries. (7-1-02)T

**11. Domestic Bison.** All animals in the genus *Bison* that are owned by a person. (7-1-02)T

**12. Domestic Cervidae.** Elk, fallow deer and reindeer that are owned by a person. (7-1-02)T

**13. Exposed.** Animals that have had contact with other animals, herds, or materials that have been determined to be infected with or affected by *Brucella*. (7-1-02)T

**14. Federal Animal Health Official.** An employee of USDA, APHIS, VS who is authorized to perform animal health activities. (7-1-02)T

**15. Infected Animals Or Herds.** Animals that are classified as reactors by the designated brucellosis epidemiologist or herds that contain one or more reactor animals. (7-1-02)T

- 16. Negative.** Cattle, domestic bison, swine or domestic cervidae are classified negative: (7-1-02)T
- a.** When their blood serum has been subjected to official serological tests and the test results fail to disclose evidence of *Brucella* infection; and (7-1-02)T
- b.** If blood, milk or tissues are subjected to bacteriological methods for cultivating field-strain *Brucella* and none are recovered. An animal is classified as negative when all tests that are performed fail to disclose evidence of brucellosis. (7-1-02)T
- 17. Official Identification.** The unique individual identification of cattle, domestic bison, swine, or domestic cervidae in accordance with these rules. (7-1-02)T
- 18. Official Vaccinate.** A bovine or domestic bison female that was inoculated, in accordance with these rules and the Brucellosis Eradication UM&R, with an approved *Brucella* vaccine. (7-1-02)T
- 19. Operator.** The person who has authority to manage or direct a cattle, domestic bison, swine, or domestic cervidae premise, or conveyance and the animals thereon. (7-1-02)T
- 20. Owner.** The person who owns or has financial control of cattle, domestic bison, swine, domestic cervidae, or a cattle, domestic bison, swine, or domestic cervidae premise. (7-1-02)T
- 21. Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (7-1-02)T
- 22. Premise.** The ground, area, buildings, corrals, and equipment utilized to keep, hold, or maintain animals. (7-1-02)T
- 23. Quarantine.** A written order, executed by the Administrator, to confine or hold animals on a premise or any other location, where found, and to prevent movement of animals from a premise or any other location when the administrator has determined that the animals have been found or are suspected to be exposed to or infected with *Brucella*, or the animals are not in compliance with the provisions of this chapter. (7-1-02)T
- 24. Reactor.** Cattle, domestic bison, swine or domestic cervidae are classified as reactors when their blood serum has been subjected to official serological tests and the test results indicate that the animal has been exposed to and infected with *Brucella*. Cattle, domestic bison, swine or domestic cervidae are also classified as reactors in the absence of significant serologic test results when other diagnostic methods, such as bacteriologic methods, result in the recovery of field-strain *Brucella* organisms, or a significant rise in the serologic titer occurs, or when other epidemiologic evidence of *Brucella* infection is demonstrated. (7-1-02)T
- 25. Re-Identification Of Official Vaccinates.** The identification of female cattle or other animals which have been officially vaccinated and identified, as provided in this chapter, and which have lost the official identification device or the tattoo has faded to the extent that it cannot be discerned. (7-1-02)T
- 26. Restrain.** The confinement of cattle, domestic bison, swine, or domestic cervidae in a chute, or other device, for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing. (7-1-02)T
- 27. Restricted Movement Permit.** A VS Form 1-27, or other document approved by the Administrator for movement of reactor or exposed animals in commerce. (7-1-02)T
- 28. State Animal Health Official.** The Administrator, or his designee, responsible for disease control and eradication programs. (7-1-02)T
- 29. State/Federal Animal Health Laboratory.** The official laboratory in Idaho that is approved by the Administrator and USDA/APHIS/VS, to conduct serologic and bacteriologic tests to detect *Brucella*. (7-1-02)T

**30. Suspect.** Cattle, domestic bison, swine, or domestic cervidae are classified as suspects when their blood serum has been subjected to official serologic tests and the results suggest infection but are inconclusive. If bacteriologic methods to culture *Brucella* from blood, milk or tissues were used, they did not yield field-strain *Brucella*. (7-1-02)T

**31. Swine.** All animals in the family suidae. (7-1-02)T

**32. Wild Bison.** All animals in the genus *Bison* that are not owned by a person (7-1-02)T

**33. Wild Elk.** All elk that are not owned by a person. (7-1-02)T

**011. ABBREVIATIONS.**

**01. APHIS.** Animal Plant Health Inspection Service. (7-1-02)T

**02. AVIC.** Area Veterinarian in Charge. (7-1-02)T

**03. CFR.** Code of Federal Regulations. (7-1-02)T

**04. MCI.** Market Cattle Identification. (7-1-02)T

**05. UM&R.** Uniform Methods and Rules. (7-1-02)T

**06. USDA.** United States Department of Agriculture. (7-1-02)T

**07. VS.** Veterinary Services. (7-1-02)T

**012. -- 019. (RESERVED).**

**020. APPLICABILITY.**

These rules apply to all cattle, domestic bison, swine, and domestic cervidae located within, imported into, transported through or exported from the state of Idaho. (7-1-02)T

**021. SUPERVISION.**

The official brucellosis eradication program shall be supervised by full-time state or federal veterinarians. (7-1-02)T

**022. INSPECTIONS.**

In order to ascertain compliance with this chapter, state and federal animal health officials are authorized to inspect animals, records, premises and other areas where cattle, domestic bison, swine, domestic cervidae and other animals are held or kept. (7-1-02)T

**01. Entering Premises.** In order to conduct activities authorized by this chapter, state or federal animal health officials are authorized to enter premises, other areas, or conveyances in the state where cattle, domestic bison, swine, domestic cervidae or other brucellosis susceptible animals are held or kept. State or federal animal health officials will attempt to notify the owner or operator of the premises or conveyance prior to conducting an inspection. (7-1-02)T

**02. Inspecting Records.** To ensure compliance with the provisions of this chapter, state or federal animal health officials are authorized to have access to, inspect, review, and copy any records deemed necessary during normal business hours. State or federal animal health officials will attempt to notify the owner or operator of the premises where the records are located prior to inspecting records. (7-1-02)T

**03. Emergencies.** In the event of an emergency, as determined by the Administrator, the notification requirements of this section may be waived. (7-1-02)T

**023. LABORATORIES.**

Biological samples tested for brucellosis shall be tested only by official state-federal animal health laboratories or by persons authorized by the Administrator, and USDA/VS. (7-1-02)T

**01. Blood, Milk, Tissue, Or Other Samples.** All biologic samples shall be collected and tested in accordance with the UM&R for that species. (7-1-02)T

**02. Authorized Persons.** The Administrator may authorize qualified persons to conduct serologic tests for brucellosis. All samples initially tested at other than official state-federal animal health laboratories shall be promptly submitted to the official state-federal animal health laboratory for confirmation of test results. (7-1-02)T

**03. Retest Of Reactors.** Within three days (3) days after being notified of the results of an initial herd blood test, the owner may request an additional blood test on reactors, such test shall be made at owner's expense. The request shall be based on sound epidemiologic evidence, and all animals shall remain under herd quarantine. The request shall be made to the Administrator, who shall approve or deny the request. (7-1-02)T

**04. Reclassification Of Reactors.** Any reclassification of reactor animals shall be in accordance with the UM&R for that species. (7-1-02)T

**024. REPORTING.**

Brucellosis activities conducted privately or as part of the official brucellosis eradication program shall be reported to the Administrator. (7-1-02)T

**01. Test Results.** All test results shall be reported immediately. (7-1-02)T

**02. Vaccinations.** All vaccination reports shall be submitted on a form approved by the Administrator within fifteen (15) days of date of vaccination. (7-1-02)T

**03. Disease.** All owners of animals and veterinarians shall report evidence of brucellosis infection to the Administrator immediately. (7-1-02)T

**025. QUARANTINES.**

All cattle, domestic bison, swine and domestic cervidae animals or herds determined to be exposed to or infected with brucellosis shall be quarantined. (7-1-02)T

**01. Infected Herds.** Infected herds or animals shall remain under quarantine until such time that the herd has been completely depopulated and the premise has been cleaned and disinfected as provided by the administrator or the provisions for release of quarantine established in these rules have been met. (7-1-02)T

**02. Exposed Herds.** The quarantine for exposed herds or animals may take the form of a hold-order which shall remain in effect until the exposed animals have been tested and the provisions for release of a quarantine as established in these rules have been met. (7-1-02)T

**03. Validity Of Quarantine.** The quarantine shall be valid whether or not it is acknowledged by signature of the owner. (7-1-02)T

**026. CLEANING AND DISINFECTING.**

The Administrator is authorized to order the owner or operator of stockyards, pens, trucks, trailers, cars, vessels, chutes, and other conveyances and premises to clean and disinfect the same, at the owner's expense, whenever necessary for the eradication of brucellosis. Cleaning and disinfecting shall be done under the supervision of state or federal animal health officials. (7-1-02)T

**01. Infected Animals.** Premises, conveyances, or other areas where infected animals have been held or kept shall be cleaned and disinfected under regulatory supervision within fifteen (15) days following the removal of reactors or the entire herd for slaughter. (7-1-02)T

**02. Exemptions.** The Administrator may authorize an exemption from cleaning and disinfection requirements on a case by case basis. (7-1-02)T

**03. Extension Of Time.** The Administrator may authorize an extension of time for cleaning and disinfection under extenuating circumstances. (7-1-02)T

**027. WILD BISON AND WILD ELK.**

**01. Wild Bison.** When wild bison enter into or are otherwise present within the state of Idaho, one (1) of the following actions shall be taken by the department: (7-1-02)T

**a.** If feasible, the wild bison shall be physically removed by the safest and most expeditious means from within the state boundaries or delivered to a slaughterhouse approved by the department. (7-1-02)T

**b.** If wild bison cannot safely or by reasonable and permanent means be removed from the state, the wild bison may be destroyed where they stand by the use of firearms. If firearms cannot be used with due regard for human safety and public and private property, the wild bison shall be relocated to a danger free area and destroyed by any practicable means of euthanasia, including the use of firearms. (7-1-02)T

**c.** When wild bison are killed, the carcass remains will be disposed of in accordance with IDAPA 02.04.17, "Rules Governing Dead Animal Movement and Disposal," or field dressed for delivery to a slaughterhouse or slaughter destination approved by the Administrator. (7-1-02)T

**02. Exposure of Livestock To Wild Bison.** All cattle, domestic bison, and domestic cervidae animals and herds that come into contact with brucellosis affected wild bison, such that transmission of brucellosis could occur, shall be considered exposed to brucellosis. (7-1-02)T

**03. Exposure of Livestock To Wild Elk.** All cattle, domestic bison, and domestic cervidae animals and herds that have feed-line or other contact, during winter months, with wild elk that have been determined to be affected with brucellosis, such that transmission of brucellosis could occur, shall be considered exposed to brucellosis. (7-1-02)T

**028. BRUCELLOSIS TESTING.**

The Administrator may require brucellosis testing of cattle, domestic bison, swine, domestic cervidae, or other animals. (7-1-02)T

**01. Duty To Restrain.** It shall be the duty of each person who has control of such animals to pen the animals in suitable pens and restrain them for the test when directed to do so in writing by the Administrator. (7-1-02)T

**02. Records Of Tests.** When any cattle, domestic bison, swine, or domestic cervidae are tested for brucellosis a complete test record shall be made and the record shall be shown on an official brucellosis test form provided by the Administrator. The test form shall be completely filled out, including the following information: (7-1-02)T

**a.** The name and address of the owner and the location of the animals at the time of test. (7-1-02)T

**b.** The name and signature of the person conducting the test. (7-1-02)T

**c.** Individual identification number of each animal and the registration name and number of each purebred animal. (7-1-02)T

**d.** Age of each animal. (7-1-02)T

**e.** Sex of each animal. (7-1-02)T

**f.** Breed of each animal. (7-1-02)T

**g.** Species of animals tested. (7-1-02)T

- h.** Vaccination status, including the vaccination tattoo for each vaccinated animal. (7-1-02)T
- i.** Test results, if a brucellosis test has been performed, for each animal. (7-1-02)T

**029. BRUCELLOSIS EMERGENCY.**

In order to prevent the re-establishment of brucellosis infection in cattle, domestic bison, swine or domestic cervidae in the state, the Director may declare an animal health emergency. (7-1-02)T

**01. Brucellosis In Idaho.** The Director may declare a brucellosis emergency in the event brucellosis is diagnosed in any cattle, domestic bison, swine or domestic cervidae in Idaho. (7-1-02)T

**02. Brucellosis In Adjacent Area.** The Director may declare a brucellosis emergency in the event that brucellosis is discovered in areas in or outside the state that could result in transmission of brucellosis to Idaho cattle, domestic bison, swine, or domestic cervidae. (7-1-02)T

**03. Infected Herd(s) To Be Condemned And Depopulated.** Pursuant to the provisions of Section 25-212, Idaho Code, animals and herds found to be infected with brucellosis shall be condemned and completely depopulated or slaughtered. (7-1-02)T

**030. BRUCELLOSIS INDEMNITY.**

Owners of animals that are condemned and depopulated because of brucellosis shall be indemnified for such animals, and for reasonable costs of disposal and cleaning and disinfection in accordance with the provisions of this chapter, except as provided in Section 031. (7-1-02)T

**01. Indemnity Payments.** Payments shall be based upon the appraised value, less federal indemnity and salvage value for the animals. (7-1-02)T

**02. Time Limit For Slaughter.** Payment of indemnity shall be made under Section 030 for animals destroyed because of brucellosis, only if the animals are shipped to slaughter or die otherwise within fifteen (15) days after the date of individual identification and tagging, except that the appropriate veterinarian in charge, for reasons satisfactory to him, may extend the period to thirty (30) days and the Deputy Administrator, Veterinary Services, for reasons satisfactory to him may extend it beyond thirty (30) days. (7-1-02)T

**03. Reactors That Die.** Indemnity may be paid on brucellosis reactors that die before being sent to slaughter provided: (7-1-02)T

**a.** The reactors have been appraised and identified and die within fifteen (15) days from date of appraisal; and (7-1-02)T

**b.** The state or federal animal health officials directing the disease control work are furnished with a signed statement by a veterinarian attesting that he observed the carcass of the dead animal and providing the reactor tag number found in the left ear of the animal and date of death. (7-1-02)T

**04. Other Costs.** Reimbursement for disposal costs and cleaning and disinfection costs shall not exceed the actual cost. (7-1-02)T

**031. BRUCELLOSIS INDEMNITY – CLAIMS NOT ALLOWED.**

Claims for compensation for animals destroyed because of brucellosis shall not be allowed if any of the following circumstances exist: (7-1-02)T

**01. Failure To Comply.** The owner has failed to comply with any of the rules governing the handling of brucellosis reactors. (7-1-02)T

**02. Illegal Imports.** The animals were illegally imported into the state. (7-1-02)T

**03. Animals Sold For Slaughter.** At the time of the test or condemnation, the animals belonged to or

were upon the premises of any person to whom the animals had been sold, shipped, or delivered for slaughter. (7-1-02)T

**04. Unapproved Test.** The animals were subject to a test not approved by the Administrator. (7-1-02)T

**05. Untested Animals.** All animals in the owner's herd have not been tested for brucellosis under state or federal supervision. (7-1-02)T

**06. Premises Not Cleaned.** The premises occupied by the brucellosis infected animals were not cleaned and disinfected as directed, under state or federal supervision. (7-1-02)T

**07. Neutered Animals.** The animals were neutered. (7-1-02)T

**08. Attempt To Improperly Obtain Funds.** There is substantial evidence that the owner or his agent has in any way been responsible for any attempt unlawfully or improperly to obtain indemnity funds for such animals. (7-1-02)T

**09. Unidentified Cattle And Domestic Bison.** Cattle or domestic bison destroyed because of brucellosis, unless they were marked for identification by branding the letter "B" on the left jaw, not less than three (3) inches high, and unless a metal tag bearing a serial number and inscription "US - IDAHO B. REACTOR" or similar US Reactor tag, was suitably attached to the left ear of each animal. (7-1-02)T

**10. Calves.** If the entire herd is not depopulated and the cattle or domestic bison were calves under one-hundred eighty (180) days of age. (7-1-02)T

**032. -- 099. (RESERVED).**

**100. OFFICIAL VACCINATION REQUIRED FOR CATTLE AND DOMESTIC BISON.**

All female cattle and domestic bison utilized for breeding, dairy, or grazing purposes shall be officially vaccinated for brucellosis. Utilization of female cattle or domestic bison, which are not officially vaccinated, for breeding, dairy or grazing purposes shall be a violation of this chapter. (7-1-02)T

**101. OFFICIAL VACCINATION.**

Female cattle and domestic bison may be officially vaccinated through one of the following methods: (7-1-02)T

**01. Calfhood Vaccination.** Female cattle and domestic bison native to the state of Idaho or imported into the state of Idaho shall be calfhood vaccinated while not less than one hundred twenty (120) days of age or more than three-hundred sixty-five (365) days of age or be consigned to an approved feedlot, for finish feeding for slaughter only, prior to becoming three hundred sixty-five (365) days of age. (7-1-02)T

**02. Adult Vaccination.** Female cattle or domestic bison may be vaccinated as adults with the approval of the Administrator. (7-1-02)T

**a.** Female cattle or domestic bison that are part of a herd, which is at risk of becoming infected with brucellosis, may be vaccinated as adults. Such female cattle or bison which are three hundred sixty-five (365) days of age or older shall be negative to an official brucellosis test within ten (10) days prior to being vaccinated. Vaccinal dose to be administered shall be determined by the administrator, in consultation with the designated brucellosis epidemiologist and the USDA brucellosis program manager. (7-1-02)T

**b.** Female cattle or domestic bison which are over three hundred sixty-five (365) days of age and which are not officially vaccinated may be imported to an approved feedlot or to another location approved by the administrator, on a permit issued by the administrator, to be vaccinated upon arrival in Idaho. Such cattle or domestic bison shall be negative to an official brucellosis test within ten (10) days prior to being vaccinated. Vaccinal dose to be administered shall be determined by the administrator, in consultation with the designated brucellosis epidemiologist and the USDA brucellosis program manager. (7-1-02)T

**03. Approval For Adult Vaccination.** Owners who desire to have female cattle or domestic bison,

which are over three hundred sixty-five (365) days of age vaccinated shall request approval from the administrator. The administrator may grant or deny the request to adult vaccinate the cattle based upon origin, history, age, pregnancy status and the potential of the cattle or domestic bison to spread other diseases of concern, such as tuberculosis or trichomoniasis. Approval or denial of the request to adult vaccinate the cattle shall be made within seven (7) working days of the date of the request. (7-1-02)T

**04. Adult Vaccinations Required.** The Administrator may require animals at risk of becoming infected with brucellosis to be adult vaccinated. The animals shall be vaccinated at intervals and with the vaccinal dose determined by the designated brucellosis epidemiologist. Such vaccination shall be accomplished whether or not the animals have been previously vaccinated. (7-1-02)T

**102. SALE OF FEMALE CATTLE OR DOMESTIC BISON THAT ARE NOT OFFICIALLY VACCINATED.**

Female cattle and domestic bison that are not officially vaccinated, and are sold or otherwise transferred to another person by private treaty or through a specifically approved livestock market shall meet the following requirements: (7-1-02)T

**01. Less Than Three Hundred Sixty Five Days Of Age.** Female cattle and domestic bison that are more than one hundred twenty (120) days of age and not more than three hundred sixty five (365) days of age at the time of sale or transfer to another person, may be sold to approved feedlots, directly to slaughter, to out of state destinations, or be consigned for sale at specifically approved livestock markets without being officially vaccinated. Such female cattle or domestic bison sold for breeding, grazing, or dairy purposes within Idaho shall be officially vaccinated prior to or immediately upon consummation of the sale. (7-1-02)T

**02. Over Three Hundred Sixty Five Days Of Age.** Female cattle and domestic bison over three hundred sixty five (365) days of age at the time of sale or transfer to another person may be consigned directly to an approved feedlot, out of state destination, slaughter, or specifically approved livestock market for sale to an approved feedlot, out of state destination, or slaughter. Such cattle or domestic bison may be consigned to an approved feedlot or other destination approved by the Administrator where the cattle or domestic bison shall be held in isolation until they have been tested negative to an official brucellosis test and officially vaccinated for brucellosis as provided in Section 101. Officially vaccinated cattle and domestic bison may be utilized for breeding, dairy, or grazing purposes. (7-1-02)T

**103. OFFICIAL IDENTIFICATION OF CATTLE AND DOMESTIC BISON.**

**01. Official Calfhoo Vaccinates.** Official calfhoo vaccinates shall be permanently identified as vaccinates by tattoo and official vaccination eartag. (7-1-02)T

**a.** Vaccination tattoos shall be applied to the right ear. The tattoo shall start with the letter "R", followed by the U.S. registered shield and "V", followed by a number corresponding to the last digit of the year in which the vaccination was done. (7-1-02)T

**b.** Official vaccination (orange) eartags shall be applied to the right ear. (7-1-02)T

**c.** Individual animal registration tattoos or individual animal registration brands may be used for identifying animals in place of official eartags if the cattle or domestic bison are registered by a breed association. (7-1-02)T

**02. Official Adult Vaccinates.** Official adult vaccinates shall be permanently identified as vaccinates by tattoo and by official identification eartag. Animals that have previously been officially identified as vaccinates shall have the prior official identification recorded on a vaccination certificate or test chart in lieu of the identification provided for in this subsection. (7-1-02)T

**a.** Vaccination tattoos shall be applied to the right ear. The tattoo shall start with the letter "R", followed by the letters "AV", followed by a number corresponding to the last digit of the year in which the vaccination was done. (7-1-02)T

b. Official identification (silver) eartags shall be applied to the right ear. (7-1-02)T

c. Individual animal registration tattoos or individual animal registration brands may be used for identifying animals in place of official eartags if the cattle or domestic bison are registered by a breed association. (7-1-02)T

**03. Reactor Animals.** All animals designated as reactors by the designated brucellosis epidemiologist shall be marked by branding the letter "B" on the left jaw or tail head not less than three (3) inches high and tagged with an official metal reactor tag in the left ear, bearing a serial number and the inscription U.S., brucellosis reactor or a similar reactor tag. Identification of reactors shall be accomplished within fifteen (15) days of the test date. The time may be extended for reasons mutually acceptable to the cooperating state and federal officials in charge. (7-1-02)T

**04. Suspect Animals.** All suspect animals shall be marked by branding the letter "S" on the left jaw or tail head not less than two (2) nor more than three (3) inches high. Suspect animals returning from a livestock market to the herd of origin under quarantine, pending further testing, are exempt from this requirement. (7-1-02)T

**05. Spayed Heifers.** Spayed heifers may be officially identified by applying a hot iron brand high on the tailhead on either or both sides using an open spade symbol as used in playing cards, of not less than three (3) inches high, or as provided by the administrator. (7-1-02)T

**104. RE-IDENTIFICATION OF OFFICIAL VACCINATES.**

No female cattle or domestic bison that were officially vaccinated against brucellosis shall be re-tattooed for the purpose of re-establishing their status as official brucellosis vaccinates nor shall any officially vaccinated animals be re-ear-tagged with the official vaccination eartag at any time subsequent to the original vaccination, except that re-tattooing for the purpose of re-establishing the status as official brucellosis vaccinates shall be allowed under the following conditions: (7-1-02)T

**01. Administrator Grants Permission.** Animals may be re-tattooed only by accredited veterinarians who have obtained permission from Administrator prior to the time the animals are re-tattooed. (7-1-02)T

**02. Permanent Identification.** Animals that are presented for re-tattooing shall have some permanent identification which will identify the animals as those originally tattooed, such as the brucellosis vaccination tag, individual animal registration tattoo, or other approved permanent identification, provided that such identification was submitted on the original official vaccination record. (7-1-02)T

**03. Reproduction Of Original Tattoo.** Re-tattooing shall reproduce the original tattoo, which was placed in the animal's ear at the time of vaccination. (7-1-02)T

**04. Records.** The veterinarian who performs the re-tattooing shall record the eartag or other identification numbers, the tattoo symbols and the owner's name and address on a new vaccination record form and submit the re-tattooing record to the Division of Animal Industries within ten (10) days of the date of re-tattooing. (7-1-02)T

**105. -- 119. (RESERVED).**

**120. BRUCELLOSIS ERADICATION AREAS.**

The Director is authorized to declare the entire state, a portion of the state, entire county or part of a county an eradication area, pursuant to Idaho Code, Section 25-604, in order to contain an outbreak of brucellosis and prevent spread of brucellosis to herds in other counties and areas of the state. (7-1-02)T

**01. Circumstances Under Which Testing Is Required.** Test eligible cattle, domestic bison, or other brucellosis susceptible species: (7-1-02)T

a. Shall be subjected to an official brucellosis test within the thirty (30) days immediately preceding sale or movement out of an eradication area. (7-1-02)T

**b.** For cattle or domestic bison consigned on a permit to a specifically approved stockyard, the brucellosis test requirement may be fulfilled at the stockyard by testing the cattle or domestic bison prior to sale. (7-1-02)T

**02. Test Exemptions.** Test eligible cattle and domestic bison from eradication areas, consigned on a permit directly from a farm or ranch of origin to an approved slaughter establishment, or to a specifically approved stockyard for sale directly to an approved slaughter establishment, shall be exempt from pre-movement testing. (7-1-02)T

**03. Discontinuance Of Eradication Area.** The eradication area designation shall exist only for the period of time necessary for the elimination of brucellosis infection from cattle and domestic bison in the area. After infection has been eliminated and Idaho has retained or regained brucellosis free status, the Director shall remove the eradication status from the area and the testing requirements shall be discontinued. (7-1-02)T

**121. TEST ELIGIBLE CATTLE AND DOMESTIC BISON.**

Test eligible cattle and domestic bison are: (7-1-02)T

**01. Unvaccinated Or Vaccinated With *Brucella Abortus* Strain RB 51 Vaccine.** Intact male and female cattle and domestic bison that are not vaccinated against brucellosis with *Brucella abortus* strain 19 vaccine and are six (6) months of age or older; or (7-1-02)T

**02. Strain 19 Dairy Vaccinates.** Brucellosis strain 19 vaccinated female cattle of dairy breeds that are: (7-1-02)T

**a.** Twenty (20) months of age or older; or (7-1-02)T

**b.** Parturient; or (7-1-02)T

**c.** Post-parturient; or (7-1-02)T

**03. Strain 19 Beef Or Domestic Bison Vaccinates.** Brucellosis strain 19 vaccinated female cattle of beef breeds or domestic bison that are: (7-1-02)T

**a.** Twenty-four (24) months of age or older; or (7-1-02)T

**b.** Parturient; or (7-1-02)T

**c.** Post-parturient. (7-1-02)T

**122. MOVEMENT INTO OR OUT OF ERADICATION AREAS.**

Cattle or domestic bison shall not be moved into or out of an eradication area except by the authorization of the Administrator. (7-1-02)T

**01. Permits Authorizing Movement.** Movement of cattle or domestic bison into or out of an eradication area shall require a permit issued by the Administrator. (7-1-02)T

**02. Contents Of Permits.** Permits for movement into or out of an eradication area shall be of the form and content prescribed by the Administrator. (7-1-02)T

**123. -- 129. (RESERVED).**

**130. MOVEMENT OF INFECTED AND EXPOSED CATTLE OR DOMESTIC BISON.**

All movement of infected or exposed cattle or domestic bison shall be on a restricted movement permit in accordance with the February 1, 1998 edition of the Brucellosis Eradication Uniform Methods and Rules. (7-1-02)T

**01. Restricted Movement Permit.** The permit shall be completed in full and signed by the shipper of the animals. (7-1-02)T

**02. Original Copy Of Permit.** The original copy of the permit shall accompany the animal being moved. (7-1-02)T

**131. -- 199. (RESERVED).**

**200. IDAHO APPROVED FEEDLOT.**

Female cattle and domestic bison that have not been officially vaccinated for brucellosis may be fed for slaughter in an Idaho approved feedlot, with no provisions for pasturing or grazing. Female cattle and domestic bison that have not been officially vaccinated for brucellosis shall not be fed for slaughter except in Idaho approved feedlots, with no provisions for pasturing or grazing. (7-1-02)T

**201. APPLICATION FOR DESIGNATION AS AN IDAHO APPROVED FEEDLOT.**

Application for Idaho Approved Feedlot status shall be made on application forms available from the Administrator. (7-1-02)T

**202. ADMINISTRATOR APPROVAL.**

The Administrator may approve feedlot applications after the feedlot has been inspected by state or federal animal health officials and: (7-1-02)T

**01. Cattle Secured.** The feedlot management has demonstrated that cattle which have not been officially vaccinated can be secured in the feedlot; and (7-1-02)T

**02. Adequate Records.** Feedlot records are adequate to show the origin and disposition of the cattle in the feedlot; and (7-1-02)T

**03. Adequate Resources.** The Administrator determines that the Division of Animal Industries has adequate human and fiscal resources to assure that the feedlot abides by the provisions of this chapter; and (7-1-02)T

**04. Past History.** The Administrator may take any past enforcement or violation history into consideration when making the final determination of whether or not to approve a feedlot. (7-1-02)T

**203. APPROVED FEEDLOT NUMBER.**

Feedlots approved by the Administrator shall receive an Idaho Approved Feedlot Number. (7-1-02)T

**204. EXPIRATION OF APPROVED STATUS.**

Approved feedlot status shall expire on September 1 of each year. It shall be the responsibility of feedlot management to apply each year for renewal of approved status. (7-1-02)T

**205. -- 249. (RESERVED).**

**250. CONTENT OF RECORDS FOR APPROVED FEEDLOTS.**

All approved feedlots shall keep accurate and complete records of all cattle and domestic bison in the feedlot. These records shall readily show: (7-1-02)T

**01. Animals Received.** The number, species, age, sex, brand, origin, date of entry, individual identification when required, and final disposition of all cattle and domestic bison received at the feedlot. (7-1-02)T

**02. Animals Removed From Feedlot.** The date of removal or sale, and destination of any animals removed. (7-1-02)T

**03. Death Loss.** Cattle and domestic bison losses by accident, disease or death shall be accurately recorded. (7-1-02)T

**04. Requirements.** That all applicable permit, test, examination, identification, and vaccination requirements have been met. (7-1-02)T

**251. RECORDS RETENTION.**

Feedlot records shall be retained by the feedlot for a period of not less than one (1) year following removal of the cattle or domestic bison from the feedlot. (7-1-02)T

**252. ENTRY REQUIREMENTS.**

Idaho Approved Feedlots are allowed to feed all classes of cattle and domestic bison, except brucellosis-exposed, suspect, or reactor cattle and domestic bison. Test eligible cattle and domestic bison from Class A, and B states or areas, as defined in Title 9, Part 78, CFR, shall be tested negative prior to entry. (7-1-02)T

**253. REMOVAL REQUIREMENTS.**

All cattle and domestic bison, except steers and spayed heifers, leaving Idaho Approved Feedlots shall conform to the following provisions: (7-1-02)T

**01. Direct To Slaughter.** Shall be identified on a weigh bill or other certificate and moved directly to slaughter at an approved slaughter establishment; or (7-1-02)T

**02. Direct To Another Idaho Approved Feedlot.** Shall be identified on a Certificate of Veterinary Inspection and moved directly to another Idaho Approved Feedlot; or (7-1-02)T

**03. Direct To Livestock Market.** Shall be consigned directly to a specifically approved livestock market for sale to slaughter, or other qualified destination; or (7-1-02)T

**04. Direct Out Of State.** Shall be consigned directly to a qualified out of state destination. (7-1-02)T

**05. Official Calfhoo Vaccinates.** Officially calfhoo vaccinated female cattle or domestic bison may be removed from an Idaho Approved Feedlot for breeding, dairy, or grazing purposes provided that the female cattle or domestic bison have been isolated in pens separate and apart from all other feedlot cattle since arrival at the feedlot, and the isolation is maintained until the vaccinated cattle or domestic bison are removed from the feedlot. (7-1-02)T

**06. Official Adult Vaccinates.** Officially adult vaccinated female cattle or domestic bison may be removed from an Idaho Approved Feedlot for breeding, dairy, or grazing purposes provided that the following conditions are met: (7-1-02)T

**a.** Female cattle or domestic bison that are three-hundred sixty-five (365) days of age or older at the time of vaccination have tested negative to an official brucellosis test within ten (10) days prior to vaccination; and (7-1-02)T

**b.** The female cattle or domestic bison are vaccinated with Strain RB 51 *Brucella abortus* vaccine, with a dose approved by the Administrator, within ten days of the negative brucellosis test; and (7-1-02)T

**c.** The female cattle or domestic bison have been isolated in pens separate and apart from all other feedlot cattle since arrival at the feedlot and the isolation is maintained until the vaccinated cattle or domestic bison are removed from the feedlot; and (7-1-02)T

**d.** All female cattle or domestic bison in the isolation pen are negative on an official brucellosis test prior to the vaccination and removal of any cattle from the isolation pen; and (7-1-02)T

**e.** The female cattle or domestic bison are identified on a Certificate of Veterinary Inspection at the time of removal. (7-1-02)T

**07. Intact Males.** Intact male cattle and domestic bison may be removed from an Idaho Approved Feedlot for breeding, dairy, or grazing purposes provided that the following conditions are met: (7-1-02)T

**a.** The intact male cattle or domestic bison have been tested negative to trichomoniasis tests as provided in the trichomoniasis rules, IDAPA 02.04.03, "Rules of the Department of Agriculture Governing Animal

Industry,” Section 220. (7-1-02)T

**b.** The intact male cattle or domestic bison have been isolated in pens separate and apart from other feedlot cattle since arrival at the feedlot. (7-1-02)T

**c.** The intact male cattle or domestic bison are examined, tested for brucellosis, and identified on a Certificate of Veterinary Inspection at the time of removal. (7-1-02)T

**08. Interstate Commerce.** Animal(s) moved in interstate commerce shall meet all applicable state and federal requirements. (7-1-02)T

**09. Approval Of The Administrator.** Vaccinated female cattle and intact male cattle being removed from the feedlot for breeding, dairy or grazing purposes shall not be removed without notification, and if required, approval of and under the conditions determined by the administrator. (7-1-02)T

**254. TESTING.**

Under the Brucellosis UM&R, Idaho Approved Feedlots are considered herds, not Quarantined Feedlots. (7-1-02)T

**01. MCI.** In the event that MCI slaughter testing discloses reactor(s) that came from the approved feedlot, the test-eligible animals remaining in the feedlot will be subjected to a herd test for brucellosis, unless feedlot records are adequate to identify the herd from which the reactor(s) originated and an epidemiological investigation demonstrates that the cattle remaining in the feedlot are not exposed. (7-1-02)T

**02. Exposed Cattle.** Cattle in an approved feedlot may be subject to testing for brucellosis if a brucellosis test conducted in the feedlot or an epidemiological investigation reveals that brucellosis exposed cattle have entered the feedlot. (7-1-02)T

**255. INSPECTION.**

The feedlot premises, the cattle or domestic bison therein, and the feedlot records shall be presented for inspection to the Administrator at any reasonable time. (7-1-02)T

**256. REVOCATION OF APPROVED FEEDLOT STATUS.**

The Administrator may revoke approved feedlot status by notifying the owner in writing. (7-1-02)T

**01. Failure To Comply.** In addition to any other department administrative or civil action, failure on the part of the feedlot operator to comply with the requirements of this chapter shall result in revocation of the Idaho Approved Feedlot status. (7-1-02)T

**02. Operator Request.** Operators may have the approved status revoked by emptying the feedlot and requesting in writing that the status be revoked. (7-1-02)T

**03. Regulation Changes.** Idaho Approved Feedlot status may be revoked at such time as revocation is required by changes in state or federal rules or regulations. (7-1-02)T

**04. Disposition Of Cattle And Domestic Bison.** Should the Idaho Approved Feedlot status be revoked, cattle and domestic bison still in the feedlot shall be removed from the feedlot as provided in Section 252 of this rules. The Administrator shall have the authority to impose time limits for removal of cattle and bison. (7-1-02)T

**257. -- 299. (RESERVED).**

**300. OFFICIAL IDENTIFICATION OF DOMESTIC CERVIDAE.**

**01. Identification At Time Of Brucellosis Testing.** Domestic cervidae shall be individually identified with an official identification device and the individual identification recorded on an official test form, or any existing official identification on the animal shall be recorded on an official test form at the time of brucellosis testing. (7-1-02)T

**02. Identification Of Reactors.** Animals classified as reactors to an approved brucellosis test shall be identified by hot branding the letter "B" (at least two by two (2 x 2) inches) on the left hip and by placing an official reactor tag in the left ear before movement of the animal from the premises where tested. (7-1-02)T

**03. Identification Of Suspect And Exposed Animals.** Suspect and exposed animals shall be identified by hot branding the letter "S" (at least two by two (2 x 2) inches) on the left hip and the official eartag number shall be recorded on movement documents before movement of the animal from the premises where found or tested. (7-1-02)T

**04. Exception To Identification Of Reactor, Suspect, And Exposed Animals.** In lieu of tagging and branding reactor, suspect, or exposed animals, the Administrator may approve movement of these animals directly to slaughter in a sealed vehicle or accompanied by a state or federal animal health official. (7-1-02)T

**301. -- 319. (RESERVED).**

**320. TESTING REQUIREMENTS.**

**01. Issuance Of Order For Testing, Quarantine, or Disposal Of Domestic Cervidae.** The Administrator shall determine when testing, quarantine, or disposal of domestic cervidae infected with or exposed to brucellosis is required, pursuant to Title 25, Chapters 2, 6, and [37] 35, Idaho Code. If the Administrator determines that testing or disposal of domestic cervidae or disinfection or sterilization of facilities is required, a written order shall be issued to the owner describing the procedure to be followed and the time period for carrying out such actions. (7-1-02)T

**02. Brucellosis-Free Certification of Domestic Cervid Herds.** Domestic cervidae shall be tested in accordance with the UM&R for Brucellosis in Cervidae to obtain certification of a herd as brucellosis-free. All sexually intact animals six (6) months of age or older must have three consecutive negative tests nine (9) to fifteen (15) months apart for initial herd certification. (7-1-02)T

**321. DOMESTIC CERVIDAE BRUCELLOSIS ERADICATION AREA.**

The Director is authorized to declare the entire state, a portion of the state, entire county or part of a county a domestic cervidae brucellosis eradication area, pursuant to Section 25-604, Idaho Code, in order to contain an outbreak of brucellosis and prevent spread of brucellosis to herds in other counties and areas of the state. (7-1-02)T

**322. TESTING AND MOVEMENT.**

Testing and movement requirements related to cervidae brucellosis eradication areas shall be in accordance with the UM&R for Brucellosis in Cervidae. (7-1-02)T

**323. -- 399. (RESERVED).**

**400. OFFICIAL IDENTIFICATION OF SWINE.**

**01. Swine Tested At Farm.** All swine bled on the farm as part of a complete herd test for swine brucellosis shall be individually identified by official VS-approved eartags, visible tattoos, or ear notches, provided the ear notch has been recorded in the book of record of a purebred registry association. (7-1-02)T

**02. Swine Tested At Market Or Slaughter.** Sows and boars six (6) months of age and older shall be identified by an official VS-approved paper or plastic backtag applied to the head or poll region and/or an official VS-approved eartag when tested for swine brucellosis at markets or slaughter establishments. (7-1-02)T

**03. Reactor Swine.** Swine reacting to the swine brucellosis test shall be identified by placing an official VS-approved reactor tag in the left ear. (7-1-02)T

**401. -- 419. (RESERVED).**

**420. TESTING REQUIREMENTS.**

**01. Test Eligible Swine.** Brucellosis testing of swine at markets, at slaughter establishments and farms when required by the UM&R for Control/Eradication of Swine Brucellosis shall be performed on sexually intact animals 6 months of age and older. (7-1-02)T

**02. Imported Domestic Swine.** Test eligible swine shall be negative to a swine brucellosis test thirty (30) days prior to importation into Idaho unless, the swine are from a validated swine brucellosis-free herd or state. (7-1-02)T

**03. Semen Sold for Artificial Insemination.** All herds that market swine semen shall be subjected to a complete herd test annually and be validated swine brucellosis free. (7-1-02)T

**421. SWINE BRUCELLOSIS ERADICATION AREA.**

The Director is authorized to declare the entire state, a portion of the state, entire county or part of a county a swine brucellosis eradication area, pursuant to Section 25-604, Idaho Code, in order to contain an outbreak of brucellosis and prevent spread of brucellosis to herds in other counties and areas of the state. (7-1-02)T

**422. TESTING AND MOVEMENT.**

Testing and movement requirements related to swine brucellosis eradication areas shall be in accordance with the UM&R for control/eradication of swine brucellosis. (7-1-02)T

**423. -- 989. (RESERVED).**

**990. PENALTY FOR VIOLATIONS.**

**01. Criminal And Civil Penalties.** Any person who violates any of the provisions of this chapter may be subject to the criminal and civil penalties provided in Title 25, Chapters 2, 6, [37] 35, Idaho Code. (7-1-02)T

**02. Reporting Minor Violations Not Required.** Nothing in this chapter requires the director to report minor violations for prosecution when he believes that the public interest will be best served by suitable warnings or other administrative action. (7-1-02)T

**991. -- 999. (RESERVED).**

**IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE**  
**02.04.21 - RULES GOVERNING THE IMPORTATION OF ANIMALS**  
**DOCKET NO. 02-0421-0201**  
**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rules is July 1, 2002.

**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 Sections 25-203, 25-207, 25-223, 25-305, 25-601, and [25-3704] 25-3504, 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 July 17, 2002.

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

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

This temporary and proposed rule consolidates the import rules formerly found in IDAPA 02.04.03, Sections 195, 210, 216, and 340 into a new chapter IDAPA 02.04.21. Additionally, these rules update and modernize the import requirements in accordance with state law and federal regulations.

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

The rule is necessary to protect the public health, safety or welfare; comply with deadlines in amendments to governing law; and confer a benefit.

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

**NEGOTIATED RULEMAKING:** Negotiated rulemaking was not conducted. However, many of the updated sections of the import regulations were discussed with the advisory committee working on the negotiated rule making for IDAPA 02.04.20.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Dr. Bob Hillman, or John Chatburn, Idaho Department of Agriculture, at (208) 332-8540.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2002.

DATED this 21st day of May 2002.

Mike Everett, Deputy Director  
Idaho State Department of Agriculture  
P.O. Box 790  
Boise, Idaho 83701-0790  
(208) 332-8500  
(208) 334-4062 FAX

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0421-0201**

**IDAPA 02**  
**TITLE 04**  
**Chapter 21**

**02.04.21 - RULES GOVERNING THE IMPORTATION OF ANIMALS**

**000. LEGAL AUTHORITY.**

This chapter is adapted under the legal authority of Title 25, Chapters 2, 3,4, 6 and [37] 35, Idaho Code. (7-1-02)T

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is "Rules Governing the Importation of Animals." (7-1-02)T

**02. Scope.** These rules govern procedures, requirements, and qualifications for the importation of animals into the state of Idaho. The official citation of this chapter is IDAPA 02.04.21.000 et.seq. For example, this Section's citation is IDAPA 02.04.21.001. (7-1-02)T

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. (7-1-02)T

**003. ADMINISTRATIVE APPEAL.**

Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (7-1-02)T

**004. INCORPORATION BY REFERENCE.**

Copies of these documents may be obtained from the Idaho State Department of Agriculture Central Office. IDAPA 02.04.20 incorporates by reference: (7-1-02)T

**01. The February 1, 1998 edition of the Brucellosis Eradication Uniform Methods and Rules.** (7-1-02)T

**02. The September 30, 1998 edition of the Brucellosis in Cervidae: Uniform Methods and Rules.** (7-1-02)T

**03. The April 1998 edition of the Swine Brucellosis Control/Eradication: State-Federal-Industry Uniform Methods and Rules.** (7-1-02)T

**04. The Code of Federal Regulations Title 9, Subchapter C, January 1, 2002.** (7-1-02)T

**05. The January 22, 1999 Edition Of The Bovine Tuberculosis Eradication Uniform Methods And Rules.** (7-1-02)T

**06. The Code of Federal Regulations, Title 9, Part 161, January 1, 2002.** (7-1-02)T

**07. The January 1, 1993 Edition Of The Pseudorabies Eradication, State-Federal-Industry Program Standards.** (7-1-02)T

**005. ADDRESS, OFFICE HOURS, TELEPHONE, AND FAX NUMBERS.**

**01. Physical Address.** The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712-0790. (7-1-02)T

**02. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (7-1-02)T

**03. Mailing Address.** The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. (7-1-02)T

**04. Telephone Number.** The telephone number of the Division of Animal Industries at the central office is (208) 332-8540. (7-1-02)T

**05. Fax Number.** The fax number of the Division of Animal Industries at the central office is (208) 334-4062. (7-1-02)T

**006. IDAHO PUBLIC RECORDS ACT.**

These rules are public records available for inspection and copying at the Central Office of the Idaho State Department of Agriculture, and the State Law Library. (7-1-02)T

**007. -- 009. (RESERVED).**

**010. DEFINITIONS.**

**01. Accredited Veterinarian.** A veterinarian approved by the Administrator and USDA/APHIS/VS in accordance with provisions of Title 9, Part 161, Code of Federal Regulations to perform functions of State-Federal animal disease control programs. (7-1-02)T

**02. Administrator.** The administrator of the Division of Animal Industries, Idaho State Department of Agriculture or his designee. (7-1-02)T

**03. Animals.** All vertebrates, except humans. (7-1-02)T

**04. Approved *Brucella* Vaccine.** A vaccine product that is approved by and produced under license of the United States Department of Agriculture for administration to cattle, domestic bison, swine or domestic cervidae for the purpose of enhancing the resistance to brucellosis. (7-1-02)T

**05. Approved Feedlot.** A feedlot approved by the Administrator to feed female cattle and domestic bison which have not been officially vaccinated against brucellosis or other bovidae not in compliance with Idaho's rules. (7-1-02)T

**06. Approved Slaughter Establishment.** A USDA inspected slaughter establishment at which ante-mortem and post-mortem inspection is conducted by USDA inspectors. (7-1-02)T

**07. Brucellosis.** An infectious disease of animals and humans caused by bacteria of the genus *Brucella*. (7-1-02)T

**08. Brucellosis Surveillance Area Or High Risk Areas.** Any area of a state that has been identified by USDA/APHIS/VS or state animal health officials as an area that poses a greater risk for transmission of brucellosis than would be expected based upon the official classification of the state. (7-1-02)T

**09. Camelids.** Llamas, alpacas, vicunas, camels. (7-1-02)T

**10. Cattle.** All bovidae including domestic bison. (7-1-02)T

**11. Certificate.** An official certificate of veterinary inspection or other approved certificate issued by an accredited veterinarian, state or federal animal health official or other approved official at the point of origin of the shipment of animal(s) being imported. (7-1-02)T

**12. Department.** The Idaho State Department of Agriculture. (7-1-02)T

13. **Director.** The director of the Idaho State Department of Agriculture or his designee. (7-1-02)T
14. **Division Of Animal Industries.** Idaho State Department of Agriculture, Division of Animal Industries. (7-1-02)T
15. **Domesticated.** Propagated and maintained under the control of a person. (7-1-02)T
16. **Domestic Bison.** All animals in the family Bison that are owned by a person. (7-1-02)T
17. **Domestic Cervidae.** Elk, fallow deer and reindeer that are owned by a person. (7-1-02)T
18. **Exposed.** Animals that have had direct contact with other animals, herds, or materials that have been determined to be infected with or affected by any infectious, contagious, or communicable disease. (7-1-02)T
19. **Federal Animal Health Official.** An employee of USDA/APHIS/VS who has been authorized to perform animal health activities. (7-1-02)T
20. **Feeder Animals.** Animals to be fed for slaughter only. (7-1-02)T
21. **Game Birds.** Domesticated gallinaceous fowl such as pheasants, partridge, quail, grouse and guineas. (7-1-02)T
22. **Hatching Eggs.** Fertilized eggs. (7-1-02)T
23. **Livestock.** Shall mean cattle, swine, horses, mules, asses, domestic cervidae, sheep, goats, camelids, and ratites. (7-1-02)T
24. **Negative.** Animals are classified as negative when they have been subjected to official tests for a disease, and the tests performed have failed to disclose evidence of the disease. (7-1-02)T
25. **Official Identification.** The unique individual identification of cattle, domestic bison, swine, or domestic cervidae in accordance with the rules governing each species. (7-1-02)T
26. **Official Vaccinate.** Cattle or domestic bison female that was inoculated, in accordance with IDAPA 02.04.20 "Rules Governing Brucellosis" or the Brucellosis Eradication UM&R, with an approved Brucella vaccine. (7-1-02)T
27. **Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (7-1-02)T
28. **Poultry.** The term shall mean chickens, turkeys, ducks, geese, guinea fowl, pigeons, pheasants, domestic fowl, waterfowl and gamebirds. (7-1-02)T
29. **Quarantine.** A written order, executed by the Administrator, to confine or hold animals on a premise or any other location, where found, and prevent movement of animals from a premise or any other location when the administrator has determined that the animals are infected with or exposed to a disease, or are not in compliance with the provisions of this chapter. (7-1-02)T
30. **Ratites.** Ostrich, emu, rhea and cassowaries. (7-1-02)T
31. **Slaughter Animals.** Animals of any kind for immediate slaughter, or those consigned for slaughter within fourteen (14) days of date of shipment. (7-1-02)T
32. **State Animal Health Official.** The Administrator, or his designee, responsible for disease control and eradication programs. (7-1-02)T

**33. Waterfowl.** Domestic fowl that normally swim, such as ducks and geese. (7-1-02)T

**34. Wildlife.** Any animal generally living in a state of nature except, domestic bison, domestic cervidae, and domestic fur bearing animals. (7-1-02)T

**011. ABBREVIATIONS.**

**01. APHIS.** Animal Plant Health Inspection Service. (7-1-02)T

**02. AVIC.** Area Veterinarian in Charge. (7-1-02)T

**03. AZA.** American Zoological Association. (7-1-02)T

**04. CFR.** Code of Federal Regulations. (7-1-02)T

**05. CWD.** Chronic Wasting Disease. (7-1-02)T

**06. EIA.** Equine Infectious Anemia. (7-1-02)T

**07. NAEBA.** North American Elk Breeders Association. (7-1-02)T

**08. NPIP.** National Poultry Improvement Plan. (7-1-02)T

**09. TB.** Tuberculosis. (7-1-02)T

**10. UM&R.** Uniform Methods and Rules. (7-1-02)T

**11. USDA.** United States Department of Agriculture. (7-1-02)T

**12. VS.** Veterinary Services. (7-1-02)T

**012. APPLICABILITY.**

These rules apply to all animals imported into the state of Idaho. (7-1-02)T

**013. -- 049. (RESERVED).**

**050. REQUIREMENTS OF TITLE 9, SUBCHAPTER C, CFR.**

In addition to meeting the requirements of this chapter for entry, animals imported into Idaho shall meet all applicable requirements set forth in the Title 9, Subchapter C, CFR, January 1, 2002. (7-1-02)T

**051. POST ENTRY INSPECTIONS.**

All animals entering Idaho shall be subject to a post-entry inspection by state or federal animal health officials. (7-1-02)T

**052. -- 099. (RESERVED).**

**100. CERTIFICATES OR PERMIT REQUIRED.**

Unless otherwise specifically provided in this chapter, all animals transported or moved into the state of Idaho shall be accompanied by: (7-1-02)T

**01. Certificate Of Veterinary Inspection.** An official certificate of veterinary inspection; or (7-1-02)T

**02. Other Approved Certificates.** Other certificate approved by the Administrator; and (7-1-02)T

**03. Permit.** A permit issued by the Administrator, if required. (7-1-02)T

**04. Possession.** The certificate, and permit if required, shall be attached to the waybill or be in the

possession of the driver of the vehicle or person in charge of the animals at the time of importation. (7-1-02)T

**101. CONTENTS OF CERTIFICATES.**

All certificates shall provide a written, legible record attesting the animal(s) meet the importation requirements of the state of Idaho. The certificate shall be on an official form of the state of origin, if applicable, be approved by its livestock sanitary official and be issued by an accredited veterinarian. An equivalent form of the USDA issued by a federal animal health official is acceptable in lieu of a certificate of veterinary inspection or other approved certificate. All certificates shall contain the following information: (7-1-02)T

- 01. Name And Address.** Name and address of the consignor and consignee; and (7-1-02)T
- 02. Origin Of Shipment.** Including city and state; and (7-1-02)T
- 03. Final Destination Of Shipment.** Including city and state; and (7-1-02)T
- 04. Description Of Animals.** An accurate description and identification of each animal if required; and (7-1-02)T
- 05. Purpose Of Shipment.** The purposes for which the animals were shipped, and method of transportation; and (7-1-02)T
- 06. Health Status.** The certificate shall indicate the health status of the animals involved including dates and results of inspection and of tests and vaccinations, if any, required by the state of Idaho; and (7-1-02)T
- 07. Signature.** The signature of the accredited veterinarian, or state or federal animal health official, conducting the veterinary inspection. (7-1-02)T
- 08. Mailing Certificate To Idaho.** The required copies of certificates of veterinary inspection or other approved certificates shall be mailed, within thirty (30) days of inspection, to the Division of Animal Industries, P.O. Box 7249, Boise, ID 83707. (7-1-02)T
- 09. Period Of Certificate Validity.** Certificates of veterinary inspection shall be valid for no longer than thirty (30) days after the date of inspection. (7-1-02)T

**102. EXTENDED VALIDITY EQUINE CERTIFICATES.**

Equidae from other states may enter the state of Idaho for shows, rides or other equine events and return to the state of origin on an extended validity equine certificate provided there is a written agreement between the Administrator and the chief livestock sanitary official of the state of origin. (7-1-02)T

- 01. Valid For One Animal.** An extended validity equine certificate shall be valid for only one (1) animal. Each animal shall have a separate certificate. (7-1-02)T
- 02. Contents.** Extended validity equine certificates shall contain the following information: name and address of the owner, location at which the animal is stabled, housed, pastured or kept, if different from that of the owner, an accurate description and identification of the animal, date of veterinary inspection, dates and results of EIA or other required tests or vaccinations, signature of inspecting veterinarian. (7-1-02)T
- 03. Period Of Validity.** Extended validity equine certificates shall be valid for no longer than six (6) months from date the blood sample is collected for the EIA test by the animal health official or accredited veterinarian. If EIA testing is not required the certificate shall be valid no longer than six (6) months from the date of inspection for the certificate. (7-1-02)T
- 04. Travel Itinerary.** Recipients of extended validity equine certificates shall submit a completed travel itinerary to the Division of Animal Industries within ten (10) working days of the end of the six (6) month period of validity of the certificate. The travel itinerary shall provide a listing of all travel into the state of Idaho, including travel dates, purpose for travel and destinations, during the period of validity of the certificate. (7-1-02)T

**05. Cancellation.** Extended validity equine certificates may be canceled at any time by the Administrator in the event of serious or emergency disease situations or for non-compliance with the provisions of these rules. (7-1-02)T

**103. NPIP CERTIFICATE.**

Poultry imported from NPIP certified flocks may be moved with VS Form 9-3 in lieu of a certificate of veterinary inspection. (7-1-02)T

**104. IMPORT PERMITS.**

Request for permits to import animals, other than sheep and goats, into the state of Idaho shall be directed to the Division of Animal Industries, P.O. Box 7249, Boise, Idaho, 83707; telephone (208) 332-8540. (7-1-02)T

**01. Telephone Requests.** Import permits may be requested by telephone or facsimile during office hours as stated in Section 005. (7-1-02)T

**02. Contents Of A Permit Request.** The request for an import permit shall include the following information: (7-1-02)T

- a.** Name and address of the consignor and consignee; (7-1-02)T
- b.** Number and kind of animals; (7-1-02)T
- c.** Origin of shipments; (7-1-02)T
- d.** Final destination; (7-1-02)T
- e.** Purpose of shipment; (7-1-02)T
- f.** Method of shipment; and (7-1-02)T
- g.** Results of any required tests, inspections or vaccinations. (7-1-02)T

**03. Timeframe For Requesting A Permit.** Permits may be requested no more than seventy-two (72) hours in advance of the shipment of the animals. (7-1-02)T

**04. Period of Validity.** Permits shall be valid for no longer than fifteen (15) days from the date of issuance unless otherwise specified. (7-1-02)T

**05. Sheep And Goats.** Request for permits for sheep and goats shall be directed to the Idaho Sheep Commission, P. O. Box 2596, Boise, Idaho, 83701; telephone (208) 334-3115. (7-1-02)T

**105. TO WHOM MAY ANIMALS BE CONSIGNED.**

Animals transported or moved into the state shall be consigned to a person residing in Idaho or to a person authorized by law to do business in the state of Idaho. (7-1-02)T

**106. DIVERSION OF ANIMALS AFTER SHIPMENT.**

No person consigning, transporting or receiving animals in the state of Idaho shall authorize, order or carry out diversion of such animals to a destination or consignee other than set forth on the certificate of veterinary inspection or permit without notifying the Division of Animal Industries within seventy-two (72) hours of the diversion. (7-1-02)T

**107. ANIMALS EXPOSED TO DISEASE OR ORIGINATING IN A QUARANTINED AREA.**

No animals affected with or which have been exposed to any infectious, contagious, or communicable disease, or which originate in a quarantined area shall be transported or moved into the state of Idaho unless a permit for such entry is first obtained from the Division of Animal Industries, except such animals in classifications allowed interstate shipment under specified requirements of the USDA may move without permit if in compliance with Title

9, Subchapter C, CFR requirements. (7-1-02)T

**108. QUARANTINE IMPOSED IF NO CERTIFICATE OR PERMIT ISSUED.**

Animals entering the state of Idaho without a valid certificate of veterinary inspection or other approved certificate, and a permit, if required, shall be held in quarantine at the risk and expense of the owner. (7-1-02)T

**01. Duration Of Quarantine.** Such animals shall remain under quarantine until the quarantine is released by a state or federal animal health official. (7-1-02)T

**02. Animals Without A Certificate.** The Administrator may order animals that are not in compliance with certificate of veterinary inspection requirements to be slaughtered, removed from the state, or confined to an approved feedlot. (7-1-02)T

**03. Hold Order.** Quarantines may take the form of a hold order. (7-1-02)T

**109. VESICULAR STOMATITIS.**

No livestock may enter Idaho from another state if Vesicular Stomatitis has been diagnosed within ten (10) miles of the premise of origin of the shipment within the last thirty (30) days. (7-1-02)T

**01. Certificate Of Inspection.** Any livestock entering Idaho from a state where Vesicular Stomatitis has been diagnosed within the last thirty (30) days shall be accompanied by a certificate of veterinary inspection with the following statement written by the accredited veterinarian on the certificate: "All animals identified on this certificate of veterinary inspection have been examined and found to be free from Vesicular Stomatitis. During the last thirty (30) days; these animals have neither been exposed to Vesicular Stomatitis nor located within an area where Vesicular Stomatitis has been diagnosed." (7-1-02)T

**02. Permit For Entry.** Livestock from states in which Vesicular Stomatitis has been diagnosed within the last thirty (30) days shall be accompanied by a permit for entry into Idaho. The permit number shall be written on the certificate of veterinary inspection. (7-1-02)T

**110. GENERAL DUTIES OF CARRIER.**

All owners and operators of railroads, trucks, airplanes, or other conveyances shall conform to all rules and statutes of the state of Idaho in transporting or moving any animals into, within or through the state of Idaho. (7-1-02)T

**01. Duties Of Carrier Regarding Certificates of Veterinary Inspection Or Permits.** All owners and operators of railroads, trucks, airplanes, or other conveyances used in the transportation of animals into or within the state of Idaho shall assure themselves each consignment or shipment is in conformity with the applicable statutes and rules of the state of Idaho, and that each consignment is accompanied by an official certificate of veterinary inspection or by a permit, or by both, where so required and issued by the authorized livestock sanitary official. Such certificate of veterinary inspection or permit, or both, shall be attached to the waybill accompanying the shipment or be in the possession of the attendant in charge of the animals. (7-1-02)T

**02. Sanitary Condition Of Cars, Trucks And Airplanes.** All railroad cars, trucks, airplanes, or other conveyances used in the transportation of animals shall be maintained in a clean and sanitary condition. (7-1-02)T

**03. Disinfection Of Cars, Trucks And Airplanes.** All owners and operators of railroad cars, trucks, airplanes, or other conveyances which have been used for movement of animals infected with or exposed to any infectious, contagious, or communicable disease shall have such cars, trucks, airplanes or other conveyances thoroughly cleaned and disinfected under official supervision by any accredited veterinarian or state or federal animal health official, at the point of destination or by permit from the sanitary officials, may be moved to some other point for cleaning and disinfecting. (7-1-02)T

**111. -- 199. (RESERVED).**

**200. IMPORTATION OF CATTLE INTO IDAHO.**

Cattle may enter the state of Idaho provided they are accompanied by a certificate of veterinary inspection or other approved certificate attesting they are free from evidence of any infectious, contagious, or communicable disease, or

exposure thereto, and by a permit if required. All cattle entering Idaho shall be subject to a post-entry inspection by state or federal animal health officials. (7-1-02)T

**201. WHEN PERMITS ARE REQUIRED FOR CATTLE.**

**01. Dairy.** For all intact male and female cattle of dairy breeds not consigned directly to an approved slaughter establishment, or to a specifically approved livestock market. Dairy cattle three hundred sixty-five (365) days of age or older shall be officially identified as provided in IDAPA 02.04.20. The Administrator may require the identification of dairy cattle less than three hundred sixty-five (365) days of age. (7-1-02)T

**02. Beef.** All bulls of beef breeds not consigned directly to an approved slaughter establishment, or to a specifically approved livestock market, except intact male calves accompanying their dams. (7-1-02)T

**03. Brucellosis.** All intact female cattle which are: (7-1-02)T

**a.** From states or areas that are not Class Free; or (7-1-02)T

**b.** Not officially vaccinated pursuant to IDAPA 02.04.20, "Rules Governing Brucellosis"; or (7-1-02)T

**c.** Under one hundred twenty (120) days of age. (7-1-02)T

**04. Restricted Areas.** All cattle from areas or states with Idaho or USDA imposed restrictions. (7-1-02)T

**05. Other.** Cattle of any classification that do not meet other entry requirements. (7-1-02)T

**202. -- 209. (RESERVED).**

**210. BRUCELLOSIS VACCINATION REQUIREMENTS.**

All intact female cattle entering Idaho shall have been officially vaccinated for brucellosis except: (7-1-02)T

**01. Cattle Consigned To Slaughter.** Female cattle consigned directly to an approved slaughter establishment. (7-1-02)T

**02. Cattle Consigned To Specifically Approved Livestock Markets.** Female cattle consigned directly to a specifically approved livestock market for sale to approved feedlots or approved slaughter establishments. (7-1-02)T

**03. Approved Feedlot.** Female cattle consigned directly to an Idaho approved feedlot, by permit. (7-1-02)T

**04. Calves.** Female calves under one hundred twenty (120) days of age by permit. (7-1-02)T

**05. Vaccination On Arrival.** Non-vaccinated females over one hundred twenty (120) days of age may, by permit, be consigned to a qualified destination approved by the Administrator to be officially vaccinated on arrival pursuant to IDAPA 02.04.20, "Rules Governing Brucellosis". (7-1-02)T

**211. BRUCELLOSIS TEST REQUIREMENTS.**

**01. Class A States Or Areas.** All test eligible cattle from Class A states or areas shall have been tested negative within thirty (30) days of importation unless consigned to slaughter. (7-1-02)T

**02. Brucellosis Surveillance Or High Risk Areas.** Test eligible cattle from brucellosis surveillance areas or brucellosis high risk areas shall be tested negative to an official brucellosis test within thirty (30) days before importation into Idaho except those cattle consigned directly to an approved slaughter establishment, or a specifically approved livestock market where they shall be tested prior to sale. Such cattle sold to a destination other than an

approved slaughter establishment may be held under quarantine for forty-five (45) to one hundred twenty (120) days to allow for additional brucellosis tests. (7-1-02)T

**212. TEST ELIGIBLE CATTLE.**

Test eligible cattle are: (7-1-02)T

**01. Unvaccinated Or Vaccinated With *Brucella Abortus* Strain RB 51 Vaccine.** All intact male and female cattle, eighteen (18) months of age or older, that are not vaccinated against brucellosis with *Brucella abortus* strain 19 vaccine; or (7-1-02)T

**02. Strain 19 Dairy Vaccinates.** Brucellosis strain 19 vaccinated female cattle of dairy breeds that are: (7-1-02)T

**a.** Twenty (20) months of age or older; or (7-1-02)T

**b.** Within two (2) weeks prior to calving or already calved. (7-1-02)T

**03. Strain 19 Beef Vaccinates.** Brucellosis strain 19 vaccinated female cattle of beef breeds that are: (7-1-02)T

**a.** Twenty-four (24) months of age or older; or (7-1-01)T

**b.** Within two (2) weeks prior to calving or already calved. (7-1-02)T

**04. All Test Eligible Cattle Entering Idaho.** All test eligible cattle entering Idaho shall be officially identified on the certificate of veterinary inspection. (7-1-02)T

**213. -- 219. (RESERVED).**

**220. GRAZING CATTLE.**

Grazing cattle moved into Idaho for seasonal grazing periods shall be moved only under special grazing permits issued jointly by the Division of Animal Industries and the chief livestock sanitary official in a western state which reciprocates with Idaho in honoring grazing permits. Grazing permits shall be for one (1) specified season only. The Administrator, in cooperation with the appropriate agency of the reciprocating state, shall have the authority to impose a brucellosis herd test or tests on cattle entering for grazing purposes. This test requirement shall be evaluated on an annual basis by the Administrator and the chief livestock sanitary official of the reciprocating state. (7-1-02)T

**221. -- 229. (RESERVED).**

**230. EMERGENCY SITUATIONS.**

Cattle may be imported into the state of Idaho in emergency situations under special permit from the Administrator. (7-1-02)T

**01. Cattle Held Separate.** Cattle allowed entrance under this provision shall be held separate and apart from Idaho cattle and shall be quarantined for a specific time period to a specific area for grazing or feeding purposes. (7-1-02)T

**02. Cattle Returned To State Of Origin.** At the end of the quarantine time period the cattle will be returned to the state of origin, but shall meet the state of origin's import requirements prior to departure from Idaho. (7-1-02)T

**03. Cattle That Remain In Idaho.** If an owner desires to leave such cattle in Idaho after the time period has expired, then such cattle shall meet the same health and test requirements as would normally be required of any imported cattle and this shall be done at the owner's expense. (7-1-02)T

**231. -- 239. (RESERVED).**

**240. TUBERCULOSIS TEST REQUIREMENTS.**

Cattle and domestic bison may enter the state of Idaho provided: (7-1-02)T

**01. Tuberculosis Accredited Free State Or Zone.** Cattle and bison that originate from a bovine tuberculosis accredited free state or zone, as defined by USDA in Title 9, Part 77, CFR, in which there are no animals or herds infected with or exposed to tuberculosis may enter the state without a tuberculosis test. (7-1-02)T

**02. Tuberculosis Accredited Free Herd.** Cattle and bison that originate in an accredited tuberculosis free herd in either an accredited free state or zone, a modified accredited advanced state or zone, or a modified accredited state or zone, as defined by USDA in Title 9, Subchapter C, CFR, and for which both an accredited herd number and date of last tuberculosis test are shown on the certificate of veterinary inspection, may enter the state without a tuberculosis test. (7-1-02)T

**03. Tuberculosis Modified Accredited Advanced State Or Zone.** Cattle and bison that originate from a modified accredited advanced state or zone, as defined by USDA in Title 9, Subchapter C, CFR, and are not known to be infected with or exposed to tuberculosis, may be imported upon meeting the following requirements: (7-1-02)T

**a.** Steers, spayed heifers and individually identified intact heifers, which are consigned directly to a feedlot approved for finish feeding of cattle or bison relative to tuberculosis, may enter without testing for tuberculosis; and (7-1-02)T

**b.** All other cattle and bison, except those consigned for immediate slaughter at an approved slaughter establishment, shall be tested for tuberculosis with negative results within sixty (60) days prior to entry into Idaho. (7-1-02)T

**04. Tuberculosis Modified Accredited State Or Zone.** Cattle and bison that originate in a modified accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, and which are not known to be infected with or exposed to tuberculosis, may enter Idaho under one (1) of the following conditions: (7-1-02)T

**a.** The cattle and bison are steers, spayed heifers or intact heifers which are consigned directly to a feedlot approved for finish feeding of cattle and bison relative to tuberculosis and that have been individually identified and classified negative on an official tuberculosis test within sixty (60) days prior to entry into Idaho; (7-1-02)T

**b.** The cattle and bison are consigned for immediate slaughter at an approved slaughter establishment; or (7-1-02)T

**c.** The cattle and bison have been subjected to two (2) official tuberculosis tests, the results of which are negative, the first test shall be a whole herd test, the second test shall be at least sixty (60) days, and no more than six (6) months, after the whole herd test and shall be not more than sixty (60) days prior to entry into Idaho. (7-1-02)T

**05. Tuberculosis Accredited Preparatory State Or Zone.** Cattle and bison that originate in an accredited preparatory state or zone, as defined by USDA in Title 9, Subchapter C, CFR, and which are not known to be infected with or exposed to tuberculosis, may enter Idaho under one (1) of the following conditions: (7-1-02)T

**a.** The cattle and bison are steers, spayed heifers or intact heifers which are consigned directly to a feedlot approved for finish feeding of cattle and bison relative to tuberculosis and that are individually identified and have been classified negative on two (2) official tuberculosis tests conducted at least sixty (60) days but not more than six (6) months apart with the second test being conducted not more than sixty (60) days prior to entry into Idaho; or (7-1-02)T

**b.** The cattle and bison originate in a tuberculosis accredited free herd, are individually identified, and have been tested negative on an official tuberculosis test within sixty (60) days prior to entry into Idaho; or (7-1-02)T

**c.** The cattle and bison are individually identified, are from a herd that has been subjected to a

complete tuberculosis herd test with negative results within the past twelve (12) months and the animals being imported have been subjected to two (2) additional official tuberculosis tests with negative results, conducted not less than sixty (60) days apart with the second test being conducted not more than sixty (60) days prior to the date of importation. (7-1-02)T

**06. Tuberculosis Non-Accredited State Or Zone.** Cattle and bison that originate in a non-accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, may not enter Idaho except by special permit issued by the administrator and under the conditions specified by the administrator at the time the permit is issued. (7-1-02)T

**241. -- 249. (RESERVED).**

**250. SCABIES.**

All cattle not known to be infected with Scabies consigned to Idaho from any state or area designated as a Scabies quarantined area are to be accompanied by a certificate of veterinary inspection from the state of origin indicating that such animals have been treated with an approved scabicide. Such cattle shall be accompanied by an entry permit from the Division of Animal Industries. The only exceptions to the above requirements are as follows: (7-1-02)T

**01. Treatment After Arrival.** Cattle may be moved, by permit from the Division of Animal Industries, to an Idaho location for treatment for Scabies within twenty-four (24) hours after arrival. Such cattle shall not be mixed or allowed to intermingle with resident cattle prior to official treatment. (7-1-02)T

**02. Direct To Slaughter.** Cattle may be shipped without permit directly to an approved slaughter establishment. (7-1-02)T

**03. Inspection.** Female cattle of dairy breeds over eighteen (18) months of age may be shipped into Idaho by permit, without treatment for Scabies, provided a hands-on inspection by an accredited veterinarian, or a state or federal animal health official, is conducted to ascertain that the cattle are not infected. (7-1-02)T

**251. -- 259. (RESERVED).**

**260. TRICHOMONIASIS.**

The Certificate of Veterinary Inspection for bulls imported into Idaho shall contain a statement certifying that Trichomoniasis is not known to exist in the herd of origin, and: (7-1-02)T

**01. Virgin Bulls Under Twenty-Four Months Of Age.** The bull(s) are twenty-four (24) months of age or younger and have not serviced a cow; or (7-1-02)T

**02. Tested Bulls.** The bull(s) have been tested by culture for trichomoniasis within thirty (30) days of shipment and were negative to the test. (7-1-02)T

**03. Exceptions.** Exceptions to certification and testing: (7-1-02)T

**a.** Bulls consigned directly to slaughter at an approved slaughter establishment. (7-1-02)T

**b.** Bulls consigned directly to an approved feedlot. (7-1-02)T

**261. -- 289. (RESERVED).**

**290. DOMESTIC BISON.**

**01. Shipment.** All domestic bison imported into Idaho shall be in compliance with the same requirements as cattle contained in this chapter and Title 9, Subchapter C, CFR. (7-1-02)T

**02. Permits.** A permit is required from the Division of Animal Industries prior to importation of domestic bison. (7-1-02)T

**291. -- 299. (RESERVED).**

**300. HORSES, MULES, ASSES AND EQUIDAE.**

All horses, mules, asses and equidae which are to be transported or moved into the state of Idaho shall be accompanied by an official certificate of veterinary inspection or extended validity equine certificate, from the state of origin, stating that the equidae are free from evidence of any communicable disease and have completed EIA test requirements, except as provided in this section. (7-1-02)T

**01. EIA Test Requirements.** An official EIA test is a blood test conducted by a USDA approved laboratory, within six (6) months prior of entry of the equidae into Idaho. (7-1-02)T

**a.** Entry of equidae into Idaho shall not be allowed until the EIA test has been completed and reported negative. Equidae which test positive to the EIA test shall not be permitted entry into Idaho, except by special written permission from the Administrator. (7-1-02)T

**b.** A nursing foal less than six (6) months of age accompanied by its EIA negative dam is exempt from the test requirements. (7-1-02)T

**02. Working Horses Included On Grazing Permits.** "Working horses" used for seasonal ranching purposes may be exempt from the requirements of this section if the horses have been included on a current grazing permit which has received prior approval from the Administrator and the chief livestock sanitary official in a western state which reciprocates with Idaho in honoring grazing permits. (7-1-02)T

**03. Slaughter Horses.** Equids being moved to an approved equine slaughter establishment may be exempted from EIA test requirements. (7-1-02)T

**04. Equine Feeding Facilities.** Equids being fed for slaughter in an equine feeding facility approved by the Administrator may be exempt from EIA test requirements. (7-1-02)T

**05. Reciprocal Agreements.** The Administrator may enter into cooperative reciprocal agreements with neighboring states which exempt EIA testing requirements for movement of equidae between the cooperating states. (7-1-02)T

**301. -- 399. (RESERVED).**

**400. SWINE.**

Swine may enter the state of Idaho provided they meet the following brucellosis and pseudorabies requirements, and are accompanied by a certificate of veterinary inspection attesting that they have been inspected within thirty (30) days of date of shipment, that they are free from evidence of all infectious, contagious, or communicable diseases, or known exposure thereto during the preceding sixty (60) days, that they have not been vaccinated with any pseudorabies vaccine, and that they have not been fed raw garbage. Swine for immediate slaughter which are apparently healthy may enter the state of Idaho without a certificate of veterinary inspection, provided the applicable permit requirements are met and the swine are consigned directly to an approved slaughter establishment, or to a specifically approved livestock market for sale to an approved slaughter establishment. (7-1-02)T

**01. Brucellosis Test Requirements.** Breeding swine shall be tested negative for brucellosis at a dilution of one to twenty-five (1:25) within thirty (30) days of entry or negative to Official Card Test, within thirty (30) days of entry, or originate from a validated brucellosis free herd or validated brucellosis free state. (7-1-02)T

**02. Pseudorabies Import Rule.** (7-1-02)T

**a.** Breeding swine shall have a permit for entry from the Division of Animal Industries and be individually identified by official ear tags or other approved techniques, and be shipped directly from a farm of origin or a market in a Stage IV or V state/area, or may be shipped directly from a qualified pseudorabies-negative herd. Such swine must be quarantined in isolation at destination and retested thirty (30) to sixty (60) days following importation, or must have a negative official pseudorabies test within thirty (30) days prior to entry. Such swine must be quarantined in isolation and retested at destination thirty (30) to sixty (60) days following importation. (7-1-02)T

**b.** Feeder pigs shall have a permit for entry from the Idaho Division of Animal Industries and be identified by an official ear tag, approved legible ear tattoo or other approved techniques indicating the state and herd of origin, and be shipped directly from a farm of origin or a market in a Stage IV or V state/area, or be shipped directly from a qualified pseudorabies-negative herd, or feeder pigs not meeting the requirements of IDAPA 02.04.03, "Rules of the Department of Agriculture Governing Animal Industry," shall have a negative official pseudorabies test within thirty (30) days prior to entry. Such swine must be quarantined in isolation at destination and retested thirty (30) to sixty (60) days following importation. (7-1-02)T

**c.** Slaughter swine infected or exposed swine shall be accompanied by a permit and may be shipped directly to an approved slaughter establishment. Slaughter swine, which are not known to be infected or exposed, may be imported from a state/area with a program status up to and including Stage III, for movement directly to an approved slaughter establishment, without permit. Slaughter swine from Stage IV or V state/area, which are not known to be infected or exposed, may be imported directly to approved slaughter establishments or to specifically approved livestock markets for sale to approved slaughter establishments, without permit. (7-1-02)T

**401. -- 499. (RESERVED).**

**500. DOGS AND CATS.**

**01. Dogs.** All dogs imported into the state of Idaho shall be accompanied by an official certificate of veterinary inspection attesting that such dogs are apparently free from any infectious, contagious or communicable disease, and have been officially vaccinated for rabies in accordance with the current recommendations of the National Association of State Public Health Veterinarian's Compendium of Animal Rabies Vaccines. Dogs three (3) months of age or older originating from a rabies quarantined area must have a permit from the Division of Animal Industries prior to importation. (7-1-02)T

**02. Cats.** All cats imported into the state of Idaho shall be accompanied by an official certificate of veterinary inspection attesting that such cats are apparently free from any infectious, contagious or communicable disease. Cats three (3) months of age or older shall have been vaccinated for rabies according to the recommendations of the current National Association of State Public Health Veterinarian's Compendium on Animal Rabies Vaccines. (7-1-02)T

**03. Permits Required.** The Administrator may require any dog or cat, from an area that has been determined to pose a significant threat of disease, to have an import permit prior to movement into Idaho. (7-1-02)T

**501. -- 599. (RESERVED).**

**600. IMPORTED DOMESTIC CERVIDAE.**

Domestic cervidae may enter the state of Idaho provided that they are accompanied by a certificate of veterinary inspection certifying that they have been inspected within thirty (30) days of date of shipment, that they are free from evidence of infectious, contagious, or communicable diseases, or known exposure thereto during the preceding sixty (60) days and have met the testing and certification requirements of these rules. (7-1-02)T

**601. TESTING REQUIREMENTS.**

**01. Brucellosis.** Animals six (6) months of age and older shall be negative to at least two (2) different official brucellosis tests, one (1) of which shall be the rivanol, the PCIFA, the CF, or the CITE test, within thirty (30) days prior to entry. (7-1-02)T

**02. Tuberculosis.** Imported domestic cervidae shall be tested according to the provisions in Title 9, Subchapter C, CFR. (7-1-02)T

**03. Red Deer Genetic Factor.** Elk shall be tested negative for red deer genetic factor by a laboratory approved by the Division of Animal Industries, or the elk are registered with NAEBA. (7-1-02)T

**602. INDIVIDUAL IDENTIFICATION.**

Each animal shall be individually identified by an official USDA identification tag on a certificate of veterinary

inspection issued by the accredited veterinarian who performed any required tests. (7-1-02)T

**01. From Certified CWD Free Herd.** All cervidae imported into Idaho shall originate from a herd that has been enrolled in a CWD monitoring program for at least sixty (60) months and which has been determined to have certified CWD free cervid herd status by the animal health official of the state of origin. Records and causes of death for the past five (5) years in this herd shall be made available to the state animal health official of the state of origin. (7-1-02)T

**02. Exceptions.** The Administrator, after conducting an evaluation, may grant exceptions to the provisions of this Subsection on a case by case basis. (7-1-02)T

**603. DESTINATION.** Domestic cervidae shall be delivered only to a domestic cervidae ranch, which is in compliance with the domestic cervidae rules. (7-1-02)T

**604. IMPORT PERMIT.** Domestic cervidae imported into Idaho shall require a permit issued by the Division of Animal Industries. (7-1-02)T

**605. MENINGEAL WORM ENDEMIC REGION.** Domestic cervidae shall be imported only from a region not known to be endemic with *Parelaphostrongylus tenuis* (meningeal worm of white tail deer), as reported by the Southeastern Cooperative Wildlife Disease Study. (7-1-02)T

**606. MOVEMENT OF CERVIDAE BETWEEN AZA FACILITIES.** Movement of cervidae between accredited AZA facilities is exempt from the tuberculosis testing requirements of this rule. All other movement from AZA-accredited facilities shall comply with the tuberculosis testing requirements. (7-1-02)T

**607. -- 699. (RESERVED).**

**700. AVIAN SPECIES.** All birds imported into Idaho shall have either a certificate of veterinary inspection or other approved certificate. (7-1-02)T

**701. POULTRY.** All poultry imported into the state of Idaho shall either: (7-1-02)T

**01. Originate From NPIP Flock.** Originate from a certified NPIP flock and have a valid VS Form 9-3 accompanying the shipment; or 7-1-02)T

**02. Salmonella Test.** Every bird in the shipment shall be tested negative for *Salmonella pullorum-typhoid*, *Salmonella enteritidis*, *Mycoplasma synoviae*, and *Mycoplasma gallisepticum* within the past thirty (30) days and have a valid certificate of veterinary inspection accompany the shipment. Test results shall be recorded on the certificate of veterinary inspection. (7-1-02)T

**702. POULTRY HATCHING EGGS.** All poultry hatching eggs being imported into Idaho shall originate from a certified NPIP flock and have a valid VS Form 9-3 accompanying the shipment. (7-1-02)T

**703. RATITES.** Ratites imported in the state of Idaho shall: (7-1-02)T

**01. Originate From NPIP Flock.** Originate from a certified NPIP flock and have a valid VS Form 9-3 accompanying the shipment, and an accompanying statement signed by the owner that contains one (1) of the following statement(s): (7-1-02)T

a. "These birds have been inspected and are visibly free of external parasites"; or (7-1-02)T

- b. "These birds have been treated for external parasites prior to shipment." (7-1-02)T

**02. Not Originating From A NPIP Flock.** Ratites originating from a non-NPIP flock shall be tested negative for *Salmonella pullorum-typhoid* and *Salmonella enteritidis* within the past thirty (30) days prior to shipment, and the test results shall be recorded on a valid certificate of veterinary inspection issued within the last thirty (30) days, which shall accompany the shipment. The certificate of veterinary inspection shall contain one (1) of the following statement(s): (7-1-02)T

- a. "These birds have been inspected and are visibly free of external parasites"; or (7-1-02)T  
b. "These birds have been treated for external parasites prior to shipment"; and (7-1-02)T

**704. RATITE HATCHING EGGS.**

All ratite hatching eggs imported into the state of Idaho shall come from birds that have been tested negative for *Salmonella pullorum-typhoid* and *Salmonella enteritidis*. (7-1-02)T

**705. WATERFOWL.**

Waterfowl imported into the state of Idaho shall be tested negative for *Salmonella pullorum-typhoid*, *Salmonella enteritidis*, *Mycoplasma synoviae*, and *Mycoplasma gallisepticum* within the past thirty (30) days and have a valid certificate of veterinary inspection accompanying the shipment. Test results shall be recorded on the certificate of veterinary inspection. (7-1-02)T

**706. WILDFOWL HATCHING EGGS.**

All wildfowl hatching eggs imported into the state of Idaho shall come from birds that have been tested negative for *Salmonella pullorum-typhoid*, *Salmonella enteritidis*, *Mycoplasma synoviae*, and *Mycoplasma gallisepticum*. (7-1-02)T

**707. PSITTACINE BIRDS.**

Parakeets and other psittacine birds that will not be commercially exchanged in any manner may enter the state of Idaho with a certificate of veterinary inspection. Parakeets and other psittacine birds that are being imported for the purposes of commercial sale or exchange shall have both a permit and a certificate of veterinary inspection. (7-1-02)T

**708. -- 709. (RESERVED).**

**710. DOMESTIC FUR-BEARING ANIMALS.**

All domestic fur bearing animals which are transported or moved into the state of Idaho are required to have a certificate of veterinary inspection from the state of origin and an import permit from the Division of Animal Industries. The certificate and permit shall accompany the shipment of the animals. (7-1-02)T

**711. -- 719. (RESERVED).**

**720. WILDLIFE AND EXOTIC ANIMALS.**

All native and non-native wildlife, and all exotic animals imported into Idaho: (7-1-02)T

**01. Fish And Game.** Such animals, and all matters pertaining to any restrictions governing their movement into the state of Idaho, are under the authority of the Idaho Department of Fish and Game. (7-1-02)T

**02. Certificate And Permit.** In addition to any requirements of the Idaho Department of Fish and Game, such animals are required to have a certificate of veterinary inspection from the state of origin and an import permit from the Division of Animal Industries. (7-1-02)T

**03. Additional Requirements.** The Administrator may impose test and certification requirements, for diseases of concern, on any native or non-native wildlife, or exotic animals imported into Idaho. (7-1-02)T

**721. -- 799. (RESERVED).**

**800. BIOLOGICS.**

**01. Distribution Permit.** Serum, vaccines, bacterins and biological remedies of all kinds used as diagnostic agents or used in the treatment of diseases of animals shall not be sold, distributed or used within the state of Idaho or imported into the state for sale, distribution or use unless such serum, vaccines, bacterins and biological remedies have been produced under a permit granted by USDA/AHPIS/VS. (7-1-02)T

**02. Shipping Virulent Blood or Living Virus.** All manufacturers, dealers and distributors of biological products are hereby prohibited from shipping any virulent blood or living virus or bacteria (*Brucella abortus* vaccine) of any disease affecting animals into the state of Idaho except with the written permission of the Administrator, and no living virus for use in animals or poultry shall be distributed or used within the state of Idaho unless approved by the Administrator in writing. (7-1-02)T

**03. Labels.** No permit under Subsections 800.01 and 800.02 of this rule shall be issued unless the product is contained in vessels bearing labels approved by the Division of Animal Industries, properly identifying the product by proper name and description, bearing adequate directions for the use of the product, and bearing no statement, design, or device that may deceive the purchaser, or that is false or misleading in any particular. (7-1-02)T

**801. -- 899. (RESERVED).**

**900. VIOLATION OF RULES.**

In addition to any other civil, criminal, or administrative action, the Administrator may require any animals imported into Idaho in violation of these rules to be placed under strict quarantine and consigned to immediate slaughter, removed from the state or to an approved feedlot within fifteen (15) days, or such shipment shall be returned to the point of origin by the importer. (7-1-02)T

**901. -- 989. (RESERVED).**

**990. PENALTIES.**

Any person violating any of the provisions of this chapter may be assessed penalties pursuant to Title 25, Chapters 2, 3, 6, and [37] 35, Idaho Code. (7-1-02)T

**991. -- 999. (RESERVED).**

## **IDAPA 06 - STATE BOARD OF CORRECTION**

### **06.01.01 - RULES OF THE BOARD OF CORRECTION**

#### **DOCKET NO. 06-0101-0103**

### **AGENCY NOTICE OF LEGISLATIVE ACTION AFFECTING THE RULES OF THE STATE BOARD OF CORRECTION**

**AUTHORITY:** Section 20-212(1), Idaho Code, requires the Idaho State Board of Correction to adopt rules by proclamation. Pursuant to Sections 67-454 and 67-5291, Idaho Code, the rules of the Idaho State Board of Correction are subject to review and approval by the Idaho State Legislature. Docket No. 06-0101-0103 was submitted to the State Legislature for review during the 2002 legislative session.

**DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the Agency Notice of Legislative Action:

The rulemaking, published under Docket No. 06-0101-0103, was reviewed and approved by the Idaho State Legislature, with the following exception: Subparagraph 108.04.b.vii. was rejected and is null, void, and of no force and effect. House Concurrent Resolution No. 44 specifically addressed the rejection of Subparagraph 108.04.b.vii. by the Idaho State Legislature. HCR No. 44 was passed by the members of the Fifty-Sixth Legislature, Second Regular Session, and received and filed in the Office of the Secretary of State on March 4, 2002. A copy of HCR No. 44 was published in the May 1, 2002, Idaho Administrative Bulletin, Volume 02-5, page 23.

The Notice of Proclamation of Rulemaking and the rule text were published under Docket No. 06-0101-0103 in the December 5, 2001, Idaho Administrative Bulletin, Volume No. 01-12, pages 12 through 19, with Section 108, Subparagraph 04.b.vii. being published on page 35.

**ASSISTANCE OR QUESTIONS:** For assistance or questions concerning this notice, contact DeAnna Jones, Rules Coordinator, Department of Correction, at (208) 658-2143 or Facsimile number (208) 327-7496.

DATED this 20th day of May, 2002.

Don Drum  
Administrator  
Support Division  
Idaho Department of Correction  
1299 North Orchard, Suite 110  
Boise, Idaho 83706  
Telephone number: (208) 658-2104  
Facsimile number: (208) 327-7496

# IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

## 16.02.10 - IDAHO REPORTABLE DISEASES

DOCKET NO. 16-0210-0201

### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** These temporary rules are effective July 1, 2002.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 6, 9, 10, 16, and 43, Title 39, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2002.

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

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

Idaho reportable diseases are regulated under these rules. Definition sections were updated to define "waterborne outbreak," and delete definition of "week". The incorporation by reference section was updated. Five (5) conditions detectable by newborn screening were added to the reportable disease list, as were three (3) infectious diseases. Reporting timeframes were also updated.

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 the public comment should be addressed.

**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 of Idahoans.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, this rulemaking is necessary for the protection of public health, safety and welfare so negotiated rulemaking was not conducted.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Christina Giso at (208) 334-4927.

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 July 24, 2002.

DATED this 16th day of April, 2002.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW – Administrative Procedures Section  
450 West State Street, 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone, (208) 332-7347 fax  
kovachs@idhw.state.id.us e-mail

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0210-0201**

**000. LEGAL AUTHORITY.**

Chapters ~~4, 5,~~ 6, 9, 10, 16, ~~17,~~ and 43, Title 39, Idaho Code, grant authority to the Board of Health and Welfare to adopt rules protecting the health of the people of Idaho. ~~(4-5-00)(7-1-02)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**004. DEFINITIONS.**

For the purposes of this chapter, the following definitions apply. (12-31-91)

**01. Airborne Precautions.** Methods used to prevent airborne transmission of infectious agents, as described in "Guideline for Isolation Precautions in Hospitals" as defined in Subsection 005.01. (4-5-00)

**02. Approved Fecal Specimens.** Specimens of feces obtained from the designated person who has not taken any antibiotic orally or parenterally for two (2) days prior to the collection of the fecal specimen. The specimen must be collected and transported to the laboratory in a manner appropriate for the test to be performed. (9-21-92)

**03. Bite Or Other Exposure To Rabies.** For the purpose of these rules, bite or bitten shall mean that the skin of the person or animal has been nipped or gripped, or has been wounded or pierced, including scratches, and includes probable contact of saliva with a break or abrasion of the skin. The term "exposure" shall also include contact of saliva with any mucous membrane. In the case of bats, even in the absence of an apparent bite, scratch, or mucous membrane contact, exposure may have occurred, as described in "Human Rabies Prevention -- United States, 1999" as defined in Subsection 005.03. (4-5-00)

**04. Board.** The Idaho State Board of Health and Welfare as described in Section 56-1005, Idaho Code. (12-31-91)

**05. Cancers.** Cancers that are designated reportable include the following as described in Section 57-1703, Idaho Code: (4-5-00)

**a.** In-situ or malignant neoplasms, but excluding basal cell and squamous cell carcinoma of the skin unless occurring on a mucous membrane and excluding in-situ neoplasms of the cervix. (4-5-00)

**b.** Benign tumors of the brain, meninges, pineal gland, or pituitary gland. (9-21-92)

**06. Carrier.** A person who can transmit a communicable disease to another person but may not have symptoms of the disease. (12-31-91)

**07. Case.** A person who has been diagnosed as having a specific disease or condition by a physician or other health care provider. The diagnosis may be based on clinical judgment, or on laboratory evidence, or on both criteria. Individual case definitions are described in "Case Definitions for Infectious Conditions Under Public Health Surveillance," as defined in Subsection 005.02. (4-5-00)

**08. Cohort System.** A communicable disease control mechanism in which cases having the same disease are temporarily segregated to continue to allow supervision and structured attendance in a day care facility. (9-21-92)

**09. Communicable Disease.** A disease which may be transmitted from one (1) person or an animal to another person either by direct contact or through an intermediate host, vector, inanimate object, or other means which may result in infection, illness, disability, or death. (12-31-91)

- 10. Contact.** A person who has been exposed to a case or carrier of a communicable disease under circumstances in which he or she could possibly contract the disease or infection. (12-31-91)
- 11. Contact Precautions.** Methods used to prevent contact transmission of infectious agents, as described in Garner, JS, et al., "Guideline for Isolation Precautions in Hospitals," as defined in Subsection 005.01. (4-5-00)
- 12. Day Care.** Care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's or children's own home or homes as described by Section 309-1102, Idaho Code. (~~9-21-92~~)(7-1-02)T
- 13. Department.** The Idaho Department of Health and Welfare. (12-31-91)
- 14. District.** Any one of the District Health Departments as established by Section 39-409, Idaho Code. (12-31-91)
- 15. District Director.** Any one of the directors of a district health department appointed by the District Board as described in Section 39-413, Idaho Code. (9-21-92)
- 16. Droplet Precautions.** Methods used to prevent droplet transmission of infectious agents, as described in Garner, JS, et al., "Guideline for Isolation Precautions in Hospitals," as defined in Subsection 005.01. (4-5-00)
- 17. Extraordinary Occurrence Of Illness Including Clusters.** Rare diseases and unusual outbreaks of illness which may be a risk to the public. Illnesses related to drugs, foods, contaminated medical devices, contaminated medical products, ~~and~~ illnesses related to environmental contamination by infectious or toxic agents, unusual syndromes, or illnesses associated with occupational exposure to physical or chemical agents may be included in this definition. (~~4-5-00~~)(7-1-02)T
- 18. Foodborne Outbreak.** An incident in which two (2) or more persons experience a similar illness after ingestion of a common food, and epidemiological analysis implicates the food as the source of the illness. There are two (2) exceptions: one (1) case of botulism or chemical poisoning constitutes an outbreak. (9-21-92)
- 19. Food Handler.** Any person who handles food utensils or who prepares, processes, handles, or serves food for people other than members of his/her immediate household. (12-31-91)
- 20. Health Care Facility.** An establishment organized and operated to provide health care to three (3) or more individuals who are not members of the immediate family. (12-31-91)
- 21. Health Care Provider.** A person who has direct or supervisory responsibility for the delivery of health care or medical services. This shall include, but not be limited to: licensed physicians, nurse practitioners, physician assistants, nurses, dentists, chiropractors, and administrators, superintendents, and managers of clinics, hospitals, and licensed laboratories. (9-21-92)
- 22. Medical Record.** Hospital or medical records are all those records compiled for the purpose of recording a medical history, diagnostic studies, laboratory tests, treatments, or rehabilitation. Access shall be limited to those parts of the record which will provide a diagnosis, or will assist in identifying contacts to a reportable disease or condition. Records specifically exempted by statute shall not be reviewable. (9-21-92)
- 23. Isolation.** The separation of infected persons, persons who may have been exposed to a highly contagious infectious agent, or of persons suspected to be infected, from other persons to such places, under such conditions, and for such time as will prevent transmission of the infectious agent. The place of isolation shall be designated by the Department or the District Board of Health. (~~12-31-91~~)(7-1-02)T
- 24. Laboratory Director.** A person who has direct responsibility for the operation of a licensed

laboratory. (12-31-91)

**25. Livestock.** Cattle, swine, horses, mules, asses, native and non-native ungulates, as provided in Section 25-221, Idaho Code. (9-21-92)

**26. Licensed Laboratory.** A medical diagnostic laboratory which is inspected, licensed, or approved by the Department or licensed according to the provisions of the Clinical Laboratory Improvement Act by the United States Health Care and Financing Administration. Licensed laboratory may also refer to the Idaho State Public Health Laboratory, the branch laboratories, and to the United States Centers for Disease Control and Prevention. (4-5-00)

**27. Licensed Physician.** Any physician who is licensed by the Board of Medicine to practice medicine and surgery in Idaho. (9-21-92)

**28. Licensed Veterinarian.** Any veterinarian licensed by the Board of Veterinary Medicine. (12-31-91)

**29. Outbreak.** An unusual rise in the incidence of a disease. An outbreak may consist of just one (1) case. (12-31-91)

**30. Personal Care.** The service provided by one (1) person to another for the purpose of feeding, bathing, dressing, assisting with personal hygiene, changing diapers, changing bedding, and other services involving direct physical contact. (12-31-91)

**31. Quarantine.** The restriction placed on the entrance to and exit from the place or premise where a case or suspected case of a communicable disease exists. The place of quarantine shall be designated by the Department or District Board of Health. (12-31-91)

**32. Rabies Post-Exposure Prophylaxis (PEP).** The administration of a rabies vaccine series with or without the antirabies immune-globulin, depending on pre-exposure vaccination status, following a documented or suspected rabies exposure, as described in "Human Rabies Prevention -- United States, 1999", as defined in Subsection 005.03. (4-5-00)

**33. Rabies Susceptible Animal.** Any animal capable of being infected with the rabies virus. (9-21-92)

**34. Residential Care Facility.** A commercial or non-profit establishment organized and operated to provide a place of residence for three (3) or more individuals who are not members of the same family, but live within the same household. (12-31-91)

**35. Restrictable Disease.** A communicable disease which occurs in a setting where predictable and serious consequences may occur to the public. The determination of whether a disease is restrictable is based upon the specific environmental setting and the likelihood of transmission to susceptible persons. (12-31-91)

**36. Severe Reaction To Any Immunization.** Any serious or life-threatening condition which results directly from the administration of any immunization against a communicable disease. (4-5-00)

**37. Significant Exposure To Blood Or Body Fluids.** Significant exposure is defined as a percutaneous injury, contact of mucous membrane or non-intact skin, or contact with intact skin when the duration of contact is prolonged or involves an extensive area, with blood, tissue, or other body fluids as defined in "Public Health Service Guidelines for the Management of Health Care Worker Exposures to HIV and Recommendations for Postexposure Prophylaxis," as defined in Subsection 005.04. (4-5-00)

**38. Standard Precautions.** Methods used to prevent transmission of all infectious agents, as described in Garner, JS, et al., "Guideline for Isolation Precautions in Hospitals," as defined in Subsection 005.01. (4-5-00)

**39. State Epidemiologist.** A person employed by the Department to serve as a statewide epidemiologist. (4-5-00)

**40. State Health Officer.** The person appointed by the Director of the Department of Health and Welfare to serve as the statewide health officer. (12-31-91)

**41. Suspected Case.** A person who is diagnosed with or reasonably thought to have a particular disease or condition by a licensed physician or other health care provider. The suspected diagnosis may be based on signs and symptoms, or on laboratory evidence, or both criteria. Suspected cases of some diseases are reportable as described in Section 020. (12-31-91)

**42. Vaccination Of An Animal Against Rabies.** Vaccination of an animal by a licensed veterinarian with a rabies vaccine licensed or approved for the animal species and administered according to the specifications on the product label or package insert as described in the "Compendium of Animal Rabies Control, 1999", as defined in Subsection 005.05. (4-5-00)

**43. ~~Week. One (1) week means seven (7) days.~~ Waterborne Outbreak.** An incident in which two (2) or more persons experience a similar illness after ingestion of water from a common supply and epidemiological analysis implicates the water as the source of the illness. (~~9-21-92~~)(7-1-02)T

**44. Working Day.** One (1) 8 a.m. to 5 p.m. official state work shift. (9-21-92)

**005. DOCUMENTS INCORPORATED BY REFERENCE.**

The five (5) documents referenced in Subsections ~~0045.01~~ through ~~0045.05~~ are used as a means of further clarifying these rules. These documents are incorporated by reference pursuant to Section 67-5229, Idaho Code. These documents are available at the Idaho State Law Library, the Legislative Council, and the Office of Administrative Rules. The documents referenced in this chapter are: (~~4-5-00~~)(7-1-02)T

**01. "Guideline For Isolation Precautions In Hospitals".** Garner JS et al. "Guideline for Isolation Precautions in Hospitals". Infect Control Hosp Epidemiol 1996; 17:53-80. (4-5-00)

**02. "Case Definitions For Infectious Conditions Under Public Health Surveillance".** Morbidity and Mortality Weekly Report, May 2, 1997, Vol 46, No. RR-10. Centers for Disease Control and Prevention. (4-5-00)

**03. "Human Rabies Prevention-- United States, 1999".** Morbidity and Mortality Weekly Report, Jan 8, 1999, Vol 48, RR-1. Centers for Disease Control and Prevention. (4-5-00)

**04. "Public Health Service Guidelines For The Management Of Health Care Worker Exposures To HIV And Recommendations For Postexposure Prophylaxis."** Morbidity and Mortality Weekly Report, May 15, 1998, Vol 47, RR-7. (4-5-00)

**05. "Compendium Of Animal Rabies Control, ~~1999~~ 2001".** National Association of State Public Health Veterinarians, Inc., Morbidity and Mortality Weekly Report, ~~April 2, 1999, Vol 48, RR-3~~ May 25, 2001, Vol 50, RR 08. Centers for Disease Control and Prevention. (~~4-5-00~~)(7-1-02)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. REPORTABLE DISEASES AND CONDITIONS.**

A licensed physician who diagnoses, treats or cares for a person with a reportable disease or condition must make a report of such disease or condition to the Department or District as described in these rules. The hospital or health care facility administrator, or his delegated representative, must report in accordance with these rules all persons who are diagnosed, treated, or receive care for a reportable disease or condition in the administrator's facility. Reports need not be made by the hospital administrator, or his representative, if they can assure that the attending physician has previously reported the disease or condition. The physician is also responsible for reporting diseases and conditions diagnosed, or treated by physician assistants, nurse practitioners or others under the physician's supervision. In addition to licensed physicians, reports must also be made by physician assistants, certified nurse

practitioners, registered nurses, school health nurses, infection surveillance staff, public health officials, laboratory directors, and coroners. No physician, hospital administrative person, or patient may deny Districts or agents of the Board access to medical records in discharge of their duties in implementing the reportable disease rules. School administrators shall report as indicated in Subsection 025.03.g. (9-21-92)

**01. Reportable Diseases And Conditions.** The following diseases and conditions are reportable to the Department or District. (11-17-83)

- a. Diseases. (11-17-83)
- i. Acquired immunodeficiency syndrome (AIDS); (11-17-83)
- ii. Amebiasis; (11-17-83)
- iii. Anthrax; (11-17-83)
- iv. Biotinidase deficiency; (7-1-02)T
- v. Botulism; (11-17-83)
- vi. Brucellosis; (11-17-83)
- vii. Campylobacteriosis; (11-17-83)
- viii. Cancer; (9-21-92)
- ix. Chancroid; (11-17-83)
- x. Chlamydia trachomatis infections; (4-1-86)
- xi. Cholera; (11-17-83)
- xii. Congenital hypothyroidism; (7-1-02)T
- xiii. Cryptosporidiosis; (4-5-00)
- xiv. Diphtheria; (11-17-83)
- xv. Encephalitis, viral or aseptic; (7-1-02)T
- xvi. Escherichia coli 0157:H7 and other shiga toxin producing E. coli (STEC); (4-5-00)
- xvii. Galactosemia; (7-1-02)T
- xviii. Giardiasis; (11-17-83)
- xix. Hantavirus pulmonary syndrome; (4-5-00)
- xx. Haemophilus influenzae invasive disease; (9-21-92)
- xxi. Hepatitis A; (11-17-83)
- xxii. Hepatitis B; (11-17-83)
- xxiii. Hepatitis C; (9-21-92)
- xxiv. Legionellosis; (11-17-83)

<del>xxiv</del> .	Leprosy;	(11-17-83)
<del>xxvi</del> .	Leptospirosis;	(11-17-83)
<del>xxvii</del> .	Listeriosis;	(4-5-00)
<del>xxviii</del> .	Lyme Disease;	(9-21-92)
<del>xxix</del> .	Malaria;	(11-17-83)
<u>xxx</u> .	<u>Maple syrup urine disease;</u>	<u>(7-1-02)T</u>
<del>xxxi</del> .	Measles (Rubeola);	(11-17-83)
<u>xxxii</u> .	<u>Meningitis, viral or aseptic;</u>	<u>(7-1-02)T</u>
<del>xxxiii</del> .	Mumps;	(11-17-83)
<del>xxxiv</del> .	Myocarditis, viral;	(4-5-00)
<del>xxxv</del> .	Neisseria gonorrhoeae infections;	(9-21-92)
<del>xxxvi</del> .	Neisseria meningitidis invasive disease;	(9-21-92)
<del>xxxvii</del> .	Pertussis;	(11-17-83)
<u>xxxviii</u> .	<u>Phenylketonuria;</u>	<u>(7-1-02)T</u>
<del>xxxix</del> .	Plague;	(11-17-83)
<del>xl</del> .	Pneumocystis carinii pneumonia (PCP);	(9-21-92)
<u>xli</u> .	<u>Pneumococcal invasive disease in children less than eighteen (18) years of age;</u>	<u>(7-1-02)T</u>
<del>xlii</del> .	Poliomyelitis;	(11-17-83)
<del>xliiii</del> .	Psittacosis;	(11-17-83)
<del>xliiii</del> .	Q fever;	(11-17-83)
<del>xliiii</del> .	Rabies (human and animal);	(4-5-00)
<del>xliiii</del> .	Relapsing fever, tick-borne and louse-borne;	(4-5-00)
<del>xliiii</del> .	Rocky Mountain spotted fever;	(11-17-83)
<del>xliiii</del> .	Rubella (including congenital rubella syndrome);	(11-17-83)
<del>xliiii</del> .	Salmonellosis (including typhoid fever);	(11-17-83)
<del>xliiii</del> .	Shigellosis;	(11-17-83)
<u>li</u> .	<u>Smallpox;</u>	<u>(7-1-02)T</u>
<del>xliiii</del> .	Streptococcus pyogenes, Group A, infections which are invasive or result in rheumatic fever;	(9-21-92)

- æli+ii. Syphilis; (11-17-83)
- æliiv. Tetanus; (11-17-83)
- ælivf. Trichinosis; (11-17-83)
- ælvif. Tuberculosis; (11-17-83)
- ælviiif. Tularemia; (11-17-83)
- ~~ælix.~~ ~~*Viral or aseptic encephalitis and meningitis;*~~ (~~4-5-00~~)
- lyiii. Yersinosis. (11-17-83)
- b.** Conditions: (11-17-83)
- i. CD-4 lymphocyte counts less than two hundred (200) per cubic millimeter of blood or less than or equal to fourteen percent (14%). (4-5-00)
- ii. Extraordinary occurrence of illness, including clusters. (4-5-00)
- iii. Food poisoning, ~~and~~ foodborne illness, ~~and~~ waterborne illness. (~~11-17-83~~)(7-1-02)T
- iv. Hemolytic-uremic syndrome (HUS). (4-5-00)
- v. Human Immunodeficiency Virus (HIV) infections including, positive HIV tests: HIV Antibody, HIV Antigen, Human Immunodeficiency Virus isolations, other tests of infectiousness, as specified by the Department. (4-5-00)
- vi. Human T-Lymphotropic Virus infections. (4-5-00)
- vii. Lead levels of ten (10) micrograms or more per deciliter of whole blood (ug/dl). (9-21-92)
- viii. Reye syndrome; (4-5-00)
- ix. Severe or unusual reactions to any immunization. (4-5-00)
- x. Toxic shock syndrome; (4-5-00)
- 02. Form Of The Report.** (11-17-83)
- a.** Each report of a reportable disease or condition shall include the identity and address of the attending licensed physician or the person reporting, the diagnosed or suspected disease or condition, the name, current address, telephone number and birth date or age, race, ethnicity, and sex of the individual with the disease or condition, and the date of onset of the disease or condition. (4-5-00)
- b.** A report of a case or suspected case shall be made to the Department or the District by telephone, mail or fax. (4-5-00)
- c.** The identification of any organism known to cause a reportable disease or condition listed in Subsection 010.03.d. shall be reported to the Department or District by the laboratory director or his authorized representative. The report shall include the name (if known) or other identifier of the individual from whom the specimen was obtained, the name and address of the individual's physician or other person requesting the test, and the identity of the organism or other significant test result. (9-21-92)
- 03. When To Report.** (11-17-83)

**a.** Some reportable diseases are considered to be of urgent public health importance, and must be reported to the Department or District immediately, day or night. These diseases include: (11-17-83)

- i. Anthrax; (4-5-00)
- ii. Botulism; (11-17-83)
- iii. Diphtheria; (11-17-83)
- iv. Plague; (11-17-83)
- v. Rabies in humans; (~~9-21-92~~)(7-1-02)T
- vi. Smallpox. (7-1-02)T

**b.** The following reportable diseases and conditions must be reported to the Department or District within one (1) working day after diagnosis: (9-21-92)

- i. Brucellosis; (4-5-00)
- ii. Biotinidase deficiency; (7-1-02)T
- iii. Cholera; (9-21-92)
- iv. Congenital hypothyroidism; (7-1-02)T
- ~~iv.~~ Escherichia coli O157:H7 and other shiga toxin producing E. coli (STEC); (4-5-00)
- vi. Galactosemia; (7-1-02)T
- ~~vi.~~ Hantavirus pulmonary syndrome; (4-5-00)
- vii. Haemophilus influenzae invasive disease; (9-21-92)
- ~~vii.~~ Hepatitis A; (9-21-92)
- ~~viii.~~ Hepatitis B; (9-21-92)
- ~~viii.~~ Hemolytic-uremic syndrome (HUS); (4-5-00)
- xii. Maple syrup urine disease; (7-1-02)T
- ~~xiii.~~ Measles; (11-17-83)
- xiv. Neisseria meningitidis invasive disease; (4-5-00)
- ~~xv.~~ Pertussis; (11-17-83)
- xvi. Phenylketonuria; (7-1-02)T
- xvii. Poliomyelitis; (11-17-83)
- xviii. Q fever; (7-1-02)T
- ~~xix.~~ Rabies in animals; (9-21-92)

<del>xix.</del>	Rubella (including congenital rubella syndrome);	(11-17-83)
<del>xix.</del>	Salmonellosis (including typhoid fever);	(11-17-83)
<u>xxii.</u>	<u>Tularemia;</u>	<u>(7-1-02)T</u>
<del>xix.</del>	Extraordinary occurrence of illness including clusters;	(4-5-00)
<del>xix.</del>	Severe or unusual reactions to any immunization;	(11-17-83)
<del>xix.</del>	Food poisoning, <del>and</del> foodborne illness, <del>or</del> waterborne illness.	<del>(11-17-83)</del> (7-1-02)T
<b>c.</b>	The remaining reportable diseases and conditions listed below shall be reported to the Department or District within <del>one three (3) week</del> <u>three (3) week</u> working days of the identification of a case;	<del>(4-5-00)</del> (7-1-02)T
i.	Acquired immunodeficiency syndrome (AIDS);	(9-21-92)
ii.	Amebiasis;	(9-21-92)
iii.	CD-4 lymphocyte counts less than two hundred (200) per cubic millimeter of blood or less than or equal to fourteen percent (14%);	(4-5-00)
iv.	Campylobacteriosis;	(9-21-92)
v.	Chancroid;	(9-21-92)
vi.	Chlamydia trachomatis infections;	(9-21-92)
vii.	Cryptosporidiosis;	(4-5-00)
<u>viii.</u>	<u>Encephalitis, viral or aseptic;</u>	<u>(7-1-02)T</u>
<del>xix.</del>	Giardiasis;	(9-21-92)
<del>xix.</del>	Gonococcal infections;	(9-21-92)
<del>xix.</del>	Hepatitis C;	(4-5-00)
<del>xix.</del>	Human Immunodeficiency Virus (HIV) infections including, positive HIV tests: HIV Antibody, HIV Antigen, Human Immunodeficiency Virus isolations, other tests of infectiousness, as specified by the Department.	(4-5-00)
<del>xix.</del>	Human T-Lymphotropic Virus infections;	(4-5-00)
<del>xix.</del>	Lead levels of ten (10) micrograms or more per deciliter of whole blood (ug/dl);	(9-21-92)
<del>xix.</del>	Legionellosis;	(9-21-92)
<del>xix.</del>	Leprosy;	(9-21-92)
<del>xix.</del>	Leptospirosis;	(9-21-92)
<del>xix.</del>	Listeriosis;	(4-5-00)
<del>xix.</del>	Lyme Disease;	(9-21-92)
<del>xix.</del>	Malaria;	(9-21-92)

xxi.	<u>Meningitis, viral or aseptic;</u>	(7-1-02)T
xxii.	Mumps;	(9-21-92)
xxiii.	Myocarditis, viral;	(4-5-00)
xiv.	<u>Pneumococcal invasive disease in children less than eighteen (18) years of age;</u>	(7-1-02)T
xx#v.	Pneumocystis carinii pneumonia (PCP);	(9-21-92)
xx#vi.	Psittacosis;	(9-21-92)
<del>xxiv.</del>	<del>Q fever;</del>	<del>(9-21-92)</del>
xxvii.	Relapsing fever, tick-borne or louse-borne;	(4-5-00)
xxviii.	Reye syndrome;	(9-21-92)
xx#ix.	Rocky Mountain spotted fever;	(9-21-92)
xx#ix.	Shigellosis;	(9-21-92)
xx#xi.	Streptococcus pyogenes, Group A, infections which are invasive or result in rheumatic fever;	(9-21-92)
xxxii.	Syphilis;	(9-21-92)
xxxiii.	Tetanus;	(9-21-92)
xxx#iv.	Trichinosis;	(9-21-92)
xxx#iv.	Toxic shock syndrome;	(9-21-92)
xxx#v.	Tuberculosis;	(9-21-92)
<del>xxxv.</del>	<del>Tularemia;</del>	<del>(9-21-92)</del>
<del>xxxvi.</del>	<del>Viral or aseptic encephalitis and meningitis;</del>	<del>(4-5-00)</del>
xxxvii.	Yersiniosis;	(9-21-92)

**d.** The laboratory director or his authorized representative shall report the identification of the following organisms or significant serologic results or chemical determinations to the Department or District immediately, day or night. The organisms, serologic tests, and chemical determinations to be reported include:  
(4-5-00)

- i. Bacillus anthracis; (4-5-00)
- ii. Yersinia pestis; (4-5-00)
- iii. Corynebacteria diphtheria; and (4-5-00)
- iv. Rabies, human or animal. (4-5-00)

**e.** The laboratory director or his authorized representative shall report the identification of the following organisms or significant serologic results or chemical determinations to the Department or District within

one (1) working day after identification. The organisms, serologic tests, and chemical determinations to be reported include: (4-5-00)

- i. Biotinidase deficiency: (7-1-02)T
- ii. Bordetella pertussis; (4-5-00)
- iii. Brucella species; (4-5-00)
- iv. Congenital hypothyroidism: (7-1-02)T
- ~~v.~~ Escherichia coli 0157:H7 or other shiga-toxin producing E. coli (STEC); (4-5-00)
- v. Francisella tularensis: (7-1-02)T
- vi. Galactosemia: (7-1-02)T
- ~~vii.~~ Hantavirus; (4-5-00)
- viii. Maple syrup urine disease: (7-1-02)T
- ~~ix.~~ Neisseria meningitidis from CSF or blood; ~~and~~ (4-5-00)(7-1-02)T
- x. Phenylketonuria: (7-1-02)T
- ~~xi.~~ Vibrio cholerae. (4-5-00)

f. The laboratory director or his authorized representative shall report the identification of the following organisms or significant serologic results or chemical determinations to the Department or District within ~~one three (3) week~~ working days. The organisms, serologic tests, and chemical determinations to be reported include: (~~9-21-92~~)(7-1-02)T

- i. CD-4 Lymphocyte Counts below two hundred (200) per cubic millimeter (cu/mm) of blood or less than or equal to fourteen percent (14%); (4-5-00)
- ii. Campylobacter species; (4-5-00)
- iii. Chlamydia trachomatis; (4-1-86)
- iv. Cryptosporidium; (4-5-00)
- v. Giardia; (4-5-00)
- vi. Haemophilus influenzae from CSF or blood; (11-17-83)
- vii. Hepatitis A (IgM antibody); (11-17-83)
- viii. Hepatitis B surface antigen; (11-17-83)
- ix. Hepatitis C antibody or antigen; (9-21-92)
- x. Human Immunodeficiency Virus (HIV) tests: positive HIV Antibody, HIV Antigen, Human Immunodeficiency Virus culture, or other tests of infectiousness, as specified by the Department; (4-5-00)
- xi. Human T-Lymphotropic Virus positive tests; (4-5-00)
- xii. Lead levels of ten (10) micrograms or more per deciliter (ug/dl) of whole blood; (9-21-92)

- xiii. Listeria species; (4-5-00)
- xiv. Mycobacterium tuberculosis complex; (4-5-00)
- xv. Neisseria gonorrhoeae; (11-17-83)
- xvi. Plasmodium species; (11-17-83)
- xvii. Salmonella species; (11-17-83)
- xviii. Shigella species; (11-17-83)
- xix. Syphilis tests (positive or reactive USR, RPR, VDRL, FTA, darkfield, others); (11-17-83)
- xx. Yersinia enterocolitica; (11-17-83)
- xxi. Yersinia pseudotuberculosis; (9-21-92)
- g.** Cancer is to be reported within one hundred and eighty (180) days of its diagnosis or recurrence to the Department or the Department's designated agent or contractor. (4-5-00)
- 04. Handling Of Reports By The Department And Districts.** (9-21-92)
- a.** The Department and the District shall exchange reported information within one (1) working day by telephone on any reported case or suspected case of the following reportable diseases or conditions: (9-21-92)
  - i. Anthrax; (4-5-00)
  - ii. Botulism; (11-17-83)
  - iii. Brucellosis; (7-1-02)T
  - ~~iv.~~ Cholera; (11-17-83)
  - ~~v.~~ Diphtheria; (11-17-83)
  - ~~vi.~~ E. coli O157:H7 and other shiga toxin producing E. coli (STEC); (4-5-00)
  - ~~vii.~~ Food poisoning, ~~and~~ foodborne illness, or waterborne illness; (~~9-21-92~~)(7-1-02)T
  - ~~viii.~~ Hantavirus pulmonary syndrome; (4-5-00)
  - ~~ix.~~ Haemophilus influenzae invasive disease; (9-21-92)
  - ~~x.~~ Measles; (11-17-83)
  - ~~xi.~~ Neisseria meningitidis invasive disease; (9-21-92)
  - ~~xii.~~ Pertussis; (11-17-83)
  - ~~xiii.~~ Plague; (11-17-83)
  - ~~xiv.~~ Poliomyelitis; (11-17-83)
  - ~~xv.~~ Rabies in humans or animals; (4-5-00)

- xvi. Rubella (including congenital rubella syndrome); (11-17-83)
  - xvii. Salmonella typhi infection; (11-17-83)
  - xviii. Smallpox; (7-1-02)T
  - ~~xix.~~ Syphilis; (11-17-83)
  - xx. Tularemia; (7-1-02)T
  - ~~xxi.~~ Extraordinary occurrence of illness including clusters; (4-5-00)
  - ~~xxii.~~ Severe or unusual reaction to any immunization. (11-17-83)
- b.** The District shall notify the Department no later than weekly of all other cases of reportable diseases and conditions not specified in Subsection 010.04.a. (9-21-92)
- c.** No employee of the Department or District shall disclose the identity of persons named in disease reports except when necessary for the purpose of administering the public health laws of this state. (11-17-83)

**(BREAK IN CONTINUITY OF SECTIONS)**

**020. SPECIFIC CONTROL MEASURES FOR REPORTABLE DISEASES.**

- 01. Acquired Immune Deficiency Syndrome (AIDS).** (9-21-92)
- a.** Each case of AIDS meeting the current case definition established by the Centers for Disease Control and Prevention shall be reported to the Department or District within ~~one three (3) week~~ working days of identification. (~~4-5-00~~)(7-1-02)T
- b.** Positive laboratory tests for HIV Antibody, HIV Antigen (protein or nucleic acid), HIV culture or other tests that indicate prior or existing HIV infection or CD-4 lymphocyte counts below two hundred (200) per cubic millimeter (cu/mm) of blood must be reported. (4-5-00)
- c.** Each report of a case of AIDS shall be investigated to obtain specific clinical information, to identify possible sources, risk factors, and contacts. Other manifestations of HIV infection as defined by the Centers for Disease Control and Prevention may be investigated. (4-5-00)
- d.** A physician may order blood tests for the human immunodeficiency virus (HIV) when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (9-21-92)
- 02. Amebiasis.** (11-17-83)
- a.** Each case of amebiasis shall be reported to the Department or District within ~~one three (3) week~~ working days of the identification. (~~11-17-83~~)(7-1-02)T
- b.** A preliminary investigation of each case shall be performed to determine if the case is employed as a food handler, provides personal care at a health care or day care facility, or is a child attending a day care facility. (11-17-83)
- c.** Persons excreting Entamoeba histolytica shall not work as food handlers and shall not engage in any occupation in which they provide personal care to children in day care facilities or to persons confined to health care facilities unless special exemption is made by the Department or authorized representative of the Department.

(11-17-83)

i. This restriction may be rescinded if an effective therapeutic regimen has been completed and/or at least two (2) approved fecal specimens collected at least twenty-four (24) hours apart fail to show *Entamoeba histolytica* upon testing by a licensed laboratory. (9-21-92)

ii. Any member of a household in which there is a case of amebiasis may engage in any of the above occupations at the discretion of the Department provided at least one (1) approved fecal specimen is negative for ova and parasites on examination by a licensed laboratory. (9-21-92)

d. Fecally incontinent persons who are excreting *Entamoeba histolytica* shall not attend day care facilities unless special exemption is made by the Department or authorized representative of the Department. (9-21-92)

**03. Anthrax.** (11-17-83)

a. Each case or suspected case of anthrax in humans shall be reported to the Department or District by telephone at the time of identification, day or night. (4-5-00)

b. Each report of a case or suspected case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, and to identify the source of infection. Any identified or suspected source of infection shall be reported to the Department which shall notify the Idaho Department of Agriculture. (11-17-83)

**04. Botulism.** (11-17-83)

a. Each case or suspected case of botulism shall be reported to the Department or District at the time of identification, day or night. (11-17-83)

b. An investigation of each case or suspected case of botulism shall be performed to confirm the diagnosis, to determine if other persons have been exposed to botulinum toxins, and to identify the source of the disease. (9-21-92)

**05. Brucellosis.** (11-17-83)

a. Each case of brucellosis shall be reported to the Department or District within one (1) working day of the identification. (4-5-00)

b. Each report of a case shall be investigated to confirm the diagnosis and to identify the source of the infection. Any identified or suspected source of infection shall be reported to the Department, which shall notify the Idaho Department of Agriculture. (9-21-92)

**06. Campylobacteriosis.** (11-17-83)

a. Each case of campylobacteriosis shall be reported to Department or District within ~~one~~ three (3) ~~week~~ working days of the identification. (~~4-5-00~~)(7-1-02)T

b. An investigation of each case shall be performed to determine the extent of the outbreak and to identify the source of the infection. (11-17-83)

c. Persons excreting *Campylobacter* spp. shall not work as food handlers or provide personal care in day care, custodial institutions, or medical facilities unless exemption is obtained from the Department or District. This restriction will be rescinded provided at least two (2) approved fecal specimens collected at least twenty-four (24) hours apart fail to show *Campylobacter* spp. upon testing by a licensed laboratory. (4-5-00)

d. Fecally incontinent persons who are excreting *Campylobacter* spp. shall not attend day care facilities unless exemption is made by the Department. (4-5-00)

**07. Cancer.** (11-17-83)

**a.** The following neoplasms are designated as reportable to the cancer data registry of Idaho within one hundred and eighty (180) days of diagnosis or recurrence: (4-5-00)

**i.** Each in-situ or malignant neoplasm diagnosed by histology, radiology, laboratory testing, clinical observation, autopsy, or suggested by cytology, but excluding basal cell and squamous cell carcinoma of the skin unless occurring on a mucous membrane and excluding in-situ neoplasms of the cervix is reportable. (4-5-00)

**ii.** Benign neoplasms are reportable if occurring in the brain, meninges, pineal gland, or pituitary gland. (9-21-92)

**b.** The use of the words “apparently,” “compatible with,” “consistent with,” “favor,” “most likely,” “presumed,” “probable,” “suspected,” “suspicious,” or “typical” is sufficient to make a case reportable. (9-21-92)

**c.** The use of the words “questionable,” “possible,” “suggests,” “equivocal,” “approaching,” and “rule out” is not sufficient to make a case reportable. (9-21-92)

**d.** Each case must be reported by patient's name, demographic information, date of diagnosis, primary site, metastatic sites, histology, stage of disease, initial treatments, subsequent treatment, and survival time. (9-21-92)

**e.** Every private, federal, or military hospital, pathology laboratory, or physician providing a diagnosis and/or treatment related to a reportable cancer is responsible for reporting or furnishing cancer-related data, including annual follow-up, to the cancer data registry. (~~9-21-92~~)(7-1-02)T

**f.** All data reported to the cancer data registry shall be available for use in aggregate form for epidemiologic analysis of the incidence, prevalence, survival, and risk factors associated with Idaho's cancer experience. Disclosure of confidential information for research projects must comply with the cancer data registry's confidentiality policies, as well as the Idaho Department of Health and Welfare's Rules, IDAPA 16.05.01, “Rules Governing the Protection and Disclosure of Department Records”. (9-21-92)

**08. Chancroid.** (11-17-83)

**a.** Each case of chancroid shall be reported to the Department or District within ~~one~~ three (3) week ~~working days~~ of the identification. (~~11-17-83~~)(7-1-02)T

**b.** Each person diagnosed with chancroid shall be required to inform their sexual contacts that they have been exposed to a venereal disease, or provide specific information so public health officials may locate such contacts, so the contacts can be examined and treated (Section 39-605, Idaho Code). (11-17-83)

**c.** Each case or suspected case of chancroid shall be investigated by a representative of the Department or District after notification has been received. (4-5-00)

**09. Chlamydia Trachomatis Infections.** (9-21-92)

**a.** Each case of Chlamydia trachomatis infection shall be reported to the Department or District within ~~one~~ three (3) week ~~working days~~ of identification. (~~9-21-92~~)(7-1-02)T

**b.** Each person diagnosed with Chlamydia trachomatis pelvic inflammatory disease shall be investigated to determine the extent of the contact follow-up required. (4-5-00)

**c.** Cases of Chlamydia trachomatis ophthalmia neonatorum in health care facilities shall be placed under contact precautions. (4-5-00)

**d.** Prophylaxis against Chlamydia trachomatis ophthalmia neonatorum is required in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 02, Chapter 12, “Rules Governing Procedures and Testing to be Performed on Newborn Infants”. (9-21-92)

- 10. Cholera.** (9-21-92)
- a.** Each case or suspected case of cholera shall be reported to the Department or District by telephone within one (1) working day. (9-21-92)
- b.** Each report of a case or suspected case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, and to identify contacts, carriers, and the source of the infection. (11-17-83)
- c.** Persons in health care facilities who have cholera shall be placed under contact precautions. (4-5-00)
- d.** Persons excreting *Vibrio cholerae* shall not work as food handlers, and shall not engage in any occupation which provides personal care to children in day care facilities or to persons confined to health care or residential facilities. (11-17-83)
- e.** Members of the household in which there is a case of cholera may not engage in any of the above occupations unless approved by the Department, or District and provided that they are asymptomatic and at least one (1) approved fecal specimen is found to be negative on culture by a licensed laboratory. (9-21-92)
- f.** Fecally incontinent persons who are excreting *Vibrio cholerae* shall not attend day care facilities. (9-21-92)
- 11. Cryptosporidiosis.** (4-5-00)
- a.** Each case of cryptosporidiosis shall be reported to the Department or District within ~~one~~ three (3) ~~week~~ working days of the identification. (~~4-5-00~~)(7-1-02)T
- b.** An investigation of each case shall be performed to determine the extent of the outbreak and to identify the source of the infection. (4-5-00)
- c.** Persons with *Cryptosporidium* diarrheal illness shall not work as food handlers or provide personal care in day care facilities, custodial institutions, or medical facilities unless exemption is obtained from the Department or District. This restriction will be rescinded provided at least two (2) approved fecal specimens collected at least twenty-four (24) hours apart fail to show *Cryptosporidium* upon testing by a licensed laboratory or twenty-four (24) hours after diarrhea has ceased. (4-5-00)
- d.** Fecally incontinent persons who are excreting *Cryptosporidium* shall not attend day care facilities unless exemption is made by the Department. (4-5-00)
- 12. Diphtheria.** (11-17-83)
- a.** Each case or suspected case of diphtheria shall be reported to the Department or District by telephone immediately, day or night, upon identification. (11-17-83)
- b.** Each report of a case or suspected case shall be investigated to determine if illness is caused by a toxigenic strain of *Corynebacterium diphtheriae*, to determine the extent of the outbreak, and to identify contacts, carriers, and the source of the infection. (11-17-83)
- c.** Cases of oropharyngeal toxigenic diphtheria in health care facilities shall be placed under droplet precautions. The Department or authorized representative of the Department may rescind this isolation requirement after two (2) cultures of the nose and two (2) cultures from the throat, taken at least twenty-four (24) hours apart and at least twenty-four (24) hours after the completion of antibiotic therapy, fail to show toxigenic *Corynebacterium diphtheriae* upon testing by a licensed laboratory. (4-5-00)
- d.** Cases of cutaneous toxigenic diphtheria shall be placed under contact precautions. The Department or authorized representative of the Department may rescind these precautions after two (2) cultures from the wound

fail to show toxigenic *Corynebacterium diphtheriae* upon testing by a licensed laboratory. (4-5-00)

e. Contacts of cases of toxigenic diphtheria shall be offered immunization against diphtheria. (11-17-83)

f. Contacts shall be restricted from working as food handlers, working in health care facilities, or residential facilities, or from attending or working in day care facilities or schools until they are determined not to be carriers by means of a nasopharyngeal culture or culture of other site suspected to be infected. This restrictions may be rescinded by the Department or authorized representative of the Department. (11-17-83)

**13. Escherichia coli (E. coli) 0157:H7 And Other Shiga Toxin Producing E. coli (STEC).** (4-5-00)

a. Each case of infection with E. coli 0157:H7 and other STEC shall be reported to the Department or District within one (1) working day of the identification. (4-5-00)

b. A preliminary investigation of each case shall be performed to determine if the person is employed as a food handler, provides personal care at a health care or day care facility, or is a child attending a day care facility. The investigation shall determine the extent of the outbreak and identify the most likely source of the infection. (9-21-92)

c. Persons who are excreting E. coli 0157:H7 and other STEC may not provide personal care to children in day care facilities or to persons in health care facilities or work as food handlers while the disease is present in a communicable form without the approval of the Department or the District. One (1) negative fecal specimen for E. coli 0157:H7 and other STEC is sufficient to remove restrictions on personnel. (4-5-00)

d. Fecally incontinent persons who are excreting E. coli 0157:H7 and other STEC may not attend day care facilities unless exemption is made by the Department or District. One (1) negative fecal specimen for E. coli 0157:H7 and other STEC is sufficient to remove day care attendance restrictions. (4-5-00)

**14. Giardiasis.** (11-17-83)

a. Each case of giardiasis shall be reported to the Department or District within ~~one three (3) week~~ working days of the identification. (~~11-17-83~~)(7-1-02)T

b. A preliminary investigation of each case shall be performed to determine if the person is employed as a food handler, provides personal care at a health care or day care facility, or is a child attending day care facility. The preliminary investigation shall also determine the water sources used by the person with giardiasis. The investigation shall determine the extent of the outbreak, and identify the most likely source of the infection. (11-17-83)

c. Persons with diarrhea who are excreting Giardia may not provide personal care to children in day care facilities or to persons in health care facilities or work as food handlers while the disease is present in a communicable form or until two (2) days of therapy have been completed. Asymptomatic persons may provide these services with specific approval of the Department or District. (4-5-00)

d. Fecally incontinent persons with diarrhea who are excreting Giardia lamblia may not attend day care facilities. Asymptomatic children who are excreting Giardia may attend after investigation is made, hygiene of the facility is determined adequate, and an exemption is made by the Department. (4-5-00)

**15. Hantavirus Pulmonary Syndrome.** (4-5-00)

a. Each case of acute hantavirus infection manifesting as the hantavirus pulmonary syndrome, will be reported to the Department or District within one (1) day of identification. (4-5-00)

b. Each report of a case shall be investigated to confirm the diagnosis, determine environmental risk factors leading to infection, and determine any other at-risk individuals. (4-5-00)

c. The extended CDC case investigation and environmental assessment forms shall be completed in a timely manner. (4-5-00)

**16. Haemophilus Influenzae Invasive Disease.** (9-21-92)

a. Each case of invasive Haemophilus influenzae invasive disease, including but not limited to meningitis, septicemia, bacteremia, epiglottitis, pneumonia, osteomyelitis and cellulitis, shall be reported to the Department or District within one (1) working day of identification. (9-21-92)

b. Each report of a case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, to identify contacts, and to determine the need for antimicrobial prophylaxis of close contacts. (11-17-83)

c. Any person who is diagnosed with a disease caused by invasive Haemophilus influenzae shall not provide personal care to children attending a day care facility, or be engaged in any occupation where there is direct contact with students in a private, parochial, or public school as long as the disease is in a communicable form. (11-17-83)

d. Any person who is diagnosed with a disease caused by invasive Haemophilus influenzae shall not attend a day care facility, or a private, parochial, or public school as long as the disease is in a communicable form. (11-17-83)

**17. Hemolytic Uremic Syndrome (HUS).** (4-5-00)

a. Each case of HUS shall be reported to the Department or District within one (1) working day. (4-5-00)

b. Each case of HUS shall be investigated to confirm the diagnosis, determine the etiologic agent including E. coli O157:H7, non-O157 shiga-toxin producing E. coli, other enteric pathogens, and determine the source of infection. (4-5-00)

**18. Hepatitis A.** (9-21-92)

a. Each case or suspected case of hepatitis A shall be reported to the Department or District within one (1) working day of identification. (9-21-92)

b. Each report of a case or suspected case shall be investigated to confirm the diagnosis, to identify contacts, to determine the need for immune serum globulin (gamma globulin), and to identify possible sources of the infection so subsequent cases may be prevented. (11-17-83)

c. Persons with hepatitis A in health care facilities shall be placed under contact precautions as long as the disease is present in a communicable form. (4-5-00)

d. Persons with hepatitis A shall be restricted from working as a food handler and shall not engage in any occupation in which he/she provides personal care to children in a day care facility or to persons who are confined to health care or residential care facilities. (11-17-83)

i. The Department or authorized representative of the Department may rescind this restriction when the illness is considered no longer to be in a communicable stage. (11-17-83)

ii. Any unvaccinated member of the household in which there is a case of hepatitis A may not engage in any of the above mentioned occupations unless exemption is obtained from the Department or District. (4-5-00)

iii. A specific test for recent hepatitis A infection (IgM antiHAV) shall be performed by a licensed laboratory on all food handlers suspected of having hepatitis A (9-21-92)

e. Children who have hepatitis A shall not attend nurseries or day care facilities until the disease is no

longer communicable as determined by a licensed physician, or unless exemption is made by the Department or District. (9-21-92)

**f.** A physician may order blood tests for hepatitis A when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (5-16-90)

**19. Hepatitis B.** (9-21-92)

**a.** Each case of hepatitis B shall be reported to the Department or District within one (1) working day of identification. (9-21-92)

**b.** Each report of a case shall be investigated to confirm the diagnosis, to identify contacts and carriers, to determine the need for prophylaxis with immune globulins, to determine the need for hepatitis B vaccine, to determine the exposure of any pregnant women, and to identify possible sources of the infection so subsequent cases can be prevented. (9-21-92)

**c.** The carrier status of all persons diagnosed with hepatitis B shall be determined six (6) months after the initial diagnosis is established. (11-17-83)

**i.** The carrier status shall be determined by the presence of hepatitis B surface antigen (HBsAg) in blood obtained at least six (6) months after the initial diagnosis of hepatitis B. (9-21-92)

**ii.** The test for hepatitis B surface antigen (HBsAg) shall be performed by a licensed laboratory. (11-17-83)

**iii.** All persons who are carriers of hepatitis B shall be reported to the Department or District by their physician at the time of determination for inclusion in the hepatitis B carrier registry. (9-21-92)

**d.** A physician may order blood tests for hepatitis B when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (5-16-90)

**20. Hepatitis C.** (9-21-92)

**a.** Each case of hepatitis C shall be reported to the Department or District within ~~one three (13) week~~ working days of identification. (~~4-5-00~~)(7-1-02)T

**b.** Each reported case of hepatitis C shall be investigated to confirm the diagnosis, and to identify possible sources of the infection so subsequent cases may be prevented. (4-5-00)

**c.** A physician may order blood tests for hepatitis C when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (9-21-92)

**21. Human Immunodeficiency Virus (HIV) Infection.** (4-5-00)

**a.** Each case of HIV infection shall be reported to the Department or District within ~~one three (13) week~~ working days of identification. (~~4-5-00~~)(7-1-02)T

**b.** Positive laboratory tests for HIV Antibody, HIV Antigen (protein or nucleic acid), HIV culture or other tests that indicate prior or existing HIV infection must be reported as described in Subsection 010.03.d.i. (4-5-00)

**c.** Each reported case of HIV infection shall be investigated to obtain specific clinical information, to identify possible sources, risk factors, and contacts. Other manifestations of HIV infection as defined by the Centers for Disease Control and Prevention may be investigated. (4-5-00)

d. A physician may order blood tests for the HIV when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (4-5-00)

**22. Human T-Lymphotropic Virus (HTLV) Positive Tests.** (4-5-00)

a. HTLV infections (I and II) shall be reported to the Department or District within ~~one three (3)~~ three (3) ~~week~~ working days of the identification. (~~4-5-00~~)(7-1-02)T

b. Each reported case of HTLV infection may be investigated to determine the source of infection and evaluate risk factors. (4-5-00)

**23. Legionellosis.** (11-17-83)

a. Each case of legionellosis shall be reported to the Department or District within ~~one three (3)~~ three (3) ~~week~~ working days of the identification. (~~11-17-83~~)(7-1-02)T

b. Each reported case of legionellosis shall be investigated to confirm the diagnosis, and to identify possible sources of the infection so subsequent cases may be prevented. (4-5-00)

c. When two (2) or more cases occur within thirty (30) days of each other, an investigation shall be conducted to identify a common environmental source, and to identify ways to prevent further infections. (4-5-00)

**24. Leprosy.** (11-17-83)

a. Each case of leprosy shall be reported to the Department or District within ~~one three (3)~~ three (3) ~~week~~ working days of the identification. (~~11-17-83~~)(7-1-02)T

b. Each reported case or suspected case shall be investigated to confirm the diagnosis and to identify all household or other close contacts. (11-17-83)

c. All household or close contacts of a new case shall be examined by a licensed physician for signs of leprosy. Household contacts and patients in remission shall be registered with the Department and undergo periodic medical examinations every six (6) to twelve (12) months for five (5) years. (11-17-83)

**25. Leptospirosis.** (11-17-83)

a. Each case of leptospirosis shall be reported to the Department or District within ~~one three (3)~~ three (3) ~~week~~ working days of identification. (~~11-17-83~~)(7-1-02)T

b. Each report of a case or suspected case shall be investigated to confirm the diagnosis and to identify possible sources of the infection. Any identified or suspected source of infection shall be reported to the Department, which shall notify the Idaho Department of Agriculture if animals are involved. (11-17-83)

**26. Listeriosis.** (4-5-00)

a. Each case of listeriosis shall be reported to the Department or District within ~~one three (3)~~ three (3) ~~week~~ working days of the identification. (~~4-5-00~~)(7-1-02)T

b. Each report of a case or suspected case shall be investigated to confirm the diagnosis and to identify possible sources of the infection and extent of the outbreak. (4-5-00)

**27. Lyme Disease.** (9-21-92)

a. Each case of Lyme Disease shall be reported to the Department or District within ~~one three (3)~~ three (3) ~~week~~ working days of the identification. (~~9-21-92~~)(7-1-02)T

**b.** Each report of a case shall be investigated to confirm the diagnosis and to identify possible sources of the infection. Any identified or suspected source of infection shall be reported to the Department, which shall notify the Idaho Department of Agriculture if animals are involved. (9-21-92)

**28. Malaria.** (9-21-92)

**a.** Each case of malaria shall be reported to the Department or District within ~~one three (3) week~~ working days of identification. (~~9-21-92~~)(7-1-02)T

**b.** Each report of a case shall be investigated to determine the type and the source of the infection. (9-21-92)

**c.** If transmission may have occurred in Idaho, an entomologic investigation shall be performed by the Department or District to determine the extent of mosquito activity, and to institute control measures if endemic transmission has been determined. (4-5-00)

**d.** A physician may order blood tests for malaria when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (5-16-90)

**29. Measles.** (9-21-92)

**a.** Each case or suspected case of measles (rubeola) shall be reported to the Department or District by telephone within one (1) working day after identification. (9-21-92)

**b.** Each report of a case or suspected case shall be investigated promptly to confirm the diagnosis, to determine the extent of the outbreak, to identify the source of the infection, and to identify susceptible contacts. (11-17-83)

**c.** Cases or suspected cases of measles in health care facilities shall be placed under airborne precautions until the fifth day after the onset of rash. (4-5-00)

**d.** A person who is diagnosed as having measles shall not engage, as long as the disease is in a communicable stage, in any occupation in which there is direct contact with children. (4-5-00)

**e.** A child diagnosed with measles shall not attend a day care facility as long as the disease is in a communicable stage. (11-17-83)

**f.** Any person, regardless of age, shall not attend a private, parochial, charter, or public school as long as the disease is in a communicable stage. (4-5-00)

**g.** In the event of an outbreak, susceptible children must be excluded from day care facilities and schools until adequate immunization is obtained, or the threat of further spread is contained (Section 33-512, Idaho Code). (9-21-92)

**30. Mumps.** (9-21-92)

**a.** Each case of mumps shall be reported to the Department or District within ~~one three (3) week~~ working days of identification. (~~9-21-92~~)(7-1-02)T

**b.** Each report of a case may be investigated to determine the immunization history or if there is an unusual cause for an outbreak. (9-21-92)

**c.** Each case of mumps shall be restricted from school or work for nine (9) days after onset of parotid swelling. (4-5-00)

- 31. Myocarditis, Viral.** (4-5-00)
- a.** Each case of diagnosed or suspected viral myocarditis shall be reported within ~~one three (3) week~~ working days of identification. (~~4-5-00~~)(7-1-02)T
- b.** Each report of a case shall be investigated to confirm the diagnosis, to identify clusters or outbreaks of the infection, and to identify the agent or source of the infection. (4-5-00)
- 32. Neisseria Gonorrhoeae Infections.** (9-21-92)
- a.** Each case of Neisseria gonorrhoeae infection shall be reported to the Department or District within ~~one three (3) week~~ working days of identification. (~~9-21-92~~)(7-1-02)T
- b.** Each person diagnosed with urethral, cervical, oropharyngeal, or rectal gonorrhea shall be required to inform their sexual contacts, or provide sufficient information so public health officials may locate such contacts, advise that they have been exposed to a sexually transmitted infection (venereal disease) and should seek examination and treatment. (4-5-00)
- c.** Cases of gonococcal ophthalmia neonatorum in health care facilities shall be placed under wound and skin precautions. (11-17-83)
- d.** Prophylaxis against gonococcal ophthalmia neonatorum shall be as described in Idaho Department of Health and Welfare Rules, IDAPA 16.02.12, "Rules Governing Procedures and Testing to Be Performed on Newborn Infants". (11-17-83)
- 33. Neisseria Meningitidis Invasive Disease.** (9-21-92)
- a.** Each case of invasive disease caused by Neisseria meningitidis, including but not limited to meningitis and septicemia shall be reported to the Department or District by telephone within one (1) working day of identification. (4-5-00)
- b.** Each report of a case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, to identify contacts, and to determine the need for antimicrobial prophylaxis and/or immunization of close contacts. (9-21-92)
- c.** Any person who is diagnosed with a disease caused by Neisseria meningitidis shall not provide personal care to children attending a day care facility, or engage in any occupation where there is direct contact with students in private, parochial, charter, or public schools as long as the disease is present in a communicable form. (4-5-00)
- d.** Any person who is diagnosed with a disease caused by Neisseria meningitidis shall not attend a day care facility, or a private, parochial, charter, or public school as long as the disease is present in a communicable form. (4-5-00)
- e.** Persons with meningococcal disease in health care facilities or residential care facilities shall be placed under respiratory isolation until twenty-four (24) hours after the initiation of effective therapy. (11-17-83)
- 34. Pertussis.** (9-21-92)
- a.** Each case or suspected case of pertussis shall be reported to the Department or District by telephone within one (1) working day of identification. (9-21-92)
- b.** Each report of a case or suspected case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, to identify susceptible contacts, and to identify the source of the infection so additional cases can be prevented. (11-17-83)
- c.** A person who is diagnosed with pertussis shall not engage in any occupation in which there is

direct contact with children in a day care facility or other persons in health care facilities, residential care facilities, or schools as long as the disease is in a communicable stage. (11-17-83)

**d.** Any person diagnosed with pertussis shall not attend a private, parochial, charter, or public school or a day care facility as long as the disease is in a communicable stage. (4-5-00)

**35. Plague.** (11-17-83)

**a.** Each case or suspected case of plague shall be reported to the Department or District by telephone immediately, day or night, upon identification, which shall notify the Idaho Department of Agriculture if animals are involved. (4-5-00)

**b.** Each report of a case or suspected case shall be investigated to confirm the diagnosis, determine the source and extent of the outbreak, and to ascertain if there has been person-to-person transmission. (11-17-83)

**c.** Cases or suspected cases of pneumonic plague in health care facilities shall be placed under droplet precautions until two (2) full days of appropriate antibiotic therapy has been completed, and there has been a favorable clinical response. (4-5-00)

**d.** Cases or suspected cases of bubonic plague in health care facilities shall be placed under strict isolation precautions and treated with appropriate antibiotics. (9-21-92)

**e.** Household and face-to-face contacts of persons with pneumonic plague shall be placed on chemoprophylaxis and placed under surveillance for seven (7) days. Persons who refuse chemoprophylaxis shall be maintained under droplet precautions with careful surveillance for seven (7) days. (4-5-00)

**36. Pneumococcal Disease.** (7-1-02)T

**a.** Each case of invasive Pneumococcal disease in children less than eighteen (18) years of age, including but not limited to meningitis, septicemia, bacteremia, and pneumonia shall be reported to the Department or District within three (3) working days of identification. (7-1-02)T

**b.** Each report of a case shall be investigated to confirm the diagnosis and determine relevant vaccine history. (7-1-02)T

**c.** Any child who is diagnosed with Pneumococcal invasive disease shall be restricted from a day care facility, school, or work as long as the disease is in a communicable form. (7-1-02)T

**367. Pneumocystis Carinii Pneumonia (PCP).** (9-21-92)

**a.** Each case of Pneumocystis carinii pneumonia shall be reported to the Department or District within ~~one week~~ three (3) working days of identification. (~~9-21-92~~)(7-1-02)T

**b.** Each report of a case shall be investigated to confirm the diagnosis, and to determine the underlying cause of any immune deficiency which may have contributed to the disease. If the underlying cause is an HIV infection, that shall be reported. (9-21-92)

**378. Poliomyelitis.** (9-21-92)

**a.** Each case or suspected case of poliomyelitis shall be reported to the Department or District by telephone within one (1) working day of identification. (9-21-92)

**b.** Each report of a case or suspected case shall be investigated to confirm the diagnosis, to determine whether the case is polio vaccine associated, or wild virus associated, to determine the extent of the outbreak, to ascertain if there has been person-to-person transmission, to identify susceptible contacts, carriers, and the source of the infection. (9-21-92)

c. The immunization status of all contacts shall be ascertained and all susceptible contacts shall be offered immunization. (11-17-83)

**389. Psittacosis.** (11-17-83)

a. Each case of psittacosis shall be reported to the Department or District within ~~one three (3) week~~ working days of identification. (~~11-17-83~~)(7-1-02)T

b. Each case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, and to identify contact with possible sources of the infection. (11-17-83)

c. Any identified sources or suspected sources of infection shall be reported to the Department which shall notify the Idaho Department of Agriculture if birds or other animals are involved. (11-17-83)

**390. Q Fever.** (11-17-83)

a. Each case shall be reported to the Department or District within one (1) ~~week~~ working day of identification. (~~11-17-83~~)(7-1-02)T

b. Each reported case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, and to identify the source of the infection. (11-17-83)

c. Any identified or suspected sources of infection shall be reported to the Department which shall notify the Idaho Department of Agriculture if animals are involved. (11-17-83)

**401. Rabies.** (11-17-83)

a. Each case or suspected case of rabies in humans shall be reported immediately to the Department or District, day or night, upon identification. Each case of rabies in animals shall be reported to the Department or District and the Department of Agriculture within one (1) working day. (4-5-00)

b. Each report of a case or suspected case of rabies in humans shall be investigated to confirm the diagnosis, to identify the source and other persons or animals that may have been exposed to the source, and to identify persons who may need to undergo prophylaxis with rabies immune globulin and rabies vaccine. (4-5-00)

c. Each instance of post-exposure prophylaxis (PEP) initiation shall be reported to the Department or District within one (1) working day. (4-5-00)

d. Each reported PEP initiation shall be investigated to determine if additional individuals require PEP and to identify the source of possible exposure. (4-5-00)

e. In the event that a human or animal case of rabies occurs, any authorized representative of the Idaho Department of Agriculture or Department or District shall establish such isolation and quarantine of animals as deemed necessary to protect the public health. (9-21-92)

f. The handling of a rabies susceptible animal which has bitten a person shall be as follows:(9-21-92)

i. Any livestock which has bitten a person shall be managed by the Department of Agriculture. (9-21-92)

ii. Any healthy domestic dog, cat, or ferret which has bitten a person shall be observed for ten (10) days following the bite under the supervision of a licensed veterinarian or other person designated by the Idaho Department of Agriculture or the Department. Such observation shall be within an enclosure, or with restraints deemed adequate to prevent contact with any member of the public or other animals. (4-5-00)

iii. It shall be the animal owner's responsibility to carry out the quarantine of the biting animal and to follow instructions provided for the quarantine of the animal. (11-17-83)

iv. Any domestic dog, cat, or ferret that has not been vaccinated against rabies and cannot be quarantined, shall be destroyed by a means other than shooting in the head. The head shall be submitted to an approved laboratory for rabies analysis. (4-5-00)

v. Susceptible animals other than domestic dogs, cats, ferrets, or livestock shall be destroyed and the head submitted to an approved laboratory for rabies analysis. (4-5-00)

vi. No person shall destroy or allow to be destroyed the head of a rabies susceptible animal which has bitten a person without authorization from the Department. (11-17-83)

g. The handling of a rabies susceptible animal that has not bitten a person, but has within the past one hundred eighty (180) days been bitten, mouthed, or mauled by, or closely confined in the same premises with a known rabid animal shall be as follows: (9-21-92)

i. Any domestic dog, cat, ferret, or livestock which has not been vaccinated as recommended by the American Veterinary Medical Association, shall be placed in quarantine for a period of six (6) months under the observation of a licensed veterinarian or a person designated by the Department or the Department of Agriculture and vaccinated one (1) month prior to release from quarantine. Vaccinated animals including livestock should be revaccinated immediately with a currently recommended rabies vaccine and quarantined for ninety (90) days. These provisions apply only to domestic animals for which an approved rabies vaccine is available. (4-5-00)

ii. The quarantine of such animal shall be within an enclosure deemed adequate by an authorized representative of the Idaho Department of Agriculture or the Department, or District to prevent contact with any person or rabies susceptible animal. (9-21-92)

iii. The owner of the animal shall be financially responsible for the cost of isolating and quarantining the animal and costs for specimen collection and testing. (11-17-83)

iv. Destruction of such animal shall be permitted as an alternative to quarantine. (11-17-83)

h. Any rabies susceptible animal other than domestic dogs, cats, ferrets, or livestock which are suspected of having rabies, or which have been in close contact with an animal known to be rabid shall be destroyed. The animal shall be tested by an approved laboratory for rabies if a person has been bitten, or has had direct contact with the animal which might result in the person becoming infected. (4-5-00)

i. Nothing in these rules is intended or shall be construed to limit the power of any city or county in its authority to enact more stringent requirements to prevent the transmission of rabies. (11-17-83)

**412. Relapsing Fever.** (11-17-83)

a. Each case of relapsing fever shall be reported to the Department or District within ~~one~~ three (3) ~~week~~ working days of identification. (~~11-17-83~~)(7-1-02)T

b. Each report of a case shall be investigated to confirm the diagnosis, determine the extent and source of the outbreak, and to ascertain whether transmission by lice or ticks is likely. (11-17-83)

**423. Reye Syndrome.** (9-21-92)

a. Each case of Reye syndrome shall be reported to the Department or District within ~~one~~ three (3) ~~week~~ working days of identification. (~~9-21-92~~)(7-1-02)T

b. Each case shall be investigated to obtain specific clinical information, to learn more about the etiology, risk factors, and means of preventing the syndrome. (9-21-92)

**434. Rocky Mountain Spotted Fever.** (11-17-83)

**a.** Each case of Rocky Mountain spotted fever shall be reported to the Department or District within ~~one three (13) week~~ ~~working days~~ of identification. ~~(11-17-83)~~(7-1-02)T

**b.** Each report shall be investigated to confirm the diagnosis, to identify the source of infection, and to determine if control measures should be initiated. (11-17-83)

**445. Rubella.** (11-17-83)

**a.** Each case or suspected case of rubella (including congenital rubella syndrome) shall be reported to the Department or District within one (1) working day of identification. (9-21-92)

**b.** Each report of a case or suspected case shall be investigated to confirm the diagnosis, determine the extent of the outbreak, to identify any contacts who are susceptible, pregnant women, and to document the presence of the congenital rubella syndrome. (11-17-83)

**c.** Persons diagnosed with rubella shall not engage, as long as the disease is in a communicable stage, in any occupation in which there is close contact with children in day care facilities or other persons in schools, health care, or residential care facilities, or with women likely to be pregnant. (11-17-83)

**d.** Any person with rubella, regardless of age, shall not attend or be present in a private, parochial, charter, or public school as long as the disease is in a communicable stage. (4-5-00)

**e.** A person diagnosed with rubella shall not attend or be present in a day care facility as long as the disease is in a communicable form. (11-17-83)

**456. Salmonellosis.** (11-17-83)

**a.** Each case of salmonellosis (including typhoid fever) shall be reported to the Department or District within one (1) working day of identification. (9-21-92)

**b.** Each report of a case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, and to identify contacts, carriers, and the source of contamination. (11-17-83)

**c.** Fecally incontinent persons who are excreting Salmonella shall not attend day care facilities unless exemption is obtained from the Department or District. Any exemptions may be based on the absence of symptoms, and the hygiene of the facility and staff. (9-21-92)

**d.** Persons excreting Salmonella shall be restricted from working as food handlers, and shall not engage in any occupation in which they provide personal care to children in day care facilities or to persons who are confined to health care facilities or residential care facilities unless exemption is obtained from the Department. Any exemption for day care, health care, or residential care facilities may be based on the absence of symptoms and the hygiene of the facility and staff. (9-21-92)

**i.** The Department or authorized representative for the Department may rescind this restriction on cases other than Salmonella typhi infection provided that two (2) approved fecal specimens, collected not less than twenty-four (24) hours apart, fail to show Salmonella upon testing by a licensed laboratory. (11-17-83)

**ii.** Any member of a household in which there is a case of non-typhi salmonellosis may not engage in the above occupations until they produce at least one (1) negative fecal specimen for Salmonella testing on examination by a licensed laboratory. (4-5-00)

**e.** Identification and management of non-Salmonella typhi carriers. (11-17-83)

**i.** Any person who excretes Salmonella for more than one (1) year after onset is defined to be a chronic carrier. (11-17-83)

**ii.** Chronic carriers shall be restricted from working as food handlers, and shall not engage in any

occupation in which they provide personal care to children in day care facilities or to persons who are confined to health care facilities or residential care facilities until *Salmonella* species is not identified by a licensed laboratory in any of three (3) successive approved fecal specimens collected at least seventy-two (72) hours apart. (4-5-00)

**g.** Identification and management of typhoid fever cases and carriers. (11-17-83)

i. Any person with typhoid fever shall remain subject to the supervision of the Department or authorized representative of the Department until *Salmonella typhi* is not isolated by a licensed laboratory from four (4) successive approved fecal specimens. These specimens are to be collected at least twenty-four (24) hours apart and not earlier than one (1) month after onset. (11-17-83)

ii. Any member of a household in which there is a case of *salmonella typhi* may not engage in the above occupations until at least two (2) fecal specimens are negative for *Salmonella* testing on examination by a licensed laboratory. (4-5-00)

iii. All carriers of *Salmonella typhi* shall abide by the typhoid fever carrier agreement. Failure to abide by the carrier agreement may cause the carrier to be isolated. (11-17-83)

(1) The typhoid carrier agreement is a written agreement between the carrier and the Department. (11-17-83)

(2) The carrier agrees to not work as a food handler, to notify the Department at once of any change in address or occupation, to report to the District immediately any cases of illness suggestive of typhoid fever in his/her family or among immediate associates, and to furnish specimens for examination in a manner prescribed by the Department. (11-17-83)

iv. Chronic carriers of typhoid fever may be released from carrier status when *Salmonella typhi* is not identified by a licensed laboratory in any of six (6) consecutive approved fecal specimens and urine specimens collected at least one (1) month apart. (11-17-83)

**467. Shigellosis.** (11-17-83)

**a.** Each case of shigellosis shall be reported to the Department or District within ~~one three (3) week~~ working days of identification. (~~9-21-92~~)(7-1-02)T

**b.** Each report of a case shall be investigated to confirm the diagnosis and to determine the extent of the outbreak. An attempt shall be made to identify contacts, carriers, and the source of infection. (11-17-83)

**c.** Persons excreting *Shigella* shall not work as food handlers nor attend day care facilities. They shall not engage in any occupation in which they provide personal care to children in day care facilities or to persons who are confined to health care or residential care facilities unless exemption is obtained from the Department or District. In an outbreak in a facility, a cohort system may be approved. (9-21-92)

i. The Department or authorized representative of the Department may rescind this restriction provided that two (2) approved fecal specimens collected at least twenty-four (24) hours apart fail to show *Shigella* upon testing by a licensed laboratory. (11-17-83)

ii. No member of the household in which there is a case of shigellosis may engage in any of the above-mentioned occupations unless the Department approves and at least one (1) fecal specimen is negative for *Shigella* testing on examination by a licensed laboratory. (9-21-92)

**48. Smallpox.** (7-1-02)T

**a.** Each case or suspected case of smallpox shall be reported to the Department or District by telephone immediately upon identification. (7-1-02)T

**b.** Each report of a case or suspected case shall be investigated promptly to confirm the diagnosis, to

determine the extent of the outbreak, to identify the source of the infection, and to identify susceptible contacts.

(7-1-02)T

c. Cases or suspected cases of smallpox in health care facilities shall be placed under airborne contact, and standard precautions until the disease is no longer in a communicable stage.

(7-1-02)T

d. A person who is diagnosed as having smallpox shall not engage in any occupation as long as the disease is in a communicable stage.

(7-1-02)T

e. A child diagnosed with smallpox shall not attend a day care facility as long as the disease is in a communicable stage.

(7-1-02)T

f. Any person, regardless of age, shall not attend a private, parochial, charter, or public school or attend public gatherings as long as the disease is in a communicable stage.

(7-1-02)T

g. In the event of an outbreak, the Department or District may exclude susceptible children and employees from day care facilities and schools where a case has been identified until adequate immunization is obtained, or the threat of further spread is contained (Section 33-512, Idaho Code).

(7-1-02)T

**479. Streptococcus Pyogenes, Group A, Infections Which Are Invasive Or Result In Rheumatic Fever.**

(11-17-83)

a. Each case of Streptococcus pyogenes, Group A, infection which is invasive or results in rheumatic fever shall be reported to the Department or District within ~~one~~ three (3) week working days of identification.

~~(9-21-92)~~(7-1-02)T

b. Each case shall be investigated to confirm the diagnosis, to determine if the infection is part of an outbreak, and to identify the source of the infection.

(4-5-00)

c. Infected persons should not attend day care, school, or work in health care facilities until twenty-four (24) hours has elapsed after treatment is initiated, or until the patient is no longer infectious as determined by a physician, District or the Department.

(9-21-92)

**4850. Syphilis.**

(9-21-92)

a. Each case or suspected case of infectious, or recently infectious, syphilis shall be reported to the Department or District within ~~one~~ three (3) week working days of identification. Cases of late latent syphilis shall be reported to the Department or District within ~~one~~ three (3) week working days of identification.

~~(9-21-92)~~(7-1-02)T

b. Each case or suspected case of primary, secondary, or early latent syphilis shall be investigated by a representative of the Department or District after notification has been received.

(9-21-92)

c. Each person diagnosed with infectious syphilis shall be required to inform their sexual contacts that they may have been exposed to a sexually transmitted infection (venereal disease), or provide sufficient information so public health officials may locate contacts and assure that each is offered prompt diagnosis and treatment (Section 39-605, Idaho Code).

(4-5-00)

d. A physician may order blood tests for syphilis when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services.

(5-16-90)

**4951. Tetanus.**

(9-21-92)

a. Each case of tetanus shall be reported to the Department or District within ~~one~~ three (3) week working days of identification.

~~(11-17-83)~~(7-1-02)T

b. Each report of a case shall be investigated to confirm the diagnosis and to determine the

immunization status of the case. (9-21-92)

**502. Trichinosis.** (11-17-83)

**a.** Each case of trichinosis shall be reported to the Department or District within ~~one three (3) week~~ working days of identification. (~~11-17-83~~)(7-1-02)T

**b.** Each report of a case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, and to identify the source of infection. (11-17-83)

**c.** Any identified or suspected source of infection shall be reported to the Department which shall immediately notify the Idaho Department of Agriculture and/or other regulatory agency. (11-17-83)

**513. Toxic Shock Syndrome.** (11-17-83)

**a.** Each case of toxic shock syndrome shall be reported to the Department or District within ~~one three (3) week~~ working days of identification. (~~11-17-83~~)(7-1-02)T

**b.** Each case shall be investigated to obtain specific clinical information on the syndrome to learn more about the etiology of the syndrome, risk factors associated with the syndrome, and means of preventing the syndrome. (11-17-83)

**524. Tuberculosis.** (11-17-83)

**a.** Each case or suspected case of tuberculosis shall be reported to the Department or District within ~~one three (3) week~~ working days of identification. (~~9-21-92~~)(7-1-02)T

**b.** Each report of a case or suspected case shall be investigated to confirm the diagnosis and to identify contacts, associated cases, and the source of the infection. (11-17-83)

**c.** Restriction of cases and contacts. (11-17-83)

**i.** In health care facilities, persons with active pulmonary tuberculosis shall be placed under airborne precautions until they have been determined to be noninfectious by the licensed physician, the infection control committee of the facility or the Department. Patients suspected to have pulmonary tuberculosis shall be placed under airborne precautions until the diagnosis of infectious pulmonary tuberculosis has been excluded by the attending physician. (4-5-00)

**ii.** Patients with infectious pulmonary tuberculosis shall not engage in any occupation in which they have direct contact with students in schools, provide personal care to children in day care facilities, or provide personal care to persons confined to health care or residential care facilities until they have been determined to be noninfectious by their physician. (9-21-92)

**iii.** Patients with infectious pulmonary tuberculosis may not attend a school or day care facility until they have been determined to be noninfectious by their licensed physician and the Department or District. (9-21-92)

**iv.** Any member of the household in which there is a case of infectious tuberculosis shall not engage in any occupation in which he provides direct supervision of students in schools, personal care to children in day care facilities, or personal care to persons who are confined to health care or residential facilities, or attend a school or day care facility until he has been determined to be free from communicable tuberculosis. (9-21-92)

**d.** In the event that a case of communicable tuberculosis is diagnosed in an employee or patient of a health care facility, the facility shall conduct an investigation to identify contacts. The Department or District authorized representative may assist in the investigation. (9-21-92)

**535. Tularemia.** (11-17-83)

**a.** Each case of tularemia shall be reported to the Department or District within one (1) ~~week~~ working day of identification. ~~(11-17-83)~~(7-1-02)T

**b.** Each report of a case shall be investigated to confirm the diagnosis and to identify the source of the infection. (4-5-00)

**c.** Any source or suspected source of the infection shall be reported to the Department, which shall notify the Idaho Department of Agriculture. (11-17-83)

**546. Viral Or Aseptic Encephalitis And Meningitis.** (4-5-00)

**a.** Each case of diagnosed or suspected viral or aseptic encephalitis and meningitis shall be reported within ~~one three (3) week~~ working days of identification. ~~(4-5-00)~~(7-1-02)T

**b.** Each report of a case may be investigated to confirm the diagnosis, to identify clusters or outbreaks of the infection, and to identify the agent or source of the infection. (9-21-92)

**557. Yersiniosis.** (11-17-83)

**a.** Each case of yersiniosis shall be reported to the Department or District within ~~one three (3) week~~ working days of identification. ~~(11-17-83)~~(7-1-02)T

**b.** Each report of a case shall be investigated to confirm the diagnosis and to identify carriers and the source of the infection. (11-17-83)

**568. Extraordinary Occurrence Of Illness, Including Clusters.** (4-5-00)

**a.** Cases, suspected cases, and clusters of extraordinary or unusual illness shall be reported to the Department or District within one (1) working day by the diagnosing person. (4-5-00)

**i.** Each case, suspected case, and cluster shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, to identify the source of infection or exposure, and to determine whether there is a risk to the public warranting intervention by a public health agency. Evaluation and control measures shall be undertaken in consultation with the Department and other appropriate agencies. The Department or authorized representative of the Department may elect to investigate by conducting special studies as outlined in Section 016. (4-5-00)

**ii.** Extraordinary or unusual outbreaks include illnesses which may be a significant risk to the public, may involve a large number of persons, or are a newly described entity. (9-21-92)

**iii.** Even in the absence of a defined etiologic agent or toxic substance, clusters of unexplained acute illness and early-stage disease symptoms shall be reported to the Department or District within one (1) working day and investigated. (4-5-00)

**579. Severe Reaction To Any Immunization.** (9-21-92)

**a.** Each case or suspected case of a severe reaction to any immunization shall be reported by telephone to the Department or District within one (1) working day of identification. (9-21-92)

**b.** Each case or suspected case shall be investigated to confirm and to document the circumstances relating to the reported reaction. (11-17-83)

**5860. Food Poisoning, ~~And~~ Foodborne Illness, and Waterborne Illness.** ~~(9-21-92)~~(7-1-02)T

**a.** Each case or suspected case of food poisoning, ~~or~~ foodborne illness, or waterborne illness shall be reported to the Department or District within one (1) working day of identification. ~~(9-21-92)~~(7-1-02)T

**b.** Each report of a case or suspected case of food poisoning, ~~or~~ food borne illness, or waterborne

illness may be investigated to confirm the diagnosis, to determine the extent of the outbreak, to identify the source, and to determine if actions need to be taken to prevent additional cases. ~~(11-17-83)~~(7-1-02)T

**5961. Lead Poisoning Or Excess Lead Exposure.** (9-21-92)

**a.** Each case of symptomatic lead poisoning or excess lead exposure as determined by a blood lead level of ten (10) micrograms or more per deciliter (10 ug/dl) of whole blood shall be reported to the Department within one (1) week of identification. (9-21-92)

**b.** Each case of lead poisoning or excess lead exposure may be investigated to determine the source, and to determine if actions need to be taken to prevent additional cases. (9-21-92)

**(BREAK IN CONTINUITY OF SECTIONS)**

**025. CONTROL OF REPORTABLE AND RESTRICTABLE DISEASES IN CERTAIN FACILITIES.**

**01. Day Care Facilities.** (11-17-83)

**a.** Day care reportable and restrictable diseases are those diseases that are readily transmissible among children and staff in day care facilities. (11-17-83)

**b.** Examples of day care restrictable diseases that are reportable include, but are not limited to: (11-17-83)

i. Amebiasis; (11-17-83)

ii. Campylobacteriosis; (11-17-83)

iii. Diphtheria; (11-17-83)

iv. Escherichia coli 0157:H7 and other shiga toxin producing E. coli (STEC); (4-5-00)

v. Giardiasis; (11-17-83)

vi. Hepatitis A; (9-21-92)

vii. Haemophilus influenzae invasive disease; (9-21-92)

viii. Measles; (11-17-83)

ix. Mumps; (11-17-83)

x. Neisseria meningitidis invasive disease; (9-21-92)

xi. Pertussis; (11-17-83)

xii. Pneumococcal invasive disease in children less than eighteen (18) years of age; ~~(7-1-02)T~~

xiii. Poliomyelitis; (11-17-83)

~~x#iv.~~ Rubella; (11-17-83)

~~xiv.~~ Salmonellosis; (11-17-83)

- xvi. Shigellosis; (11-17-83)
- xvii. Smallpox; (~~7-1-02~~)T
- xviii. Streptococcus pyogenes, Group A, infections which are invasive or result in rheumatic fever; (9-21-92)
- ~~xix.~~ Tuberculosis; (11-17-83)
- c. Examples of day care restrictable diseases not on the reportable list include: (11-17-83)
- ~~i. Chickenpox;~~ (~~11-17-83~~)
- ~~ii.~~ Conjunctivitis; (11-17-83)
- ~~iii.~~ Cutaneous fungal infections; (11-17-83)
- ~~iv.~~ Pediculosis; (11-17-83)
- ~~v.~~ Scabies; (11-17-83)
- ~~vi.~~ Staphylococcal infections; (11-17-83)
- ~~vii.~~ Streptococcal pharyngeal infections; (9-21-92)
- ~~viii.~~ Varicella (chickenpox). (~~7-1-02~~)T
- d. A person who is diagnosed to have a day care restrictable disease shall not engage, as long as the disease is in a communicable stage, in any occupation in which there is direct contact with children in a day care facility. (11-17-83)
- e. A child who is diagnosed to have a day care restrictable disease shall not attend a day care facility as long as the disease is in a communicable stage. This restriction may be removed by the written certification of a licensed physician, public health nurse or school nurse that the person's disease is no longer communicable. (11-17-83)
- f. When satisfactory measures have been taken to prevent the transmission of disease, the affected child or employee may continue to attend or to work in the day care facility if approval is obtained from the Department or District. (9-21-92)
- 02. Food Service Facilities.** (11-17-83)
- a. A person who is diagnosed to have one (1) of the following diseases or conditions which can be transmitted from one (1) person to another through food or beverage shall not work as a food handler as long as the disease is in a communicable stage. These diseases and conditions include, but are not limited to: (11-17-83)
- i. Amebiasis; (11-17-83)
- ii. Campylobacteriosis; (11-17-83)
- iii. Cholera; (11-17-83)
- iv. Diarrhea (until common communicable causes have been ruled out); (11-17-83)
- v. Diphtheria; (11-17-83)
- vi. Escherichia coli 0157:H7 and other shiga toxin producing E. coli (STEC); (4-5-00)

- vii. Giardiasis; (11-17-83)
- viii. Hepatitis A; (9-21-92)
- ix. Salmonellosis; (11-17-83)
- x. Shigellosis; (11-17-83)
- xi. Staphylococcal skin infections; (11-17-83)
- xii. Streptococcal skin infections; (11-17-83)
- xiii. Taeniasis; (11-17-83)
- xiv. Tuberculosis (active); (11-17-83)
- xv. Vomiting (until noninfectious cause is identified); (11-17-83)

**b.** The state health officer or his authorized representative may require a food handler to submit to an examination to determine the presence of a disease that can be transmitted by means of food when there is reasonable cause to believe the food handler is afflicted with a disease listed in this section. (11-17-83)

**c.** If the person in charge of the eating or drinking establishment has reason to suspect that any employee has a disease listed in Subsection 025.02.a. that is in a communicable form, he must immediately notify the Department or District and obtain guidance on proper actions needed to protect the public. (4-5-00)

**03. Schools.** (11-17-83)

**a.** School reportable and restrictable diseases are those diseases that are readily transmissible among students and staff in schools. (11-17-83)

**b.** Examples of school restrictable diseases that are reportable include, but are not limited to: (11-17-83)

- i. Diphtheria; (11-17-83)
- ii. Escherichia coli 0157:H7 and other shiga toxin producing E. coli (STEC); (4-5-00)
- iii. Haemophilus influenzae invasive diseases; (9-21-92)
- iv. Measles; (11-17-83)
- v. Mumps; (11-17-83)
- vi. Neisseria meningitidis invasive disease; (9-21-92)
- vii. Pertussis; (11-17-83)
- viii. Plague; (11-17-83)
- ix. Pneumococcal invasive disease in children less than eighteen (18) years of age; (7-1-02)T
- ix. Rubella; (11-17-83)
- x. Shigellosis; (11-17-83)

- xii.     Smallpox: (7-1-02)T
- xiii.    Streptococcus pyogenes, Group A, infections which are invasive or result in rheumatic fever; (9-21-92)
- xiv.    Tuberculosis (active). (11-17-83)
- c.**       Examples of school restrictable diseases not on the reportable list include: (11-17-83)
- ~~i.~~      ~~Chickenpox;~~ (11-17-83)
- i.        Conjunctivitis; (11-17-83)
- ii.      Cutaneous fungal infections; (11-17-83)
- ~~iii.~~     Pediculosis; (11-17-83)
- iv.      Scabies; (11-17-83)
- v.        Staphylococcal skin infections; (11-17-83)
- vi.      Streptococcal pharyngeal infections; (9-21-92)
- vii.     Varicella (chickenpox). (7-1-02)T
- d.**       Any person who is diagnosed to have a school restrictable disease shall not engage, as long as the disease is in a communicable stage, in any occupation that involves direct contact with students in a private, parochial charter, or public school. (4-5-00)
- e.**       Any person who is diagnosed with or reasonably suspected to have a school restrictable disease shall not attend a private, parochial, charter, or public school as long as the disease is in a communicable stage. (4-5-00)
- f.**       A licensed physician, public health nurse, school nurse or other person authorized by the Department may determine when a person with a school restrictable disease can no longer transmit the disease to others. (11-17-83)
- g.**       A school administrator must report the closure of any public, parochial, charter, or private school within one (1) working day when, in his opinion, such closing is related to a communicable disease. (4-5-00)

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.02.12 - RULES GOVERNING PROCEDURES AND TESTING TO BE**  
**PERFORMED ON NEWBORN INFANTS**

**DOCKET NO. 16-0212-0201**

**NOTICE OF RULEMAKING**

**TEMPORARY AND PROPOSED RULE - (REPEAL OF CHAPTER)**

**EFFECTIVE DATE:** These temporary rules are effective July 1, 2002.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 39-906, 39-909, 39-910 and 39-911, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2002.

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

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

The chapter is being repealed in its entirety and re-written under Docket No. 16-0212-0202.

**TEMPORARY RULE JUSTIFICATION:** Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to protect the public health, safety and welfare.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted informally with the Idaho Hospital Association, Idaho Perinatal Project, Division of Medicaid, Idaho Medical Association, and Idaho Chapter of the March of Dimes.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Christina Giso at (208) 334-4927.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before July 24, 2002.

DATED this 17th day of April, 2002.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW – Administrative Procedures Section  
450 West State Street, 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
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**IDAPA 16.02.12 IS BEING REPEALED IN ITS ENTIRETY.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.02.12 - RULES GOVERNING PROCEDURES AND TESTING TO BE**  
**PERFORMED ON NEWBORN INFANTS**

**DOCKET NO. 16-0212-0202**

**NOTICE OF RULEMAKING**

**TEMPORARY AND PROPOSED RULE - (REWRITE OF CHAPTER)**

**EFFECTIVE DATE:** These temporary rules are effective July 1, 2002.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 39-906, 39-909, 39-910 and 39-911, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2002.

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

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

This chapter of rules is being repealed in its entirety under Docket No. 16-0212-0201 and re-written under this docket. Also, changes to the chapter are intended to fulfill responsibilities assigned to the Department by Section 39-909, Idaho Code, "Tests for Phenylketonuria and Preventable Diseases in Newborn Infants." Changes made to IDAPA 16.02.12, will clarify the definition section by updating terminology and eliminating unnecessary terminology. (Example: Recent technological advances have enabled the detection of many more conditions than are currently covered. Changes made will allow the use of such technology, and list conditions.) Sections 100 and 105 will also be updated to clarify newborn screening responsibilities and procedures to be followed to ensure all infants are screened appropriately after birth. Sections that are no longer required will be eliminated and sections that are needed will be added in the re-write of the chapter.

**TEMPORARY RULE JUSTIFICATION:** Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to protect the public health, safety and welfare.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted informally with the Idaho Hospital Association, Idaho Perinatal Project, Division of Medicaid, Idaho Medical Association, and Idaho Chapter of the March of Dimes.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Christina Giso at (208) 334-4927.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before July 24, 2002.

DATED this 17th day of April, 2002.

Sherri Kovach, Administrative Procedures Coordinator  
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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0212-0202**

**IDAPA 16**  
**TITLE 02**  
**Chapter 12**

**16.02.12 - RULES GOVERNING PROCEDURES AND TESTING**  
**TO BE PERFORMED ON NEWBORN INFANTS**

**000. LEGAL AUTHORITY.**

The Idaho Legislature has given the Board of Health and Welfare legislative power to promulgate rules governing the testing of newborn infants for phenylketonuria and other preventable diseases and governing the instillation of an ophthalmic preparation in the eyes of the newborn to prevent Ophthalmia Neonatorum, pursuant to Sections 39-906, 39-909, 39-910 and 39-911, Idaho Code. (7-1-02)T

**001. TITLE AND SCOPE.**

**01. Title.** These rules are to be cited in full as Idaho Department of Health and Welfare Rules, IDAPA 16.02.12, "Rules Governing Procedures and Testing to Be Performed on Newborn Infants". (7-1-02)T

**02. Scope.** These rules specify the tests and procedures that must be performed on newborn infants for early detection of mental retardation, developmental disabilities, blood amino acid levels, and prevention of infant blindness. (7-1-02)T

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations that apply to these rules. (7-1-02)T

**003. ADMINISTRATIVE APPEALS.**

All contested cases shall be governed by the provision of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings". (7-1-02)T

**004. INCORPORATION BY REFERENCE.**

Pursuant to Section 67-5229, Idaho Code, this chapter incorporates by reference the following document. (7-1-02)T

**01. Document.** "Blood Collection on Filter Paper for Neonatal Screening Programs; Approved Standard." Third Edition. National Committee for Clinical Laboratory Standards, 1997. ISBN 1-56238-334-5. (7-1-02)T

**02. Availability.** This document is available through the National Committee for Clinical Laboratory Standards, 940 West Valley Road, Suite 1400, Wayne, PA 19087-1898, telephone 610-688-0100. (7-1-02)T

**005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS**

The state office of the Department of Health and Welfare is located at 450 W. State St., Boise, ID 83720-0036, telephone number 208-334-5930. The office hours are 8 a.m. to 5 p.m. Monday through Friday. (7-1-02)T

**006. PUBLIC RECORDS ACT COMPLIANCE.**

These rules have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. Any disclosure of information obtained by the Department is subject to the restrictions contained in Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Rules Governing the Protection and Disclosure of Department Records," and Section 9-338 et seq., Idaho Code. (7-1-02)T

**007. -- 009. (RESERVED).**

**010. DEFINITIONS.**

The following definitions will apply in the interpretation and enforcement of this chapter: (7-1-02)T

**01. Department.** The Idaho Department of Health and Welfare. (7-1-02)T

**02. Dried Blood Specimen.** A blood specimen obtained from an infant by means of skin puncture, not by means of venipuncture or any other method that is placed on special filter paper kits and allowed to dry. (7-1-02)T

**03. Laboratory.** A medical or diagnostic laboratory certified according to the provisions of the Clinical Laboratory Improvement Amendments of 1988 by the United States Department of Health and Human Services. (7-1-02)T

**04. Newborn Screening.** Newborn screening means a laboratory procedure performed on dried blood specimens from newborns to detect those at risk for the diseases specified in Subsection 100.01 of these rules. (7-1-02)T

**05. Person Responsible For Registering Birth Of Child.** The person responsible for preparing and filing the certificate of birth is defined in Section 39-255, Idaho Code. (7-1-02)T

**06. Test Kit.** The materials provided by the laboratory for the purposes of dried blood specimen collection and submission of specimens for newborn screening laboratory procedures. (7-1-02)T

**011. -- 099. (RESERVED).**

**100. DUTIES OF THE ADMINISTRATOR OF THE RESPONSIBLE INSTITUTION AND THE PERSON REQUIRED TO REGISTER THE BIRTH OF A CHILD.**

**01. Conditions For Which Infants Will Be Tested.** All infants born in Idaho shall be tested for at least the following conditions: (7-1-02)T

**a.** Biotinidase deficiency; (7-1-02)T

**b.** Congenital hypothyroidism; (7-1-02)T

**c.** Galactosemia; (7-1-02)T

**d.** Maple syrup urine disease; and (7-1-02)T

**e.** Phenylketonuria. (7-1-02)T

**02. Blood Specimen Collection.**

**a.** The dried blood specimen collection procedures shall follow the National Committee for Clinical Laboratory Standards, "Blood Collection on Filter Paper for Neonatal Screening Programs; Approved Standard-Third Edition," 1997. (7-1-02)T

**b.** For premature infants, in-hospital, the dried blood specimen for newborn screening shall be obtained between forty-eight (48) hours of age and ten (10) days of age. (7-1-02)T

**c.** For non-premature infants, in-hospital, the dried blood specimen for newborn screening shall be obtained between forty-eight (48) hours of age and five (5) days of age. (7-1-02)T

**d.** For newborns transferred from one hospital to another, the originating hospital shall assure that the dried blood specimen is drawn. If the newborn is too premature or too sick to have a dried blood specimen drawn for screening prior to transfer and a dried blood specimen is not obtained, the originating hospital shall be responsible for clearly documenting this, and notifying the hospital to which the newborn is being transferred that a dried blood specimen for newborn screening has not been obtained. (7-1-02)T

**e.** Prior to the discharge of an infant from the institution where initial newborn care or specialized medical care was rendered, the Administrator shall assure that an adequate dried blood specimen has been collected regardless of the time the infant is discharged from the institution. (7-1-02)T

**f.** For births occurring outside of a hospital, the birth attendant shall be responsible for assuring that an acceptable dried blood specimen is properly collected for newborn screening as stipulated in Section 100 of these rules. (7-1-02)T

**g.** Newborns who require a blood transfusion or dialysis shall have a dried blood specimen collected for screening prior to transfusion or dialysis. (7-1-02)T

**h.** If a dried blood specimen cannot be obtained for newborn screening before transfusion or dialysis, the physician shall ensure that a repeat dried blood specimen is obtained at the appropriate time when the specimen will reflect the infant's own metabolic processes and phenotype. (7-1-02)T

**i.** Infants from whom the dried blood specimen has been collected for newborn screening less than forty-eight (48) hours after birth shall be retested. A test kit shall be given to the parents or responsible party at the time of discharge from the institution where initial newborn care was rendered, with instructions to have a second dried blood specimen collected. In such cases the preferred time for sample collection is after five (5) but before fifteen (15) days of age. (7-1-02)T

**03. Specimen Mailing.** Within twenty-four (24) hours after collection, the dried blood specimen shall be mailed to the laboratory by first class mail or its equivalent, except when mailing service is not available. When mailing service is not available on weekends and holidays, dried blood specimens shall be mailed to the laboratory on the first available mail pick-up day. (7-1-02)T

**04. Record Keeping.** Maintain a record of all dried blood specimens collected for newborn screening. This record shall indicate the name of the infant, name of the attending physician or other attendant, date specimen was collected, and name of person collecting specimen. (7-1-02)T

**05. Collection Protocol.** Ensure that a protocol for collection and submission for newborn screening of adequate dried blood specimens has been developed, documented, and implemented. Individual responsibilities shall be clearly defined and documented. The attending physician shall request that the test be done. The hospital may make an appropriate charge for this service. (7-1-02)T

**06. Responsibility For Recording Specimen Collection.** (7-1-02)T

**a.** The administrator of the responsible institution, or his designee, shall be responsible for recording on the birth certificate whether the dried blood specimen for newborn screening has been collected. (7-1-02)T

**b.** When a birth occurs outside a hospital, the person responsible for registering the birth of the child shall also be responsible for recording on the birth certificate whether the dried blood specimen for newborn screening has been collected and submitted within twenty-four (24) hours following collection. (7-1-02)T

**07. Fees.** The Department shall provide access to newborn screening laboratory services. If the administration of the responsible institution or the person required to register the birth of a child chooses to utilize this service, the Department shall collect a fee equal to the cost of the test kit, analytical, and diagnostic services provided by the laboratory. The fees shall be remitted to the Department before the laboratory provides the test kit to those responsible for ensuring the infant is tested according to these rules. (7-1-02)T

**101. -- 199. (RESERVED).**

**200. LABORATORY DUTIES.**

**01. Participation In Centers For Disease Control And Prevention (CDC) Newborn Screening Quality Assurance Program.** All laboratories receiving dried blood specimens for newborn screening on infants

born in Idaho shall participate in the Newborn Screening Quality Assurance Program operated by the CDC. (7-1-02)T

**02. Specimen Processing.** Dried blood specimens for newborn screening must be processed within twenty-four (24) hours of receipt by the laboratory or before the close of the next business day. (7-1-02)T

**03. Result Notification.** Normal test results may be reported by mail to the submitter. Other results must be reported in accordance with Section 300 of these rules. (7-1-02)T

**201. -- 299. (RESERVED).**

**300. FOLLOW-UP FOR UNSATISFACTORY SPECIMENS, PRESUMPTIVE POSITIVE RESULTS AND POSITIVE CASES.**

**01. Follow-Up For Unsatisfactory Specimens.** (7-1-02)T

**a.** The laboratory will immediately report any unsatisfactory dried blood specimens to the submitting institution which originated the dried blood specimen with an explanation of the results. The laboratory will request a repeat dried blood specimen for newborn screening from the institution or individual submitting the original sample. (7-1-02)T

**b.** Upon notification from the laboratory, the health care provider responsible for the newborn's care at the time of the report will cause another dried blood specimen to be appropriately forwarded to the laboratory for screening. (7-1-02)T

**02. Follow-Up Of Presumptive Positive Results.** The laboratory will report positive or suspicious results on an infant's dried blood specimen to the attending physician or midwife, or, if there is none or the physician or midwife is unknown, to the person who registered the infant's birth, and make recommendations on the necessity of follow-up testing. (7-1-02)T

**03. Positive Case Notification.** Confirmed positive cases of biotinidase deficiency, congenital hypothyroidism, galactosemia, maple syrup urine disease, and phenylketonuria must be reported as described in IDAPA 16.02.10, "Idaho Reportable Diseases." (7-1-02)T

**301. -- 399. (RESERVED).**

**400. SUBSTANCES WHICH FULFILL REQUIREMENTS FOR OPHTHALMIC PREPARATION.**

Only those germicides proven to be effective in preventing ophthalmia neonatorum and recommended for use in its prevention by the U.S. Department of Health and Human Services (including the U.S. Public Health Service, the Center for Disease Control and Prevention, and the U.S. Food and Drug Administration) will satisfy the requirements established herein, pursuant to Section 39-903, Idaho Code. (7-1-02)T

**401. -- 999. (RESERVED).**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO**  
**DOCKET NO. 16-0304-0201**  
**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** These temporary rules are effective April 1, 2002.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(b) and 45-1004(a), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2002.

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

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

This rulemaking revises work and training activities for Food Stamp participants. It specifies the criteria for determining a voluntary job quit or reduction in number of hours of employment and what must be done in order to re-establish eligibility after a job quit or reduction in hours.

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 the public comment should be addressed.

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

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes are mandated by recent changes in Federal regulations and benefits were taken away.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Phil Gordon 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 July 24, 2002.

DATED this 22nd day of May, 2002.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW – Administrative Procedures Section  
450 West State Street, 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone, (208) 332-7347 fax  
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0304-0201

**227. EXEMPTIONS FROM JSAP FOR HOUSEHOLD MEMBERS NOT PARTICIPATING IN TAFI.**

Exemptions from JSAP for household members not participating in the TAFI program are listed in Subsections 227.01 through 227.12 of these rules. ~~(7-1-99)(4-1-02)T~~

**01. Parents ~~And Or~~ Caretakers Of A Child Under Six Years Of Age.** A parent or caretaker responsible for the care of a dependent child under age six (6) is exempt from JSAP. If the child becomes six (6) during the certification period, the parent or caretaker must register for JSAP at the next scheduled recertification, unless exempt for another reason. ~~(6-1-94)(4-1-02)T~~

**02. Parents and Caretakers Of An Incapacitated Person.** A parent or caretaker responsible for the care of a person incapacitated due to illness or disability is exempt from JSAP. ~~(6-1-94)(4-1-02)T~~

**03. Persons Who Are Incapacitated ~~Person~~.** A person who is physically or mentally unfit for employment is exempt from JSAP. If a disability is claimed which is not evident, proof to support the disability can be required. Acceptable Pproof includes, ~~but is not limited to,~~ receipt of permanent or temporary disability benefits, or a statement from a physician or licensed or certified psychologist. ~~(6-1-94)(4-1-02)T~~

**04. ~~Persons~~ Students Enrolled Half Time.** ~~A P~~persons ~~enrolled at least half-time in any recognized school, training programs or institutes of higher education. To be exempt from JSAP, students enrolled at least half-time in an institution of higher education must meet the FCS student definition:~~ who is eighteen (18) years or older is exempt from JSAP if: ~~(7-1-99)(4-1-02)T~~

**a.** He is enrolled at least half-time in any institution of higher learning and if he meets the definition of an eligible student in Section 282 of these rules; or ~~(4-1-02)T~~

**b.** He is enrolled at least half-time in any other recognized school or training program. ~~(4-1-02)T~~

**05. SSI Applicants.** A person who is applying for SSI ~~may have registration waived until determined SSI eligible and exempt from JSAP. A person applying for SSI may have registration waived until determined SSI ineligible and must register for JSAP~~ is exempt from JSAP until SSI eligibility is determined. ~~(6-1-94)(4-1-02)T~~

**06. ~~Persons Who Are Employed~~ ~~Person~~.** ~~An employed~~ person who is employed is exempt from JSAP if: ~~(4-1-02)T~~

**a.** He is working at least thirty (30) hours per week; ~~(4-1-02)T~~

**b.** He is receiving earnings equal to the Federal minimum wage multiplied by thirty (30) hours; ~~or~~ ~~(4-1-02)T~~

**c.** ~~An employed person is also~~ He is a migrant or seasonal farm worker under contract or agreement to begin employment within thirty (30) days. ~~(6-1-94)(4-1-02)T~~

**07. ~~Persons Who Are Self-Employed~~ ~~Person~~.** A person who is self-employed is exempt from JSAP if he is working a minimum of thirty (30) hours per week or is receiving earnings equal to or greater than the Federal minimum wage multiplied by thirty (30) hours. ~~(6-1-94)(4-1-02)T~~

**08. Addicts Or Alcoholics.** ~~A R~~regular participants in a drug or alcoholie treatment and rehabilitation program ~~are~~ is exempt from JSAP. ~~(6-1-94)~~

**09. Unemployment Insurance (UI) Applicant/Recipient.** A person ~~getting~~ receiving UI is exempt from JSAP. A person applying for, but not ~~getting~~ receiving UI, is exempt from JSAP if he is required to register for work with the ~~DOE~~ Department of Labor (DOL) as part of the UI application process ~~is exempt from JSAP~~. ~~(6-1-94)(4-1-02)T~~

10. **Children Under Age Sixteen ~~Years Of Age~~.** ~~Persons younger than~~ A child under age sixteen (16) ~~are is~~ exempt from JSAP. ~~If a~~ A child who turns sixteen (16) within a certification period, ~~he~~ must register for JSAP at recertification, unless exempt for another reason. (6-1-94)(4-1-02)T

11. **Persons Age Sixteen Or Seventeen ~~Year Old~~.** A household member age sixteen (16) or seventeen (17) is exempt from JSAP if ~~the person~~ he is attending school at least half-time, or is enrolled in an employment and training program, including GED, at least half-time. (4-5-00)(4-1-02)T

12. **Participants Age Sixty Or Older.** A ~~person~~ participant age sixty (60) or older is exempt from JSAP. (6-1-94)(4-1-02)T

(BREAK IN CONTINUITY OF SECTIONS)

230. **JSAP JOB SEARCH ASSISTANCE PROGRAM (JSAP) COMPONENTS.**

JSAP consists of the four (4) components listed in Subsections 230.01 through 230.04 of this rule. Before placement in a JSAP component, participants must negotiate and sign a JSAP agreement. ~~Participants, and they~~ must register for work with the Department of Labor. ~~Subsections 230.01 through 230.03 list JSAP program components.~~ (7-1-99)(4-1-02)T

01. **Job Search Component.** Participants must complete the equivalent of at least twenty-four (24) hours of job search in a two (2) month period. Job search activities include job readiness activities. (7-1-99)(4-1-02)T

02. **Work Opportunities Component.** Participants are assigned to Work Opportunities placements to learn practical expectations and demands of employment, and improve technical skills. Participants are not employed by the placement site. Participants are required to engage in Work Opportunities, up to the number of hours determined by dividing the amount of the household's monthly Food Stamp allotment by the Federal minimum wage. Work Opportunities Component activities and conditions are described in Subsections 230.02.a. and 230.02.b. of this rule. (7-1-99)(4-1-02)T

a. During the first thirty (30) days of participation in the Work Opportunities Component, participation includes either a placement at a work site or fulfillment of the requirements of the Job Search component. (4-1-02)T

b. At the end of the first thirty (30) days, the participant must be guaranteed a work site placement if not employed. (4-1-02)T

03. **Skills Training Component.** Participants are assigned to skills training to improve basic skills and employability. Skills training may include, ~~but is not limited to~~, the following: (7-1-99)(4-1-02)T

a. High School Education. High School or equivalent educational programs. (7-1-99)

b. Remedial Education. Remedial education programs to achieve a basic literacy level. (7-1-99)

c. English Language. Instructional programs in English as a second language. (7-1-99)

d. Self Employment. Programs designed to improve the self sufficiency of participants through self-employment. (7-1-99)

04. **Employment Component.** Participants are assigned to the Employment Component to receive services which will assist them in increasing their hours of work and wages and support them in becoming more self-sufficient. Participants are assigned to the Employment Component when they are working in exchange for money or goods and services (in-kind income). (4-1-02)T

**231. ~~ASSIGNMENT TO COMPONENT ENHANCED WORK SERVICES (EWS).~~**

~~The Department must notify JSAP participants of assigned components, assigned activities and time frames for completion of activities. The notice must include a description of any supportive services provided. The JSAP component services are provided through EWS. EWS offer the necessary skills to obtain or maintain employment. EWS activities are limited to screening, job placement assessment, case management, and job readiness services.~~

~~(7-1-99)(4-1-02)T~~

**232. SUPPORTIVE SERVICES.**

Supportive services, ~~with~~ for JSAP participants that involve a cost to ~~the~~ JSAP participants, may be paid by the Department. The maximum monthly supportive service payment is twenty-five dollars (\$25). JSAP supportive services must not be used for any service available through other resources. Also, JSAP funds must not be used for any Supportive Services listed in Subsections 232.02 through 232.04 of these rules.

~~(7-1-99)(4-1-02)T~~

- 01. Child Care.** Child care of any type. (4-1-02)T
- 02. Medical Services.** Medical services, including medical exams. (4-1-02)T
- 03. Vehicles.** Motorized vehicle purchases, down payments, and payment arrearages. (4-1-02)T
- 04. Housing And Utility Costs.** Security deposits, payments on arrearages, current monthly payments, and future monthly payments. (4-1-02)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**251. ABLE BODIED ADULTS WITHOUT DEPENDENTS (ABAWD) WORK REQUIREMENT.**

To participate in the Food Stamp program, a person~~s~~ must meet one (1) of the conditions in Subsections 251.01 through 251.04~~5~~ of this rule. A person~~s~~ who does not meeting one (1) of these conditions may not participate in the Food Stamp program as a member of any household for more than three (3) full months (consecutive or otherwise) in the thirty-six (36) month period beginning December 1, 1999 and ending November 30, 2002. ~~(3-15-02)(4-1-02)T~~

**01. Work At Least Eighty Hours Per Month.** The person must work at least eighty (80) hours per month. The definition of work under ~~the~~ Section 251 of this rule is any combination of: ~~(3-15-02)(4-1-02)T~~

- a. Work in exchange for money. (3-15-02)
- b. Work in exchange for goods or services, known as "in-kind" work. (3-15-02)
- c. Unpaid work, with a public or private non-profit agency. (3-15-02)

**02. Participate In JSAP Or Another Work Program.** The person must participate in and comply with the requirements of the JSAP program (other than job search or job readiness activities), the WIA program, a program under Section 236 of the Trade Act of 1974, or another work program recognized by the Department. The person must participate for at least eighty (80) hours per month. (3-15-02)

**03. Combination Of Work And Work Programs.** The person must work and participate in a work program. Participation in work and work programs must total at least eighty (80) hours per month. (3-15-02)

**04. Participate In Work Opportunities.** The person must participate in and comply with the requirements of a Work Opportunities program. (7-1-99)

**05. Residents Of High Unemployment Areas.** ABAWDs residing in a county identified as having high unemployment or lack of jobs are not subject to the three (3) month limitation of benefits. ABAWDs residing in these counties are subject to JSAP work requirement but will not lose Food Stamp eligibility after three (3) months if they participate fewer than eighty (80) hours per month. An ABAWD residing in a high unemployment area must

participate according to their plan.

(4-1-02)T

**(BREAK IN CONTINUITY OF SECTIONS).**

**256. THREE ADDITIONAL MONTHS OF FOOD STAMPS AFTER REGAINING ELIGIBILITY.**

A person who regained eligibility under Section 255 of these rules, but is no longer fulfilling the ABAWD work requirements in Section 251 of these rules through no fault of his own, may get Food Stamps for an additional three (3) consecutive months. For an applicants, the three (3) consecutive months begins the first full month of benefits. For a participants, the three (3) consecutive months begins the month following the month the ~~person~~ participant no longer meets the work requirements. A person is eligible for the additional three (3) consecutive months only once in a thirty-six (36) month period. ~~(3-15-02)~~(4-1-02)T

**257. EXEMPTIONS FROM THE ABAWD WORK REQUIREMENT.**

Persons meeting a condition in Subsections 257.01 through 257.06~~5~~ of this rule are exempt from the ABAWD work requirement. ~~(3-15-02)~~(4-1-02)T

**01. Age.** Persons under eighteen (18) and fifty (50) years of age or older. (3-15-02)

**02. Disability.** Persons medically certified as physically or mentally unfit for employment. Proof of the disability is required. A person is medically certified as physically or mentally unfit for employment if: (3-15-02)

**a.** Receiving temporary or permanent disability benefits issued by a government or private source. (3-15-02)

**b.** Obviously mentally or physically unfit for employment, as determined by the Department. (3-15-02)

**c.** The person has a statement from a physician, physician's assistant, nurse, nurse practitioner, designated representative of the physician's office, licensed or certified psychologist, a social worker, or any other medical personnel the Department determines appropriate, verifying physical or mental unfitness for employment. (3-15-02)

**03. Residing In A Household Where A Member Is Under Age Eighteen.** All persons residing in a household where a household member is under eighteen (18) years old. (3-15-02)

**04. Pregnancy.** Pregnant persons. (7-1-98)

**05. JSAP Exempt.** Persons exempt from JSAP are also exempt from the ABAWD work requirement. (7-1-99)

~~**06. FNS ABAWD Waiver.** Persons residing in an area where FNS granted a time limit waiver because of high unemployment or lack of jobs. ABAWDs are still subject to work requirements under the FNS waiver, but they do not lose Food Stamp eligibility after three (3) months if there is no activity or if they participate fewer hours. The ABAWDs must participate according to their plan or be sanctioned. (3-15-02)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**261. VOLUNTARY JOB QUIT ~~OR REDUCTION OF WORK.~~**

~~When a Food Stamp household reports the loss of earned income, determine if a member of the household voluntarily quit a job or voluntarily reduced his work hours to less than thirty (30) hours a week. If a member of the household voluntarily quit a job or voluntarily reduced his work hours to less than thirty (30) hours a week, without good cause, that person is not eligible for Food Stamps. When a household applies for Food Stamps, determine if a member voluntarily quit his most recent job or reduced his hours of work to less than thirty (30) hours per week, without good~~

~~cause, in the last sixty (60) days. If a new member enters the household, determine if the new household member voluntarily quit a job or reduced work hours without good cause in the last sixty (60) days. An employed household member who voluntarily quits a job without good cause is not eligible for Food Stamps. The Department is required to make a voluntary job quit determination when it learns that any employed household member has quit his job and any of the circumstances apply that are listed in Subsections 261.01 through 261.02 of this rule. (4-5-00)(4-1-02)T~~

**01. Voluntary Job Quit Timeframes.** The Department must make a voluntary job quit determination: (4-1-02)T

**a.** For any applicant who quits his job within sixty (60) days of the application date. (4-1-02)T

**b.** For any new household member who quit his job within the sixty (60) days prior to entering the household. (4-1-02)T

**c.** For any recipient who quits his job at any time during the certification period. (4-1-02)T

**02. Job Definition For Voluntary Job Quit.** The Department must make a voluntary job quit determination for any household member who is not exempt from work registration for any reason other than employment, if: (4-1-02)T

**a.** He quit a job of at least thirty (30) hours a week; or (4-1-02)T

**b.** His weekly earnings from the job he quit are equivalent to the Federal minimum wage multiplied by thirty (30) hours. (4-1-02)T

**262. VOLUNTARY REDUCTION IN WORK HOURS.**

~~An employed household member who voluntarily reduces hours of work without good cause is not eligible for Food Stamps. The Department is required to make a reduction in work hours determination when it learns that any employed household member has voluntarily reduced his work hours and any of the circumstances apply that are listed in Subsections 262.01 through 262.02 of this rule. (4-1-02)T~~

**01. Voluntary Work Reduction Timeframe.** The Department must make a reduction in work hours determination if the hours of work were voluntarily reduced: (4-1-02)T

**a.** By an applicant, within sixty (60) days of the application date. (4-1-02)T

**b.** By a new household member, within the sixty (60) days prior to entering the household. (4-1-02)T

**c.** By a recipient, at any time during the certification period. (4-1-02)T

**02. What Counts As A Significant Voluntary Work Reduction.** In order for any household member's eligibility for Food Stamps to be affected, the Department must determine that: (4-1-02)T

**a.** Prior to the voluntary reduction in hours, the job was at least thirty (30) hours a week; and (4-1-02)T

**b.** The hours of work have been voluntarily reduced to less than thirty (30) hours per week without good cause. (4-1-02)T

~~2623. -- 2634. (RESERVED).~~

~~**264. DETERMINING VOLUNTARY QUIT OR REDUCTION OF WORK HOURS.**~~

~~When a member of the household loses a job or income from a job is reduced, voluntary quit or reduction of work hours must be determined. Voluntary quit must be determined if the member of the household was exempt from work registration because he was employed or self-employed and working a minimum of thirty (30) hours weekly. Voluntary quit must be determined if the member of the household was exempt from work registration because he was getting weekly earnings at least equal to Federal minimum wage times thirty (30) hours per week. Other members of~~

~~the household exempt from work registration at the time of quit are exempt from voluntary quit sanctions and reduction of work.~~ (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

**266. ~~EMPLOYED WORK STATUS HOUSEHOLD MEMBER LEAVES DURING A PENALTY PERIOD.~~**  
~~In making a voluntary quit determination, a person is employed if working or self employed twenty (20) hours or more per week. A person is employed if paid weekly earnings or weekly self employment earnings equal to the Federal minimum wage multiplied by twenty (20) hours. When the household member who committed a voluntary quit or reduction in hours penalty leaves the household, the penalty follows the household member who caused it. If the household member who committed the penalty joins another household, he is ineligible for the balance of the penalty period unless he meets the conditions stated in Subsection 275.01 of these rules.~~ (6-1-94)(4-1-02)T

(BREAK IN CONTINUITY OF SECTIONS)

**275. ~~ENDING VOLUNTARY QUIT OR REDUCTION OF WORK HOURS PENALTY.~~**  
~~Eligibility may be reestablished after a voluntary quit or work reduction penalty period has elapsed for an otherwise eligible household member when a condition in Subsection 275.01 is met before the end of the penalty period for an otherwise eligible household member when he meets the conditions in Subsection 275.01 of this rule. Eligibility may be reestablished before the end of the penalty period for an otherwise eligible household member when after a voluntary quit or work reduction penalty period has elapsed for an otherwise eligible household member when he meets a condition in Subsection 275.02 is met of this rule.~~ (4-5-00)(4-1-02)T

**01. ~~Ending Voluntary Quit Or Reduction Penalty After Before The End Of The Penalty Period Has Elapsed.~~** (7-1-98)

~~**a.** Member gets a job. The penalty member gets new employment comparable in salary or hours to the job the person quit. Comparable employment may entail fewer hours or a lower net salary than the job which was quit. To be comparable, the hours for the new job cannot be less than twenty (20) hours per week. To be comparable, the salary or earnings for the new job cannot be less than Federal minimum wage multiplied by twenty (20) hours per week.~~ (7-1-98)

~~**b.** Member increases hours to more than thirty (30) hours per week. The penalty member's hours of work are restored to the average number of hours per week before reduction. If the penalized household member becomes exempt from JSAP requirements, his eligibility for Food Stamps may be reestablished. The voluntary quit penalty does not end if the penalized household member becomes exempt due to application or receipt of Unemployment Insurance.~~ (7-1-98)(4-1-02)T

**02. ~~Ending Voluntary Quit Or Reduction Penalty Before The End Of The After Penalty Period.~~** (7-1-98)(4-1-02)T

~~**a.** Member leaves household. The penalty member leaves the household. The penalty follows the member who caused it. If the penalty member joins another household he is ineligible for the greater of the balance of the penalty period, or the date he complies. Household member gets a job. If the penalized household member gets a new job comparable in salary or hours to the job he quit, his eligibility for Food Stamps may be reestablished. A comparable job may entail fewer hours or a lower net salary than the job which was quit. To be comparable, the hours for the new job cannot be less than thirty (30) hours per week and the salary or earnings for the new job cannot be less than Federal minimum wage multiplied by thirty (30) hours per week.~~ (4-5-00)(4-1-02)T

~~**b.** Member becomes exempt. The penalty member becomes exempt from JSAP requirements. The voluntary quit penalty does not end if the member becomes exempt due to application or receipt of Unemployment Insurance. Household member increases hours to more than thirty (30) hours per week. If the penalized household member's hours of work are restored to the average number of hours per week before reduction, his eligibility for Food Stamps may be reestablished.~~ (7-1-99)(4-1-02)T

# IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

## 16.03.07 - RULES FOR HOME HEALTH AGENCIES

DOCKET NO. 16-0307-0101

### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2003 Idaho State Legislature for final approval. 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 39-2401(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 propose rule and the text of the pending rule with an explanation of the reason for the change.

Pursuant to Section 67-5228, Idaho Code, in Section 000, the Legal Authority has been corrected to show the Board of Health and Welfare as the correct authority over this chapter of rules, and is being published with this Notice of Rulemaking as part of the pending rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only that section the Department changed, and differs from the proposed text, is printed in this bulletin. The original text of the proposed rule was published in the October 3, 2001 Idaho Administrative Bulletin, Vol. 01-10, pages 409 through 415.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Virginia Loper at (208) 364-1843.

DATED this 4th day of April, 2002.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW – Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone  
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kovachs@idhw.state.id.us e-mail

**IDAPA 16, TITLE 03, Chapter 07**

**RULES FOR HOME HEALTH AGENCIES**

**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 01-10, October 3, 2001, pages 409 through 415.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2003 Idaho State Legislature as a final rule.**

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**THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0307-0101**

**000. LEGAL AUTHORITY.**

The ~~Idaho Department~~ Board of Health and Welfare according to 39-5603~~2401~~(2), Idaho Code, adopts these rules for the operation of home health agencies. ~~(7-1-93)~~(\_\_\_\_)

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.03.08 - RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO

DOCKET NO. 16-0308-0201

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** These temporary rules are effective April 1, 2002 and July 1, 2002.

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

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2002.

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

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

a) Implements changes to TAFI regulations regarding work and training activities; b) specifies that cooperation with Child Support Services includes assigning to the state child support payments received while the family is receiving TAFI; c) implements increase to the TAFI grant as provided by legislative authorization; and d) changes the maximum monthly TAFI grant to \$309, an increase of \$16.

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 the public comment should be addressed.

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

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted in order to add the requirement specifying that any cash child support receive after TAFI payment begins, must be turned over to the state for reimbursement of TAFI expenditures as required by state law 56-203B, also aligns rules for Enhanced Work Services with the Food Stamp Program and implements increase to the TAFI grant as provided by legislative authorization.

**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 July 24, 2002.

DATED this 16th day of May, 2002.

Sherri Kovach, Administrative Procedures Coordinator  
DHW – Administrative Procedures Section  
450 West State Street, 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone, (208) 332-7347 fax  
kovachs@idhw.state.id.us e-mail

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0308-0201

143. -- 147~~6~~. (RESERVED).

**147. ASSIGNMENT OF SUPPORT RIGHTS.**

The parent, or the caretaker relative included in the grant, is required by law to assign to the State their rights to child support payments for the family to be eligible for TAFI. The State will retain all child support collections up to the amount of assistance that the family receives. This assignment only applies to the period of time the family is receiving TAFI. (7-1-02)T

(BREAK IN CONTINUITY OF SECTIONS)

~~170. SUPPORTIVE SERVICES.~~

~~Supportive services may be provided to eligible family members if needed to comply with PRC assignments.~~ (7-1-98)

~~171. SUPPORTIVE SERVICES EXCLUDED.~~

~~TANF funds must not be used for:~~ (3-30-01)

~~01. Child Care Of Any Type.~~ (3-30-01)

~~02. Medical Services, Including Medical Exams; or~~ (3-30-01)

~~03. Purchase Or Down Payment For Motor Vehicle.~~ (3-30-01)

172~~0~~. -- 175. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

**248. MAXIMUM GRANT AMOUNT.**

The maximum grant is ~~two~~ three hundred ninety ~~three~~ dollars (~~293~~309). (3-30-01)(7-1-02)T

(BREAK IN CONTINUITY OF SECTIONS)

**350. TRANSITIONAL ~~SERVICES~~ ASSISTANCE.**

Transitional ~~services~~ Assistance may be provided to an individual whose family is no longer eligible for TAFI cash assistance due to employment or who requested TAFI closure because of employment. At the time of closure, the family's income must be below two hundred percent (200%) of the federal poverty guidelines. (3-30-01)(4-1-02)T

**351. TRANSITIONAL ~~SERVICES~~ ASSISTANCE ELIGIBILITY CRITERIA.**

The individual must meet the criteria in Subsections 351.01 through 351.07. (4-5-00)(4-1-02)T

**01. TAFI Family.** The family must have received TAFI for one (1) partial month or one (1) full month within the past twelve (12) months. (4-5-00)

**02. Need For Work-Related Services.** The individual must be in need of work-related services to

maintain employment. (4-5-00)

**03. Residence.** The individual must live in the state of Idaho and must not be a resident of another state. (4-5-00)

**04. Controlled Substance Felon.** 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 ~~Transitional services~~ Assistance when they comply with the terms of a withheld judgment, probation or parole. The felony must have occurred after August 22, 1996. ~~(3-30-01)~~(4-1-02)T

**05. 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 ~~Transitional services~~ Assistance. ~~(4-5-00)~~(4-1-02)T

**06. Parole Violation.** Felons who are violating a condition of probation or parole imposed for a federal or state felony cannot receive ~~Transitional services~~ Assistance. ~~(4-5-00)~~(4-1-02)T

**07. 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 ~~Transitional services~~ Assistance for ten (10) years from the date of conviction. ~~(4-5-00)~~(4-1-02)T

**352. ~~TRANSITIONAL SERVICES PAID (RESERVED).~~**

~~Transitional services will be paid only for work related services to assist the individual to maintain employment. Transitional services include counseling, mentoring, and training. Payment for transitional services will be made to the provider of the services.~~ (4-5-00)

**353. ~~TRANSITIONAL SERVICES ASSISTANCE TIME LIMIT.~~**

~~Transitional Services Assistance may be provided up to twelve (12) months after TAFI ends due to employment. Transitional services Assistance does not count toward the TAFI twenty-four (24) month time limit. If the Department pays ~~Transitional services~~ Assistance in error, the month does not count towards the twenty-four (24) month TAFI time limit.~~ (4-5-00)(4-1-02)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**368. ~~CAREER ENHANCEMENT SERVICES ASSISTANCE.~~**

~~Career Enhancement services Assistance may be provided to an individual with dependent children. The individual must have a work-related need, that if unmet, would prevent them from maintaining employment or participating in work programs. Career Enhancement services are Assistance is 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. Career Enhancement payments will be paid for only those services identified and authorized in a thirty (30) day period to meet the needs that do not extend beyond a ninety (90) day period. All services provided by Career Enhancement do not have to be identified at the same time, as long as the need is identified and authorized within thirty (30) days of the Service Plan.~~ (3-15-02)(4-1-02)T

**369. ~~CAREER ENHANCEMENT SUPPORTIVE SERVICES PLAN.~~**

~~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. All individuals receiving Career Enhancement Assistance must have a written Career Enhancement Service Plan or a Food Stamp Job Search Assistance Program Plan (JSAPP).~~ (3-15-02)(4-1-02)T

**370. ~~CAREER ENHANCEMENT MENTORING, COUNSELING, AND TRAINING ACTIVITIES.~~**

~~Career Enhancement mentoring, counseling, and training activities are provided to help individuals obtain or~~

~~maintain employment. Mentoring, counseling and training activities can be provided for up to twelve (12) months.~~  
~~(3-30-01)~~

**37#0. CAREER ENHANCEMENT ASSISTANCE ELIGIBILITY CRITERIA.**

The individual must meet the criteria in Subsections 37#0.01 through 37#0.14. ~~(3-30-01)~~(4-1-02)

**01. Application For Career Enhancement And Services Plan.** An application form must be completed for Career Enhancement ~~services~~ Assistance, 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. ~~(3-30-01)~~(4-1-02)T

**02. Verification Of Career Enhancement Eligibility.** SSN must be verified. Other eligibility criteria are verified at the discretion of the Department. (3-30-01)

**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. (3-30-01)

**04. Need For Work-Related Services.** The individual must be in need of work-related services to 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. (3-15-02)

**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. (3-30-01)

**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. (3-30-01)

**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~~ Assistance 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. ~~(3-30-01)~~(4-1-02)T

**10. TANF Restrictions.** The family must not be receiving TANF or TAFI benefits or be serving a TAFI sanction. ~~The individual~~ Participants must not receive Career Enhancement ~~services~~ Assistance if ~~he has they~~ have received five (5) years of TANF benefits. The family must not be receiving TANF Extended Cash Assistance. If the ~~individual~~ participant received an Emergency Assistance to Needy Families with eChildren payment within the past twelve (12) months, the ~~individual~~ participant cannot receive Career Enhancement Assistance. ~~If the individual has received Career Enhancement within the past twelve (12) months~~ ~~†The individual~~ participant cannot receive Career Enhancement Assistance if they have received it within the past twelve (12) months. ~~(3-15-02)~~(4-1-02)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~~ Assistance when they comply with the terms of a withheld judgment, probation or parole. The felony must have occurred after August 22, 1996. ~~(3-30-01)~~(4-1-02)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~~ Assistance.

~~(3-30-01)~~(4-1-02)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~~ Assistance. ~~(3-30-01)~~(4-1-02)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~~ Assistance for ten (10) years from the date of conviction. ~~(3-30-01)~~(4-1-02)T

**371. -- 372. (RESERVED).**

**373. FUNDING RESTRICTIONS.**

If a funding shortfall is projected, the Department shall take action to reduce Career Enhancement ~~Services~~ Assistance payments. ~~(3-30-01)~~(4-1-02)T

**374. CAREER ENHANCEMENT ~~SERVICES~~ ASSISTANCE TIME LIMIT.**

An individual may only receive one (1) Career Enhancement Assistance payment in a twelve (12) month period. Career Enhancement ~~Services~~ Assistance payments do not count towards the TAFI twenty-four (24) month time limit or the sixty (60) month TANF time limit. If the Department pays Career Enhancement ~~services~~ Assistance in error, the month does not count towards the twenty-four (24) month TAFI time limit. ~~(3-30-01)~~(4-1-02)T

**375. SUPPORTIVE SERVICE EXPENDITURES.**

Supportive Service expenditures may be provided to family members who receive TAFI Cash Assistance, Extended Cash Assistance, Transitional Assistance, or Career Enhancement Assistance. (4-1-02)T

**01. TAFI Cash Assistance Or Extended Cash Assistance Expenditure Requirement.** The Supportive Service expenditure must be needed to support an element of the Personal Responsibility Contract (PRC). (4-1-02)T

**02. Transitional Assistance Expenditure Requirement.** The Supportive Service expenditure must be directly related to maintaining employment. (4-1-02)T

**03. Career Enhancement Assistance Expenditure Requirements.** The Supportive Service expenditure must be directly related to maintaining employment or participating in a training program. Career Enhancement Assistance Supportive Services must be identified and authorized in a thirty (30) day period to meet needs that do not extend beyond a ninety (90) day period. All Supportive Services provided through Career Enhancement Assistance do not have to be identified at the same time, as long as the need is identified and authorized within thirty (30) days of the Service Plan. (4-1-02)T

**376. PROHIBITED SUPPORTIVE SERVICE EXPENDITURES.**

Supportive Service expenditures must not be authorized for the following types of expenses: (4-1-02)T

**01. Child Care.** Child care of any type. (4-1-02)T

**02. Medical Services.** Medical services, including medical exams. (4-1-02)T

**03. Vehicles.** Motorized vehicle purchases, down payments, and payment arrearages. (4-1-02)T

**04. Housing And Utility Costs.** Security deposits, payments on arrearages, current monthly payments, and future monthly payments. (4-1-02)T

**05. Services For Children.** Services or payments for a child, such as counseling, clothing, and school supplies. (4-1-02)T

**06. Credit Card Accounts.** Payments on charge cards. (4-1-02)T

**07. Household Items.** Furniture and major home appliances. (4-1-02)T

- 08.**     **Fines.** Any type. (4-1-02)T
- 09.**     **Professional Union Or Trade Dues.** Any type. (4-1-02)T
- 10.**     **Any Service.** Available through another resource. (4-1-02)T
- 377.**    **ENHANCED WORK SERVICES.**
- 01.**    **Time Period.** Enhanced Work Services may be provided for up to twelve (12) months to family members who receive Transitional Assistance or Career Enhancement Assistance. (4-1-02)T
- 02.**    **Purpose.** Enhanced Work Services are to help individuals maintain employment and include the following: (4-1-02)T
- a.**     Screening: (4-1-02)T
- b.**     Job Placement Assessment: (4-1-02)T
- c.**     Case Management: and (4-1-02)T
- d.**     Job Readiness Services. (4-1-02)T
- 3758. -- 999.**    **(RESERVED).**

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

**DOCKET NO. 16-0309-0103**

**NOTICE OF RULEMAKING - AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** These temporary rules are effective July 1, 2002.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules. The action is authorized pursuant to Section(s) 56-202(b); 56-203(g), (i), (j); 56-1003(l); 56-1004(l) (a), (e); and 56-1005(8), Idaho Code.

**DESCRIPTIVE SUMMARY:** Section 824 has been amended to enable the pilot rules to be continued in effect for those who participated in the pilot in order prevent unnecessary disruption in services, and to identify the actual costs of care that result from the pilot.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(l)(b) and 67-5226(l)(c), Idaho Code, the Governor has found that temporary adoption of the rules is appropriate for the following reasons: For the protection of the public health, safety, welfare and to confer a benefit.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted prior to publishing the temporary rule which published in the September 5, 2001, Idaho Administrative Bulletin, Volume 01-9, pages 107 through 115 and a Notice of Negotiated Rulemaking was published in the April 4, 2001, Idaho Administrative Bulletin, Volume 01-4, on page 29. Per legislative intent, Quality Improvement Committees consisting of consumer/families, advocates, providers and State staff were involved. There have been many opportunities for review of draft rules by the Quality Improvement Committees through mailings and regularly scheduled meetings.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the amendment to the temporary rule, contact Jean Christensen at (208) 364-1828.

DATED this 22nd day of May, 2002.

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  
kovachs@idhw.state.id.us, e-mail

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**THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0309-0103**

**824. UTILIZATION MANAGEMENT - PILOT PROJECT.**

The following temporary utilization management rules ~~shall apply to~~ for adults who participated in a pilot project in Clearwater, Idaho, Latah, Nez Perce, and Lewis counties from October 1, 2001 through June 30, 2002, for adults who are developing. ~~The pilot project involved adults who developed initial or annual plans for developmental disabilities services during this period of time. Further implementation is subject to approval by the Legislature. These rules apply until the time of the annual redetermination of plans of care for these individuals. These rules are continued in effect in order to prevent unnecessary disruption in services, and to identify the actual costs of care that result from the pilot.~~ (5-1-02)F(7-1-02)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM**  
**DOCKET NO. 16-0309-0203**  
**NOTICE OF PUBLIC HEARING AND EXTENSION OF COMMENT PERIOD**

**AUTHORITY:** In compliance with Sections 67-5220(1), Idaho Code, notice is hereby given this agency has scheduled a public hearing and extended the period of public comment. The action is authorized pursuant to Section(s) 202(b) and 56-203(g), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing concerning this rulemaking will be held as follows:

**July 9, 2002, at 4:00 p.m.**  
**First Floor Conference Room**  
**Idaho Department of Health & Welfare**  
**Division of Medicaid**  
**3380 Americana Terrace, Boise**

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

**DESCRIPTIVE SUMMARY:** The complete summary of this action is found in the May 1, 2002 Idaho Administrative Bulletin Volume 02-5, pages 49 and 50. This hearing is being held to allow for public comment about the Medicaid coverage of drugs and pharmacy items in excess of four (4) per calendar month, which must have prior authorization by the Department of Health & Welfare. The comment period has been extended to July 24, 2002.

In February 2002, the Board of Health and Welfare adopted this rule as a temporary rule with an effective date of March 1, 2002. The temporary rule was published in the Idaho Administrative Bulletin, Volume 02-2, February 6, 2002, pages 29 and 30.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the rulemaking, contact Arla Farmer at (208) 364-1958.

DATED this 22nd day of May, 2002.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW – Administrative Procedures Section  
450 West State Street, 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 332-7347 fax  
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**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM**

**DOCKET NO. 16-0309-0207**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** These temporary rules are effective July 1, 2002.

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

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2002.

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

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

At the recommendation of Legislative Auditors, Independent Residential Habilitation Providers who provide services in the consumer's residence which have been paid directly by the Department of Health and Welfare will need to be employed by a Residential Habilitation Agency as of July 1, 2002. The Department will no longer be issuing payments directly to Independent Personal Care Services, Residential Habilitation Services Providers. This rule also clarifies those residential habilitation providers, who provide services in their home, as a Certified Family Home, must be affiliated with a Residential Habilitation 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 the public comment should be addressed.

**TEMPORARY RULE JUSTIFICATION:** Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to protect the public health, safety and welfare as well as to confer a benefit.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted to comply with the recommendation by Legislative Auditors to make the rule change.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Mary Wells at (208) 364-1955.

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 July 24, 2002

DATED this 6th day of June, 2002.

Sherri Kovach, Administrative Procedures Coordinator  
DHW – Administrative Procedures Section  
450 West State Street, 10th Floor  
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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-0207**

**143. WAIVER SERVICES FOR ADULT DEVELOPMENTALLY DISABLED RECIPIENTS.**

Pursuant to 42 CFR Section 440.180, it is the intention of the Department to provide waiver services to eligible recipients in order to prevent unnecessary institutional placement, to provide for the greatest degree of independence possible, to enhance the quality of life, to encourage individual choice, and to achieve and maintain community integration. For a recipient to be eligible, the Department must find that the recipient requires services due to a developmental disability which impairs their mental or physical function or independence, be capable of being maintained safely and effectively in a non-institutional setting and would, in the absence of such services, need to reside in an ICF/MR. (7-1-95)

**01. Services Provided. (7-1-95)**

**a.** Residential habilitation services which consist of an integrated array of individually-tailored services and supports furnished to eligible recipients which are designed to assist them to reside successfully in their own homes, with their families, or alternate family homes. The services and supports that may be furnished consist of the following: (7-1-95)

**i.** Habilitation services aimed at assisting the individual to acquire, retain or improve his ability to reside as independently as possible in the community or maintain family unity. Habilitation services include training in one (1) or more of the following areas: (7-1-95)

(1) Self-direction, including the identification of and response to dangerous or threatening situations, making decisions and choices affecting the individual's life, and initiating changes in living arrangements or life activities; (7-1-95)

(2) Money management including training or assistance in handling personal finances, making purchases, and meeting personal financial obligations; (7-1-95)

(3) Daily living skills including training in accomplishing routine housekeeping tasks, meal preparation, dressing, personal hygiene, self administration of medications, and other areas of daily living including proper use of adaptive and assistive devices, appliances, home safety, first aid, and emergency procedures; (7-1-95)

(4) Socialization including training or assistance in participation in general community activities and establishing relationships with peers with an emphasis on connecting the recipient to their community. (Socialization training associated with participation in community activities includes assisting the recipient to identify activities of interest, working out arrangements to participate in such activities and identifying specific training activities necessary to assist the recipient to continue to participate in such activities on an on-going basis. Socialization training does not include participation in nontherapeutic activities which are merely diversional or recreational in nature); (7-1-95)

(5) Mobility, including training or assistance aimed at enhancing movement within the person's living arrangement, mastering the use of adaptive aids and equipment, accessing and using public transportation, independent travel, or movement within the community; (7-1-95)

(6) Behavior shaping and management includes training and assistance in appropriate expressions of emotions or desires, assertiveness, acquisition of socially appropriate behaviors; or extension of therapeutic services, which consist of reinforcing physical, occupational, speech and other therapeutic programs. (7-1-95)

**ii.** Personal Assistance Services necessary to assist the individual in daily living activities, household tasks, and such other routine activities as the recipient or the recipient's primary caregiver(s) are unable to accomplish on his own behalf. (7-1-95)

**iii.** Skills training to teach waiver recipients, family members, alternative family caregiver(s), or a

recipient's roommate or neighbor to perform activities with greater independence and to carry out or reinforce habilitation training. Services are focused on training and are not designed to provide substitute task performance. Skills training is provided to encourage and accelerate development in independent daily living skills, self direction, money management, socialization, mobility and other therapeutic programs. (7-1-95)

**b.** Chore services which are heavy household maintenance and minor home repairs necessary to maintain the functional use of the home and to provide a clean, sanitary and safe environment. Chore activities include washing windows; moving heavy furniture and shoveling snow to provide safe access inside and outside the home; chopping wood when wood is the recipient's primary source of heat; and tacking down loose rugs and flooring. These services are only available when neither the recipient, nor anyone else in the household is capable of performing or financially providing for them, and where no other relative, caretaker, landlord, community volunteer/agency or third party payor is capable of or responsible for their provision. In the case of rental property, the responsibility of the landlord, pursuant to the lease agreement, will be examined prior to any authorization of service. Chore services are limited to the services provided in a home rented or owned by the recipient. (7-1-95)

**c.** Respite care services are those services provided on a short term basis because of the absence of persons normally providing non-paid care. Respite care services provided under this waiver will not include room and board payments. Respite care services are limited to recipients who reside with non-paid caregivers. (4-5-00)

**d.** Supported employment which is competitive work in integrated work settings for individuals with the most severe disabilities for whom competitive employment has not traditionally occurred; or for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and who, because of the nature and severity of their disability, need intensive supported employment services or extended services in order to perform such work. (7-1-95)

**i.** Supported employment services rendered under the waiver are not available under a program funded by either the Rehabilitation Act of 1973, as amended, or the Individuals with Disabilities Education Act (IDEA). Documentation will be maintained in the file of each individual receiving this service verifying that the service is not otherwise available/funded under the Rehabilitation Act of 1973 as amended, or IDEA. (4-5-00)

**ii.** Federal Financial Participation (FFP) will not be claimed for incentive payments, subsidies, or unrelated vocational training expenses such as the following: incentive payments made to an employer of waiver recipients to encourage or subsidize employers' participation in a supported employment program; payments that are passed through to beneficiaries of supported employment programs; or payments for vocational training that is not directly related to a waiver participant's supported employment program. (7-1-95)

**e.** Transportation services which are services offered in order to enable waiver recipients to gain access to waiver and other community services and resources required by the individual support plan. This service is offered in addition to medical transportation required under 42 CFR 440.431.53 and transportation services offered under the State plan, defined at 42 CFR 440.170(a), and shall not replace them. Whenever possible, family, neighbors, friends, or community agencies which can provide this service without charge or public transit providers will be utilized. (7-1-95)

**f.** Environmental modifications which are those interior or exterior physical adaptations to the home, required by the waiver recipient's support plan, which are necessary to ensure the health, welfare, safety of the individual, or which enable the individual to function with greater independence in the home and without which, the waiver recipient would require institutionalization. Such adaptations may include the installation of ramps and lifts, widening of doorways, modification of bathroom facilities, or installation of electric and plumbing systems which are necessary to accommodate the medical equipment and supplies necessary for the welfare of the waiver recipient, but shall exclude those adaptations or improvements to the home which are not of direct medical or remedial benefit to the recipient, such as carpeting, roof repair, or central air conditioning. All services shall be provided in accordance with applicable State or local building codes. Permanent environmental modifications are limited to modifications to a home rented or owned by the recipient or the recipient's family when the home is the recipient's principal residence. Portable or non-stationary modifications may be made when such modifications can follow the recipient to his next place of residence or be returned to the Department. (7-1-95)

**g.** Specialized medical equipment and supplies which include devices, controls, or appliances,

specified in the Individual Support Plan which enable recipients to increase their abilities to perform activities of daily living, or to perceive, control, or communicate with the environment in which they live. They also include items necessary for life support, ancillary supplies and equipment necessary to the proper functioning of such items, and durable and non-durable medical equipment not available under the Medicaid State plan. Items reimbursed with waiver funds shall be in addition to any medical equipment and supplies furnished under the State plan and shall exclude those items which are not of direct medical or remedial benefit to the recipient. All items shall meet applicable standards of manufacture, design and installation. (7-1-95)

**h.** Personal Emergency Response Systems (PERS) which may be provided to monitor waiver recipient safety and/or provide access to emergency crisis intervention for emotional, medical or environmental emergencies through the provision of communication connection systems. PERS are limited to recipients who rent or own their home, who are alone for significant parts of the day, have no regular caretaker for extended periods of time and who would otherwise require extensive routine supervision. (7-1-95)

**i.** Home delivered meals which are designed to promote adequate wavier recipient nutrition through the provision and home delivery of one (1) to two (2) meals per day. Home delivered meals are limited to recipients who rent or own their own home, who are alone for significant parts of the day and have no regular caretaker for extended periods of time. (7-1-97)

**j.** Therapy services under the waiver include physical therapy services; occupational therapy services; and speech, hearing and language services. These services are to be available through the waiver when the need for such services exceeds the therapy limitations under the State plan. Under the waiver, therapy services will include: (7-1-97)

**i.** Services provided in the waiver recipient's residence, day habilitation site, or supported employment site; (7-1-95)

**ii.** Consultation with other service providers and family members; (7-1-95)

**iii.** Participation on the recipient's Individual Support Plan team. (7-1-97)

**k.** Nursing services are those intermittent nursing services or private duty nursing services which provide individual and continuous care listed in the Individual Support Plan which are within the scope of the Nurse Practice Act and are provided by a licensed registered nurse or licensed practical nurse under the supervision of a registered nurse, licensed to practice in Idaho. (7-1-95)

**l.** Behavior Consultation/Crisis Management services which provide direct consultation and clinical evaluation of recipients who are currently experiencing or may be expected to experience, a psychological, behavioral, or emotional crisis. This service may provide training and staff development related to the needs of a recipient. These services also provide emergency back-up involving the direct support of the recipient in crisis. (7-1-97)

**m.** Adult Day Care is a supervised, structured day program, outside the home of the participant that offer one (1) or more of a variety of social, recreational, health activities, supervision for safety, and assistance with activities of daily living. These activities need to be identified on the Individual Support Plan. Adult Day Care can not exceed thirty (30) hours either alone or in combination with Developmental Therapy. (4-5-00)

**i.** Services provided in a facility must meet the building and health standards identified in IDAPA 16.04.11, "Rules Governing Developmental Disability Agencies," Sections 920 and 921. (4-5-00)

**ii.** Services provided in a home must meet the standards of home certification identified in IDAPA 16.03.19, "Rules Governing Certified Family Home," and health standards identified in IDAPA 16.04.11, "Rules Governing Developmental Disability Agency," Section 921. (4-5-00)

**02. Place Of Service Delivery.** Waiver services for developmentally disabled recipients may be provided in the recipient's personal residence, specialized family home, waiver facilities, day habilitation/supported employment program or community. The following living situations are specifically excluded as a personal residence

for the purpose of these rules: (7-1-95)

- a. Licensed skilled, or intermediate care facilities, certified nursing facility (NF) or hospital; and (7-1-95)
- b. Licensed Intermediate Care Facility for the Mentally Retarded (ICF/MR); and (7-1-95)
- c. Licensed Residential and Assisted Living Facility. (4-5-00)
- d. Additional limitations to specific services are listed under that service definition. (7-1-95)

**03. Services Delivered Following A Written Plan.** All waiver services must be authorized by the ACCESS Unit in the Region where the recipient will be residing and provided based on a written Individual Support Plan (ISP). (7-1-95)

- a. The ISP is developed by the ISP team which includes: (7-1-95)
  - i. The waiver recipient. Efforts must be made to maximize the recipient's participation on the team by providing him with information and education regarding his rights; and (7-1-95)
  - ii. The service coordinator chosen by the recipient; and (7-1-95)
  - iii. The guardian when appropriate; and (7-1-95)
  - iv. May include others identified by the waiver recipient. (7-1-95)
- b. The ISP must be based on a person centered planning and assessment process approved by the Department. (7-1-95)
- c. The ISP must include the following: (7-1-95)
  - i. The specific types, amounts, frequency and duration of Medicaid reimbursed waiver services to be provided; and (7-1-95)
  - ii. Supports and service needs that are to be met by the recipient's family, friends and other community services; and (7-1-95)
  - iii. The providers of waiver services when known; and (7-1-95)
  - iv. Documentation that the recipient has been given a choice between waiver services and institutional placement; and (7-1-95)
  - v. The signature of the recipient or his legal representative and the service coordinator. (7-1-95)
- d. The plan must be reviewed monthly by the ISP team. Revisions and updates are made based upon treatment results or a change in the recipient's needs. A new plan must be developed and approved annually. (4-5-00)

**04. Authorization Of Services.** All services reimbursed under the Home and Community Based Waiver for Developmentally Disabled must be authorized prior to the payment of services by the Regional ACCESS Unit. (7-1-95)

**05. Service Supervision.** The Individual Support Plan which includes all waiver services is monitored by the service coordinator. (7-1-95)

**06. Provider Qualifications.** All providers of waiver services must have a valid provider agreement/performance contract with the Department. Performance under this agreement/contract will be monitored by the

ACCESS Unit in each region.

(7-1-95)

a. Residential Habilitation services must be provided by an agency that is certified by the Department as a Residential Habilitation Agency under IDAPA 16.04.17, "Rules Governing Residential Habilitation Agencies," that has been certified by the Department and is capable of supervising the direct services provided. ~~Independent providers of personal care services that are transferred to providers of residential habilitation services under this waiver shall either work for an agency or affiliate with an agency to provide oversight, training and quality assurance. If there is no agency available in a geographic location, providers of residential habilitation services under this waiver will not be required to work for or affiliate with an agency until one becomes available.~~ Individuals who provide twenty-four (24) hour services in their own home and are certified by the Department as a Certified Family Home (CFH) must be affiliated with a Residential Habilitation Agency. The Residential Habilitation Agency provides oversight, training, and quality assurance to the certified family home provider. Individuals who provide Residential Habilitation services in the home of the consumer (supported living), must be employed by a Residential Habilitation Agency. Providers of residential habilitation services must meet the following requirements:

~~(7-1-97)(7-1-02)T~~

i. Direct service staff must meet the following minimum qualifications: be at least eighteen (18) years of age; be a high school graduate or have a GED or demonstrate the ability to provide services according to an Individual Support Plan; have current CPR and First Aid certifications; be free from communicable diseases; pass a criminal background check (when residential habilitation services are provided in a ~~specialized~~ certified family home, all adults living in the home must pass a Criminal History Check); participate in an orientation program, including the purpose and philosophy of services, service rules, policies and procedures, proper conduct in relating to waiver participants, and handling of confidential and emergency situations that involve the waiver participant, provided by ~~the~~ an agency prior to performing services; have appropriate certification or licensure if required to perform tasks which require certification or licensure. The provider agency will be responsible for providing training specific to the needs of the recipient. ~~Skill training must be provided by a Qualified Mental Retardation Professional who has demonstrated experience in writing skill training programs. Additional training requirements must include at a minimum: instructional technology; behavior technology; feeding; communication/sign language; mobility; assistance with medications (training in assistance with medications must be provided by a licensed nurse); activities of daily living; body mechanics and lifting techniques; housekeeping techniques and maintenance of a clean, safe, and healthy environment.~~

~~(4-5-00)(7-1-02)T~~

ii. The provider agency will be responsible for providing training specific to the needs of the recipient. Skill training must be provided by a Qualified Mental Retardation Professional who has demonstrated experience in writing skill training programs. Additional training requirements must include at a minimum:

(4-5-00)

- (1) Instructional technology; (4-5-00)
- (2) Behavior technology; (4-5-00)
- (3) Feeding; (4-5-00)
- (4) Communication/sign language; (4-5-00)
- (5) Mobility; (4-5-00)
- (6) Assistance with medications (training in assistance with medications must be provided by a licensed nurse); (4-5-00)
- (7) Activities of daily living; (4-5-00)
- (8) Body mechanics and lifting techniques; (4-5-00)
- (9) Housekeeping techniques; and (4-5-00)
- (10) Maintenance of a clean, safe, and healthy environment. (4-5-00)

~~iii. Residential habilitation providers who are unable to join or affiliate with an agency because one is not available in their geographic area, must receive program development, implementation and oversight of service delivery services by a Qualified Mental Retardation Professional (QMRP) who has a valid provider agreement with the Department. (7-1-95)~~

~~iv. When residential habilitation services are provided in the provider's home, the agency or independent provider's home must meet the environmental sanitation standards; fire and life safety standards; and building, construction and physical home standards for certification as an Adult Foster requirements as identified in IDAPA 16.03.19, "Rules Governing Certified Family Homes". Non-compliance with the above standards certification process will be cause for termination of the provider's provider agreement/contract. (7-1-95)(7-1-02)T~~

- b.** Providers of chore services must meet the following minimum qualifications: (7-1-95)
  - i. Be skilled in the type of service to be provided; and (7-1-95)
  - ii. Demonstrate the ability to provide services according to an individual support plan. (7-1-95)
- c.** Providers of respite care services must meet the following minimum qualifications: (7-1-95)
  - i. Meet the qualifications prescribed for the type of services to be rendered, for instance Residential Habilitation providers, or must be an individual selected by the waiver participant and/or the family or guardian; and (7-1-95)
  - and ii. Have received caregiving instructions in the needs of the person who will be provided the service; (7-1-95)
  - iii. Demonstrate the ability to provide services according to an individual support plan; and (7-1-95)
  - iv. Have good communication and interpersonal skills and the ability to deal effectively, assertively and cooperatively with a variety of people; and (7-1-95)
  - v. Be willing to accept training and supervision by a provider agency or the primary caregiver of services; and (7-1-95)
  - vi. Be free of communicable diseases. (7-1-95)
- d.** Supported Employment services must be provided by an agency capable of supervising the direct service and be accredited by the Commission on Accreditation of Rehabilitation Facilities; or other comparable standards; or meet State requirements to be a State approved provider (7-1-95)
- e.** Providers of transportation services must: (7-1-95)
  - i. Possess a valid driver's license; and (7-1-95)
  - ii. Possess valid vehicle insurance. (7-1-95)
- f.** Environmental Modifications services must: (7-1-95)
  - i. Be done under a permit, if required; and (7-1-95)
  - ii. Demonstrate that all modifications, improvements, or repairs are made in accordance with local and state housing and building codes. (7-1-95)
- g.** Specialized Equipment and Supplies purchased under this service must: (7-1-95)
  - i. Meet Underwriter's Laboratory, FDA, or Federal Communication Commission standards where applicable; and (7-1-95)

- ii. Be obtained or provided by authorized dealers of the specific product where applicable. For instance, medical supply businesses or organizations that specialize in the design of the equipment. (7-1-95)
- h.** Personal Emergency Response Systems must demonstrate that the devices installed in waiver participants' homes meet Federal Communications Standards or Underwriter's Laboratory standards or equivalent standards. (7-1-95)
- i.** Services of Home Delivered Meals under this section may only be provided by an agency capable of supervising the direct service and must: (7-1-95)
  - i. Provide assurances that each meal meets one third (1/3) of the Recommended Dietary Allowance as defined by the Food and Nutrition Board of National Research Council or meet physician ordered individualized therapeutic diet requirement; and (7-1-97)
  - ii. Maintain Registered Dietitian documented review and approval of menus, menu cycles and any changes or substitutes; and (7-1-95)
  - iii. Must provide assurances that the meals are delivered on time and demonstrate the ability to deliver meals at a minimum of three (3) days per week; and (7-1-97)
  - iv. Maintain documentation reflecting the meals delivered are nutritionally balanced and made from the highest U.S.D.A. Grade for each specific food served; and (7-1-95)
  - v. Provide documentation of current driver's license for each driver; and (7-1-95)
  - vi. Must be inspected and licensed as a food establishment by the District Health Department. (7-1-95)
- j.** All therapy services, with the exception of physical therapy, must be provided by a provider agency capable of supervising the direct service. Providers of services must meet the provider qualifications listed in the State Plan. (7-1-95)
- k.** Nursing Service Providers must provide documentation of current Idaho licensure as a RN or LPN in good standing. (7-1-95)
- l.** Behavior Consultation/Crisis Management Providers must meet the following: (7-1-95)
  - i. Work for a provider agency capable of supervising the direct service or work under the direct supervision of a licensed psychologist or Ph.D. in Special Education, with training and experience in treating severe behavior problems and training and experience in applied behavior analysis; and (7-1-95)
  - ii. Must have a Master's Degree in a behavioral science such as social work, psychology, psychosocial rehabilitation counseling, psychiatric nursing, special education or a closely related course of study; or (7-1-95)
  - iii. Be a licensed pharmacist; or (7-1-95)
  - iv. Be a Qualified Mental Retardation Professional. (7-1-97)
  - v. Emergency back-up providers must meet the minimum provider qualifications under Residential Habilitation services. (7-1-95)
- m.** Providers of adult day care services work for a provider agency capable of supervising direct services, provide services as identified on the Individual Support Plan, and must meet the following minimum qualifications: (4-5-00)
  - i. Demonstrate the ability to communicate and deal effectively, assertively, and cooperatively with a variety of people; (4-5-00)

- ii. Be a high school graduate, or have a GED or demonstrate the ability to provide services according to the Individual Support Plan; (4-5-00)
- iii. Be free from communicable disease; (4-5-00)
- iv. Pass a Criminal History Check; (4-5-00)
- v. Demonstrate knowledge of infection control methods; and (4-5-00)
- vi. Agree to practice confidentiality in handling situations that involve waiver participants. (4-5-00)

**07. Recipient Eligibility Determination.** Waiver eligibility will be determined by the Regional ACCESS Unit. The recipient must be financially eligible for MA as described in IDAPA 16.03.05, Section 787, "Rules Governing Eligibility for Aid for the Aged, Blind, and Disabled (AABD)". The cited chapter implements and is in accordance with the Financial Eligibility Section of the Idaho State Plan. In addition, waiver recipients must meet the following requirements: (4-5-00)

- a. Recipient must be eighteen (18) years of age or older. (4-5-00)
- b. The Regional ACCESS Unit must determine that: (7-1-95)
  - i. The recipient would qualify for ICF/MR level of care as set forth in Section ~~780~~ 610 of these rules, if the waiver services listed in Section 143 of these rules were not made available; and ~~(7-1-95)~~(7-1-02)T

- ii. The recipient could be safely and effectively maintained in the requested/chosen community residence with appropriate waiver services. This determination must: be made by a team of individuals with input from the ISP team; and prior to any denial of services on this basis, be determined by the Service Coordinator that services to correct the concerns of the team are not available. (7-1-95)

- iii. The average daily cost of waiver services and other medical services to the recipient would not exceed the average daily cost to Medicaid of ICF/MR care and other medical costs. Individual recipients whose cost of services exceeds this average may be approved on a case by case basis that assures that the average per capita expenditures under the waiver do not exceed one hundred percent (100%) of the average per capita expenditures for ICF/MR care under the State plan that would have been made in that fiscal year had the waiver not been granted. This approval will be made by a team identified by the Administrators of the Divisions of Medicaid and Family and Community Services. (7-1-97)

- iv. Following the approval by the ACCESS Unit for services under the waiver, the recipient must receive and continue to receive a waiver service as described in these rules. A recipient who does not use a waiver service for thirty (30) consecutive days will be terminated from the waiver program. (7-1-95)

- c. A recipient who is determined by the ACCESS Unit to be eligible for services under the Home and Community Based Services Waiver for developmentally disabled may elect to not utilize waiver services but may choose admission to an ICF/MR. (7-1-95)

- d. The recipient's eligibility examiner will process the application in accordance with IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)," as if the application was for admission to an ICF/MR, except that the eligibility examiner will forward potentially eligible applications immediately to the ACCESS Unit for review. The Medicaid application process cited above conforms to all statutory and regulatory requirements relating to the Medicaid application process. (4-5-00)

- e. The decisions of the ACCESS Unit regarding the acceptance of the recipients into the waiver program will be transmitted to the eligibility examiner. (7-1-95)

**08. Case Redetermination.** (7-1-95)

**a.** Financial redetermination will be conducted pursuant to IDAPA 16.03.01, "Rules Governing Eligibility for Medicaid for Families and Children," and IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)". Medical redetermination will be made at least annually by the ACCESS Unit, or sooner at the request of the recipient, the eligibility examiner, provider agency or physician. The sections cited implement and are in accordance with Idaho's approved state plan with the exception of deeming of income provisions. (4-5-00)

**b.** The redetermination process will assess the following factors: (7-1-95)

i. The recipient's continued need for waiver services; and (7-1-95)

ii. Discharge from the waiver services program. (7-1-97)

**09. Provider Reimbursement.** (7-1-95)

**a.** Waiver service providers will be paid on a fee for service basis based on the type of service provided as established by the Department. (7-1-95)

**b.** Provider claims for payment will be submitted on claim forms provided or approved by the Department. Billing instructions will be provided by the Department. (7-1-95)

**c.** The fees calculated for waiver services include both services and mileage. No separate charges for mileage will be paid by the Department for provider transportation to and from the recipient's home or other service delivery location when the recipient is not being provided transportation. (7-1-95)

**10. Provider Records.** Three (3) types of record information will be maintained on all recipients receiving waiver services: (7-1-97)

**a.** Direct Service Provider Information which includes written documentation of each visit made or service provided to the recipient, and will record at a minimum the following information: (7-1-95)

i. Date and time of visit; and (7-1-95)

ii. Services provided during the visit; and (7-1-95)

iii. A statement of the recipient's response to the service, if appropriate to the service provided, including any changes in the recipient's condition; and (7-1-95)

iv. Length of visit, including time in and time out, if appropriate to the service provided. Unless the recipient is determined by the Service Coordinator to be unable to do so, the delivery will be verified by the recipient as evidenced by their signature on the service record. (7-1-95)

v. A copy of the above information will be maintained in the recipient's home unless authorized to be kept elsewhere by the ACCESS Unit. Failure to maintain such documentation will result in the recoupment of funds paid for undocumented services. (7-1-97)

**b.** The individual support plan which is initiated by the ACCESS Unit and developed by the Service Coordinator and the ISP team must specify which waiver services are required by the recipient. The plan will contain all elements required by Subsection 143.03 and a copy of the most current individual support plan will be maintained in the recipient's home and will be available to all service providers and the Department. (7-1-95)

**c.** In addition to the individual support plan, at least monthly the service coordinator will verify in writing, that the services provided were consistent with the individual support plan. Any changes in the plan will be documented and include the signature of the service coordinator and when possible, the recipient. (7-1-95)

**11. Provider Responsibility For Notification.** It is the responsibility of the service provider to notify the service coordinator when any significant changes in the recipient's condition are noted during service delivery.

Such notification will be documented in the service record.

(7-1-95)

**12. Records Maintenance.** In order to provide continuity of services, when a recipient is transferred among service providers, or when a recipient changes service coordinators, all of the foregoing recipient records will be delivered to and held by the Regional ACCESS Unit until a replacement service provider or service coordinator assumes the case. When a recipient leaves the waiver services program, the records will be retained by the Regional ACCESS Unit as part of the recipient's closed case record. Provider agencies will be responsible to retain their client's records for three (3) years following the date of service.

(7-1-97)

**13. Home And Community-Based Waiver Recipient Limitations.** The number of Medicaid recipients to receive waiver services under the home and community based waiver for developmentally disabled recipients will be limited to the projected number of users contained in the Department's approved waiver. Individuals who apply for waiver services after the waiver maximum has been reached will be placed on a waiting list and will have their applications processed after September 30 of each new waiver year. The earliest effective date of waiver service delivery for these recipients will be October 1 of each new waiver year.

(7-1-97)

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.03.19 - RULES GOVERNING CERTIFIED FAMILY HOMES**

**DOCKET NO. 16-0319-0101**

**NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 2003 Idaho State Legislature for final approval. 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) 39-3371, 39-3561, 39-3393 AND 39-3580, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the November 7, 2001 Administrative Bulletin, Volume 01-11, pages 32 through 34.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Debby Ransom or Lorene Kayser at (208) 334-6626.

DATED this 15th day of March, 2002.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
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Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 332-7347 fax  
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**IDAPA 16, TITLE 03, Chapter 19**

**RULES GOVERNING CERTIFIED FAMILY HOMES**

**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 01-7, November 7, 2001, pages 32 through 34.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2003 Idaho State Legislature as a final rule.**

# **IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

## **16.03.19 - RULES GOVERNING CERTIFIED FAMILY HOMES**

**DOCKET NO. 16-0319-0102**

### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 2003 Idaho State Legislature for final approval. 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) 39-3371, 39-3561, 39-3393 AND 39-3580, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the November 7, 2001 Administrative Bulletin, Volume 01-11, pages 35 through 38.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Debby Ransom or Lorene Kayser at (208) 334-6626.

DATED this 15th day of March, 2002.

Sherri Kovach  
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## **IDAPA 16, TITLE 03, Chapter 19**

### **RULES GOVERNING CERTIFIED FAMILY HOMES**

**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 01-7, November 7, 2001, pages 35 through 38.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2003 Idaho State Legislature as a final rule.**

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.03.22 - RULES FOR LICENSED RESIDENTIAL AND ASSISTED LIVING FACILITIES IN IDAHO

DOCKET NO. 16-0322-0101

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 2003 Idaho State Legislature for final approval. 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) 39-3371, 39-3561, 39-3393 AND 39-3580, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the November 7, 2001 Administrative Bulletin, Volume 01-11, pages 39 and 40.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Debby Ransom or Virginia Loper at (208) 334-6626.

DATED this 15th day of March, 2002.

Sherri Kovach  
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### IDAPA 16, TITLE 03, Chapter 22

#### RULES FOR LICENSED RESIDENTIAL AND ASSISTED LIVING FACILITIES 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 01-7, November 7, 2001, pages 39 and 40.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2003 Idaho State Legislature as a final rule.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.05.06 - RULES GOVERNING MANDATORY CRIMINAL HISTORY CHECKS**  
**DOCKET NO. 16-0506-0201**  
**NOTICE OF RULEMAKING**  
**PENDING RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the amendment to the temporary rule is January 1, 2002. This pending rule has been adopted by the agency and is now pending review by the 2003 Idaho State Legislature for final approval. 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) 56-1007, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reason 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 018 a transcriptional change was made.

Pursuant to Section 67-5228, Idaho Code, a transcriptional correction has been made to the rule and is being published with this Notice of Rulemaking as part of the pending rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes differ from the proposed text are printed in this bulletin. The original text of the proposed rules was published in the January 2, 2002 Idaho Administrative Bulletin, Volume 02-1, pages 140 and 141.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Tracy Goodin at (208) 334-4932.

DATED this 2nd day of April, 2002.

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**IDAPA 16, TITLE 01, Chapter 03**

**RULES GOVERNING OMBUDSMAN FOR THE ELDERLY PROGRAM**

**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 02-1, January 2, 2002, pages 140 and 141.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2003 Idaho State Legislature as a final rule.**

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**THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0506-0201**

**018. FEES AND COSTS.**

~~As of July 2001, the~~ The fees are twenty-eight dollars (\$28) for volunteers and forty-five dollars (\$45) for all other individuals. All fees are subject to change and are set by state and federal law. ~~(1-1-02)~~(1-1-02)

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.06.01 - RULES GOVERNING FAMILY AND CHILDREN'S SERVICES**

**DOCKET NO. 16-0601-0101**

**NOTICE OF RULEMAKING**

**PENDING RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The amendments to the temporary rule are effective July 1, 2001, November 6, 2001 and March 1, 2002. These rules have been adopted by the agency and are now pending review by the 2003 Idaho State Legislature for final approval. 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, 56-202(b), 56-203b, 56-204(a), 56-204A, 56-1003 and 56-1004, Idaho Code.

**DESCRIPTIVE SUMMARY:** The Department of Health & Welfare (DHW) received comments from the public concerning the proposed rule. The DHW 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. Federal policy has reverted to previous language making children with special needs adopted through a private adoption agency possibly eligible for adoption assistance either federal Title IV-E or a State funded subsidy. Idaho will have the responsibility to determine eligibility, negotiate and possibly pay adoption assistance on children placed by out-of-state private adoption agencies with Idaho resident families. Families adopting children through international placements must negotiate and sign an agreement for Nonrecurring Adoption Expenses before departing the U.S. for the finalization of the adoption in the foreign country.

During a recent federal review of the agency's Title IV-E state plan, a number of clarifications to Rules Governing Family and Children's Services were required as part of a corrective action plan.

Parent(s) is defined and relevant edits are made to text to assure consistency of the term parent(s) and legal guardian(s).

Section 010 a definition of the term "parent" has been made as well as clarification throughout the rule at the request of the Board of Health & Welfare. Subsection 010.69 the Department increased the specificity of the definition of "Serious Emotional Disturbance". Listed are sections in this chapter of rules that an omnibus clerical correction will be made by the Department of Administration, Office of Administrative Rules, which has been made as a result of the clarification of "parent" without printing those sections in the bulletin; Section's 006, 010, 020, 050 - 051, 240, 250, 400 - 405, 420, 422, 425 - 426, 434, 436, 438 - 440, 442, 444, 447, 451, 485, 554, 550 - 560, 562, 642 - 643, 645, 700 - 702, 714 - 721, 750, 760, 761 - 762, 770, 780, 800, 830, 832 - 833, 850, 860, 861 - 863, 870 - 871, 880 - 881, 884, 890 - 891, 900, 910 - 911, and 922 - 923. Section 562 the citation to the Idaho Safe Haven Act in Idaho Code was corrected.

The proposed rules have been amended in response to public comment and to make 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 with the exception of those sections listed. The original text of the proposed rules was published in the November 7, 2001 Administrative Bulletin, Volume 01-11, pages 57 through 72.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Chuck Halligan at (208) 334-6659.

DATED this 16th day of April, 2002.

Sherri Kovach, Administrative Procedures Coordinator  
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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 01-11, November 7, 2001, pages 57 through 72.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2003 Idaho State Legislature as a final rule.**

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**THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0601-0101**

**010. DEFINITIONS AND ABBREVIATIONS.**

For the purposes of the rules contained in Idaho Department of Health and Welfare Rules, IDAPA 16.06.01, "Rules Governing Family and Children's Services," the following terms and abbreviations are used as defined herein:

(3-18-99)

**01. IV-E Foster Care.** Child care provided in lieu of parental care in a foster home, children's agency or institution eligible to receive Aid to Dependent Children under Title IV-E of the Social Security Act. (3-18-99)

**02. Adoption Assistance.** Funds provided to adoptive parent(s) of children who have special needs and/or could not be adopted without financial or medical assistance. (~~3-18-99~~)(7-1-01)T

**03. Adoption Services.** Protective service through which children are provided with permanent homes, under new legal parentage, including transfer of the mutual rights and responsibilities that prevail in the ~~birth~~ parent-child relationship. (~~3-18-99~~)(7-1-01)T

**04. Alternate Care.** Temporary living arrangements, when necessary for a child to leave his own home, through a variety of foster care, respite care, residential treatment and institutional resources, in accordance with the protections established in Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980" as amended by Public Law 105-89, the Adoption and Safe Families Act of 1997, the Child Protective Act,

Section 16-1601 et seq., Idaho Code, and the Indian Child Welfare Act. (3-30-01)

**05. Alternate Care Plan.** A federally required component of the Family Plan for children in alternate care. The alternate care plan contains elements related to reasonable efforts, the family's plan, child's alternate care provider, compelling reasons for not terminating parental rights, Indian status, education, immunization, medical and other information important to the day-to-day care of the child. (7-1-01)T

**06. Assessment.** First step in the planning process which results in systematic documentation of the family's issues of concern, their strengths, and desired outcomes. (3-30-01)

**07. Board.** The Idaho State Board of Health and Welfare. (3-18-99)

**08. Case Management.** A change oriented service to families that assures and coordinates the provision of family risk assessment, case planning, treatment and other services, protection, advocacy, review and reassessment, documentation and timely closure of a case. (3-18-99)

**09. Case Plan.** See "Family Plan". (3-18-99)

**10. Central Office.** The state level administrative office of the Department of Health and Welfare located in Boise, Idaho. (3-18-99)

**11. Child Mental Health.** All of the following children under eighteen (18) years of age shall be served without regard to income or type of health insurance: (3-30-01)

**a.** Those who have a serious emotional disturbance or a grave disability due to a serious mental illness; and (3-30-01)

**b.** Present a significant risk of harm to themselves or to others, due to their mental illness; and (3-30-01)

**c.** Because of their mental illness are at risk for out-of-home placements or are currently in out-of-home placement and lack adequate resources to participate in their community's non-public system of care; or (3-30-01)

**d.** Are involuntarily committed to the Department for out-of-home placement. (3-30-01)

**12. Child Mental Health Services.** Services provided in response to the needs of children with a serious emotional disturbance and their families. These services are provided in accordance with the provisions of Section 16-2402 et seq., Idaho Code, the "Children's Mental Health Services Act". (3-30-01)

**13. Child Protection.** All children under eighteen (18) who have been harmed or threatened with harm by a person responsible for their health or welfare through non-accidental physical or mental injury, sexual abuse (as defined by state law) or negligent treatment or maltreatment, including the failure to provide adequate food, clothing or shelter shall be served without regard to income. (3-30-01)

**14. Child Protective Services.** Services provided in response to potential, alleged or actual abuse, abandonment or neglect of individuals under the age of eighteen (18) in accordance with the provisions of Section 16-1601 et seq., Idaho Code, the "Child Protective Act". (3-18-99)

**15. Compact Administrator.** The individual designated to coordinate interstate transfers of persons requiring special services in accordance with the provisions of Section 16-21-1 et seq., Idaho Code; "Interstate Compact on the Placement of Children," Section 16-1901 et seq., Idaho Code; or the "Interstate Compact on Mental Health," Section 66-1201 et seq., Idaho Code; or the "Interstate Compact on Adoption and Medical Assistance," Section 39-7501 et seq., Idaho Code. (3-18-99)

**16. Concurrent Planning.** Planning which addresses a child's need for a permanent family by working toward family reunification while, at the same time, developing an alternative plan that will provide permanency for

the child through adoption, guardianship, placement with a relative or other permanent placement. (3-30-01)

**17. DHW Regions.** Seven (7) geographically defined regions which serve as administrative units for the delivery of social services through local Department local offices. (3-18-99)

**18. Day Care For Children.** Care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's or children's own home or homes. (3-18-99)

**19. Day Treatment Services.** Intensive nonresidential services that include an integrated set of educational, clinical, social, vocational and family interventions provided on a regularly scheduled, typically daily, basis. (3-18-99)

**20. Department.** The Idaho Department of Health and Welfare. (3-18-99)

**21. Director.** The Director of the Department of Health and Welfare or designee. (3-18-99)

**22. Emergency Assistance To Families.** Social services, crisis or crisis avoidance payments and placement services authorized by Department workers for Emergency Assistance eligible families to meet emergency need(s). (7-1-01)T

**23. Extended Family Member Of An Indian Child.** As defined by the law, or custom of an Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen (18) and who is an Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent. (3-30-01)

**24. FFP.** Federal Financial Participation. (3-18-99)

**25. Family.** Parent(s), legal guardian(s), & related individuals including birth or adoptive immediate family members, extended family members and significant other individuals, who are included in the family plan.  
(~~3-18-99~~)(7-1-01)T

**26. Family And Children's Services (FACS).** Those programs and services directed to families and children, administered by the Department and provided in accordance with these rules. (3-18-99)

**27. Family Assessment.** An ongoing process based on information gained through a series of meetings with a family to gain mutual perception of strengths and resources that can support them in creating long-term solutions related to identified service needs and/or safety issues that threaten family integrity, unity or the ability to care for their members. (3-18-99)

**28. Family Case Record.** Electronic and hard copy compilation of all documentation relating to a family, including, but not limited to, legal documents, identifying information, and evaluations. (3-30-01)

**29. Family Centered Services.** An approach to the delivery of social services that focuses on families rather than individuals. Services are based on assessment of the entire family and a negotiated family plan designed to strengthen and maintain the family, while ensuring the safety, well being and permanency of children. (3-30-01)

**30. Family Plan.** Also referred to as Service Plan. A written document that serves as the guide for provision of services. The plan, developed with the family, clearly identifies who does what, when, how and why. The family plan incorporates any special plans made for individual family members. If the family includes an Indian child, or child's tribe, tribal elders and/or leaders should be consulted early in the plan development. (3-30-01)

**31. Family Services Worker.** Any of the direct service personnel, including social workers, psychologists, counselors and family therapists, working in regional Family and Children's Services Programs. For purposes of pre-placement home studies, adoption home studies, reports to the court under the Termination of Parent and Child Relationship and Adoption of Children Acts, and Placement Supervision Reports, "family services workers" also include licensed counselors or psychologists, or individuals who have at least bachelor's degrees in

- social work, marriage and family therapy, or other social sciences. (3-30-01)
- 32. Field Office.** A Department of Health and Welfare service delivery site. (3-18-99)
- 33. Goal.** A statement of the long term outcome or plan for the child and family. (3-18-99)
- 34. Guardianship Assistance.** State ~~and Federal~~ benefits provided to legal guardian(s) for the support of a child who would otherwise remain in the guardianship of the Department of Health and Welfare. For a child to come into the Department's guardianship, parental rights must have been terminated. (~~7-1-01~~)(7-1-01)T
- 35. Independent Living.** Services provided to eligible foster or former foster youth ages fifteen (15) to twenty-one (21) designed to support a successful transition to adulthood. (3-30-01)
- 36. Indian.** Any person who is a member of an Indian tribe or who is an Alaska Native and a member of a Regional Corporation as defined in 43 U.S.C. 1606. (3-18-99)
- 37. Indian Child.** Any unmarried person who is under the age of eighteen (18) who is: (3-18-99)
- a.** A member of an Indian tribe, or (3-18-99)
- b.** Eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe. (3-18-99)
- 38. Indian Child Welfare Act (ICWA).** The Indian Child Welfare Act, 25 U.S.C. 1901, et seq. (3-18-99)
- 39. Indian Child's Tribe.** (3-18-99)
- a.** The Indian tribe in which an Indian child is a member or eligible for membership, or (3-18-99)
- b.** In the case of an Indian child who is a member of or eligible for membership in more than one (1) tribe, the Indian tribe with which the Indian child has the more significant contacts. (3-18-99)
- 40. Indian Tribe.** Any Indian Tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in 43 U.S.C. 1602(c). (3-18-99)
- 41. Information And Referral Services.** A service which enables individuals to gain access to human services through providing accurate, current information on community and Department resources. (3-30-01)
- 42. Intercountry Adoption Act of 2000 (P.L. 106-279).** Federal law designed to protect the rights of, and prevent abuses against children, birth families, and adoptive parents involved in adoptions (or prospective adoptions) subject to the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, and to insure that such adoptions are in the children's best interests; and to improve the ability of the federal government to assist U.S. citizens seeking to adopt children from abroad and residents of other countries party to the Convention seeking to adopt children from the United States. (7-1-01)T
- 43. Interethnic Adoption Provisions Of 1996 (IEPA).** IEPA prohibits delaying or denying the placement of a child for adoption or foster care on the basis of race, color or national origin of the adoptive or foster parent(s), or the child involved. (~~3-30-01~~)(7-1-01)T
- 44. Issue.** Circumstances which brought a child and family to the attention of the Department. These circumstances typically involve safety issues which put the child at risk of harm. (3-30-01)
- 45. Kin.** Non-relatives who have a significant, family-like relationship with a child. Kin may include godparents, close family friends, clergy, teachers and members of a child's Indian tribe. Also known as fictive kin. (3-30-01)

- 46. Kinship Care.** Alternative care that is provided by kin. (3-30-01)
- 47. Legal Guardianship.** A judicially created relationship, including one made by a tribal court, which names between a child and a relative or non-relative as the legal guardian(s) of a child caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control of the person, custody of the person, and decision making. The term "legal guardian" means the caretaker in such a relationship. For purposes of these rules a child must be in Department guardianship at the time the Petition for Legal Guardianship is filed with the court. Department guardianship may only take place when there has been a termination of parental rights. (~~7-1-01~~)(7-1-01)T
- 48. Licensed.** Facilities or programs being licensed in accordance with the provisions of Idaho Department of Health and Welfare Rules IDAPA 16.06.02, "Rules and Standards for Child Care Licensing". (3-18-99)
- 49. Licensing.** See Idaho Department of Health and Welfare Rules, IDAPA 16.06.02, "Rules and Standards for Child Care Licensing," Section 100. (3-18-99)
- 50. Medicaid.** See "Title XIX". (3-30-01)
- 51. Multiethnic Placement Act Of 1994 (MEPA).** MEPA prohibits states or public and private foster care and adoption agencies that receive federal funds from delaying or denying the placement of any child solely on the basis of race, color or national origin. (3-18-99)
- 52. Objective.** Behaviorally specific description of how the family circumstances will look when the risk factors which brought a child and family to the Department's attention, either no longer exist or are significantly reduced. (3-30-01)
- 53. Parent(s).** The person(s), who by birth or through adoption, is considered legally responsible for a child. When it is necessary to be more specific, identifiers will be added to parent(s): e.g. birth parent(s), foster parent(s), adoptive parent(s), step-parent(s), and pre-adoptive parent(s). The term "legal guardian(s)" is not included in the definition of parent(s). (7-1-01)T
- 534. Permanency Planning.** A primary function of family services initiated in all cases to identify programs, services and activities designed to establish permanent home and family relationships for children within a reasonable amount of time. (3-18-99)
- 545. Personal Care Services (PCS).** Services to eligible Medicaid recipients that involve personal and medically oriented tasks dealing with the physical or functional impairments of the individual. (3-18-99)
- 556. P.L. 96-272.** Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980". (3-30-01)
- 567. P.L. 105-89.** Public Law 105-89, the federal "Adoptions and Safe Families Act of 1997", amends P.L. 96-272 and prohibits states from delaying or denying cross-jurisdictional adoptive placements with an approved family. (3-30-01)
- 578. Planning.** An orderly rational process which results in identification of goals and formulation of timely strategies to fulfill such goals, within resource constraints. (3-30-01)
- 589. Prevention.** Programs, services and activities aimed at preventing child abuse and neglect and severe emotional disturbance. (3-30-01)
- 5960. Protective Services.** To provide assistance in response to potential, actual or alleged neglect, abuse or exploitation of children. (3-18-99)
- 601. Purchase Of Services.** Provision of services to children and families by local agencies or

individuals who contract with DHW. (3-30-01)

**642. Qualified Expert Witness--ICWA.** A person who is most likely to be a qualified expert witness in the placement of an Indian child is: (3-18-99)

**a.** A member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs pertaining to family organization and child rearing practices; (3-18-99)

**b.** An individual who is not a tribal member who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child rearing practices within the Indian child's tribe; (3-18-99)

**c.** A professional person who has substantial education and experience in a pertinent specialty area and substantial knowledge of prevailing social and cultural standards and child rearing practices within the Indian community; or (3-18-99)

**d.** An individual regarded as being a qualified expert who is referred by the Indian child's tribe, the Department's ICWA Specialist, or the Bureau of Indian Affairs. (3-18-99)

**623. Relative.** Person related to a child by blood, marriage, or adoption. (3-30-01)

**634. Reservation.** Indian country as defined in 18 U.S.C. Section 1151, and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation. Such term includes but is not limited to the Kootenai Reservation, the Coeur d'Alene Reservation, the Nez Perce Reservation, the Duck Valley Reservation, and the Shoshone-Bannock Reservation. (3-18-99)

**645. Respite Care.** Time limited care provided to children. Respite care is utilized in circumstances which require short term, temporary placement of a child from the home of their usual care giver to that of another licensed or agency approved family. In general, the duration of a respite placement is from one (1) to fourteen (14) days. (3-30-01)

**656. Risk Assessment.** Standardized protocol for contact between a family services worker and a family to objectively determine if safety issues, risk issues or immediate service needs exist, which require further Family and Children's Services response. (3-30-01)

**667. SSI (Supplemental Security Income).** Income maintenance grants for eligible persons who are aged, blind or disabled. These grants are provided under Title VI of the Social Security Act and are administered by the Social Security Administration and local Social Security Offices. (3-18-99)

**678. Safety Plan.** Plan developed by the Department and a family which assures the immediate safety of a child who has been determined to be conditionally safe or unsafe. (3-30-01)

**689. Self-Reliance Services.** Supportive social services provided to individuals and their families to increase their ability to obtain and retain employment. (3-18-99)

**6970. Serious Emotional Disturbance (SED).** An emotional or behavioral disorder or a neuropsychiatric condition which results in a serious disability, which requires sustained treatment interventions and causes the child's functioning to be impaired in thought, perception, affect and/or behavior. A disorder shall be considered to be a serious disability if it causes substantial impairment in functioning ~~in family, school and/or community as measured by a Department of Health and Welfare approved standardized assessment tool.~~ Functional impairment shall be assessed using the Child and Adolescent Functional Assessment Scale (CAFAS). Substantial impairment shall require a full eight (8) scale score of eighty (80) or higher with "moderate" impairment in at least one (1) of the following three (3) scales: Self-Harmful behavior; Moods/Emotions; or thinking. A substance abuse disorder or conduct disorder, and/or developmental disorder, alone does not constitute a serious emotional disturbance, although one (1) or more of these conditions may co-exist with serious emotional disturbance.

(7-1-01)F(7-1-01)T

**701. Social Service Block Grant.** The social service block grant funds are federal funds provided to states to assist in the development of comprehensive social service programs to help those with special needs to achieve and maintain a greater degree of economic self support and self reliance, to prevent neglect, abuse, or exploitation of children and adults who are unable to protect their own interests, to prevent or reduce inappropriate institutional care, and to secure referral or admission for institutional care when other forms of care are not appropriate. (3-18-99)

**712. TAFI.** Temporary Assistance to Families in Idaho. (3-18-99)

**723. Target Population.** Group of persons, residing within a defined geographical area, who are identified as being at risk for an adverse social or health condition or combination of conditions and whom the program is designed to serve. (3-18-99)

**734. Title IV-A.** Title under the Social Security Act which provides public assistance to families with dependent children and is commonly identified as Aid to Families with Dependent Children (AFDC), repealed in 1997 except for eligibility requirements for Title IV-E. (3-18-99)

**745. Title IV-B.** Title under the Social Security Act which provides Child Welfare Services. This categorical service program is aimed at improving the general welfare of children regardless of income. (3-18-99)

**756. Title IV-E.** Title under the Social Security Act which provides funding for foster care maintenance (formerly provided for under Title IV-A of the Social Security Act) and adoption assistance payments for certain eligible children. (3-18-99)

**767. Title XIX (Medicaid).** Title under the Social Security Act which provides "Grants to States for Medical Assistance Programs". (3-18-99)

**778. Title XXI.** (Children's Health Insurance Program). Title under the Social Security Act which provides access to health care for uninsured children under the age of nineteen (19). (3-18-99)

**789. Tribal Court.** A court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings. (3-18-99)

**790. Unmarried Parents' Services.** Unmarried parent(s)' services are aimed at achieving or maintaining self-reliance or self-support for unmarried parent(s). These services include counseling for all unmarried parent(s) who need such service in relation to their plans for their children and arranging for and/or paying for prenatal and confinement care for the well-being of the parent and infant. (~~3-18-99~~)(7-1-01)T

**801. Voluntary Services Agreement.** A written and executed agreement between the Department and parent(s) or legal guardian(s) regarding the goal, issues, objectives and task responsibility including payment. A children's mental health family services plan is the Voluntary Service Agreement. (~~3-30-01~~)(7-1-01)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**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. (3-30-01)

**01. Reasonable Efforts.** Services offered or provided to ~~the~~ a family intended to prevent or eliminate the need for 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 Department's efforts were reasonable: ~~(3-30-01)~~(7-1-01)T

- a. ~~Reasonable e~~Efforts to prevent or eliminate the need for a child to be removed from his home; and ~~(3-30-01)~~(7-1-01)T
- b. ~~Reasonable e~~fforts to return a child home, if possible, as soon as it is safe to do so, or in the case of a judicial determination of aggravated circumstances, ~~reasonable e~~fforts to return a child home are not required due to a judicial determination of aggravated circumstances; and ~~(3-30-01)~~(7-1-01)T
- c. ~~Reasonable e~~fforts to finalize a permanent plan, so that each child in the Department's care will have a family with whom the child can have a safe and permanent home. ~~(3-30-01)~~(7-1-01)T

**02. Active Efforts.** For an Indian child, a description of the active efforts made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family; that these efforts have proved unsuccessful; and that based on qualified expert information, continued custody by the parent(s) or Indian custodian(s) is likely to result in serious emotional or physical damage to the child. ~~(3-18-99)~~(7-1-01)T

**03. ICWA Preferences.** If appropriate, application of the placement preference for placement in accordance with the Indian Child Welfare Act, or a detailed explanation of good cause for not applying the preferences. (3-18-99)

**04. Least Restrictive Setting.** Efforts shall be made to assure that any child in the Department's care, especially those children in care due to an emotional or behavioral disturbance, reside in the least restrictive, most family-like setting possible. Placement shall be made in the least restrictive setting and in close proximity to the parent(s) or if not, written justification that the placement is in the best interest of the child. For an Indian child, placement in the least restrictive setting is that setting which most approximates a family and is within reasonable proximity to the child's home taking into account any special needs of the child. ~~(3-30-01)~~(7-1-01)T

**05. Legal Requirements For Indian Children.** In the case of an Indian child, notice of the pending proceeding shall be sent by Certified Mail, Return Receipt Requested to the parent(s) or Indian custodian(s) and the Indian child's tribe, including notice of their right to intervene; their right to twenty (20) days additional time to prepare for the proceeding; the right to appointment of counsel if the parent(s) or Indian custodian(s) is indigent; the right to examine all documents filed with the court upon which placement may be based; and the right to withdraw consent to a voluntary foster placement. ~~(3-30-01)~~(7-1-01)T

**06. Visitation For Child's ~~Legal~~ Parent(s) Or Legal Guardian(s).** Visitation arrangements shall be provided to the child's ~~legal~~ parent(s) or legal guardian(s) unless visitation is contrary to the child's safety. ~~(7-1-01)~~F(7-1-01)T

**07. Notification Of Change In Placement.** Written notification to the child's ~~legal~~ parent(s) or legal guardian(s) within seven (7) days of a change of placement of the foster child if a child is relocated to another foster care setting, or similar notice to the parent(s) or Indian custodian(s) of an Indian child, and the Indian child's tribe, which includes the information described in Section 051 of these rules entitled Notice Required for ICWA. ~~(7-1-01)~~F(7-1-01)T

**08. Notification Of Change In Visitation.** Written notification to the child's ~~legal~~ parent(s) or legal guardian(s) if there is to be a change in their visitation schedule with their child or ward in foster care. ~~(7-1-01)~~F(7-1-01)T

**09. Notification Of Right To Participate And Appeal.** Written notification to the child's ~~legal~~ parent(s) or legal guardian(s) shall be made regarding their right to discuss any changes and the opportunity to appeal if they disagree with changes in placement or visitation. ~~(7-1-01)~~F(7-1-01)T

**10. ICWA Placement Preferences.** Compliance with the foster care placement preferences of the Indian Child Welfare Act. (3-18-99)

**11. Compliance With Requirements Of The Multiethnic Placement Act And Interethnic**

**Adoption Provisions.** (3-30-01)

**12. Family Decision Making And Plan Development.** (3-30-01)

**a.** A family plan shall be completed within thirty (30) days of the date the case was opened. (3-30-01)

**b.** Families shall be given ample opportunity to participate in the identification of issues, their strengths and developing service objectives and tasks. The family plan and any changes to it shall be signed and dated by the family. If the family refuses to sign the plan, the reason for their refusal shall be documented on the plan. (3-30-01)

**c.** Plans are to be reviewed with the family no less frequently than once every three (3) months. When there are major changes to the plan including a change in the long term goal, the family plan must be renegotiated by the Department and the family as well as signed by the family. A new plan must be negotiated at least annually. (3-30-01)

**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 most recent twenty-two (22) months. These reasons must be documented in the Alternate Care Plan, 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 when a child's plan for permanency is not adoption, guardianship, or return home. When compelling reasons are not appropriate, the petition for termination of parental rights must be filed by the end of the child's fifteenth month in foster care. (~~7-1-01~~)(7-1-01)T

**14. ASFA Placement Preferences.** The following placement preferences will be used when recommending and making permanency decisions: (3-30-01)

- a.** Return home if safe to do so; (3-30-01)
- b.** Adoption or legal guardianship by a relative; (3-30-01)
- c.** Adoption or legal guardianship by kin; (3-30-01)
- d.** Adoption or legal guardianship by non-relative; (3-30-01)
- e.** Other planned permanent placement such as long-term foster care. (3-30-01)

**(BREAK IN CONTINUITY OF SECTIONS)**

**240. SIX MONTH REVIEWS CONDUCTED BY THE DEPARTMENT.**

Unless a judicial review occurs at the end of a six (6) month period in a Child Protective Act placement or other out of home placement including placements under the Children's Mental Health Services Act, placements of children where the Department is the child's guardian, the Department shall conduct an individual family case review to assure compliance with all applicable state and federal laws, and to ensure the plan focuses on the goals of safety, permanency and well-being of the child. (7-1-01)T

**01. Notice Of Six Month Review.** The *birth* parent(s), ~~adoptive parents, and~~ or legal guardian(s), foster parents of a child and any preadoptive parent(s) or relative(s) providing care for the child and an Indian child's tribe, if appropriate, are to be provided with notice of and an opportunity to be heard in the six (6) month review. This shall not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party solely to the review on the basis of such notice and opportunity to be heard. Participants have the right to be represented by the individual of their choice. (~~3-30-01~~)(7-1-01)T

**02. Procedure In The Six Month Review.** The parties shall be given the opportunity for face-to-face discussion including attending, asking questions and making statements. (3-30-01)

**03. Members Of Six Month Review Panel.** The review team shall include a Department employee who is not in the direct line of supervision in the delivery of services to the child or parent(s) or legal guardian(s) being reviewed. The review panel may include agency staff, staff of other agencies, officers of the court, members of Indian tribes and citizens qualified by experience, professional background or training. Members of the panel shall be chosen by the regional director and receive instructions from the program manager or their designee to enable them to understand the review process and their roles as participants. ~~(3-30-01)~~(7-1-01)T

**04. Issues Considered In Six Month Review.** Whether conducted by the court in a review hearing or a Department review panel, under State law, Federal law and regulation, at least each of the following ~~issues~~ must be addressed: ~~(7-1-01)~~(7-1-01)T

**a.** ~~Review the extent to which all parties have followed through with the family plan, their progress toward alleviating the circumstances necessitating the placement, the extent to which the goals described in the plan have been achieved, and the appropriateness of a concurrent plan; and~~ Determine the extent of compliance with the family services plan; ~~(3-30-01)~~(7-1-01)T

**b.** Determine the extent of progress made toward alleviating or mitigating the causes necessitating the placement; (7-1-01)T

**bc.** Review compliance with the Indian Child Welfare Act, ~~if appropriate~~ when applicable; and ~~(3-30-01)~~(7-1-01)T

**ed.** ~~Make a determination of~~ Determine the safety of the child, the continuing ~~necessity~~ need for and appropriateness of the child's placement; and ~~(3-18-99)~~(7-1-01)T

**de.** ~~Set a target~~ Project a likely date by which the child may safely be returned and safely maintained at home or placed for adoption, legal guardianship or other permanent placement. ~~(3-30-01)~~(7-1-01)T

**05. Recommendations And Conclusions Of Six Month Review Panel.** Following the review, written conclusions and recommendations shall be provided to all participants, subject to Department safeguards for confidentiality. The decision shall also provide appeal rights. (3-30-01)

**(BREAK IN CONTINUITY OF SECTIONS)**

**250. PERMANENCY HEARINGS.**

By the provision of Public Law 105-89, Adoption and Safe Families Act, and Idaho Code, every child in alternate care under state supervision must also have a Permanency Hearing conducted by the court or a court designee. Permanency Hearings shall be held no later than every twelve (12) months after the date of the child's removal and no later than every twelve (12) months thereafter as long as the child remains under the care and custody of the Department. A twelve (12) month Permanency Hearing shall be held by the court having jurisdiction in the case, if that is the preference of the court. If the court does not wish to conduct this hearing, the court may appoint a hearing officer. The appointed hearing officer may not be supervised or reimbursed by the Department. (3-30-01)

**01. Attendance At Permanency Hearings.** The Permanency Hearing shall include, at a minimum, the ~~birth child's~~ parent(s), ~~adoptive parent~~ or legal guardian(s), foster parent(s) of a child, any preadoptive parent(s) or relative(s) providing care for the child, and/or the child's Indian tribe, if appropriate. Parties shall be provided, by the court, with written notice of the hearing and opportunity to be heard. This shall not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party to the hearing solely on the basis of such notice and opportunity to be heard. ~~(3-30-01)~~(7-1-01)T

**02. Judicial Determinations.** (3-30-01)

**a.** The court or designee officer shall determine if the Department has made reasonable efforts to finalize a permanent plan for the child and issue an order specifying the permanent plan. (3-30-01)

b. In cases where the Department has documented, in the alternate care plan component of the family's service plan, compelling reasons for not terminating the parent and child relationship and for placing the child in long-term alternate care, the court shall review and determine if the compelling reasons exist. (7-1-01)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**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: (7-1-01)T

**01. Department Custody.** When the child is in the legal custody or guardianship of the Department; or (3-18-99)

**02. Voluntary Placement.** Upon agreement with the parent(s) or legal guardian(s) 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 service plan and an out-of-home placement agreement must be developed between the Department and the family. 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 voluntary agreement for out-of-home placement entered into between the Department and the parent(s) or legal guardian(s) of a minor child may be revoked at any time by the child's parent(s) or legal guardian(s). 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 in the best interests* of the child to *be returned home* continue his current placement, cannot be reimbursed by Title IV-E funds. (~~3-30-01~~)(7-1-01)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**403. DATE A CHILD ENTERED FOSTER CARE.**

A child is considered to have entered foster care on the date the child is actually removed from their home. All foster care benefits and eligibility determinations shall be based on this date. All periodic reviews, permanency hearings, and time frames for termination of parental rights shall be based on the date the child entered foster care. (3-1-02)T

~~403.~~ **404. (RESERVED).**

**405. ALTERNATE CARE CASE MANAGEMENT.**

Case management shall continue while the child is in alternate care and shall ensure the following: (3-18-99)

**01. Preparation For Placement.** Preparing a child for placement in alternate care shall be the joint responsibility of the child's family, the child (when appropriate), the family services worker and the alternate care provider. (3-18-99)

**02. Information For Alternate Care Provider.** The Department and the family shall inform the alternate care provider of their roles and responsibilities in meeting the needs of the child including: (3-30-01)

a. Any medical, health and dental needs of the child including the names and address of the child's health and educational providers, a record of the child's immunizations, the child's current medications, the child's known medical problems and any other pertinent health information concerning the child; (3-18-99)

b. The name of the child's doctor; (3-18-99)

c. The child's current functioning and behaviors; (3-18-99)

- d.** The child's history and past experiences and reasons for placement into alternate care; (3-30-01)
- e.** The child's cultural and racial identity; (3-18-99)
- f.** Any educational, developmental, or special needs of the child; (3-18-99)
- g.** The child's interest and talents; (3-18-99)
- h.** The child's attachment to current caretakers; (3-18-99)
- i.** The individualized and unique needs of the child; (3-18-99)
- j.** Procedures to follow in case of emergency; and (3-18-99)
- k.** Any additional information, that may be required by the terms of the contract with the alternate care provider. (3-18-99)

**03. Consent For Medical Care.** Parent(s) or legal guardian(s) shall sign a Departmental form of consent for medical care and keep the family services worker advised of where they can be reached in case of an emergency. Any refusal to give medical consent shall be documented in the family case record. ~~(3-30-01)~~(7-1-01)T

**04. Financial Arrangements.** The family services worker shall assure that the alternate care provider understands the financial and payment arrangements and that necessary Department forms are completed and submitted. (3-18-99)

**05. Contact With Child.** The family, the family services worker, the alternate care provider and the child, if of appropriate developmental age, shall establish a schedule for frequent and regular visits to the child by the family and by the family services worker or designee. (3-18-99)

**a.** Face-to-face contact in the alternate care setting with the child by the family services worker must occur at least monthly or more frequently depending on the needs of the child and/or the provider and the stability of the placement. (3-30-01)

**b.** The Department shall have strategies in place to detect abuse or neglect of children in alternate care. (3-18-99)

**c.** Regular contact with children placed in intensive treatment facilities, in or out-of-state, shall occur at a minimum of once every ninety (90) days. (3-30-01)

**d.** Frequent and regular contact between the child and parents and other family members shall be encouraged and facilitated unless it is specifically determined not to be in the best interest of the child. Such contact will be face-to-face if possible, with this contact augmented by telephone calls, written correspondence, pictures and the use of video and other technology as may be relevant and available. (3-18-99)

**e.** When a child is placed in foster care at a substantial distance from home or out-of-state, a face-to-face visit with the child in the child's placement by the worker is required at least once every twelve (12) months. (3-1-02)T

**06. Discharge Planning.** Planning for discharge from alternate care into family services that follow alternate care shall be developed with all concerned parties. Discharge planning shall be initiated at the time of placement and completed prior to the child's return home or to the community. (3-18-99)

**07. Transition Planning.** Planning for discharge from alternate care into a permanent placement shall be developed with all concerned parties. Discharge planning shall be initiated at the time of placement and completed prior to the child's return home or to the community. (3-18-99)

**08. Financial And Support Services.** As part of the discharge planning, Departmental resources shall

be coordinated to expedite access to Department financial and medical assistance and community support services.  
(3-18-99)

**(BREAK IN CONTINUITY OF SECTIONS)**

**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
<b>01. Financial Need.</b>	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(s) or other caretaker relative(s) 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(s) or other specified relative(s) in that month.
<b>02. Voluntary Placement in Foster Home or Voluntary Relinquishment.</b>	A foster care placement is voluntary if the parent(s) 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 <del>the</del> parent(s) permanently gives up rights to a child. A court order is required for a voluntarily relinquished child to qualify for AFDC-FC.
<b>03. Age, Residence, Citizenship, and Deprivation.</b>	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.
<b>04. Court Ordered Removal.</b>	A child not voluntarily placed must have been removed from the parent(s) or other caretaker relative(s) 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 <del>or to make it possible for the child to return home</del> . 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.

AFDC-FC ELIGIBILITY REQUIREMENTS - TABLE 426	
CONDITION	DESCRIPTION
05. <b>Custody and Placement.</b>	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.

~~(3-30-01)~~(7-1-01)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**562. REGISTRY EXEMPTION FOR PARENTS OF CERTAIN ABANDONED INFANTS.**

No disposition will be made on the parent(s) and no information will be entered into the IDHW Central Registry when a parent(s) relinquishes their infant within the first thirty (30) days of life to a "Safe Haven" according to Section ~~39-8102~~ [39-8201] 39-8101, Idaho Code, Idaho Safe Haven Act. ~~(7-1-01)~~(7-1-01)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**701. SERVICES TO BE PROVIDED IN ADOPTIONS.**

In addition to the core family and children's services provided in accordance with these rules, the Department shall assure provision of the following: (3-30-01)

**01. Response To Inquiries.** Written or personal inquiries from prospective adoptive families shall be answered within two (2) weeks. (3-18-99)

**02. Pre-Placement Child/Family Assessment.** An assessment of the child's family of origin history, needs as an individual and as part of a family, and completion of a life story book for each child preparing for adoptive placement. (3-18-99)

**03. Compliance With Multi-Ethnic Placement Act And Interethnic Adoption Provisions.** Selection of the most appropriate adoptive family consistent with the Multi-Ethnic Placement Act and Interethnic Adoption Provisions, if the child is not an Indian. (3-30-01)

**04. (Pre-Placement) Home Study.** An adoptive home study to ensure selection of an appropriate adoptive home. (3-18-99)

**05. Preparation For Placement.** Preparation of the child by an assigned social worker who will assist the child in addressing anticipated grief and loss due to separation from his ~~birth~~ parents and assisting the child with the transition into an adoptive home. ~~(3-18-99)~~(7-1-01)T

**06. Technical Assistance.** Assistance in completing the legal adoption, including compliance with the Indian Child Welfare Act. (3-18-99)

**07. Adoption Assistance.** A determination of eligibility for adoption assistance shall be made for each child placed for adoption through the Department prior to the finalization of his adoption. Eligibility for adoption assistance is determined solely on the child's need. No means test shall be applied to the adoptive family's income or resources. Once eligibility is established, the Division shall negotiate a written agreement with the adoptive family. The agreement must be fully executed by all parties prior to the finalization of the adoption in order to be valid. (3-18-99)

**08. Period Of Support Supervision.** Once a child is placed with an adoptive family, a period of support and supervision by the Department of at least six (6) months shall occur prior to the finalization of the

adoption. If the child has been a foster child placed with the family for a period of at least one (1) year, the family may submit a written request to the Family and Children's Services to waive the standard support period. (3-30-01)

**09. Post Adoption Services.** Services after an adoption is final are provided within available resources. Children with negotiated adoption assistance agreements (whether from Idaho or from another state) are eligible for any services available to Idaho children. International adoptees residing in Idaho are also eligible for any services available to Idaho children pursuant to the Inter-Country Adoption of 2000 (P.L.106-279). Children with adoption assistance either IV-E or state adoption assistance agreements are eligible for Medicaid in Idaho. A referral from an Interstate Compact on Adoption and Medical Assistance member state shall serve as a formal application for services in Idaho. Applications for Medicaid are made through Central Office. ~~(7-1-01)F~~(7-1-02)T

**702. SERVICES TO BE PROVIDED IN LEGAL GUARDIANSHIPS.**

In addition to the family services provided in accordance with these rules, the Department shall provide the following: (7-1-01)T

**01. Preparation For Placement.** Preparation of the child by an assigned social worker who will assist the child in addressing anticipated grief and loss due to separation from his ~~birth/legal~~ parent(s) and assisting the child with the transition into the home of the legal guardian(s). ~~(7-1-01)F~~(7-1-01)T

**02. Licensure.** Potential legal guardian(s) must apply for and receive a foster care license before any child in the guardianship of the Department can be placed in their home. (7-1-01)T

**03. Financial Assistance To Obtain Guardianship.** For potential legal guardian(s) who are not able to afford the attorney and court costs to obtain legal guardianship of a child in the Department's guardianship, financial assistance may be available from the Department. Financial assistance may be provided regardless of the guardian's state of residence. ~~(7-1-01)F~~(7-1-01)T

**04. Eligibility For Guardianship Assistance.** A determination of eligibility for guardianship assistance shall be made for each child placed in a legal guardianship through the Department prior to the finalization of the guardianship. Eligibility for guardianship assistance is determined solely on the basis of the child's needs. No means test shall be applied to the prospective legal guardian family's income or resources in a determination of eligibility. (7-1-01)T

**05. Guardianship Assistance Agreement.** The region shall negotiate a written guardianship assistance agreement with the prospective legal guardian(s). The agreement must be fully executed by all parties prior to the finalization of the guardianship in order to be valid. Benefits may include both a monthly cash payment and Medicaid benefits. The cash payment may not exceed the published foster care rate the child would receive if he or she were living in family foster care in Idaho. Idaho Medicaid benefits can only be used in Idaho. There is no reciprocity with other state's Medicaid programs. Guardianship benefits are subject to availability and are to be reviewed by the Department and the legal guardian(s) at least annually. This benefit terminates on the child's eighteenth birthday regardless of the child's academic standing, physical, or developmental delays. (7-1-01)T

**06. Revocation Of Legal Guardianship.** Any party including the Department or the child, if age fourteen (14) or older, may petition the court to have the legal guardian(s) removed. Guardianship assistance is terminated when a court revokes the guardianship. (7-1-01)T

**07. Termination Of Guardianship Assistance When Child Leaves Home Of The Legal Guardian(s).** If guardianship is revoked and the child(ren) are returned to the Department's guardianship, guardianship assistance will be terminated. If it is anticipated that another legal guardian(s) will be appointed by the court, the new guardian(s) will need to complete application for guardianship assistance before the guardianship is finalized. The guardian(s) is required to immediately report to the Department any reason which would make them ineligible to receive guardianship assistance, such as, the child leaves the home, the child marries or enters the military. (7-1-01)T

**08. Retroactive Benefits.** Legal guardians appointed on or before July 1, 2001, are not eligible for guardianship assistance. There will be no retroactive benefits paid by the Department for a child whose legal guardian(s) was appointed before July 1, 2001 or for guardians who did not negotiate a guardianship assistance

agreement prior to the finalization of the guardianship.

(7-1-01)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**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)

**01. Determination Of ~~Need~~ Eligibility For Title IV-E Adoption Assistance.** The Bureau of Family and Children's Services shall determine whether a child is a child with special needs. ~~A child must be eligible for Aid to Families with Dependent Children (AFDC), Title IV-E Foster Care or Supplemental Security Income (SSI), and meet the Children applying for adoption assistance benefits must meet Idaho's definition of a child with special needs according to Section 473 (c) of P.L. 96-272 (The Adoption Assistance and Child Welfare Act of 1980). A child who is eligible for Supplemental Security Income (SSI) benefits, and meets the definition of a child with special needs at the time the adoption petition is filed, may also apply for these benefits regardless of the circumstances of the child's removal from his home or whether the state has responsibility for the child's placement and care.~~ There are five (5) ways a child can be eligible for Title IV-E adoption assistance: ~~(7-1-01)T(3-1-02)T~~

**a.** Child is Aid to Families with Dependent Children (AFDC) eligible, is in the custody or care of the public child welfare agency or an Indian tribe with whom the state has a IV-E agreement and meets the definition of a child with special needs. For children whose adoption assistance eligibility is based on the child's AFDC eligibility, the child must meet the AFDC criteria both at the time of removal from his home and in the month the adoption petition is filed. (3-1-02)T

**i.** If the child is removed from his home pursuant to the first judicial determination, such determination must indicate that it was contrary to the welfare of the child to remain in the home. (3-1-02)T

**ii.** If the child is removed from the home pursuant to a voluntary out-of-home placement agreement, the child must receive at least one (1) Title IV-E foster care payment to be eligible for Title IV-E adoption assistance. (3-1-02)T

**b.** Child is eligible for Supplemental Security Income (SSI) benefits and meets the definition of a child with special needs. (3-1-02)T

**i.** A child is eligible for adoption assistance if, at the time the adoption petition is filed, the child has met the requirements for Title XVI (SSI) benefits; (3-1-02)T

**ii.** The circumstances of a child's removal from his home or whether the public child welfare agency has responsibility for the child's placement and care is not relevant. (3-1-02)T

**c.** Child has been voluntarily relinquished to a private non-profit adoption agency and meets the definition of a child with special needs. (11-6-01)T

**i.** The child must meet the requirements, or would have met the requirements, of the AFDC program as such sections were in effect on July 16, 1996, in or for the month in which the relinquishment occurred, or court proceedings were held which lead to the removal of the child from his home; (11-6-01)T

**ii.** At the time of the voluntary placement or relinquishment, the court must make a judicial determination that it would be contrary to the welfare of the child for the child to remain in the home. (11-6-01)T

**d.** Child is eligible for Title IV-E adoption assistance as a child of a minor parent and at the time of the

adoption petition the child meets the definition of a child with special needs. (3-1-02)T

i. The child's parent is in foster care and receiving Title IV-E foster care maintenance payments that cover both the minor parent and child at the time the adoption petition is filed; and (3-1-02)T

ii. The child continues to reside in the foster home with his minor parent until the adoption petition has been filed. If the child and minor parent have been separated in foster care prior to the time of the adoption petition, the child's eligibility for Title IV-E adoption assistance must be determined based on the child's current and individual circumstances. (3-1-02)T

e. Child is eligible due to prior Title IV-E adoption assistance eligibility and meets the definition of a child with special needs. (3-1-02)T

i. A child whose adoption later dissolves or the adoptive parent(s) die, may continue to be eligible for Title IV-E adoption assistance in a subsequent adoption. (3-1-02)T

ii. The subsequent adoption of a child may be arranged through an independent adoption, private agency, or state agency. (3-1-02)T

iii. No needs or eligibility redetermination is to be made upon a subsequent adoption. The child's need and eligibility remain unchanged from what they were prior to the initial adoption. (3-1-02)T

iv. It is the responsibility of the placing state to determine whether the child meets the definition of special needs and to pay the subsidy in a subsequent adoption. (3-1-02)T

**02. Factors Considered.** The definition of special needs includes the following factors: (3-18-99)

**a.** The child cannot or should not be returned to the home of the parents; and (3-18-99)

**b.** The child has a physical, mental, emotional or medical disability, or is at risk of developing such disability based on known information regarding the birth family and child's history, or (3-18-99)

**c.** The child's age makes it difficult to find an adoptive home; or (3-18-99)

**d.** The child is a member of a sibling group that must not be placed apart; or (3-18-99)

**e.** ~~The child has established such close emotional ties with a foster family or relative family that replacement is likely to be as traumatic to the child as removal from a natural family; and State must make a reasonable but unsuccessful effort to place the child with special needs without a subsidy, except in cases where it is not in the best interests of the child due to his significant emotional ties with the foster parent(s) or relative(s) who are willing to adopt the child.~~ (3-18-99)(7-1-01)T

**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.~~ (3-30-01)

**03. Removal From Home.** ~~The federal adoption assistance program recognizes only two (2) methods whereby a child's removal from his home meets eligibility guidelines for Title IV-E foster care maintenance payments and subsequent IV-E adoption assistance:~~ **Determination Of Eligibility For State Funded Adoption Assistance.** Children who meet the special needs criteria found in Subsection 900.02 of these rules and do not meet any of the criteria for Title IV-E adoption assistance found at Subsection 900.01 in these rules, may be eligible for state funded adoption assistance benefits. If the child is determined ineligible for Title IV-E adoption assistance, the application will be evaluated for a state-funded subsidy. (7-1-01)T(7-1-01)T

**a.** ~~Removal as a result of a voluntary out-of-home placement agreement and when Title IV-E funds are used to fund the placement;~~ (7-1-01)T

**b.** *Removal as a result of a judicial determination that it would be contrary to the child's welfare for the child to remain in their home. The child must then come under DHW responsibility for placement and care or the responsibility of a public agency, including Indian Tribes, with whom DHW has a IV-E agreement at the time of the voluntary out-of-home placement.* (7-1-01)F

**04. Interjurisdictional Adoptions.** When a child's adoption is arranged through the care and placement of a private non-profit adoption agency in another state and the adoptive family are residents of Idaho, the state of Idaho shall be responsible for the eligibility determination, negotiation, and payment of any subsequent Title IV-E or state-funded adoption assistance benefits. (7-1-01)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**910. TYPES AND AMOUNTS OF ASSISTANCE.**

The needs of the child and the family, including any other children in the family, shall be considered in determining the amount and type of support to be provided. Assistance may include the following: (3-18-99)

**01. Nonrecurring Adoption Reimbursement.** Payment for certain one (1) time expenses necessary to finalize the adoption may be paid when a family adopts a special needs child. The child's eligibility must be determined and the contract for reimbursement must be fully executed prior to the finalization of the adoption. The reimbursement is paid only after the adoption finalizes. They expenses are defined as reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption finalization of a child with special needs and which are not incurred in violation of state or federal law. They may include mileage and lodging involved in visiting the child before placement occurs. These expenses cannot be reimbursed if they are paid for the adoptive parents by other sources such as an employer. Documentation of expenses must be submitted. Costs are reimbursable up to two thousand dollars (\$2,000) per child and are entered on the Adoption Assistance Program Agreement. Families applying for Nonrecurring Adoption Reimbursement separate from the regular Adoption Assistance program must *finalize the child's adoption before an Idaho Court in order for the contract to be valid. Children adopted through a court of foreign jurisdiction are not eligible to apply* submit an application for Nonrecurring Adoption Expenses Reimbursement, obtain a determination of eligibility, and negotiate a Nonrecurring Adoption Expenses Reimbursement Agreement prior to the finalization of the child's adoption. Families applying for Nonrecurring Adoption Expenses Reimbursement on behalf of a child who is adopted through an international adoption must submit an application for Nonrecurring Adoption Expenses Reimbursement, obtain a determination of eligibility, and negotiate a Nonrecurring Adoption Expenses Reimbursement Agreement prior to the family's departure to the foreign country and the child's adoption in the foreign country. Children for whom the adoption has been finalized without a negotiated Nonrecurring Expenses Reimbursement Agreement are not eligible to apply for these benefits. (7-1-01)F(7-1-01)T

**02. Monthly Cash Payment.** Financial assistance in the form of a monthly cash payment may be established to assist the adoptive family in meeting the additional expenses of the child's special needs. The amount of the payment must be negotiated with the family by the adoption worker and based on the family's circumstances and what additional resources are needed to incorporate the child into the adoptive family. The amount shall not exceed the rate for family foster care which would be made if the child were in a family foster home in Idaho. For children who meet the definition of special needs at Subsection 900.02 ~~in~~ of these rules, no monthly cash payment is allowable until such time as the specific disability for which the child is known to be at risk becomes evident. For children who are currently eligible for Personal Care Services (PCS), the professional foster care rate may be used in negotiating the adoption assistance *amount if the prospective adoptive family meets the educational requirements of a professional foster family upon prior approval of the Department's FACS Division Administrator.* Benefits shall continue until the child reaches eighteen (18) years, based upon an annual determination of continuing need. (7-1-01)F(7-1-01)T

**03. Title XIX - Medicaid Coverage.** Any special needs child for whom there is in effect an adoption assistance agreement shall also be eligible for medical coverage under Medicaid. Families enrolled in a group health plan who plan to request to use Medicaid as the child's primary health care coverage shall apply to the Idaho Health Insurance Premium Payment (HIPP) program at the time of benefit negotiation. Medicaid provides secondary

coverage after the family's health insurance and other resources have been exhausted. Coverage may begin while the family meets the child's yearly deductible under the family's health care policy. Coverage may include routine medical costs or may be limited to costs related to specific medical problems of the child. For children who meet the definition of special needs at Subsection 900.02 ~~of~~ these rules and whose family has health insurance, Medicaid shall not be available for treatment of that specific disability until such time as the specific disability for which the child is known to be at risk becomes evident and treatment is medically necessary. Medicaid benefits are available until the child reaches the age of eighteen (18), based upon an annual determination of continuing need.

~~(7-1-01)~~(7-1-01)T

**04. Title XX - Social Services.** Any child with special needs who has an Adoption Assistance Agreement shall also be eligible for Title XX - Federal Social Services Block Grant funded services. (7-1-01)T

**911. ADOPTION ASSISTANCE PROGRAM AGREEMENT.**

A written agreement shall be negotiated and fully executed between the Department and adopting family prior to the finalization of adoption and implementation of benefits. (3-18-99)

**01. Agreement Specifications.** The agreement shall specify the following: the type and amount of assistance to be provided and that it may be adjusted periodically with the concurrence of the adoptive parent(s) to reflect changing circumstances; the date for annual renewals and ~~earlier renewal at the family's request~~; that the renewal depends on availability of funds; and that payments shall begin after the final certified copy of the ~~Order of~~ Adoption is received by the Department. The adoptive parent(s) are required to inform the state agency of any circumstances which would make them ineligible for adoption assistance payments, or eligible for adoption assistance payments in a different amount. ~~(3-18-99)~~(7-1-01)T

**02. Suspension Or Termination Of Adoption Assistance.** Adoption assistance may be suspended or terminated if the adoptive family fails to compete the annual recertification process, the adoptive parent(s) no longer have ~~financial~~ legal responsibility for the child as a result of termination of parental rights, the child is no longer receiving any financial support from the parents, or the child has reached the age of eighteen (18) years regardless of the child's educational status. ~~(3-30-01)~~(7-1-01)T

**03. Adoption Assistance Follows The Child.** If the adoptive parents are located in a state other than Idaho, or move out of Idaho with the child, the adoption assistance payments initiated by Idaho will continue for the child. If the child is IV-E or state-funded adoption assistance eligible, referral for Medicaid or other state medical insurance and social service benefits will be forwarded to the new state of residence through the Interstate Compact on Adoption and Medical Assistance. Non IV-E eligible children receiving a state adoption subsidy, may not be eligible for Medicaid in a state other than Idaho. ~~(3-18-99)~~(7-1-01)T

~~**04. Continuation Of Eligibility For IV-E Adoption Assistance.** Any child who was previously deemed eligible for adoption assistance payments in an adoption finalized after November 1, 1997, and who is again available for adoption because of disruption and dissolution of their adoption or the death of their adoptive parents will continue to be eligible for IV-E adoption assistance in any subsequent adoption.~~ ~~(3-30-01)~~

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.06.02 - RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING**

**DOCKET NO. 16-0602-0201**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** These temporary rules are effective August 1, 2002.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 39-1111, 39-1208, 39-1209, 39-1210, 39-1211, 39-1213 & 56-1995(8), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2002.

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

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

Family and Community Services undertook a large scale public participation/negotiated rulemaking process to rewrite IDAPA 16.06.02, Rules Governing Standards for Childcare Licensing pertaining to child placements and adoptions, and licensure of agencies performing those functions, foster Care, and Residential Care for Children. Those rules were approved by the Legislature in 2001. As part of the initial process, rules were developed for children placed in therapeutic outdoor camps not previously covered under the childcare licensing rules. However, since there were no previous rules for children's therapeutic outdoor programs the decision was made to gather additional public input before submission. The addition of these rules will complete the project.

**TEMPORARY RULE JUSTIFICATION:** Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to protect the public health, safety and welfare.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted with providers, parent groups, 4H, and the Boy Scouts and Girl Scouts of America.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Jim Puett at (208) 334-5700.

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 July 24, 2002

DATED this 8th day of April, 2002.

Sherri Kovach, Administrative Procedures Coordinator  
DHW – Administrative Procedures Section  
450 West State Street, 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone, (208) 332-7347 fax  
kovachs@idhw.state.id.us e-mail

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0602-0102**

**001. TITLE AND SCOPE.**

**021. Title.** These rules are to be cited in full as the Idaho Department of Health and Welfare Rules, IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing". (3-30-01)

**022. Scope.** The rules contained in this Chapter establish standards and procedures for the licensure or certification of foster homes, children's agencies, and children's residential care facilities, including non-accredited residential schools, children's camps providing child care for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period, children's therapeutic outdoor programs, alcohol-drug abuse treatment facilities and facilities specializing in maternity care to minors, day care centers and group day care facilities. Also included are standards and procedures for voluntary compliance for licensing of group day care facilities and family day care homes. (~~3-30-01~~)(8-1-02)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**006. DEFINITIONS.**

For the purposes of the rules contained in this Chapter, the following terms are used as defined below: (3-30-01)

**01. Accredited Residential School.** A residential school for any number of children subject to the jurisdiction of the Idaho Department of Education that has been certified as accredited according to the accrediting standards promulgated by the Idaho State Board of Education or a secular or religious accrediting association recognized by the Idaho Department of Education. (3-30-01)

**02. Alcohol-Drug Abuse Treatment Facility.** A children's residential care facility specializing in providing programs of treatment for children whose primary problem is alcohol or drug abuse. (3-30-01)

**03. Board.** The Idaho State Board of Health and Welfare. (3-30-01)

**04. Child.** An individual less than eighteen (18) years of age, synonymous with juvenile or minor. (3-30-01)

**05. Child Care.** The care, control, supervision or maintenance of children for twenty-four (24) hours a day which is provided as an alternative to parental care. (3-30-01)

**06. Children's Agency.** A person who operates a business for the placement of children in foster homes, children's residential care facilities or for adoption in a permanent home and who does not provide child care as part of that business. A children's agency does not include a licensed attorney or physician assisting or providing natural and adoptive parents with legal services or medical services necessary to initiate and complete adoptive placements. (3-30-01)

**07. Children's Camp.** A program of child care at a location away from the child's home, which is primarily recreational and includes the overnight accommodation of the child and is not intended to provide treatment, therapy or rehabilitation for the child. A children's camp which only provides child care for any one (1) child for less than nine (9) consecutive weeks in any one (1) year period shall be exempt from the licensure and disclosure provisions of this chapter. A children's camp which provides child care for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period shall constitute a children's residential care facility. (3-30-01)

**08. Children's Institution.** A person defined herein, who operates a residential facility for unrelated children, for the purpose of providing child care. Children's institutions include foster homes, children's residential care facilities, maternity homes, or any residential facility providing treatment, therapy or rehabilitation for children, or any children's therapeutic outdoor program. (~~3-30-01~~)(8-1-02)T

**09. Children's Residential Care Facility.** A facility that provides residential child care, excluding foster homes, residential schools, juvenile detention centers and children's camps that: (3-30-01)

**a.** Seeks, receives or enrolls children for treatment of special needs such as substance abuse, mental illness, emotional disturbance, developmental disability, mental retardation, or children who have been identified by the judicial system as requiring treatment, therapy, rehabilitation or supervision; (3-30-01)

**b.** Receives payment, including payment from health insurance carriers, for identified treatment needs such as substance abuse, mental illness, emotional disturbance, developmental disability or mental retardation; or (3-30-01)

**c.** Represents to the payor of the child care services provided by the children's facility that such payment may qualify for health insurance reimbursement by the payor's carrier or may qualify for tax benefits relating to medical services; and (~~3-30-01~~)(8-1-02)T

**d.** May include a children's therapeutic outdoor program whether or not that program operates out of a standard facility. (8-1-02)T

**10.** **Children's Therapeutic Outdoor Program.** A program which is designed to provide behavioral, substance abuse, or mental health services to minors in an outdoor setting and serves either adjudicated or non-adjudicated youth. The program may not limit a child's access to parents or guardians; restrict a minor's ability to leave the program at any time of his own free will; and does not apply to outdoor programs for minors that are primarily designed to be educational or recreational that may include Boy Scouts, Girl Scouts, 4-H and other youth organizations. (8-1-02)T

**101.** **Continued Care.** The ongoing placement of an individual in a foster home, children's residential care facility, or transitional living placement who reaches the age of eighteen (18) years but is less than twenty-one (21) years of age. (3-30-01)

**112.** **Contraband.** Goods or merchandise, the possession of which is prohibited, such as weapons and drugs. (3-30-01)

**123.** **Day Care.** The care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's or children's own home or homes. (3-30-01)

**134.** **Day Care Center.** A place or facility providing day care for compensation for thirteen (13) or more children. (3-30-01)

**145.** **Department.** The Idaho Department of Health and Welfare. (3-30-01)

**156.** **Direct Care Staff.** An employee who has direct personal interaction with children in the provision of child care and is included as staff in meeting the minimum staff-child ratio requirements. (3-30-01)

**167.** **Director.** Director of the Idaho Department of Health and Welfare or designee. (3-30-01)

**178.** **Family Day Care Home.** A home, place, or facility providing day care for six (6) or fewer children during part of a twenty-four (24) hour day. (3-30-01)

**189.** **Foster Care.** The twenty-four (24) hour substitute care of children, by persons who may or may not be related to a child, in lieu of parental care in a foster home. (3-30-01)

~~190.~~ **Foster Home.** The private home of an individual or family licensed or approved as meeting the standards for foster care and providing twenty-four (24) hour substitute care to six (6) or fewer children. (3-30-01)

**201.** **Foster Parent.** A person or persons residing in a private home under their direct control to whom a foster care license or certification has been issued. (3-30-01)

**212.** **Group Day Care Facility.** A home, place, or facility providing day care for seven (7) to twelve (12) children. (3-30-01)

- 223. Inter-Country Adoption.** The placement of a child from one (1) country to another for the purpose of adoption. (3-30-01)
- 234. Mechanical Restraint.** Devices used to control the range and motion of an individual, including handcuffs, restraint boards, restraint chairs, and restraint jackets. (3-30-01)
- 245. Medical Professionals.** Persons who have received a degree in nursing or medicine and registered nurse, nurse practitioner, physician's assistant and medical doctor. (3-30-01)
- 256. Member Of The Household.** Any person, other than a foster child, who resides in, or on the property of, a foster home. (3-30-01)
- 267. Nonaccredited Residential School.** A residential school for any number of children that is not certified or accredited pursuant to Section 39-1207, Idaho Code, or has lost accreditation and is subject to the jurisdiction of the Department as a children's residential care facility pursuant to Section 39-1210, Idaho Code, unless and until accreditation is certified by the Idaho Department of Education. (3-30-01)
- 278. Non-Compliance.** Violation of, or inability to meet the requirements of, the act or a rule promulgated under the act, or terms of licensure. (3-30-01)
- 289. Organization.** A children's agency or a children's residential care facility. (3-30-01)
- 2930. Person.** Any individual, group of individuals, associations, partnerships or corporations. (3-30-01)
- 301. Physical Intervention.** Physical restraint utilized to control the range and motion of an individual. (3-30-01)
- 372. Placement.** The activities and arrangements related to finding a suitable licensed home or facility in which a child will reside for purposes of care, treatment, adoption, or other services. (3-30-01)
- 323. Plan Of Correction.** The detailed procedures and activities developed between the licensing authority and caregiver required to bring a foster family, facility, or children's agency into conformity with these licensing rules. (3-30-01)
- 334. Relative.** Individuals related to a child by blood, marriage or adoption. (3-30-01)
- 345. Representative.** An employee of the Department of Health and Welfare. (3-30-01)
- 356. Residential School.** A residential facility for any number of children which: (3-30-01)
- a.** Provides a planned, scheduled, regular, academic or vocational program for students in the elementary, middle or secondary grades as defined in Section 33-1001, Idaho Code; and (3-30-01)
  - b.** Provides services substantially comparable to those provided in nonresidential public schools where the primary purpose is the education and academic pursuits of the students; and (3-30-01)
  - c.** Does not seek, receive or enroll students for treatment of such special needs as substance abuse, mental illness, emotional disturbance, developmental disability or mental retardation; and (3-30-01)
  - d.** Does not receive payment, including payment from health insurance carriers, for identified treatment needs such as substance abuse, mental illness, emotional disturbance, developmental disability, or mental retardation; and (3-30-01)
  - e.** Does not represent to the payor of childcare services provided that such payment may qualify for health insurance reimbursement by the payor's carrier or may qualify for tax benefits relating to medical services. (3-30-01)

- ~~367.~~ **Restraint.** Interventions to control the range and motion of a child. (3-30-01)
- ~~378.~~ **Seclusion.** A room within a facility designed to temporarily isolate an individual in order to gain emotional or physical control by means of structure and minimal stimulation. (3-30-01)
- ~~389.~~ **Secure.** A physically restrictive setting, as in a locked or guarded residential facility. (3-30-01)
- ~~390.~~ **Security Risk.** An individual who presents the possibility by actions, behavior or emotional reaction that may result in harm to self or others, or escape from physical control. (3-30-01)
- ~~401.~~ **Shelter Care.** The temporary or emergency out-of-home care of children in a foster home or residential facility. (3-30-01)
- ~~412.~~ **Soft Restraints.** Mechanical restraints made of leather, cloth or other combinations of fibers, utilized to control the range of motion of an individual. (3-30-01)
- ~~423.~~ **Time-Out.** Separation of a child from group activity as a means of behavior management. (3-30-01)
- ~~434.~~ **Training.** The preparation, instruction and education related to child care that increases the knowledge, skill and abilities of a foster parent, agency and residential care facility staff or volunteers. (3-30-01)
- ~~445.~~ **Transitional Living.** Living arrangements and aftercare services for children, or as continued care, to gain experience living on their own in a supportive and supervised environment prior to emancipation. (3-30-01)
- ~~456.~~ **Variance.** The means of complying with the intent and purpose of a child care licensing rule in a manner other than that specifically prescribed in the rule. (3-30-01)
- ~~467.~~ **Waiver.** The non-application of a child care licensing rule, except those related to safety, extended to a relative foster home which serves to promote child health, well-being, and permanence while not compromising safety. (3-30-01)

**(BREAK IN CONTINUITY OF SECTIONS)**

**503. NOTIFICATION TO THE LICENSING AUTHORITY.**

An organization shall notify the Department as soon as possible but no later than thirty (30) days before a change in the name of the organization, type of service, type of children being served, an increase in licensed capacity of a child care facility or children's residential care facility, or the facility organization closes, moves or changes ownership.

~~(3-30-01)~~(8-1-02)T

**(BREAK IN CONTINUITY OF SECTIONS)**

~~794. -- 996799.~~ (RESERVED).

**ADDITIONAL STANDARDS FOR CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS**  
**(Sections 800 through 899)**

**800. ADDITIONAL STANDARDS FOR CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS.**

(See sections 800 through 899, also see Sections 500 through 599.)

(8-1-02)T

**801. PROGRAM DESCRIPTION.**

Every children's therapeutic outdoor program shall have a detailed, written description of the services and activities provided. All written descriptions shall be factual and accurate and be provided to the parent or guardian of the child

prior to entrance into the program. Any program which advertises their children's therapeutic outdoor program in any manner shall ensure any advertisement of a children's therapeutic outdoor program must be factual and accurate in its statements and representations. (8-1-02)T

**802. POLICIES AND PROCEDURES.**

In addition to the requirements for policies in Sections 500 through 599 of these rules, a children's therapeutic outdoors program shall have policies and procedures in place addressing the licensing standards set forth in Sections 800 through 899 of these rules. (8-1-02)T

**803. -- 804. (RESERVED).**

**805. BASE CAMP REQUIREMENTS.**

**01. Base Camp.** A children's therapeutic outdoor program shall have a base camp or field office in Idaho, here after referred to as a base camp. Base camp at a minimum shall: (8-1-02)T

- a.** Be staffed and monitored twenty-four (24) hours a day when there are children in care; (8-1-02)T
- b.** Have current staff personnel files; (8-1-02)T
- c.** Have a current list of the names of staff and children in each field group; (8-1-02)T
- d.** Have a master map of all activity areas used by the program; (8-1-02)T
- e.** Have copies of each group's expeditionary route with its schedule and itinerary, copies of which shall be sent to the Department and local law enforcement when requested; (8-1-02)T

**f.** Maintain current logs of all communications with each field group away from the base camp; and (8-1-02)T

**g.** Have an emergency response plan that is reviewed annually. (8-1-02)T

**02. Participant File Requirements.** The base camp shall have program participant files, which include: (8-1-02)T

- a.** Demographics; (8-1-02)T
- b.** Eligibility criteria; (8-1-02)T
- c.** Medical forms; and (8-1-02)T
- d.** Medical treatment authorization. (8-1-02)T

**03. Proof Of Compliance.** A children's therapeutic outdoor program which operates in Idaho shall comply with federal, state, and local regulations and shall maintain proof of compliance at the base camp. (8-1-02)T

**806. HIGH ADVENTURE REQUIREMENTS.**

**01. High Adventure Activities.** High adventure activities may include the following: (8-1-02)T

- a.** Target sports; (8-1-02)T
- b.** Aquatics; (8-1-02)T
- c.** Hiking; (8-1-02)T
- d.** Adventure challenge courses; (8-1-02)T

- e.** Climbing and rappelling; (8-1-02)T
- f.** Winter camping; (8-1-02)T
- g.** Soloing; (8-1-02)T
- h.** Spelunking; (8-1-02)T
- i.** Expeditioning; (8-1-02)T
- j.** Swimming in a river, stream, lake, or pond; (8-1-02)T
- k.** White water activities; and (8-1-02)T
- l.** Animal related activities. (8-1-02)T

**02. High Adventure Activity Policy And Procedures.** For the high adventure activities identified in Subsection 806.01 of these rules and for any activity identified by the children's therapeutic outdoor program or the Department as a high adventure activity, there shall be a written policy and procedure to be followed which include; (8-1-02)T

- a.** Training, experience, and qualifications for leader and staff; (8-1-02)T
- b.** Specific staff-to-participant ratios appropriate to the activity; (8-1-02)T
- c.** Classification and limitations for each child's participation; (8-1-02)T
- d.** Arrangement, maintenance, and inspection of the activity area; (8-1-02)T
- e.** Appropriate equipment and the inspection and maintenance of the equipment; and (8-1-02)T
- f.** Safety precautions to reduce the possibility of an accident or injury. (8-1-02)T

**03. High Adventure Activities Leader.** An activity leader who is at least twenty-one (21) years of age and who has documented training and experience in conducting the activity shall conduct high adventure activities. (8-1-02)T

**807. -- 809. (RESERVED).**

**810. STAFF QUALIFICATIONS FOR CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS.** Qualifications of staff, interns, and volunteers shall be verified through written verification of a complete criminal history check as required by IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks," work experience, education, and classroom instruction. A program which provides children's therapeutic outdoor programs shall have the following staff: (8-1-02)T

**01. Chief Administrator.** A children's therapeutic outdoor program shall have a chief administrator who is primarily responsible for ensuring that the program is at all times in compliance with applicable licensing rules and that staff are familiar with all program policies and procedures. The chief administrator may also function as the field director. The chief administrator shall: (8-1-02)T

- a.** Be at least twenty-five (25) years of age; (8-1-02)T
- b.** Have two (2) years experience working with children and three (3) years experience in staff supervision and administration; and either; (8-1-02)T
- c.** At the time of appointment, have at a minimum, a Bachelor's degree in a relevant discipline; or

(8-1-02)T

**d.** Have completed a career development program which includes work related experience, training, or college credits that provide a level of achievement equivalent to the Bachelor's degree; and (8-1-02)T

**e.** Have a minimum of thirty (30) semester hours or forty-five (45) quarter hours in recreational therapy or related experience, or one (1) year of outdoor youth program field experience; and (8-1-02)T

**f.** Demonstrate or obtain proficiency in the required training criteria set forth in Subsection 812.02 of these rules. (8-1-02)T

**02. Field Director.** A children's therapeutic outdoor program shall have a field director who is primarily responsible for the quality of the field activities, coordinates field operation, supervises direct care staff, and manages the field office. The field director shall be responsible for compliance with applicable licensing rules and ensure that staff are familiar with all program policies and procedures. The field director shall: (8-1-02)T

**a.** Be at least twenty-five (25) years of age; (8-1-02)T

**b.** Have a minimum of thirty (30) semester hours or forty-five (45) quarter hours in recreational therapy or related experience, or one (1) year of outdoor youth program field experience; (8-1-02)T

**c.** Demonstrate or obtain proficiency in the required training criteria set forth in Subsection 812.02 of these rules within ninety (90) days of assuming administrative responsibilities and prior to any provision of direct care to children; (8-1-02)T

**d.** Demonstrate or obtain proficiency in the required training criteria set forth in Subsection 812.02 of these rules within ninety (90) days of assuming administrative responsibilities and prior to any provision of direct care to children; and (8-1-02)T

**e.** Be certified to provide cardiopulmonary resuscitation (CPR) and first aid. (8-1-02)T

**03. Senior Field Staff.** A children's therapeutic outdoor program shall have a senior field staff working directly with each group of program participants. Each senior field staff shall: (8-1-02)T

**a.** Be at least twenty-one (21) years of age; (8-1-02)T

**b.** Have an associate degree or high school diploma or equivalent with thirty (30) semester hours or forty-five (45) quarter hours of education and training or comparable experience and training in a field related to recreation and adventure activities; (8-1-02)T

**c.** Have a minimum of forty (40) twenty-four (24) hour field days of program experience or equivalent experience in outdoor programs documented in his personnel file; (8-1-02)T

**d.** Demonstrate or obtain proficiency in the required training criteria set forth in Subsection 812.02 of these rules prior to assuming direct care responsibilities; and (8-1-02)T

**e.** Be Certified to provide cardiopulmonary resuscitation (CPR) and first aid. (8-1-02)T

**04. Field Staff.** Each field staff shall: (8-1-02)T

**a.** Be at least twenty-one (21) years of age; (8-1-02)T

**b.** Have a high school diploma or equivalent; (8-1-02)T

**c.** Have completed staff training and field course work as required by Subsection 812.02 of these rules prior to assuming direct care responsibilities; and (8-1-02)T

- d.** Be certified to provide cardiopulmonary resuscitation (CPR) and first aid. (8-1-02)T

**05.** **Program Consultants.** A children's therapeutic outdoor program shall have a multidisciplinary staff or program consultants that have knowledge of the physical and emotional demands of the program and be available to program participants upon the recommendation of the field director or senior field staff. At a minimum the team shall consist of: (8-1-02)T

- a.** A licensed physician; and (8-1-02)T

**b.** A licensed treatment professional including either a licensed psychologist, certified social worker, marriage and family counselor, or professional counselor. (8-1-02)T

- 06.** **Intern.** Each intern shall: (8-1-02)T

- a.** Be in a learning program to meet personal educational goals; (8-1-02)T

- b.** Be at least nineteen (19) years of age; (8-1-02)T

- c.** Have at least a high school diploma or its equivalent; (8-1-02)T

**d.** Have completed staff training and field course work as required by Subsection 812.02 of these rules prior to assuming direct care responsibilities; and (8-1-02)T

**e.** Be under the supervision of a licensed therapist if they are in a clinical internship pursuing a professional degree or license. (8-1-02)T

- 07.** **Volunteers.** Each volunteer shall: (8-1-02)T

- a.** Be at least eighteen (18) years of age; (8-1-02)T

- b.** Be under the direct, constant supervision of qualified staff; and (8-1-02)T

**c.** Have completed the staff training and course work required by Subsection 812.02 of these rules prior to assuming direct care responsibilities. (8-1-02)T

**811. STAFF HEALTH REQUIREMENTS.**

Prior to engaging in any field activities with children, staff, interns, and volunteers shall have a written statement from a licensed physician, physician's assistant or nurse practitioner verifying they are physically fit to perform the duties of the job. A new written physician's statement shall be obtained at least every three (3) years. The medical professional who provides the written statement shall be given a form to use which clearly describes the physical demands for the job and the environmental conditions the person being evaluated is required to work in. The administrator or designee shall review the form and maintain it in the individual's personnel file. At no time shall staff be under the influence of an intoxicating or illegal substance, or any other substance that impairs their ability to function and ensure the health and safety of the children in the program while on duty. (8-1-02)T

**812. SKILLS AND TRAINING.**

Skills and training for each staff, intern, and volunteer shall be documented and kept on file at the base camp. (8-1-02)T

**01.** **Skills.** Each staff shall demonstrate specific skills to the administrator or designee, prior to assuming field supervision. The skill assessment procedures shall be approved by the Department and results of the assessment shall be documented and kept on file at the base camp. (8-1-02)T

**02.** **Training.** Training must supplement any deficiencies. The curriculum shall include at a minimum: (8-1-02)T

- a.** Four (4) days of practicum field training; (8-1-02)T

- b.** Supervision of program participants; (8-1-02)T
- c.** Water, food, and shelter procurement, preparation and conservation; (8-1-02)T
- d.** Low impact wilderness expedition and environmental conservation skills and procedures; (8-1-02)T
- e.** Child management including containment control, safety, conflict resolution, and behavior management; (8-1-02)T
- f.** Instruction in safety procedures and safe equipment use of fuel, fire, and life protection; (8-1-02)T
- g.** Sanitation procedures related to food, water, and waste; (8-1-02)T
- h.** Special instruction for staff who conduct and staff who supervise high adventure activities; (8-1-02)T
- i.** Wilderness medicine, including health issues related to acclimation, exposure to the environment, and environmental elements; (8-1-02)T
- j.** First aid kit contents and use; (8-1-02)T
- k.** Navigation skills including map and compass use, contour and celestial navigation, and Global Positioning System (GPS); (8-1-02)T
- l.** Local environmental precautions, including terrain, weather, insects, poisonous plants, wildlife, and proper response to adverse situations; (8-1-02)T
- m.** Report writing, including development and maintenance of logs and journals; (8-1-02)T
- n.** Federal, state, local rules and regulations including, but not limited to, Idaho State Department of Health and Welfare, Idaho State Department of Fish and Game, Idaho Outfitters and Guides, and State and Federal land use agencies; and (8-1-02)T
- o.** On going training for direct care staff to upgrade their skills, including mandatory training to maintain skills and certifications. (8-1-02)T

**813. STAFF RATIOS AND GROUP SIZE.**

- 01. Staffing Ratio.** Each group of children shall be staffed as follows: (8-1-02)T
  - a.** One (1) staff for every four (4) children or fraction thereof, but where there are less than four (4) children there shall be at least two (2) staff; and (8-1-02)T
  - b.** Where the gender of a group is mixed, there shall be at least one (1) female staff and one (1) male staff member. (8-1-02)T
- 02. Interns And Volunteers.** Interns and volunteers shall never be counted in the staff ratio and shall never have sole responsibility to supervise the youth. (8-1-02)T

**814. -- 820. (RESERVED).**

**821. ASSESSMENTS.**

Preadmission and subsequent assessments shall be performed on each child. (8-1-02)T

- 01. Preadmission Assessment.** Admission assessments shall be done for each child by a qualified

treatment professional familiar with the children's therapeutic outdoor program prior to enrollment. This shall include a review of the child's social and psychological history. (8-1-02)T

**02. Subsequent Assessments.** Subsequent assessments shall be done at least one (1) week before the child leaves for the adventure portion of the program away from the main base of operations. The assessment shall include: (8-1-02)T

**a.** An interview with the child by the senior field staff assigned to the child's field experience prior to entrance into the field; and (8-1-02)T

**b.** A review of the child's health history and physical examination by a medically trained field staff assigned to the child's field experience. (8-1-02)T

**03. Psychological Problems.** For a child with a history of psychological problems, a psychological evaluation shall be obtained and reviewed by the multidisciplinary team prior to the child's entrance into the field portion of the program. (8-1-02)T

**822. PHYSICAL EXAMINATION.**

A child shall have a physical examination within thirty (30) days prior to entrance into the children's therapeutic outdoor program. (8-1-02)T

**01. Standard Physical Examination Requirements.** The result of the physical exam shall be recorded on a standard form provided by the program. The form shall clearly document the type and extent of physical activity in which the child will be engaged. The exam shall be completed by a licensed physician, physician's assistant, or nurse practitioner, who signs the form, and shall include: (8-1-02)T

**a.** A Complete Blood Count (CBC); (8-1-02)T

**b.** A urinalysis; (8-1-02)T

**c.** An electrolyte screen; (8-1-02)T

**d.** A pregnancy test for each female participant; (8-1-02)T

**e.** A physical assessment to determine fitness given the climate and temperature in which the child will be participating, and the child's age, weight, and physical condition; and (8-1-02)T

**f.** A determination whether detoxification is indicated for the child prior to entrance into the field portion of the program. (8-1-02)T

**02. Prior Physical Examination.** A physical examination for a child who is coming into a children's therapeutic outdoor program directly from a children's residential care facility shall be acceptable provided the physical examination is current as required by Section 571 of these rules and meets the criteria set forth in Subsection 822.01 for the physical examination as required for participants, prior to entrance into the field, and includes a new CBC and electrolyte screen; (8-1-02)T

**03. Medical Special Needs.** If a child is currently taking or has been receiving prescribed medication within the past six (6) months, a specific notation must be made on the physical examination form by the medical professional, which must include approval for participation in an outdoor, high impact environment and a description of any possible special needs due to use of medication in said environment. (8-1-02)T

**04. Sickle Cell Anemia And Thalassemia.** If a child is in a risk group for Sickle Cell Anemia or Thalassemia, written approval must be noted on the physical examination form. A statement that the child can participate in activities, that may occur in altitudes over five thousand (5,000) feet, include strenuous exercise, or expose the child to cold temperatures. (8-1-02)T

**05. Physical Examination Availability.** The physical examination form shall be copied and the

original maintained at the base camp and a copy carried by staff in a waterproof container when the child is away from the base camp. The physical examination form shall be maintained in a manner that assures the confidentiality of all medical and identifying information. (8-1-02)T

**823. GROUPING BY AGE.**

Children shall be assigned to groups according to age and ability. (8-1-02)T

**01. Age.** A child shall be at least eleven (11) years of age and less than eighteen (18) years of age unless the individual meets the definition of continued care as defined in Subsection 006.11 of these rules. (8-1-02)T

**02. Placement.** A licensed treatment professional familiar with the children's therapeutic outdoor program shall determine whether children eleven (11) years of age through thirteen (13) years of age are to be placed in a younger program group or in an older program group. The decision shall be based upon the child's needs and level of maturity, both physical and mental. The basis for the decision shall be documented in the child's record.

(8-1-02)T

**824. EXPEDITIONS.**

Expeditions include any excursion that will take the children away from the base camp. (8-1-02)T

**01. Written Description.** There shall be a written description of expedition programming, approved by the organization's governing body and provided to the Department. The expedition shall not expose children to unreasonable risk. (8-1-02)T

**02. Group Size.** For an expedition group, the number of participants shall not exceed fifteen (15) children. (8-1-02)T

**03. Wilderness First Responder (WFR).** At least one (1) staff member per expedition group shall have a current WFR Certificate. (8-1-02)T

**04. Global Positioning System (GPS).** Each group shall be equipped with a GPS system for use on all expeditions. (8-1-02)T

**05. Staff Briefing.** Staff shall be briefed prior to any expedition. The briefing at a minimum shall include: (8-1-02)T

**a.** The expedition route, terrain, time schedule, weather forecast and any potential hazards; (8-1-02)T

**b.** Any procedures unique to that expedition; and (8-1-02)T

**c.** Participant backgrounds and any potential problems. (8-1-02)T

**06. Expedition Evaluations.** Each expedition shall be evaluated at least every seven (7) days, either in person or through Department approved procedures by a field director. If the expedition is longer in duration than three (3) weeks, on-site visits by a field director must occur at minimum increments of three (3) weeks. (8-1-02)T

**07. Staff De-Briefing.** Staff shall be de-briefed after returning from any expedition. (8-1-02)T

**08. Participant De-Briefing.** Children shall be de-briefed after returning from any expedition. The de-briefing shall include a written summary of the child's participation and progress achieved and be retained in the child's record. (8-1-02)T

**09. Expedition Summary.** Results of the evaluation of the conditions of the children, interactions of children and staff, briefings, de-briefings, and compliance with program policies and procedures shall be summarized and documented. (8-1-02)T

**825. SAFETY.**

Each children's therapeutic outdoor program shall have appropriate safety procedures and equipment. (8-1-02)T

**01. Environmental Hazards.** Each program participant shall have instruction on environmental hazards and precautions. (8-1-02)T

**02. First Aid Kit.** There shall be a first aid kit with sufficient supplies available at all times. The first aid kit shall at a minimum: (8-1-02)T

**a.** Meet the standards of an appropriate national organization for the activity being conducted and the location and environment being used; (8-1-02)T

**b.** Be reviewed with new staff for contents and use; (8-1-02)T

**c.** Be reviewed at least annually with all staff for contents and use; and (8-1-02)T

**d.** Be inventoried after each expedition and restocked as needed. (8-1-02)T

**826. COMMUNICATIONS.**

**01. Communication Support System.** There shall be a communication system that includes: (8-1-02)T

**a.** A reliable two (2) way radio communication with extra charged battery packs for each group away from the base camp; and (8-1-02)T

**b.** A back up plan for re-establishing communication to be implemented in the event regular communication fails. (8-1-02)T

**02. Communication Requirements.** There shall be daily verbal communication between each field group and the base camp unless alternative arrangements have been made and documented in a communications log maintained at the base camp and shall never exceed seventy-two (72) hours. (8-1-02)T

**03. Emergencies.** The base camp support personnel shall have immediate access to emergency telephone numbers, contact personnel and procedures for an emergency evacuation or field incident requiring emergency medical support. (8-1-02)T

**827. EMERGENCY PLAN.**

A children's therapeutic outdoor program shall have and follow a written emergency plan and specific procedures for evacuations, disasters, medical emergencies, hostage situations, casualties, and missing children. (8-1-02)T

**01. Written Plan.** The plan shall at a minimum include: (8-1-02)T

**a.** Designation of authority and staff assignments; (8-1-02)T

**b.** Transportation and relocation of program participants when necessary; (8-1-02)T

**c.** Instruction to all participants on how to respond in the event of an emergency; (8-1-02)T

**d.** Notification to the base camp of the nature of the emergency and an accounting of each participant's location and status; (8-1-02)T

**e.** Supervision of program participants after an evacuation or a relocation; and (8-1-02)T

**f.** Arrangements for medical care and notification of a child's physician and identified parent or guardian. (8-1-02)T

**02. Emergency Drills.** Emergency plan drills shall be held and recorded at least annually. (8-1-02)T

**828. OUTINGS AND HIKING LIMITS AND REQUIREMENTS.**

**01. Physical Capability.** Hiking shall not exceed the physical capability of the weakest member of the group. (8-1-02)T

**02. Maximum Temperature.** There shall be no hiking when the temperature is above ninety-five (95) degrees Fahrenheit. (8-1-02)T

**03. Inability Or Refusal To Hike.** When a child cannot or refuses to hike, the group shall not continue hiking unless it is necessary for obvious safety reasons, and a contingency plan, based on preapproved policies and procedures shall be used. The contingency plan shall ensure there is staff coverage for each group if the group is split and that communication between the groups is maintained. (8-1-02)T

**04. Maps And Itinerary.** Copies of map routes, anticipated schedules including arrival and departure times shall be maintained by the field staff and base camp when a group is on an outing away from the base camp. (8-1-02)T

**05. Acclimation To Environment.** Staff shall closely monitor children for acclimation to the temperature, climate, altitude, environment and situation. (8-1-02)T

**06. Log.** There shall be a common written log, which is signed and dated by the participating staff immediately following the termination of an outing away from the base camp. The log shall contain information on health problems, accidents, injuries, medications used, behavioral problems, and unusual occurrences. The log shall be recorded in permanent ink with any corrections initialed and dated. (8-1-02)T

**829. WATER REQUIREMENTS.**

**01. Water.** Children shall have access to potable water while hiking. At a minimum the program shall: (8-1-02)T

**a.** Provide each child with six (6) quarts of potable water a day, unless a child's weight exceeds one-hundred-fifty (150) pounds, then one (1) quart of potable water will be provided for every twenty-five (25) pounds of body weight over one-hundred-fifty (150) pounds; and (8-1-02)T

**b.** Encourage each child to consume at least three (3) quarts of potable water per day. (8-1-02)T

**02. Water For Cooling.** When the temperature is eighty (80) degrees Fahrenheit or higher, adequate water shall be available for coating each child's body for the purpose of cooling when needed. (8-1-02)T

**03. Water Caches.** When water caches are used, each water cache shall be placed at predetermined sites prior to the day the group leaves the camp. Field staff shall verify the water cache locations before the group leaves the base camp each day. (8-1-02)T

**04. Aerial Water Drops.** An expedition group shall not depend on aerial drops for its water supply. Aerial water drops shall be used only in the event of an emergency. (8-1-02)T

**05. Water From A Natural Source.** Water from a natural source used for drinking or cooking shall be treated to eliminate health hazards. (8-1-02)T

**06. Electrolyte Replacement.** Each group shall have a supply of electrolyte replacement, quantities to be determined by group size and environment conditions. (8-1-02)T

**830. NUTRITIONAL AND SANITARY REQUIREMENTS.**

**01. Menu.** There shall be a written menu approved annually by a professional nutritionist or dietitian with knowledge of program activity levels and environmental factors. The menu shall list the necessary or recommended food supplies and caloric intake for each group. 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 six (6) months. (8-1-02)T

**02. Food.** Each child shall be provided a sufficient amount of food and calories based on the approved menu. The food provided shall include fresh fruit and vegetables at least twice a week. (8-1-02)T

**03. Special Needs.** The menu shall take into consideration a child's special nutritional needs, including food allergies or religious restrictions. (8-1-02)T

**04. Fasting.** There shall be no imposed food fasting. (8-1-02)T

**05. Cleansing Of Hands.** Cleansing of hands shall occur after each latrine use and prior to food preparation and food consumption. (8-1-02)T

**831. -- 834. (RESERVED).**

**835. HEALTH CARE.**

**01. First Aid.** First aid treatment shall be provided in as prompt a manner as the location and circumstances allow. (8-1-02)T

**02. Field Treatment.** A child with an illness or physical complaint needing care or treatment beyond what can be provided in the field shall be immediately transported to appropriate medical care. (8-1-02)T

**03. Documentation.** Complaints or reports by a child of illness and injuries shall be recorded in the daily log along with any treatment provided. (8-1-02)T

**04. Negative Consequences.** There shall be no negative consequences imposed on a child for reporting an injury or illness or for requesting to see a health care professional. (8-1-02)T

**05. Daily Physical Assessment.** Children's hydration, skin condition, extremities, and general physical condition shall be evaluated and recorded by field staff in the daily log on a daily basis. (8-1-02)T

**06. Weekly Physical Assessment.** At least every seven (7) days, each child's physical condition shall be assessed by a WFR, an Emergency Medical Technician (EMT), or qualified medical professional. The results of the assessment shall be recorded in the daily log and shall at a minimum include: (8-1-02)T

**a. Blood pressure;** (8-1-02)T

**b. Heart rate;** (8-1-02)T

**c. Condition of extremities;** (8-1-02)T

**d. Condition of skin;** (8-1-02)T

**e. Hydration level;** (8-1-02)T

**f. Allergies, if any;** (8-1-02)T

**g. General physical condition; and** (8-1-02)T

**h. Provision of appropriate medical treatment if needed.** (8-1-02)T

**836. MEDICATION STORAGE AND ADMINISTRATION.**

A children's therapeutic outdoor program shall have and follow policies and procedures on the storage, administration, and disposal of prescription and nonprescription medication. (8-1-02)T

**01. Medication Storage And Administration.** Prescription and over-the-counter medication must be

stored under lock and key safeguarded from children. For medications taken on field outings, all medication shall be in the possession of a staff member qualified to administer medications. (8-1-02)T

**02. Trained Staff.** Staff who administer and assist with self-administration of medications shall be trained by a qualified medical professional. (8-1-02)T

**03. Prescription Medication.** All prescription medications shall be issued by a qualified medical professionals valid order that includes the dosage to be given. (8-1-02)T

**04. Psychotropic Medication.** The administration of psychotropic medication shall be prohibited unless a qualified medical professional determines that the medication is clinically indicated, and under no circumstances shall psychotropic medication be administered for disciplinary purposes, for the convenience of staff, or as a substitute for appropriate treatment services. (8-1-02)T

**05. Documentation.** There shall be a written record of all medications given to the child. The record shall include: (8-1-02)T

**a.** The child's name; (8-1-02)T

**b.** The name of the medication; (8-1-02)T

**c.** The date and time the medication was given; (8-1-02)T

**d.** The amount of dosage given and whether the child did not take the medication; and (8-1-02)T

**e.** The person who administered or assisted in self-administration of the medication. (8-1-02)T

**06. Medication Changes.** Prescribed medication shall not be stopped or changed in dosage or administration without consulting with the prescribing physician. If the prescribing physician is not available, a qualified medical professional must be consulted. Results of the consultation and any resulting medication changes must be recorded in the child's record. (8-1-02)T

**07. Disposal Of Unused Medication.** All unused and expired medication must be disposed of so they are not available to anyone. (8-1-02)T

**837. -- 839. (RESERVED).**

**840. PARTICIPANT CLOTHING, EQUIPMENT AND SUPPLIES.**

Each program participant shall have appropriate clothing, equipment and supplies appropriate for the types of activities and for the weather conditions likely to be encountered. (8-1-02)T

**01. Clothing, Equipment, And Supplies Requirements.** Clothing, equipment and supplies shall include at a minimum: (8-1-02)T

**a.** Sunscreen; (8-1-02)T

**b.** Insect repellent; (8-1-02)T

**c.** A commercially available backpack or the materials to construct a safe backpack or bedroll; (8-1-02)T

**d.** Personal hygiene items necessary for cleansing; (8-1-02)T

**e.** Appropriate feminine hygiene supplies; (8-1-02)T

**f.** Wool blankets or an appropriate sleeping bag and a tarp or poncho in the event the average nighttime temperature is expected to be forty (40) degrees Fahrenheit or higher; (8-1-02)T

g. Shelter, appropriate sleeping bag and ground pad when the average night time temperature is expected to be thirty-nine (39) degrees Fahrenheit or lower; (8-1-02)T

h. Clothing appropriate for temperature changes generally expected for the area; (8-1-02)T

i. Each child shall be provided a clean change of clothing at least once a week or an opportunity to wash his clothes at least once a week; and (8-1-02)T

j. Each child shall be provided clean undergarments and a means to clean his body at least twice a week. Additional clean undergarments shall be provided to a child as may be needed for health or sanitary reasons. (8-1-02)T

**02. Denial Of Clothing, Equipment, And Supplies.** Appropriate clothing, equipment, and supplies shall not be removed, denied, or made unavailable for any reason. (8-1-02)T

**841. CONTRABAND.** A children's therapeutic outdoor program shall define prohibited contraband in a written policy. (8-1-02)T

**01. Confiscation.** Contraband found in the possession of children or staff shall be confiscated by staff and secured in a location inaccessible to children. (8-1-02)T

**02. Law Enforcement Notification.** Local law enforcement shall be notified when illegal contraband is confiscated. (8-1-02)T

**03. Disposal.** It shall be the responsibility of the administrator or designee to dispose of all contraband not confiscated by law enforcement, in accordance with the program's contraband policy. (8-1-02)T

**842. SEARCHES.** If a children's therapeutic outdoor program conducts searches of children, staff or visitors, it shall have and follow written policies and procedures. Searches shall be completed in the least intrusive manner possible for the type of search being conducted. All contraband will be disposed of in accordance with Section 841 of these rules. All searches shall be documented, including the reasons for the search, the persons conducting the search, and any results. The policies and procedures at a minimum shall require: (8-1-02)T

**01. Pat Down Searches.** Pat down searches of children may only be conducted when the therapeutic outdoor program feels it is necessary to discourage the introduction of contraband or to promote the safety of staff and other children. Pat down searches shall be conducted as follows: (8-1-02)T

a. Staff shall be trained in proper search techniques; (8-1-02)T

b. There shall be a staff member of the same sex as the child being searched and shall be in the presence of another staff member; (8-1-02)T

c. The child shall be told he is about to be searched; (8-1-02)T

d. The child shall remove all outer clothing (gloves, coat, hat, and shoes) and empty all pockets; (8-1-02)T

e. The staff person shall pat the clothing of the child using only enough contact to conduct an appropriate search; (8-1-02)T

f. If the staff detects anything unusual, the child shall be asked to identify the item and appropriate steps should be taken to remove the item for inspection; (8-1-02)T

g. If the child refuses to comply, the administrator or designee shall be notified immediately and be responsible for resolving the matter; and (8-1-02)T

**h.** All searches shall be documented in writing. (8-1-02)T

**02.** Strip Searches. Strip searches may only be conducted after a pat down search whenever there is reason to believe that contraband may be found through additional searches. Only the administrator or his designee shall authorize strip searches. Strip searches are to be conducted as follows: (8-1-02)T

**a.** Staff shall be trained in proper search techniques that do not touch the child; (8-1-02)T

**b.** The child shall be searched by two (2) staff members of the same sex as the child who is searched; (8-1-02)T

**c.** The search shall be performed in an area that ensures the privacy of the child; (8-1-02)T

**d.** The child shall remove clothing and move away from the articles; (8-1-02)T

**e.** The staff shall require the child to run his hands through his hair; (8-1-02)T

**f.** Staff shall search the clothing and return it to the child; and (8-1-02)T

**g.** Body cavity searches shall not be conducted by children's therapeutic outdoor program staff. (8-1-02)T

**843. BEHAVIOR MANAGEMENT AND DISCIPLINE POLICY.**

**01. Behavior Management.** A children's therapeutic outdoor program shall have and follow a behavioral management and discipline policy which identifies appropriate methods of behavioral management and ensures that any discipline is positive and consistent. Individual behavioral management shall be based on an assessment of the child's needs, behavior, and stage of development with the goal of promoting self-control, self-direction, self-esteem, and an acceptable pattern of social behavior appropriate to the age and development level of the child. The policy shall require the application of least restrictive effective treatment and positive reinforcement and shall prohibit: (8-1-02)T

**a.** Physical force, except as permitted under Section 573 of these rules; (8-1-02)T

**b.** Any kind of punishment inflicted on the body, including spanking, hitting, slapping, spitting, kicking, shaking, pulling hair, pinching skin, twisting of an arm or leg in a way that would cause pain or injury to the child, kneeling and sitting on the chest of a child, placing a choke hold on a child, bending back a finger, and shoving or pushing a child into a stationary object; (8-1-02)T

**c.** The placing of anything in or over a child's mouth; (8-1-02)T

**d.** Cruel or excessive physical exercise, prolonged positions, or work assignments that produce unreasonable discomfort; (8-1-02)T

**e.** Verbal abuse, ridicule, humiliation, profanity, and other forms of degradation directed at a child or a child's family; (8-1-02)T

**f.** Locked seclusion as described under Section 764 of these rules; (8-1-02)T

**g.** Mechanical restraint as described under Section 766 of these rules; (8-1-02)T

**h.** Alternative forms of restraint as described in Section 767 of these rules; (8-1-02)T

**i.** Withholding of necessary food, clothing, shelter, bedding, rest, medical care, and toilet use; (8-1-02)T

**j.** Denial of visits or communication with the child's family except as specified in the child's plan or court order; and (8-1-02)T

**k.** Disciplining a child or group of children for actions of one (1) child, unless the organization's policies and procedures for group behavior management and discipline are based on a nationally recognized peer group treatment model and clearly prescribe the circumstances and safeguards under which disciplining the group is allowed and is supervised by staff. (8-1-02)T

**02.** Documentation. An organization shall document that the policy has been provided to a child and is made available to parents, guardians, and referral sources. (8-1-02)T

**844. TIME-OUT.**

A children's therapeutic outdoor program shall have and follow written policy and procedures governing the appropriate use of time-out that shall require: (8-1-02)T

**01.** Use. Time-out is only used when a child's behavior is disruptive to the child's ability to learn, to participate appropriately, or to function appropriately with other children or the activity. (8-1-02)T

**02.** Duration. Time duration shall not exceed sixty (60) consecutive minutes. (8-1-02)T

**03.** Observation. A staff has been designated to be responsible for visually observing the child at random intervals at least every fifteen (15) minutes. (8-1-02)T

**04.** Documentation. A written description in sufficient detail to provide a clear understanding of the incident or behavior which resulted in the child being placed in time-out, and staff's attempts to help the child avoid time-out, and observations by staff maintained in the child's file. (8-1-02)T

**05.** Reintroduction To The Group. The child is reintroduced to the group in a sensitive and nonpunitive manner as soon as control is regained. (8-1-02)T

**06.** 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 program, whether modification to the child's plan is warranted, whether staff need additional training in alternative therapeutic behavior management techniques, and to ensure that appropriate action is taken as a result of the review. (8-1-02)T

**845. WORK.**

Children may be given a non-vocational work assignment as a constructive experience in compliance with child labor laws, which are age appropriate and within the child's capabilities. The primary purpose of work shall not be to substitute for paid labor. (8-1-02)T

**846. ANIMALS AND PETS.**

Animals, including pets, shall be free from disease and cared for in a safe and clean manner. All domestic animals and pets shall be vaccinated against rabies. Documentation of the vaccination against rabies shall be kept on file at the base camp. (8-1-02)T

**847. TRANSPORTING CHILDREN.**

**01.** Vehicle. Transportation of children in a therapeutic outdoor program shall be in a vehicle that is: (8-1-02)T

**a.** Properly registered; (8-1-02)T

**b.** Covered by insurance for personal injury and liability; (8-1-02)T

**c.** Driven by a person with a valid driver's license for the type of vehicle and who complies with all applicable traffic laws while transporting children; (8-1-02)T

- d.** Maintained in a safe condition: (8-1-02)T
- e.** Equipped with a red triangle reflector device for use in an emergency: (8-1-02)T
- f.** Equipped with a first aid kit: and (8-1-02)T
- g.** Equipped with a fire extinguisher that is properly secured and not readily available to children. (8-1-02)T

**02. Proper Seating Of Children And Adults.** The driver and all passengers shall ride in a vehicle manufactured seat, properly using a passenger restraint device. (8-1-02)T

**848. FIREARMS.** Firearms shall not be allowed in children's therapeutic outdoor programs. (8-1-02)T

**849. (RESERVED).**

**850. PROGRAM SUMMARY.**

The organization shall provide the child's parent or guardian a written summary of the child's participation and progress upon completion of the therapeutic outdoor program. The parents or guardian and child shall be given the opportunity and be encouraged to submit a written evaluation of the therapeutic outdoor experience. (8-1-02)T

**851. -- 859. (RESERVED).**

**ADDITIONAL STANDARDS FOR SOLO EXPERIENCES IN CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS**

(See also Sections 500 through 599, Rules Governing General Standards for Organizations Known as Children's Agencies and Children's Residential Care Facilities, and Sections 800 through 859, Rules Governing Standards for Children's Therapeutic Outdoor Programs)

**860. STANDARDS FOR SOLO EXPERIENCES IN CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS.**

If a children's therapeutic outdoor program conducts a solo component for children as part of the therapeutic process during expeditions, they shall have and follow written policies and procedures. Every children's therapeutic outdoor program that includes a solo component shall include a written description of the solo component as required in Section 528 of these rules. (8-1-02)T

**861. PLAN.**

For a children's therapeutic outdoor program that conducts a solo component as part of the therapeutic process there shall be a plan for the solo component, as well as an individual solo plan for each child. The plans shall be documented and must be approved by the senior field staff to ensure that the children are not exposed to unreasonable risks. The plans shall include the following: (8-1-02)T

**01. Individual Solo Plan.** The goals, methods, techniques to be used, and time frames shall be listed for each participant. Each individual plan shall be reviewed with the child and signed and dated by the child and the designated staff member. (8-1-02)T

**02. Ability.** There shall be consideration of the maturity level, health, and physical ability of the child. (8-1-02)T

**03. Preparation.** The child shall be instructed on the solo experience, including expectations, restrictions, communication, environment, and emergency procedures. (8-1-02)T

**04. Back Up Plan.** There shall be documented instructions for a back up plan in case the child's plan does not work. (8-1-02)T

**05. Responsible Staff.** A designated staff member shall be responsible for coordination and implementation of the plan. (8-1-02)T

**862. SOLO SITES.**  
Staff shall be familiar with the site chosen to conduct solos. The following requirements shall apply: (8-1-02)T

**01. Pre-Site Investigation.** A pre-site investigation shall be conducted and mapped prior to the solo. The site shall be checked at the time the child is placed to assure that no changes in the environment have taken place since the pre-site investigation that may put the child at risk. (8-1-02)T

**02. Hazardous Conditions.** Any hazardous conditions, including terrain, are to be considered prior to the selection of a solo site, taking into account the age, physical, developmental and psychological issues of the children served in the solo experience. (8-1-02)T

**03. Mapping And Site Coordinates.** The site selected for the solo shall be mapped and the site coordinates shall be recorded. The map and the site coordinates shall be maintained at the solo site and shall be communicated to the base camp prior to leaving for the solo component. (8-1-02)T

**04. Supplies.** Arrangements shall be made prior to the solo for medication, food and water drop offs if needed. (8-1-02)T

**863. SUPERVISION.**  
Plans for supervision shall be in place during the solo. At a minimum these shall require the following: (8-1-02)T

**01. Assigned Staff.** The assignment of a specific staff member to be responsible for the supervision of each solo participant. (8-1-02)T

**02. Observation.** A predetermined procedure for observation, that ensures the health, safety and well being of the child at all times, that includes: (8-1-02)T

**a.** Placing children at a distance from each other and the central staff site to allow for appropriate supervision and emergency communication; (8-1-02)T

**b.** Placing children requiring special attention closer to the central staff site; (8-1-02)T

**c.** Clearly defining physical boundaries and any other restrictions; (8-1-02)T

**d.** Instructing children to not participate in potentially dangerous activities; (8-1-02)T

**e.** Notification and check in systems; (8-1-02)T

**f.** Visual checks; and (8-1-02)T

**g.** Checking the participant's emotional and physical condition daily. (8-1-02)T

**864. EMERGENCY PROCEDURES.**  
In addition to the requirements of Section 827 of these rules, solo emergency plans shall include: (8-1-02)T

**01. Instruction.** Instructing the participant on the safety and emergency procedures, including evacuation routes. (8-1-02)T

**02. Communication.** Providing each participant with signaling capabilities, including a whistle, for emergency notification. (8-1-02)T

**03. Participant Response.** Instruction to all participants on how to respond if the emergency notification system is put into use, including each participants requirement to check in to the central staff site. (8-1-02)T

**04. Check In.** Provide a check-in system should an emergency occur, which includes notification to the base camp and an accounting of each participant's whereabouts and safety. (8-1-02)T

**865. -- 869. (RESERVED).**

**ADDITIONAL STANDARDS FOR STATIONARY CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS**

(Sections 870 through 872, see also Sections 500 through 599 and 800 through 869.)

**870. ADDITIONAL PROVISIONS FOR STATIONARY CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS.**

A children's therapeutic outdoor program that maintains a designated location for the housing of children is considered stationary and shall be subject to additional fire, health, and safety standards. (8-1-02)T

**871. FIRE SAFETY REQUIREMENTS.**

A stationary children's therapeutic outdoor camp shall be inspected by a state certified fire inspector before being occupied and on an annual basis thereafter. A copy of the inspection shall be maintained at the children's therapeutic outdoor camp. The inspection shall require: (8-1-02)T

**01. Fire Extinguishers.** One (1) 2-A-10BC type fire extinguisher shall, at minimum, be in each of the following locations: (8-1-02)T

**a.** On each floor in any building that houses children; (8-1-02)T

**b.** In any room where cooking or heating takes place; (8-1-02)T

**c.** In a group of tents within a seventy-five (75) foot travel distance; and (8-1-02)T

**d.** Each fire extinguisher shall be inspected annually by a fire extinguisher service agency. (8-1-02)T

**02. Smoke Detectors.** A smoke detector shall be in buildings where children sleep. (8-1-02)T

**03. Escape Routes.** A minimum of two (2) escape routes from buildings where children sleep. (8-1-02)T

**04. Flammable Liquids.** Flammable liquids shall not be used to start fires, be stored in structures that house children, or be stored near ignition sources. If generators are used, they will only be refueled by staff when the generator is not running and cool to the touch. (8-1-02)T

**05. Electrical.** Wiring shall be properly attached and fused to prevent overloads. (8-1-02)T

**872. HEALTH SAFETY REQUIREMENTS.**

A stationary children's therapeutic outdoor camp shall be inspected by the District Health Department before being occupied and on an annual basis thereafter. A copy of the inspection shall be maintained at the site of the camp. The inspection shall require the following: (8-1-02)T

**01. Food.** Food be stored, prepared, and served in a manner that is protected from contamination. (8-1-02)T

**02. Water Supply.** The water supply shall be from a source that is accepted by the local health authority according to IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," at the time of application and for annual renewal of such licenses. (8-1-02)T

**03. Sewage Disposal.** Sewage shall be disposed of through a public system, or in absence of a public system, in a manner approved by the local health authority, according to IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules". (8-1-02)T

**873. -- 996. (RESERVED).**

**OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR  
AND THE IDAHO INDUSTRIAL COMMISSION**

**IDAPA 17 - IDAHO INDUSTRIAL COMMISSION**

**17.02.03 - SECURITY FOR COMPENSATION**

**DOCKET NO. 17-0203-0201**

**NOTICE OF CORRECTIVE ACTION - CORRECTION TO FINAL RULE**

**EFFECTIVE DATE:** The effective date of this corrective action is March 23, 1998.

**AUTHORITY:** In compliance with Sections 67-5204, 67-5221, 67-5223, 67-5224, and 67-5291, Idaho Code, notice is hereby given that this corrective action is being taken by the Office of Administrative Rules. The original action is authorized pursuant to Section(s) 72-508, 72-212, 72-213, 72-214, 72-301, 72-304, and 72-311, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the corrective action:

During the publication of the notice and text of the Pending Rule and Amendment to Temporary Rule, published under Docket No. 17-0203-9702 in the December 3, 1997 Administrative Bulletin, Volume 97-12, a transcription error occurred. The error was in Subsection 012.10.k. The original notice published the following text explaining the change being made to this Subsection in the pending and temporary rule:

“Subsection 012.10.m. has been renumbered to 012.10.k., and the reference to Column “7” has been changed to Column “5” to reflect changes made on form IC36 (Appendix B) in response to public comment.”

In the text of the pending and amended temporary rule, Column “7” was changed to Column “9” rather than Column “5” as indicated in the Notice of Rulemaking. The text of the rule now reads as follows:

***SUBSECTION 17.02.03.012.10.k.***

**k.** The report shall indicate in Column 5 the amount of any compensation paid during the reporting period. (3-23-98)

This rule has been codified in compliance with all provisions of Chapter 67, Title 52, Idaho Code.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this correction, contact Dennis Stevenson at 332-1820.

DATED this 17th day of December, 2001.

Dennis R. Stevenson  
Assistant 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 18 - DEPARTMENT OF INSURANCE**

### **18.01.32 - QUALIFICATIONS OF LICENSED INSURANCE CONSULTANTS**

**DOCKET NO. 18-0132-0201**

**NOTICE OF RULEMAKING**

**PROPOSED RULE - (REPEAL OF CHAPTER)**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This 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 July 17, 2002.

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

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

This rule is being repealed in its entirety because it is unnecessary. Title 41, chapter 10, Idaho Code, was rewritten in its entirety and replaced effective July 1, 2001. All references to "Consultants" have been removed from the insurance code and the licensing category of "Consultant" no longer exists in the present statute.

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

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the statutory basis for this rule no longer exists.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jim Genetti, 208-334-4340.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2002.

DATED this 22nd day of May, 2002.

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

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**IDAPA 18.01.32 IS BEING REPEALED IN ITS ENTIRETY**

**IDAPA 18 - DEPARTMENT OF INSURANCE**  
**18.01.42 - LISTING FEES - SURPLUS LINES INSURERS**  
**DOCKET NO. 18-0142-0201**  
**NOTICE OF RULEMAKING**  
**PROPOSED RULE - (REPEAL OF CHAPTER)**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. 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 July 17, 2002.

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

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

This rule is being repealed in its entirety because it is unnecessary. Section 41-268, Idaho Code referenced in the rule was amended in 2001, and fees from this rule were incorporated within IDAPA 18.01.44, effective July 1, 2001.

**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 fees from this rule were incorporated within IDAPA 18.01.44, effective July 1, 2001.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Shad Priest, (208) 334-4250.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2002.

DATED this 22nd day of May, 2002.

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

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**IDAPA 18.01.42 IS BEING REPEALED IN ITS ENTIRETY**

**IDAPA 18 - DEPARTMENT OF INSURANCE**

**18.01.43 - CERTIFICATION OF FIRE INSPECTORS**

**DOCKET NO. 18-0143-0201**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. 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 July 17, 2002.

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

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

This rule is being changed to conform to a statutory change from using the Uniform Fire Code to the International Fire Code.

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

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this is considered a technical update to comply with a change in law.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Mark Larson, (208) 334-4250.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2002.

DATED this 22nd day of May, 2002.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0143-0201**

**011. GENERAL REQUIREMENTS FOR FIRE INSPECTOR CERTIFICATION.**

**01. Member Of Organized Fire Department Or Inspector.** Applicants for certification must be a regular member of an organized fire department, either paid or volunteer, which is listed with the State Fire Marshal, or be a regular inspector of a city or county building department, and in areas where no fire department exists, the county sheriff or his deputy may be an applicant. (7-1-93)

**02. Application Form And Fees.** Applicants must file Form No. AFF/FIC-1, along with ten dollars (\$10) for the examination fee and five dollars (\$5) for the certificate fee, to the State Fire Marshal. Forms are available from the Idaho State Fire Marshal upon request. (7-1-93)

**03. Denial Of Application.** Applications may be denied by the State Fire Marshal if: (7-1-93)

- a. Form No. AFF/FIC-1 is filled out erroneously; (7-1-93)
- b. False information is placed on Form No. AFF/FIC-1; (7-1-93)
- c. The applicant's immediate supervising authority will not endorse the applicant on Form No. AFF/FIC-1; (7-1-93)
- d. Applicant has poor past record of performance as a certified fire inspector; (7-1-93)
- e. Applicant has not adhered to the provisions of this rule; or (7-1-93)
- f. Applications are not accompanied by prescribed fees. (7-1-93)

**04. Examination.** Upon receipt and acceptance of an application, the State Fire Marshal shall:(7-1-93)

a. Arrange for applicant to attend a training program based on the stated adopted Uniform International Fire Code and the related sections of the Uniform International Building Code. (7-1-93)(\_\_\_\_)

b. Arrange for applicant to take an examination based on the state adopted Uniform International Fire Code and all related sections of the Uniform Building Code. (7-1-93)(\_\_\_\_)

c. Grade the examination and notify the applicant as to whether the applicant passed or failed. A score of seventy percent (70%) must be made to qualify as a certified fire inspector. (7-1-93)

d. Issue a certificate to the applicant, upon qualifying by examination, that he or she is a state of Idaho certified fire inspector for a period of one (1) year. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**013. FIRE INSPECTIONS - UNCERTIFIED PERSONNEL.**

Fire inspections may only be performed by representatives of any city or county government for that purpose. Violations under the Uniform International Fire Code may only be cited by fire inspectors duly certified under this rule. (7-1-93)(\_\_\_\_)

**IDAPA 18 - DEPARTMENT OF INSURANCE**  
**18.01.49 - FIRE PROTECTION SPRINKLER CONTRACTORS**  
**DOCKET NO. 18-0149-0201**  
**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. 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 July 17, 2002.

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

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

This rule is being changed to a statutory change from using the Uniform Fire Code to the International Fire Code, and to correct a technical reference.

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

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this is considered a technical update to reflect a change in law.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Mark Larson, (208) 334-4250.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2002.

DATED this 22nd day of May, 2002.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0149-0201**

**000. LEGAL AUTHORITY.**

This rule is promulgated pursuant to authority granted by Section 41-254(2), (3) and Chapter 52 of Title 67, Idaho Code, and ~~Article 10 Uniform~~ Chapter 9 International Fire Code. (7-1-93)( )

(BREAK IN CONTINUITY OF SECTIONS)

004. DEFINITIONS.

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

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

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

**04. Responsible Maintenance Employee.** “Responsible Maintenance Employee (RME)” means any person who is employed by an owner of a premises that has a fire sprinkler system installed and who regularly inspects and maintains such system as follows: Inspects and maintains fire sprinkler system as detailed in the maintenance checklist provided by the State Fire Marshal; said checklist will follow the guidelines of ~~Pamphlet 13A,~~ National Fire Protection Association ~~entitled,~~ Standard 25 for the “Inspection, Testing, and Maintenance of ~~Sprinkler~~ Water-Based Fire Protection Systems”. (7-1-93)( )

# IDAPA 18 - DEPARTMENT OF INSURANCE

## 18.01.53 - CONTINUING EDUCATION

DOCKET NO. 18-0153-0201

### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. 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 July 17, 2002.

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

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

This rule is being changed due to the repeal in its entirety and rewrite of Title 41, Chapter 10, Idaho Code, July 1, 2001. All references to Chapter 10 have been corrected to conform to the new law. All references to agents, brokers and consultants have been changed to producers as defined in Title 41, Chapter 10. Program requirements under this rule have been rewritten to meet the reciprocity requirements set forth under continuing education agreements; language has been changed to facilitate electronic renewal of licenses. Finally, language has been added to clarify that the director may deny an individual or organization or affiliated firm the authority to offer a program of instruction if the individual or firm has their license revoked or suspended.

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

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes were made to conform to changes in state law and to meet state reciprocity requirements.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jim Genetti, (208) 334-4250.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2002.

DATED this 22nd day of May, 2002.

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

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### THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0153-0201

#### 000. LEGAL AUTHORITY.

The statutory authority for this rule is Title 41, Chapter 10, Sections 41-10~~46~~13(75) and 41-10~~77~~13(47)(4), Idaho

Code.

(7-1-93)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**011. APPLICABILITY.**

**01. Applicability To Certain Insurance Professionals.** This rule applies to all resident ~~agents, brokers, consultants, and limited agents~~ producers licensed by the Department of Insurance except ~~employees or owners of travel agencies if the employee's or owner's license allows the sale of travel or trip insurance to customers booking travel plans with the travel agency, or to a limited agent whose qualification license covers credit life insurance or credit disability insurance pursuant to Chapter 23, Title 41, Idaho Code, or to one (1) person named in the license or registered with the Director as to the license of persons regulated or licensed by the Department of Finance pursuant to Chapter 46, Title 28, Idaho Code, national or state chartered banks, federal or state chartered savings and loan associations, or federal or state chartered credit unions dealing with insurance licensed pursuant to Section 41-1045(1)(b),(c) and (d), Idaho Code (limited agent's license)~~ for producers licensed to sell only "limited lines insurance" as defined by Title 41, Chapter 10. (7-1-98)( )

**02. High Standards For Programs.** The Department of Insurance anticipates and expects that licensees will maintain high standards of professionalism in selecting quality education programs to fulfill the continuing education requirements set forth herein. (7-1-93)

**012. BASIC REQUIREMENTS.**

**01. Proof Of Completion.** As a condition for the continuation of a license, a licensee must furnish the Director of the Department of Insurance ("Director"), on or before the licensing renewal date, proof of satisfactory completion of approved subjects or courses meeting the following requirements: (4-5-00)

**a.** Forty (40) hours of continuing education credit during each of the first three (3) licensing periods, which licensing period is for two (2) years. (4-5-00)

**b.** After the third license renewal period at least twelve (12) hours of continuing education credits must be earned for each line of licensure during each successive renewal period, with a maximum of forty (40) hours for all lines held. (4-5-00)

**02. Relicensing Procedures After Voluntary Termination Of License.** An insurance agent who voluntarily terminates his/her license can apply to be relicensed without testing if the application is received by the Department within twelve (12) months after the termination and if the continuing education requirements were completed during the licensing period prior to voluntary termination. Non-resident insurance agents who were former resident agents and who wish to obtain a resident license once again, will be subject to the continuing education requirements on a pro-rata basis. (4-5-00)

**03. Carry Over Of Credits.** A licensee may carry-over credit hours that have been earned in excess of the hours needed to fulfill the continuing education requirement. However, a licensee may only use carry over credits to fulfill one-half (1/2) of the continuing education requirement. The licensee should submit only the required number of hours and indicate dates of completion. It is the responsibility of the licensee to keep track of earned credit hours and documentation to verify proof of completion. (4-5-00)

**04. Completion Within Two Years.** Each course to be applied toward satisfaction of the continuing education requirement must have been completed within the two (2) year period immediately preceding renewal of the license, except carryover credits as defined in Subsection 012.03 ~~or as allowed in Idaho Code, Section 41-1077(h).~~ Courses may not have been duplicated in the same renewal period. The date of completion for a self-study course is the date of successful completion of exam. (7-1-98)( )

**013. EXCEPTIONS/EXTENSION.**

**01. Excepting And Extension.** The following exceptions and extensions may be made to the continuing education rules: (7-1-93)

**a.** Licensees on extended active duty with the Armed Forces of the United States for the period of such duty and all other exceptions allowed under Section 41-1008(4), Idaho Code. (7-1-93)(\_\_\_\_)

**b.** Persons which hold a temporary license as provided in Section 41-10515, Idaho Code. (7-1-93)(\_\_\_\_)

**c.** Other exceptions and extensions, where good cause exists, as approved by the Continuing Education Advisory Committee or the Director. (4-5-00)

**02. Age Exception Or Extension.** No exception or extension shall be made solely because of age. (7-1-93)

**03. Application For Exception Or Extension Required.** Licensees requesting exceptions and extensions pursuant to this Rule must apply prior to the renewal date to the Director, in writing, and set forth the basis for the exception or extension. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**015. PROGRAM REQUIREMENTS.**

All continuing education programs are subject to review and approval by the Continuing Education Advisory Committee and certification by the Director. They must be submitted to the Continuing Education Advisory Committee in accordance with Section 021 of this rule on forms promulgated by the Director. Any course provider that resides in, and has had their continuing education program(s) approved by, a state in which the insurance department has signed the Midwest Zone Declaration Regarding Continuing Education Course Approval or has signed a separate reciprocity agreement with the Idaho Department of Insurance, need not have their continuing education program(s) reviewed and approved by the Idaho Continuing Education Advisory Committee. However, prior to offering the course for continuing education credit, all courses must be filed with the department on a form approved by the director and course application fees paid. (7-1-93)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**020. CONTROLS AND REPORTING.**

**01. ~~Signed Statement Of Compliance Required~~ Course List Required Upon Renewal.** The application for renewal of a license shall be accompanied by ~~a signed continuing education statement, under oath, on a form promulgated~~ designated and furnished by the Director, listing the courses that have been taken and are in compliance with this rule. (7-1-93)(\_\_\_\_)

**02. Licensee To Retain Original Certificate As Evidence.** The original certificate of completion received for each educational program or course shall be retained by the licensee as evidence of completion of the program or course for the most recent two (2) year renewal period. The certificates of completion shall be on a form promulgated by the Director. (7-1-93)

**03. Statement Subject To Audit.** The continuing education statement submitted by a licensee will be reviewed by the Department of Insurance and may be verified by a formal audit on a sample basis. If a continuing education statement submitted by an applicant for license renewal, as required by this rule, is not approved, the applicant shall be notified and administrative action shall be taken pursuant to Sections 41-1046(7)13 and 41-

1077(1)(h)16, Idaho Code.

(7-1-93)( )

**04. Responsibility That Course Acceptable On Licensee.** The responsibility for establishing that a particular course or other program for which credit is claimed is acceptable and meets the continuing education requirements set forth in this rule rests solely on the licensee. (7-1-93)

**05. Sign-In And Sign-Out Sheets.** Sign-in and sign-out sheets are to be used and monitored to ensure attendance for the full length of the seminar. No Certificate of Completion is to be given to any one arriving late or leaving prior to the conclusion of the seminar. Failure to comply with these requirements will result in loss of certification in accordance with Section 023. (7-1-93)

**021. APPROVED PROGRAMS OF STUDY - CERTIFICATION BY DIRECTOR.**

**01. Requirements Of Course Approval.** All courses must be approved by the Continuing Education Advisory Committee and certified by the Director, except as noted under program requirements pursuant to Section 015. If a course is not approved in advance of presentation, an application for credit must be submitted to the Continuing Education Advisory Committee within sixty (60) days of completion of the course on forms promulgated by the Director, with the exception of an individual licensee who may submit an application for courses completed within the license renewal period if the licensee does so prior to his/her renewal date. All correspondence courses or individual study programs must be approved and certified in accordance with Section 024 prior to being offered to licensees for continuing education credit. (7-1-93)( )

**02. Nonrefundable Application Fee.** Each course application shall be accompanied by a nonrefundable application fee (as set forth in IDAPA 18.01.44). (7-1-93)

**03. Course Approval Procedures.** Any individual, school, insurer, industry association, or other organization intending to provide classes, seminars, or other forms of instruction as approved subjects shall apply for such approval to the ~~Continuing Education Advisory Committee on forms promulgated and furnished by the~~ Director on forms approved by the Director or on other forms which provide information including but not limited to the following: (7-1-93)( )

- a. A specific outline and/or course material; (7-1-93)
- b. Time schedule; (7-1-93)
- c. Method of presentation; (7-1-93)
- d. Qualifications of instructor; and (7-1-93)
- e. Other information supporting the request for approval. (7-1-93)

**04. Method To Determine Completion Required.** The submission shall include a statement of the method used to determine the satisfactory completion of an approved subject. Such method may be a written examination, a written report by the agent, certification by the providing organization of the agent's program attendance or completion, or other methods approved by the Director as appropriate for the subject. (7-1-93)

**05. Final Acceptance/Rejection Of Program.** ~~Upon receipt of such~~ Except as noted under Section 015, all continuing education course material; received will be submitted to the Continuing Education Advisory Committee who will approve or deny the course or program as qualifying for credit, indicate the number of hours that will be awarded for approved subjects, and refer the class, seminar, or program to the Director for his certification. In cases of denial, the Continuing Education Advisory Committee will furnish a written explanation of the reason for such action. (7-1-93)( )

**06. List Of Programs Certified Acceptable.** The Director will provide, upon request, a list of all programs currently available which the Department of Insurance has certified. (7-1-93)

**07. Certification Of Program.** Certification of a program may be effective for a period of time not to

exceed two (2) years or until such time as any material changes are made in the program, after which it must be resubmitted to the Continuing Education Advisory Committee for its review and approval. (7-1-93)

**08. Advertising Programs Prior To Certification.** If any course has not been approved ~~by the Continuing Education Advisory Committee~~ and certified by the Director before the date on which it is to be presented, the course may be advertised or presented as “continuing education credits have been applied for” but shall not be represented or advertised in any manner as “approved” for continuing education credit. (7-1-93)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**023. APPROVED SUBJECTS - LOSS OF CERTIFICATION.**

**01. Program Suspension.** The certification of a program may be suspended by the Director if it has been determined that: (7-1-93)

**a.** The program teaching method or program content no longer meets the standards of this rule, or have been significantly changed without notice to the Director for recertification; or (7-1-93)

**b.** The program certified to the Director that an individual had completed the program in accordance with the standards furnished for certification or completion of the program, when in fact the individual had not done so; or (7-1-93)

**c.** Individuals who have satisfactorily completed the program of study in accordance with the standards furnished for certification or completion were not so certified by the program; or (7-1-93)

**d.** The instructor or sponsoring organization is not qualified as per the standards of this rule, ~~has had an insurance license revoked,~~ or lacks education or experience in the subject matter of the proposed course; or (7-1-93)(    )

**e.** The instructor, sponsoring organization, or any company or affiliate of a sponsoring organization has had a license revoked or suspended in any jurisdiction. This includes any firm or organization where a revoked or suspended individual has a substantial ownership interest, or other control in a firm or organization; or (    )

**ef.** There is other good and just cause why certification should be suspended. (7-1-93)

**02. Reinstatement Of A Suspended Certification.** Reinstatement of a suspended certification will be made upon the furnishing of proof satisfactory to the Continuing Education Advisory Committee or the Director, in the case of courses approved per Section 015, that the conditions responsible for the suspension have been corrected. (7-1-93)(    )

**IDAPA 18 - DEPARTMENT OF INSURANCE**  
**18.01.55 - FIRE SAFETY STANDARDS FOR DAY CARE**  
**DOCKET NO. 18-0155-0201**  
**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. 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 July 17, 2002.

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

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

This rule is being changed to conform to a statutory change from using the Uniform Fire Code to the International Fire Code.

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

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this is considered a technical update to reflect a change in law.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Mark Larson, (208) 334-4250.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2002.

DATED this 22nd day of May, 2002.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0155-0201**

**004. DEFINITIONS.**

**01. Day Care.** “Day care” means care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child’s or children’s own home or homes. (7-1-93)

- 02. Child.** “Child” means a person less than twelve (12) years of age. (7-1-93)
- 03. Day Care Center.** “Day care center” means a place or facility providing day care for compensation for thirteen (13) or more children. (Note: Day care centers are required to be licensed pursuant to Section 39-1104, Idaho Code.) (7-1-93)
- 04. Group Day Care Facility.** “Group day care facility” means a home, place, or facility providing day care for seven (7) to twelve (12) children. (Note: Group day care facilities are required to have a fire inspection but not a license pursuant to Section 39-1114, Idaho Code). (7-1-93)
- 05. Family Day Care Home.** “Family day care home” means a home, place, or facility providing day care for six (6) or fewer children. (Note: Family day care homes are not required to have a license or fire inspection pursuant to Section 39-1114, Idaho Code). (7-1-93)
- 06. Licensing Authority.** “Licensing Authority” is the Idaho Department of Health and Welfare. (Note: As provided in Section 39-1101, Idaho Code, the minimum standards outlined in the state day care licensing act do not preempt any local ordinance that is more stringent). (7-1-93)
- 07. Occupant Load.** “Occupant Load” is determined by calculating the square footage of the space between the interior face of the exterior walls assigned to day care use, and divided by the occupant load factor of 35. Allowances for interior walls or partitions and furnishings have been taken into account in the occupant load factor, except fixed seating. The occupant load for fixed seating is determined by counting the seats. (7-1-93)
- 08. Approved.** “Approved” refers to approval by the chief officer of the fire department serving the jurisdiction, or his authorized representative, as the result of investigation and tests conducted by him or by reason of accepted principles or tests by national authorities, technical or scientific organizations as ~~defined~~ outlined in Sections ~~9.103~~ 102.6 and 102.7 of the Uniform International Fire Code, (~~1985~~ 2000 Edition). (7-1-93)(\_\_\_\_)

**IDAPA 18 - DEPARTMENT OF INSURANCE**  
**18.01.62 - ANNUAL AUDITED FINANCIAL REPORTS**  
**DOCKET NO. 18-0162-0201**  
**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. 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 July 17, 2002.

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

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

This rule is being changed to conform to changes in the NAIC model audit rule adopted in December 2001. The model rule was updated to conform to the Securities and Exchange Commission Financial Reporting Release regarding indemnification and mediation/arbitration. The rule is changed so an audited statement from an auditor who is indemnified from liability for failure to adhere to certain standards is not acceptable. Another change allows mediation/arbitration clauses in audit contracts to be modified by delinquency proceedings.

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

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this is considered a technical update made to conform to the model audit rule.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Martha Hopper, (208) 334-4250.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2002.

DATED this 22nd day of May, 2002.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0162-0201**

**004. DEFINITIONS.**

**01. Audited Financial Report.** "Audited financial report" means and includes those items specified in

Section 012 of this chapter. (7-1-93)

**02. Accountant And Independent Certified Public Accountant.** “Accountant” and “Independent Certified Public Accountant” means an independent certified public accountant or accounting firm in good standing with the American Institute of CPAs and in all states in which they are licensed to practice; for Canadian and British companies, it means a Canadian-chartered or British-chartered accountant. (7-1-99)

**03. Insurer.** “Insurer” means a licensed insurer as defined in Section 41-110, Idaho Code; hospital and professional service corporations as defined in Chapter 34, Title 41, Idaho Code; hospital liability trusts as defined in Chapter 37, Title 41, Idaho Code; managed care organizations as defined in Chapter 39, Title 41, Idaho Code; self-funded health care plans as defined in Chapter 40, Title 41, Idaho Code; county mutuals as defined in Chapter 31, Title 41, Idaho Code; reciprocal insurers as defined in Chapter 29, Title 41, Idaho Code; fraternal benefit societies as defined in Chapter 31, Title 41, Idaho Code; and authorized/accredited reinsurers as defined in Section 41-514(b), Idaho Code. (7-1-99)

**04. Indemnification.** “Indemnification” means an agreement of indemnity or a release from liability where the intent or effect is to shift or limit in any manner the potential liability of the person or firm for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from knowing or other misrepresentations made by the insurer or its representatives. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

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

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

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

**03. Capacity To Render Report For Consecutive Years.** No partner or other person responsible for rendering a report may act in the capacity for more than seven (7) consecutive years. Following period of service such person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of two (2) years. An insurer may make application to the Director for relief from the above rotation requirement on the basis of unusual circumstances. The Director may consider the following factors in determining if the relief should be granted: (7-1-99)

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

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

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

**04. Grounds For Not Recognizing As Qualified.** The director shall not recognize as a qualified independent certified public accountant, nor accept any annual Audited Financial Report, prepared in whole or in part by, any natural person who: (7-1-93)

**a.** Has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. Sections 1961-1968, or any dishonest conduct or practices under federal or state law; (7-1-99)

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

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

**d.** Has either directly or indirectly entered into an agreement of indemnity or release from liability (collectively referred to as indemnification) with respect to the audit of the insurer. ( )

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

**06. Delinquency Proceeding.** A qualified independent certified public accountant may enter into an agreement with an insurer to have disputes relating to an audit resolved by mediation or arbitration. However, in the event of a delinquency proceeding commenced against the insurer under Title 41, Chapter 33, Idaho Code, the mediation or arbitration provisions shall operate at the option of the statutory successor. ( )

**IDAPA 18 - DEPARTMENT OF INSURANCE**  
**18.01.78 - MUTUAL INSURANCE HOLDING COMPANY RULES**  
**DOCKET NO. 18-0178-0201**  
**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. 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 July 17, 2002.

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

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

This rule is being changed so the filing date for the mutual insurance company's annual financial statement coincides with the filing date of the affiliated insurer's audited financial statement, pursuant to IDAPA 18.01.62.011. The date that the statement is due in the department is being changed from April 1 to June 1.

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

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the current date of April 1 was considered unworkable, and the change is the result of discussions with the domestic mutual insurance holding company affected.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Martha Hopper, (208) 334-4250.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2002.

DATED this 22nd day of May, 2002.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0178-0201**

**009. REGULATION - COMPLIANCE.**

**01. Compliance With Insurance Holding Company Law Required.** Mutual insurance holding companies shall comply with the provisions of Title 41, Chapter 38, Idaho Code, except as expressly provided herein.

(7-1-99)

**02. Waiver Of Compliance Not Allowed.** No regulatory standards are waived during the pendency of an application of an application for a plan of reorganization. (7-1-99)

**03. Approval Of Merger Or Acquisition Required.** Mergers and acquisitions by a mutual insurance holding company must be approved by the Director pursuant to Title 41, Chapter 38, Idaho Code. At such time as a mutual insurance holding company acquires or plans to acquire more than fifty percent (50%) of a stock insurance company, the mutual insurance holding company shall submit to the Director a plan describing any membership interests of policyholders. (7-1-99)

**04. Mutual Holding Company Annual Financial Statement Filing.** Each mutual insurance holding company shall supply to the Department, by ~~April~~ June 1 of each year, an annual statement consisting of the following: (7-1-99)(\_\_\_\_)

- a. An income statement; and (7-1-99)
- b. A balance sheet; and (7-1-99)
- c. A cash flow statement; and (7-1-99)
- d. Complete information on the status of any closed block formed as a part of a plan of reorganization; and (7-1-99)
- e. An investment plan covering all assets; and (7-1-99)
- f. A statement disclosing any intention to pledge, borrow against, alienate, hypothecate, or in any way encumber the assets of the mutual insurance holding company. (7-1-99)

**05. Insurance Company Subsidiary Investment Requirements For Mutual Holding Company.** At least fifty percent (50%) of the generally accepted accounting practices (GAAP) basis net worth of a mutual insurance holding company shall be invested in insurance company subsidiaries. (7-1-99)

**06. Approval Required For Distribution To Policyholders.** No policyholder who is a member of a mutual insurance holding company shall receive on account of such membership interest any payment of a policy credit, dividend or other distribution unless such payment has been approved by the Director. The Director, after a public hearing as provided in Title 41, Chapter 38, Idaho Code, if satisfied the proposed payment is fair and equitable to policyholders who are members, may approve the proposed payment and may require as a condition of such approval modification of the proposed payment as the Director finds necessary for the protection of such policyholders. (7-1-99)

## **IDAPA 21 - DIVISION OF VETERANS SERVICES**

### **21.01.05 - RULES GOVERNING MEDICAL TRANSPORTATION PAYMENT FOR WHEELCHAIR CONFINED VETERANS**

**DOCKET NO. 21-0105-0201**

#### **NOTICE OF RULEMAKING - TEMPORARY RULE AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2002.

**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 rulemaking procedures have been initiated. The action is authorized pursuant to Section 65-202, 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 July 17, 2002.

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

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

The proposed rulemaking provides for a wheelchair confined veterans transportation payment pilot project for the period of July 1, 2002 to June 30, 2003.

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

To comply with deadlines in amendments to governing law or federal programs and in order to confer a benefit to Idaho taxpayers.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because there was a need for temporary rulemaking to comply with Section 65-208, Idaho Code, passed by the 2002 Idaho Legislature.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary and proposed rule, contact Richard W. Jones, Administrator, at (208) 334-3513.

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 July 24, 2002.

DATED this 3rd day of May, 2002.

Richard W. Jones  
Administrator  
Division of Veterans Services  
320 Collins Road  
Boise, Idaho 83702  
Telephone: (208) 334-3513  
Facsimile: (208) 334-2627

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 21-0105-0201**

**IDAPA 21**  
**TITLE 01**  
**Chapter 05**

**21.01.05 - RULES GOVERNING MEDICAL TRANSPORTATION PAYMENT**  
**FOR WHEELCHAIR CONFINED VETERANS**

**000. LEGAL AUTHORITY.**

The Idaho Legislature has given the Administrator of the Division of Veterans Services the authority to promulgate rules governing the standards pertaining to extending relief to wheelchair confined veterans pursuant to Section 65-202, Idaho Code. (7-1-02)T

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited as IDAPA 21.01.05, "Rules Governing Medical Transportation Payment for Wheelchair Confined Veterans". (7-1-02)T

**02. Scope.** These rules contain the provisions for accepting, evaluating, granting, and denying requests for medical transportation voucher payment. (7-1-02)T

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations that pertain to the interpretation of the rules of this chapter. (7-1-02)T

**003. ADMINISTRATIVE APPEALS.**

Contested case appeals shall be governed by the provisions of IDAPA 05.11.01, "Idaho Rules of Administrative Procedures of the Attorney General". (7-1-02)T

**004. INCORPORATION BY REFERENCE.**

No documents have been incorporated by reference into these rules. (7-1-02)T

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

**01. Address.** The mailing address and the street address of the office of the Division of Veterans Services is 320 Collins Road, Boise, Idaho 83702. (7-1-02)T

**02. Office Hours.** The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. (7-1-02)T

**03. Telephone.** The telephone number of the Division is (208) 334-3513. (7-1-02)T

**04. FAX.** The Division's facsimile number is (208) 334-2627. (7-1-02)T

**006. PUBLIC RECORDS ACT COMPLIANCE.**

The records associated with this chapter are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 1, Idaho Code. (7-1-02)T

**007. FILING OF DOCUMENTS -- NUMBER OF COPIES -- FACSIMILE TRANSMISSION (FAX).**

Documents in contested cases shall be filed with the Administrator. Unless the Administrator specifically requests additional copies, parties may file one (1) copy of any document with the Administrator. Documents, not exceeding ten (10) pages in length and documents requiring urgent or immediate action by the Administrator, may be filed with

the Administrator by facsimile transmission (FAX). Whenever a document is filed by FAX, originals must be delivered to the Administrator by overnight mail or by hand delivery on the next business day. (7-1-02)T

**008. -- 009. (RESERVED).**

**010. DEFINITIONS.**

**01. Bona Fide Resident.** A person who maintains a principal or primary home or place of abode in the state of Idaho coupled with the present intent to remain at that home or abode and return to it after any period of absence. Bona fide resident status is determined as of the date of application for transportation voucher payment. (7-1-02)T

**02. Commercial Carrier.** A for profit or not-for-profit ground transportation provider that operates a motor vehicle accommodating wheelchairs and that has entered into a written agreement with the Division to provide transportation pursuant to these rules. A commercial carrier shall not include an ambulance service or an operator of a private or personal vehicle. (7-1-02)T

**03. Covered Transportation.** Transportation meeting the requirements of Subsection 012. (7-1-02)T

**04. Division.** The Idaho Division of Veterans Services. (7-1-02)T

**05. Eligible Veteran.** An individual meeting the requirements of Subsection 011. (7-1-02)T

**06. Medical Appointment.** A regularly scheduled medical appointment with individuals licensed, registered or certified by national certification standards in their respective discipline, or otherwise qualified within the state in which the service is provided. A medical appointment does not include treatment for a medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the person's health in serious jeopardy, or in causing serious impairments of bodily function or serious dysfunction of any bodily organ or part. (7-1-02)T

**07. Veteran.** Shall have the meaning as defined in Section 65-203(1), Idaho Code. (7-1-02)T

**08. Veterans Service Officer.** An employee of the Division's Office of Veterans Advocacy or an employee of a county, as provided in Section 65-601, Idaho Code, appointed to give aid and assistance to veterans. (7-1-02)T

**09. Wheelchair Confined.** A person who is confined to a wheelchair due to a physical or mental inability to walk independently. (7-1-02)T

**011. ELIGIBILITY.**

An applicant for transportation voucher payment must be a bona fide resident who is a wheelchair confined veteran, has a medical appointment, and has no other available means of transportation to the medical appointment. At the request of the Division, a veteran may be required to submit a certification of a physician that the veteran is wheelchair confined. Persons eligible for Medicaid or United States Department of Veterans Affairs payment of transportation costs for the medical appointment shall be deemed to have other available means of transportation and shall not be eligible for transportation voucher payment under these rules. (7-1-02)T

**012. COVERED TRANSPORTATION.**

An eligible veteran may apply for payment of the costs of transportation by a commercial carrier to and/or from a medical appointment. (7-1-02)T

**013. APPLICATION.**

**01. Approval.** The Division shall approve applications for covered transportation if: (7-1-02)T

**a.** The application is submitted to the Division three (3) or more business days in advance of the

medical appointment; (7-1-02)T

**b.** The applicant submits documentation confirming the medical appointment or the medical service provider confirms the medical appointment to the Division; and (7-1-02)T

**c.** The Division has funds available for the voucher payment. (7-1-02)T

**02. Application Submittal.** The veteran, the veteran's spouse, the veteran's legal representative or a veteran's service officer may submit an application for covered transportation on behalf of the eligible veteran. (7-1-02)T

**014. PAYMENT.**

**01. Payment Amount.** Payment pursuant to these rules shall not exceed one hundred dollars (\$100) for transportation to and from a medical appointment or fifty dollars (\$50) for transportation to or from a medical appointment. (7-1-02)T

**02. Payment Voucher.** Upon approval of an application, the Division will provide a voucher to the eligible veteran. The Division will make payment for covered transportation provided to an eligible veteran directly to the commercial carrier as set forth in the agreement between the commercial carrier and the Division. (7-1-02)T

**015. -- 999. (RESERVED).**

## IDAPA 37 - DEPARTMENT OF WATER RESOURCES

### 37.03.03 - RULES AND MINIMUM STANDARDS FOR THE CONSTRUCTION AND USE OF INJECTION WELLS IN THE STATE OF IDAHO

DOCKET NO. 37-0303-0201

#### NOTICE OF RULEMAKING - TEMPORARY RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2002.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 42-3913, 42-3914, and 42-3915 Idaho Code, and 40 CFR Parts 9, 144, 145, and 146, Underground Injection Control Regulations for Class V Injection Wells, Revision; Final Rule, published in the Federal Register, Tuesday, December 7, 1999.

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

The Environmental Protection Agency promulgated revisions to the Class V Underground Injection Control (UIC) regulations, adding new federal requirements to the Idaho Department of Water Resources' Waste Disposal and Injection Well Program.

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

Temporary rules are needed to meet changed federal requirements.

**FEE SUMMARY:** No fee involved.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Mark Slifka at 208-327-7887.

DATED this 14th day of May, 2002.

Joseph L. Jordan, Chairman  
Idaho Water Resource Board  
1301 North Orchard  
Boise, ID 83706  
208-327-7880  
208-327-7886 (fax)

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#### THE FOLLOWING IS THE TEXT OF DOCKET NO. 37-0303-0201

##### 010. DEFINITIONS (Rule 10).

01. **Abandonment.** The discontinuance of the use of an injection well. See "permanent abandonment," "temporary abandonment," and "unauthorized abandonment". (7-1-93)

02. **Applicant.** Any owner or operator submitting an application for permit to construct, modify or maintain an injection well to the Director of the Department of Water Resources. (7-1-93)

**03. Aquifer.** Any geologic formation that will yield water to a well in sufficient quantities to make production of water from the formation reasonable for a beneficial use, except when the water in such formation results solely from fluids deposited through an injection well. (7-1-93)

**04. Beneficial Use.** A use of water that is reasonable and necessary to the user and is consistent with the interests of the public in the best utilization of water supplies. Beneficial uses include but are not limited to domestic, agricultural, municipal and industrial supplies, stock water, and fish propagation. (7-1-93)

**05. Best Management Practice (BMP).** A practice or combination of practices determined to be the most effective and practicable means of preventing or reducing contamination of ground water and surface water by injection well operation, to achieve water quality goals and protect beneficial uses of ground water. (7-1-93)

**06. Casing.** A conduit required by these rules and Well Construction Standards Rules to maintain the well opening and prevent contamination of ground water. (7-1-93)

**07. Cesspool.** An injection well that receives sanitary waste without benefit of a treatment system or treatment device such as a septic tank. Cesspools have an open bottom and/or perforated sides. (7-1-02)T

**078. Coliform Bacteria.** All of the aerobic and facultative anaerobic, gram-negative, non-spore forming, rod-shaped bacteria that either ferment lactose broth with gas formation within forty-eight (48) hours at thirty-five degrees celsius (35C), or produce a dark colony with a metallic sheen within twenty-four (24) hours on an Endo-type medium containing lactose. (7-1-93)

**089. Construct.** To create a new injection well or to convert any structure into an injection well. (7-1-93)

**0910. Contaminant.** Any chemical, ion, radionuclide, synthetic organic compound, micro-organism, waste or other substance which does not occur naturally in ground water or which naturally occurs at a lower concentration. (7-1-93)

**101. Contamination.** The direct or indirect introduction of any contaminant into ground water, caused in whole or in part by human activity. (7-1-93)

**112. Deep Injection Well.** An injection well which is more than eighteen (18) feet in vertical depth below land surface, and is identical to the statutory phrase, "waste disposal and injection well". (7-1-93)

**123. Department.** The Idaho Department of Water Resources. (7-1-93)

**134. Director.** The Director of the Idaho Department of Water Resources. (7-1-93)

**145. Draft Permit.** The completed Application for Permit with permit conditions, compliance schedules and monitoring requirements attached. (7-1-93)

**156. Drinking Water Source.** An aquifer which contains water having less than ten thousand (10,000) mg/l total dissolved solids and has not been exempted from this designation by the Director of the Department of Water Resources pursuant to Rule 75. (7-1-93)

**167. Drinking Water Standards.** Refers to current "Idaho Rules for Public Drinking Water Systems" as adopted by the Idaho Department of Environmental Quality (DEQ). They are identical to standards in Part 40 Chapter 141 and 142 of the Code of Federal Regulations. It consists of primary and secondary maximum contaminant levels (MCLs) (see definition). (7-1-93)

**18. Drywell.** An injection well completed above the water table so that its bottom and sides are typically dry except when receiving fluids. (7-1-02)T

**179. Endangerment.** Injection of any fluid which exceeds drinking water standards that may result in the presence of any contaminant in ground water which supplies or can reasonably be expected to supply any public

or non-public water system, and if the presence of such contaminant may result in such a system not complying with any state primary drinking water standard or may otherwise adversely affect the health of persons or result in a violation of water quality standards that would adversely affect beneficial uses. (7-1-93)

~~1820.~~ **Fluid.** Any material or substance which flows or moves, whether in a semisolid, liquid, sludge, gaseous or any other form or state. (7-1-93)

~~1921.~~ **Formation.** A body of consolidated or unconsolidated rock characterized by a degree of lithologic homogeneity which is mappable at the earth's surface or traceable in the subsurface. (7-1-93)

~~202.~~ **Ground Water.** Any water that occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (7-1-93)

~~213.~~ **Hazardous Waste.** Any substance defined by Part 40 Chapter 261.3 of the Code of Federal Regulations. (7-1-93)

~~224.~~ **Injection Or Well Injection.** The subsurface emplacement of fluids. The purpose of injection by Class V wells is the temporary or permanent disposal or storage of fluids into subsurface geologic formations. (7-1-93)(7-1-02)T

~~235.~~ **Injection Well Or Well.** Any excavation or artificial opening into the ground which meets the following three (3) criteria: (7-1-93)(7-1-02)T

a. It is a bored, drilled or dug hole, or is a driven mine shaft or a driven well point; and (7-1-93)

b. It is deeper than its largest straight-line surface dimension; and (7-1-93)

c. It is used for or intended to be used for injection. (7-1-93)

~~246.~~ **Irrigation Waste Water.** Water diverted for irrigation but not applied to crops, or runoff of irrigation tail water from the cropland as a result of irrigation. (7-1-93)

~~27.~~ **Large Capacity Cesspool.** Any residential cesspool used by a multiple dwelling, community or regional system for the disposal of sanitary wastes (for example: a duplex or apartment building) or any non-residential cesspool that has the capacity to serve twenty (20) or more people per day (for example: a rest stop, campground, restaurant or church). (7-1-02)T

~~258.~~ **Maintain.** To allow, either expressly or by implication, an injection well to exist in such condition as to accept or be able to accept fluids. Unless a well has been abandoned pursuant to the criteria contained in these rules it is considered to be capable of accepting fluids. (7-1-93)

~~269.~~ **Maximum Contaminant Level (MCL).** Means the maximum permissible level of a contaminant in water that is delivered to any user of a public water system. MCLs are the basis of the drinking water standards and the water quality standards as applied to injection well operation and protection of beneficial uses of ground water. Primary MCLs are required drinking water quality standards that also constitute waste disposal and injection well operational standards at the wellhead. Secondary MCLs are suggested drinking water quality standards that, in addition to primary MCLs, are indicators of unreasonable contamination of ground water when detected at points of diversion for beneficial use. (7-1-93)

~~2730.~~ **Modify.** To alter the construction of an injection well, but does not include cleaning or redrilling operations which neither deepen nor increase the dimensions of the well. (7-1-93)

~~31.~~ **Motor Vehicle Waste Disposal Well.** Injection wells that receive or have received fluids from vehicular repair or maintenance activities, such as an auto body repair shop, automotive repair shop, new or used car dealership, specialty repair shop (e.g., transmission or muffler repair shop), or any facility within which any vehicular repair work occurs. (7-1-02)T

- ~~2832.~~ **Operate.** To allow fluids to enter an injection well by action or inaction of the operator. (7-1-93)
- ~~2933.~~ **Operator.** Any individual, group of individuals, partnership, company, corporation, municipality, county, state agency, taxing district, federal agency or other entity that operates or proposes to operate any injection well. (7-1-93)
- ~~304.~~ **Owner.** Any individual, group of individuals, partnership, company, corporation, municipality, county, state agency, taxing district, federal agency or other entity owning land on which any injection well exists or is proposed to be constructed. (7-1-93)
- ~~315.~~ **Perched Aquifer.** Ground water separated from an underlying main body of ground water by an unsaturated zone. (7-1-93)
- ~~326.~~ **Permanent Abandonment.** The discontinuance of use of an injection well in accordance with current Rules for Well Construction Standards. Permanent abandonment requires plugging the well bore with bentonite grout, cement grout, concrete, puddling clay, or other impermeable material to prevent the upward or downward migration of fluids. (7-1-93)
- ~~337.~~ **Person.** Any individual, association, partnership, firm, joint stock company, trust, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any other legal entity which is recognized by law as the subject of right and duties (Idaho Code 30-101 EPHA). (7-1-93)
- ~~348.~~ **Point Of Injection.** The deepest point below land surface from which injected fluids leave the bore, hole or shaft of an last accessible sampling point prior to waste being released into the subsurface environment through a Class V injection well. For example, the point of injection for a Class V septic system might be the distribution box. For a drywell, it is likely to be the well bore itself. (~~7-1-93~~)(7-1-02)T
- ~~359.~~ **Point Of Diversion For Beneficial Use.** A location such as a producing well or spring where ground water is taken under control and diverted for a beneficial use. (7-1-93)
- ~~3640.~~ **Radioactive Material.** Any material, solid, liquid or gas which emits radiation spontaneously. Radioactive geologic materials occurring in their natural state are not included. (7-1-93)
- ~~3741.~~ **Radioactive Waste.** Any fluid which contains radioactive material in concentrations which exceed those established for discharges to water in an unrestricted area by the Board of Environmental Quality. (7-1-93)
- ~~3842.~~ **Replacement Well.** An injection well constructed to replace an existing injection well, authorized for use under these rules, that meets the following criteria: (7-1-93)
- a. The replacement well is located within two hundred (200) feet of the existing injection well. (7-1-93)
  - b. The injected fluids are from the same source as the fluids injected through the existing injection well. (7-1-93)
  - c. The injected fluids are of equal or better quality than the fluids injected through the existing well. (7-1-93)
  - d. Construction features of the replacement well are similar to the features of the existing well and meet or exceed minimum well construction standards. (7-1-93)
  - e. The distance between the point of injection and the nearest boundary of the receiving aquifer is at least as great as that distance for the existing injection well. (7-1-93)
  - f. The existing injection well is abandoned by an approved method within thirty (30) days of completion of construction of the replacement well. (7-1-93)

~~3943.~~ **Sanitary Waste.** Any ~~fluid generated through domestic activities, such as food preparation, cleaning and personal hygiene~~ liquid or solid waste originating from humans and human activities, such as wastes collected from toilets, showers, wash basins, floor drains, sinks used for cleaning domestic areas, sinks used for food preparation, clothes washing operations, and sinks or washing machines where food and beverage serving dishes, glasses, and utensils are cleaned. Sources of these wastes may include single or multiple residences, hotels and motels, restaurants, bunkhouses, schools, ranger stations, campgrounds, picnic grounds, day-use recreation areas, commercial and industrial facilities provided the waste is not mixed with commercial or industrial waste.

~~(7-1-93)(7-1-02)T~~

**404. Schedule Of Compliance.** A schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with the standards. (7-1-93)

**45. Septic System.** An injection well that is used to inject sanitary waste below the surface. A septic system is typically comprised of a septic tank and subsurface fluid distribution system or disposal system. (7-1-02)T

~~476.~~ **Shallow Injection Well.** An injection well which is less than or equal to eighteen (18) feet in vertical depth below land surface. (7-1-93)

~~427.~~ **State.** The state of Idaho. (7-1-93)

~~438.~~ **Surface Runoff Water.** Runoff water from the natural ground surface and cropland. Runoff from urbanized areas such as streets, parking lots, airports, and runoff from animal feedlots, agricultural processing facilities and similar facilities is not included within the scope of this phrase. (7-1-93)

~~449.~~ **Temporary Abandonment.** The prevention of injection by use of a removable or retrievable device, such as a packer or cap. (7-1-93)

~~450.~~ **Unauthorized Abandonment.** The permanent abandonment of any injection well that has not received the approval of the Department prior to abandonment, or was not abandoned in a method approved by the Director. (7-1-93)

~~4651.~~ **Unreasonable Contamination.** Endangerment of a drinking water source or the health of persons or other beneficial uses by injection. See "endangerment". (7-1-93)

~~4752.~~ **Water Quality Standards.** Refers to those standards found in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements". (7-1-93)

~~4853.~~ **Wellhead.** That point, downstream of any filters or treatment devices, where fluids enter the injection well. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**025. CLASSIFICATION OF INJECTION WELLS - AUTHORIZATIONS, PROHIBITIONS AND EXEMPTIONS (Rule 25).**

**01. Classification Of Injection Wells.** For the purposes of these rules, injection wells are classified as follows: (7-1-93)

**a.** Class I - Wells used to inject hazardous, ~~waste or other~~ radioactive, industrial, ~~and or~~ municipal wastes beneath the lowermost formation containing a drinking water source. ~~(7-1-93)(7-1-02)T~~

**b.** Class II - Wells used to inject fluids which are brought to the surface with conventional oil and gas production, utilized for enhanced recovery of oil or gas, or stored as liquid hydrocarbons at standard temperature and

pressure in the injection formation. (7-1-93)

**c.** Class III - Wells which inject for the extraction of minerals unless used for solution mining in conventional mines. (7-1-93)

**d.** Class IV - Wells used to inject hazardous or radioactive wastes into or above a formation which contains a drinking water source. (7-1-93)

**e.** Class V - All injection wells not included in Classes I, II, III, or IV. (7-1-93)

**02. Subclassification.** Class V wells are subclassified as follows: (7-1-93)

**a.** \*5A5-Electric Power Generation. (7-1-93)

**b.** \*5A6-Geothermal Heat. (7-1-93)

**c.** \*5A7-Heat Pump Return. (7-1-93)

**d.** 5A8-Aquaculture Return Flow. (7-1-93)

**e.** \*5A19-Cooling Water Return. (7-1-93)

**f.** 5B22-Saline Water Intrusion Barrier. (7-1-93)

**g.** \*5D2-Storm Runoff. (7-1-93)

**h.** 5D3-Improved Sinkholes. (7-1-93)

**i.** \*5D4-Industrial Storm Runoff. (7-1-93)

**j.** \*5F1-Agricultural Runoff Waste. (7-1-93)

**k.** \*5G30-Special Drainage Water. (7-1-93)

**l.** 5N24-Low-level Radioactive Waste Disposal. (7-1-93)

**m.** \*5R21-Aquifer Recharge. (7-1-93)

**n.** 5S23-Subsidence Control. (7-1-93)

**o.** 5W9-Untreated Sewage. (7-1-93)

**p.** 5W10-Cesspools. (7-1-93)

**q.** \*5W11-Septic Systems (General). (7-1-93)

**r.** \*5W12-Water Treatment Plant Effluent. (7-1-93)

**s.** \*5W20-Industrial Process Water. (7-1-93)

**t.** 5W31-Septic Systems (Well Disposal). (7-1-93)

**u.** \*5W32-Septic System (Drainfield). (7-1-93)

**v.** \*5X13-Mine Tailings Backfill. (7-1-93)

**w.** 5X14-Solution Mining. (7-1-93)

- x. 5X15-In-Situ Fossil Fuel Recovery. (7-1-93)
- y. 5X16-Spent Brine Return Flow. (7-1-93)
- z. \*5X25-Experimental Technology. (7-1-93)
- aa. \*5X26-Aquifer Remediation. (7-1-93)
- bb. \*5X27-Other Wells. (7-1-93)
- cc. \*5X28-~~Service Station~~ Motor Vehicle Waste Disposal Wells. (~~7-1-93~~)(7-1-02)T
- dd. 5X29-Abandoned Drinking Water Wells. (7-1-93)

\* Wells in these subclasses are currently inventoried in Idaho.

**03. Authorizations, Prohibitions And Exemptions.** (7-1-93)

a. These rules prohibit the permitting, construction or use of any Class I, II, III or IV injection well. (7-1-93)

b. Prohibition of injection of hazardous and of radioactive wastes (Class IV) - Construction of a well to be used for injection of hazardous wastes or of radioactive wastes into or above a drinking water source, or injection of hazardous wastes or of radioactive wastes through an existing injection well into or above a drinking water source is prohibited. (7-1-93)

c. Construction and use of Class V deep injection wells may be authorized by permit as approved by the Director. (7-1-93)

d. Construction of large capacity cesspools or motor vehicle waste disposal wells is prohibited. Construction and use of other Class V shallow injection wells are authorized by these rules without permit provided that: (~~7-1-93~~)(7-1-02)T

i. Required inventory information is submitted to the Director pursuant to Rule 30. (7-1-93)

ii. Use of the well shall not result in unreasonable contamination of a drinking water source or cause a violation of water quality standards that would affect a beneficial use. (7-1-93)

e. Class V shallow injection wells used for the disposal of waste water as defined in Idaho Department of Environmental Quality Rule, IDAPA 58, Title 01, Chapter 03, "Individual/Subsurface Sewage Disposal Rules," are exempt from the authorization requirements of these rules, but are subject to the IDAPA 58.01.03.000, et seq., "Individual/Subsurface Sewage Disposal Rules," Title 39, Chapter 1 and Title 39, Chapter 36, Idaho Code. (7-1-93)

f. State or local entities involved in highway and street construction and maintenance are exempt from the permit requirements for shallow class V wells, but shall comply with the inventory requirements of these rules. (7-1-93)

g. Mine tailings backfill (5X13) wells are authorized by rule as part of mining operations because Federal studies show the threat of endangerment from use of these wells is low. They are therefore exempt from the drinking water standards and permitting requirements of these rules provided that their use is limited to the injection of mine tailings only. The use of any 5X13 well(s) shall not result in water quality standards at points of beneficial use being exceeded or otherwise affect a beneficial use. Should water quality standards be exceeded or beneficial uses be affected, the Director may order the wells to be put under the permit requirements of these rules, or the wells may be required to be remediated or closed. As a condition of their use, the Director may require the construction of monitoring wells and the conduction of monitoring activities by the owner/operator. 5X13 wells are subject to the

inventory requirements of Rule Subsection 030.01.

(7-1-93)

**h.** Currently used or existing large capacity cesspools shall be properly abandoned by January 1, 2005. A cease and desist order may be issued when a large capacity cesspool is found to be a threat to the ground water resources as described in Rule 030.03.

(7-1-02)T

**i.** Currently used or existing motor vehicle waste disposal wells shall be properly abandoned by January 1, 2005. A cease and desist order may be issued when a motor vehicle waste disposal well is found to be a threat to the ground water resources as described in Rule 030.03.

(7-1-02)T

# IDAPA 45 - HUMAN RIGHTS COMMISSION

## 45.01.01 - RULES OF THE HUMAN RIGHTS COMMISSION RULES

DOCKET NO. 45-0101-0201

### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is April 29, 2002.

**AUTHORITY** In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-5906(12), Idaho Code.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this rulemaking will be held on

**Saturday, July 13, 2002  
9:30 a.m. to 11:30 a.m.  
Idaho Human Rights Commission  
1109 Main Street, Suite 400  
Boise, Idaho, 83720**

Members of the public may offer comments at the public hearing in person or by telephone. The telephone numbers for the Idaho Human Rights Commission are (208) 334-2873 and (888) 249-7025.

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

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

Prior to the adoption of the temporary rule, the Commission rules required the Commission to serve a complaint of discrimination on a Respondent and its determination of probable cause or no probable cause to believe that discrimination had occurred on the Complainant and the Respondent by certified mail. The temporary rule and proposed rule remove the requirement of mailing by certified mail.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the nature of the changes being made.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jo-Ann Bowen at #(208) 334-2873.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 26, 2002.

DATED this 3rd day of May, 2002.

Leslie R. Goddard, Director  
Idaho Human Rights Commission  
1109 Main Street, Suite 400  
P.O. Box 83720  
Boise, Idaho 83720  
phone: (208) 334-2873  
FAX: (208) 334-2664

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 45-0101-0201**

**300. COMPLAINTS.**

**01. Who May File.** A complaint may be filed by any of the following: (7-1-93)

**a.** Any person for himself/herself or also on behalf of himself/herself and other similarly situated individuals claiming to be aggrieved by an alleged unlawful discriminatory practice as defined in the Act; (7-1-97)

**b.** A Commissioner or Staff Director requesting the Commission to initiate a complaint, provided he/she has sufficient reason to believe that an unlawful discriminatory practice as defined in the Act has occurred or is occurring. Upon such request the Commission shall review the reasons provided by the initiating Commissioner or Staff Director and may initiate a complaint if satisfied that there is reason to believe that an unlawful discriminatory practice as defined in the Act has occurred or is occurring; (7-1-97)

**c.** Any person claiming that he/she has been discharged, expelled, or otherwise discriminated against by an employer, labor organization, or employment agency because he/she opposed practices forbidden under the Human Rights Act, or because he/she has filed a complaint, testified, assisted or participated in any manner in an investigation, hearing or other procedure before the Commission. (7-1-97)

**02. Commission Assistance.** Assistance in filing complaints shall be available to any Complainant by a Commissioner, the Staff Director, or staff member. The Commission reserves the right to refuse to accept a complaint for filing if, in the opinion of the Staff Director, there is no reason to suspect that illegal discrimination may have occurred, or if the action is barred by the terms of Subsection 300.06.a. (7-1-97)

**03. Contents Of Complaint.** A complaint should contain the following: (7-1-93)

**a.** The full name, mailing address, and telephone number (if any) of the Complainant or Complainants; (7-1-93)

**b.** The full name, mailing address, and telephone number (if any and if known) of the Respondent or Respondents; (7-1-93)

**c.** A brief written statement sufficiently clear to identify the practices and to describe generally the action or practice alleged to be unlawful; (7-1-98)

**d.** The date or dates on which the alleged unlawful discriminatory practices occurred and, if the alleged unlawful practice is of a continuous nature, the dates between which said continuing practices are alleged to have occurred; (7-1-93)

**e.** A statement as to any other action which has been instituted in any other forum or agency based on the same grievance as is alleged in the complaint. (7-1-93)

**04. Medical Documentation.** Persons filing disability discrimination complaints may be required to furnish the Commission with opinions or records from duly licensed health professionals regarding (a) the nature of their disabilities, and (b) any limitations, including work restrictions, caused by the disability. Medical reports from the following sources will be accepted: physicians and osteopathic physicians, nurse practitioners, counselors, psychologists, occupational therapists, clinical social workers, dentists, audiologists, speech pathologists, podiatrists, optometrists, chiropractors, physical therapists, and substance abuse treatment providers, insofar as any opinion or evaluation within the scope of the relevant license applies to the individual's physical or mental impairment. Failure to provide medical reports within a reasonable period of time may be cause for dismissal of a complaint. (7-1-97)

**05. Method Of Filing.** A complaint may be filed: by personal delivery, mail, or facsimile delivered to the Commission office in Boise. (7-1-97)

**06. Time For Filing.** The following time limitations apply to the filing of complaints with the Commission: (7-1-93)

**a.** A complaint must be filed within one (1) year after the alleged unlawful practice occurs. If the alleged unlawful practice is of a continuing nature, the date of the occurrence of said unlawful practice shall be deemed to be any date subsequent to the commencement of the unlawful practice up to and including the date on which the complaint shall have been filed if the alleged unlawful practice continues. (7-1-93)

**b.** Upon receipt of a complaint at the Commission's office, the date of such receipt shall be noted thereon. For purposes of compliance with Section 67-5908(4), Idaho Code, the date of notation shall be the date of filing. (7-1-93)

**c.** Notwithstanding any other provisions of these rules, a complaint shall be deemed to have met the timelines requirement of Subsection 300.06.a. when the Commission receives, in any manner described in Subsection 300.05.a., a written statement sufficiently precise to identify the practices and to describe generally the action or practice alleged to be unlawful. (7-1-97)

**07. Complaints Deferred By E.E.O.C.** Any complaint deferred to the Commission by the E.E.O.C. shall be treated, for purposes of filing requirements, according to the rules as stated above. (7-1-93)

**08. Amended Complaints.** A complaint may be amended, before the determination by the Commission and at the discretion of the Staff Director, to cure technical defects or omissions, or to clarify and/or amplify allegations by the Complainant. (7-1-97)

**09. Supplemental Complaint.** The Complainant may file a supplemental complaint setting forth actions which have allegedly occurred subsequent to the date of the original or amended complaint, and said supplemental complaint, if timely filed, will be considered together in the same proceeding with the original or amended complaint whenever practicable. (7-1-93)

**10. Withdrawal Of Complaint.** Upon the request of the Complainant, on a form provided by the Staff Director stating the reasons for such request, a complaint, or any part thereof, may be withdrawn upon the written consent of the Staff Director. If a complaint is withdrawn pursuant to the provision of these Rules, the Staff Director shall close the case and notify the parties. (7-1-93)

**11. Initial Actions.** Upon the filing of a complaint, said complaint shall be docketed, assigned a complaint number, and assigned to the staff for settlement or investigation and conciliation. (7-1-93)

**12. Service On Respondent.** As promptly as possible, the Commission shall cause a copy of said complaint to be ~~personally delivered, or sent by certified mail to~~ served on the Respondent by: (4-29-02)T

**a.** Personal delivery: (4-29-02)T

**b.** Mail; or (4-29-02)T

**c.** Facsimile. (~~7-1-93~~)(4-29-02)T

**13. Mediation.** Upon the filing of a complaint, the Commission or its delegated staff member shall endeavor to resolve the matter by informal means. Such informal means may include, at the discretion of the Commission staff, the holding of a mediation conference at a time and place acceptable to all participants. If held, a mediation conference shall be for the purposes of clarifying the positions of the parties to the complaint and of exploring any bases for no-fault settlement. A mediation conference is not, and shall not be considered for any purposes to be, a contested case hearing under Section 67-5209, Idaho Code. (7-1-97)

**14. Settlement.** If terms of settlement are agreed to by the parties at any time prior to a determination by the Commission as to the merits of the charge, said terms shall be reduced to writing in a Settlement Agreement. Upon the signing of a Settlement Agreement by all parties, the Staff Director will cause the case to be closed. (7-1-93)

**15. Answers.** The Respondent shall answer or otherwise respond to the complaint in writing within thirty (30) days of receiving it. A copy of said answer, including any attachments thereto, will be sent by the Commission staff to the Complainant. Upon application, the Commission may for good cause shown extend the time within which the answer may be filed. The answer shall be fully responsive to each allegation contained in the complaint. Any allegation in the complaint which is not denied or admitted in the answer shall be deemed admitted unless the Respondent shall state in the answer he/she is without knowledge or information sufficient to form a belief. If the Respondent fails to answer or otherwise respond to the complaint within thirty (30) days of receipt or such time as may be extended by the Commission, the Commission may act on the complaint based on the information provided by the Complainant. Upon application, the Commission may for good cause shown permit the Respondent to amend its answer to the complaint. Any amendments to the complaint, or any supplemental complaint, shall be served upon the Respondent as promptly as possible. Answers to amended or supplemental complaints, if necessary, shall be submitted within ten (10) working days. Time for submitting such answers may be extended by the Commission to thirty (30) days for good cause shown. (7-1-97)

**16. Interrogatories.** At any time after the filing of a complaint the Commission staff may issue to either the Complainant or the Respondent interrogatories regarding any matter, not privileged, which is relevant to the subject matter involved. It is not ground for objection that the information sought will be inadmissible in court if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. (7-1-93)

**17. Interrogatory Answers Returned.** Answers to the interrogatories shall be returned to the Commission office within thirty (30) days from the date of service of said interrogatories. (7-1-93)

**18. Extension.** Upon application by a party, for good cause shown, the Staff Director may grant one (1) extension of time for filing answers to interrogatories, said extension not to exceed an additional fifteen (15) days. (7-1-93)

**19. Orders.** In the event that a party objects to certain interrogatories, and after an attempt has been made to resolve any difference between the Commission and the party, the Commission may issue an order compelling the party to answer the interrogatories. This order must be signed by at least two (2) Commissioners. An order issued under this rule shall be enforceable by application to the District Court. (7-1-93)

**20. Narrative Statement.** The Commission staff may, in specific cases, seek from a party a narrative statement of response in addition to or rather than answers to interrogatories. In such cases, the narrative statement should include all information which the party desires considered by the Commission, in determining whether to credit the allegations of the complaint. (7-1-93)

**21. File Briefs.** Any party to a complaint filed with the Commission may file briefs or other written memoranda setting out his or her position or interpretation of the law. (7-1-97)

**22. Summary Of Investigation.** At the completion of the investigation, the staff member to whom the case is assigned shall prepare a report containing a summary of the investigation and submit it to the Staff Director to review. (7-1-93)

**23. Administrative Closure.** At any point during the handling of a particular case the Staff Director may close the case for administrative reasons. Such reasons shall include, but are not limited to: (7-1-99)

- a. Failure of the Complainant to accept a full relief settlement offer; (7-1-93)
- b. Failure of the Complainant to cooperate with the Commission in the processing of the case, including failure to answer interrogatories or failure to provide medical information as requested; (7-1-93)
- c. Inability to locate the Complainant; (7-1-93)
- d. It appearing upon investigation that the case is not jurisdictional with the Commission; (7-1-93)
- e. The Complainant's filing of a suit in either state or federal court alleging the same unlawful

practices as complained of to the Commission. (7-1-93)

**24. Notification Of Closure.** The Staff Director shall notify the parties of such administrative closure, including the grounds therefor, as promptly as possible. (7-1-93)

**25. Decision On The Merits.** At the completion of the investigation and approval of the summary by the Staff Director, the Commission or a designated panel of at least three (3) Commissioners shall determine whether there is probable cause to believe that the Respondent has been or continues to be engaged in any unlawful discriminatory practices defined in the Act. (7-1-93)

**26. No Probable Cause.** If the Commission or designated panel finds no probable cause to credit the allegations of the complaint, a statement of no probable cause and order of dismissal will be issued for the Commission by the Staff Director. The summary of investigation, statement, and order shall be sent to Complainant and Respondent ~~by certified mail~~, thereby closing the case. (~~7-1-97~~)(4-29-02)T

**27. Probable Cause.** If the Commission or designated panel finds probable cause to credit the allegations of the complaint, a statement of probable cause shall be issued. The summary of investigation and statement shall be sent to the Complainant and the Respondent ~~by certified mail~~. (~~7-1-97~~)(4-29-02)T

**28. Conciliation.** If the Commission finds probable cause to credit the allegations of the complaint, the Commission staff shall endeavor through conference with the parties to redress and eliminate the possible unlawful discriminatory practice by conciliation. (7-1-93)

**29. Conciliation Agreement.** If the Commission staff shall succeed in endeavors to conciliate, a written Conciliation Agreement shall be prepared which shall set forth all measures to be taken by any party, and if appropriate, compliance provisions. The Conciliation Agreement shall be signed by the parties, and the Staff Director shall cause the case to be closed. (7-1-93)

**30. Failure Of Agreement.** In the event of failure to reach terms of conciliation agreeable to all parties, the Staff Director shall so certify and assign the case to the Commission's legal counsel. The Commission, after review by its legal counsel, shall determine whether or not to pursue the case in the District Court. (7-1-93)

**31. No Action.** If the Commission determines not to pursue the case in District Court, the Staff Director shall so notify Complainant and Respondent, close the case, and advise Complainant of his or her right to pursue the case through a private cause of action. (7-1-93)

**32. Action.** If the Commission decides to pursue a case, it shall direct its legal counsel to file an action in District Court in the name of the Commission for the use of the person or persons alleging discrimination. (7-1-93)

**33. Confidentiality Of Records.** In order to protect the interests of all parties in reaching successful settlements of discrimination charges without resorting to court action, the Commission and its employees will not reveal information about a case to nonparties except as may be necessary to conduct a full and fair investigation or to cooperate with other government law enforcement agencies. (7-1-93)

**34. Federal Compliance.** In the interest of consistency and to avoid confusion on the part of persons governed by both the State and Federal anti discrimination laws, the Commission will generally follow the interpretations of the Federal anti discrimination laws in examining the merits of a complaint filed with it under this Act. If a person files a complaint under Title 67, Chapter 59, Idaho Code, and Title 44, Chapter 17, Idaho Code, the Commission will attempt to avoid duplication in investigation and settlement efforts, whenever possible. (7-1-97)

**35. Document Destruction.** The Commission will retain closed investigatory files for three (3) years from the date of closure at which time these documents may be destroyed at the discretion of the Staff Director. (7-1-97)

**36. Notice Of Right To Sue.** At the time of case closure the director will issue a notice of administrative dismissal notifying the complainant of his or her right to file a civil action in District Court. Any such suit must be filed within ninety (90) days of the date of this notice. (7-1-99)

## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

#### DOCKET NO. 58-0102-0202

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Department of Environmental Quality (DEQ) has proposed rulemaking. The action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

**PUBLIC HEARING SCHEDULE:** No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before July 17, 2002. If no such written request is received, a public hearing will not be held.

**DESCRIPTIVE SUMMARY:** Under Docket No. 58-0107-0201, the Department of Environmental Quality (DEQ) has initiated proposed rulemaking for the adoption of a new rule implementing DEQ's authority to regulate underground storage tank systems (UST systems). This proposed rule covers design, construction, installation, operation, release detection, closure and financial assurance requirements for UST systems. With some modification, this proposed rule incorporates the technical standards for UST system owners and operators found in 40 CFR Part 280.

DEQ currently regulates leaking petroleum storage tank systems (PST systems) through the requirements of IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," Sections 851 and 852. Sections 060 and 070 of proposed rule Docket No. 58-0107-0201 contain the language, without modification, currently found in Sections 851 and 852. The purpose of this rulemaking is to repeal Sections 851 and 852, to allow, for ease of use, the requirements for UST systems and leaking PST systems to be located in the same rules.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2002 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2003 session of the Idaho Legislature.

**NEGOTIATED RULEMAKING:** Due to the nature of this rulemaking, negotiated rulemaking was not conducted.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning the proposed rulemaking, contact Rick Jarvis at (208)373-0502 or rjarvis@deq.state.id.us.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before July 31, 2002.

Dated this 24th day of May, 2002.

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

**EDITOR'S NOTE:** Sections 851 and 852 are being deleted from IDAPA 58.01.02 and will be "RESERVED" (see below). These Sections are being moved and repromulgated in their entirety in Docket No. 58-0107-0201 under Sections 060 and 070. The new chapter, IDAPA 58.01.07, "Rules for Owners and Operators of Underground Storage Tanks and Leaking Petroleum Storage Tanks" is being published in this Bulletin. The only modification being made to the deleted and repromulgated text corrects the internal rule citations to the new Section numbers. Therefore, the text is not being published in legislative format in this docket but is simply being deleted and moved to the new chapter.

**853~~1~~. -- 994. (RESERVED).**

## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.03 - INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL RULES

DOCKET NO. 58-0103-0201

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this proposed rulemaking will be held as follows:

**July 18, 2002, 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:** DEQ is evaluating the various conditions and circumstances that are used for making determinations of when public or central wastewater treatment facilities are reasonably accessible to undeveloped property. DEQ conducts reviews of proposed subdivisions at the request of city and county governmental agencies.

The purpose of this rulemaking is to provide greater detail to DEQ and the health districts in making decisions as to when central wastewater treatment facilities are reasonably accessible for new development and for issuing subsurface sewage disposal permits. The rule is needed to protect public health from ground water degradation due to nitrate contributions from septic systems in areas where subdivisions may be better served by central wastewater facilities. The rule establishes the conditions in which septic systems are an acceptable alternative to central wastewater treatment facilities.

The rule revises the estimate of wastewater flow from single family dwellings. The current rule uses the number of bedrooms in a single-family dwelling to estimate wastewater flow and starts with a base amount of 250 gallons per day for a three-bedroom home. The base amount is below the national average and under estimates the wastewater flow from single-family dwellings. The revised rule eliminates this problem by estimating wastewater flow by using a per capita wastewater generation rate and setting the number of persons per bedroom at 1.5. The estimated flow from large single-family dwellings is modified by a margin of safety based on dwelling square footage. This rule will also revise the list of systems installed by complex septic system installers; delete the exemption from licensure requirement for public works contractors and specify that general contractors do not qualify for the exemption; revise the separation distance to surface waters by adding additional categories for watertight pipe (irrigation) and tiled ditches; and adopts additional siting criteria.

The rule allows local jurisdictions to adopt rules, standards, or ordinances that are more stringent than these rules. The rule title is changed from Individual/Subsurface Sewage Disposal Rules to Individual/Subsurface Sewage Treatment and Distribution Rules. The rule also sets down the procedures to revoke permits and to issue failing permits. This proposed rule is an amendment to longstanding administrative rules which regulate activities that are not regulated by the federal government.

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.

**NEGOTIATED RULEMAKING:** The text of the proposed rule has been drafted based on discussions held and concerns raised during a negotiation conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812 - 815. The negotiation was open to the public. Participants in the negotiation included Central District Health and Southwest District Health, Boise City, Garden City, members of the public, and DEQ staff. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Volume 02-2, February 6, 2002, page 37.

**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 Barry Burnell at (208)373-0502 or bburnel@deq.state.id.us.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before July 31, 2002.

DATED this 23rd day of May, 2002.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0103-0201**

**IDAPA 58, TITLE 01, Chapter 03**

**58.01.03 - INDIVIDUAL/SUBSURFACE SEWAGE ~~DISPOSAL~~ TREATMENT  
AND DISTRIBUTION RULES**

**(BREAK IN CONTINUITY OF SECTIONS)**

**002. TITLE, SCOPE, CONFLICT AND RESPONSIBILITIES.**

**01. Title.** These rules shall be known as Idaho Department of Environmental Quality Rules, IDAPA 58.01.03, "Individual/Subsurface Sewage ~~Disposal~~ Treatment and Distribution Rules". (5-7-93)( )

**02. Scope.** The provisions of these rules establish limitations on the construction and use of individual and subsurface sewage disposal systems and establish the requirements for obtaining an installation permit and an installer's registration permit. These rules apply to every individual and every subsurface blackwaste and wastewater treatment system in Idaho. (5-7-93)

**03. Conflict Of Rules, Standards, And Ordinances.** In any case where a provision of these rules is found to be in conflict with a provision of any state or local zoning, building, fire, safety, or health regulation, standard or ordinance, the provision which, in the judgment of the Director, establishes the higher standard for the promotion and protection of the health and safety of the people, shall prevail. Local jurisdictions may adopt rules, standards, or ordinances that are more stringent than these rules. (5-7-93)( )

**04. Responsibilities.** (7-1-93)

- a. Every owner of real property is jointly and individually responsible for: (10-1-90)
  - i. Storing, treating, and disposing of blackwaste and wastewater generated on that property. (10-1-90)
  - ii. Connecting all plumbing fixtures on that property that discharge wastewaters to an approved wastewater system or facility. (10-1-90)
  - iii. Obtaining necessary permits and approvals for installation of individual or subsurface blackwaste and wastewater ~~disposal~~ treatment and distribution systems. ~~(10-1-90)~~(\_\_\_\_)
  - iv. Abandonment of an individual or subsurface sewage ~~disposal~~ treatment and distribution system. ~~(10-1-90)~~(\_\_\_\_)
- b. Each engineer, building contractor, individual or subsurface system installer, excavator, plumber, supplier, and every other person, who for compensation shall design, construct, abandon, or provide any system or part thereof, is jointly and individually responsible for compliance with each of these rules that are relevant to that service or product. (5-7-93)

**003. DEFINITIONS.**

For the purposes of these rules, the following definitions apply. (5-7-93)

- 01. Abandoned System.** A system which has ceased to receive blackwaste or wastewater due to diversion of those wastes to another treatment system or due to termination of waste flow. (10-1-90)
- 02. Alternative System.** Any system for which the Department has issued design guidelines or which the Director judges to be a simple modification of a standard system. (10-1-90)
- 03. Authorized Or Approved.** The state of being sanctioned or acceptable to the Director as stated in a written document. (10-1-90)
- 04. Blackwaste.** Human body waste, specifically excreta or urine. This includes toilet paper and other products used in the practice of personal hygiene. (10-1-90)
- 05. Blackwater.** A wastewater whose principal pollutant is blackwaste; a combination of blackwaste and water. (10-1-90)
- 06. Board.** Idaho State Board Of Environmental Quality. (10-1-90)
- 07. Building Sewer.** The extension of the building drain beginning five (5) feet outside the inner face of the building wall. (10-1-90)
- 08. Central System.** Any system which receives blackwaste or wastewater in volumes exceeding twenty-five hundred (2,500) gallons per day; any system which receives blackwaste or wastewater from more than two (2) dwelling units or more than two (2) buildings under separate ownership. (10-1-90)
- 09. Construct.** To make, form, excavate, alter, expand, repair, or install a system, and, their derivations. (5-7-93)
- 10. Director.** The Director of the Idaho Department of Environmental Quality or the Director's designee or authorized agent. (10-1-90)
- ~~**11. Existing System.** Any system which was installed prior to the effective date of these rules. (5-7-93)~~
- 121. Expand.** To enlarge any nonfailing system. (10-1-90)

- ~~132.~~ **Failing System.** Any system which exhibits one (1) or more of the following characteristics: (10-1-90)
- a. The system does not meet the intent of these rules as stated in Subsection 004.01. (5-7-93)
  - b. The system fails to accept blackwaste and wastewater. (10-1-90)
  - c. The system discharges blackwaste or wastewater into the waters of the State or onto the ground surface. (10-1-90)
  - d. The system was not constructed in accordance with the terms of the permit. ( )
13. Floodway. Floodway means that portion of the floodplain which is effective in carrying flow, where the flood hazard is generally the greatest, and where water depths and velocities are the highest. ( )
- 14. Ground Water.** Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (5-7-93)
- 15. High Groundwater Level - Normal, Seasonal.** High ground water level may be established by the presence of low chroma mottles, actual ground water monitoring or historic records. (5-7-93)
- a. The normal high groundwater level is the highest elevation of ground water that is maintained or exceeded for a continuous period of six (6) weeks a year. (5-7-93)
  - b. The seasonal high groundwater level is the highest elevation of ground water that is maintained or exceeded for a continuous period of one (1) week a year. (5-7-93)
- 16. High Water Mark.** The line which the surface water impresses on the ~~soil~~ bank by covering it for sufficient periods of time to prevent the growth of terrestrial vegetation. (~~10-1-90~~)( )
- 17. Individual System.** Any standard, alternative or subsurface system which is not a central system. (10-1-90)
- 18. Install.** To excavate or to put in place a system or a component of a system. (10-1-90)
- 19. Installer.** Any person, corporation, or firm engaged in the business of excavation for, or the construction of individual or subsurface sewage ~~disposal~~ treatment and distribution systems in the State. (~~10-1-90~~)( )
- 20. Large Soil Absorption System.** A large soil absorption system is a subsurface sewage ~~disposal~~ treatment and distribution system designed to receive two thousand five hundred (2,500) gallons of wastewater or more per day, including where the total wastewater flow from the entire proposed project exceeds two thousand five hundred (2,500) gallons per day but the flow is separated into absorption modules which receive less than two thousand five hundred (2,500) gallons per day. (~~5-7-93~~)( )
- 21. Limiting Layer.** A characteristic subsurface layer or material which will severely limit the capability of the soil to treat or absorb wastewater including, but not limited to, water tables, fractured bedrock, fissured bedrock, excessively permeable material and relatively impermeable material. (10-1-90)
- 22. Mottling.** Irregular areas of different color in the soil that vary in contrast, density, number and size. Mottling generally indicates poor aeration and impeded drainage. (5-7-93)
- 23. New System.** A system which is or might be authorized or approved on or after the effective date of these rules. (5-7-93)
- 24. Nondischarging System.** Any system which is designed and constructed to prevent the discharge of blackwaste or wastewater. (10-1-90)

- 25. Permit.** An individual or subsurface system installation permit or installer's registration permit. (10-1-90)
- 26. Pollutants.** Any chemical, biological, or physical substance whether it be solid, liquid, gas, or a quality thereof, which if released into the environment can, by itself or in combination with other substances, create a public nuisance or render that environment harmful, detrimental, or injurious to public health, safety or welfare or to domestic, commercial, industrial, agricultural, recreational, aesthetic, or other beneficial uses. (10-1-90)
- 27. Public System.** Any system owned by a county, city, special service district, or other governmental entity or Indian tribe having the authority to dispose of blackwaste or wastewater; a municipal wastewater treatment facility. (10-1-90)
- 28. Repair.** To remake, reform, replace, or enlarge a failing system or any component thereof as is necessary to restore proper operation. (10-1-90)
- 29. Scarp.** The side of a hill, canyon, ditch, river bank, roadcut or other geological feature characterized by a slope of forty-five (45) degrees or more from the horizontal. (10-1-90)
- 30. Sewage.** Sewage has the same meaning as wastewater. (10-1-90)
- 31. Single Family Dwelling Equivalent.** Is a term used to compare the amount of domestic wastewater generated by a multiple residential, industrial, institutional food services, commercial and industrial, or seasonal and recreational facility to a typical residential structure. Four hundred and fifty (450) gallons of domestic wastewater per day is equivalent to a single family dwelling. For example a twenty (20) unit apartment complex with a system designed for five thousand (5000) gallons per day as based on Subsection 007.08 is equivalent to eleven point one (11.1) single family dwellings. ( )
- ~~**32. Soil Texture.** The relative proportion of sand, silt, and clay particles in a mass of soil. (10-1-90)~~
- ~~**323. Standard System.** Any system recognized by the Board through the adoption of design and construction regulations. (10-1-90)~~
- ~~**334. Subsurface System.** Any system with a point of discharge beneath the earth's surface. (10-1-90)~~
- ~~**345. Surface Water - Intermittent, Permanent, Temporary.** (7-1-93)~~
- ~~**a.** Any waters of the State which flow or are contained in natural or man-made depressions in the earth's surface. This includes, but is not limited to, lakes, ponds, streams, canals, and ditches and also man-made ditches, drains, or canals that intercept ground water and discharge directly or hydraulically to surface water. (10-1-90)( )~~
- ~~**b.** An intermittent surface water exists continuously for a period of more than two (2) months but not more than six (6) months a year. (10-1-90)~~
- ~~**c.** A permanent surface water exists continuously for a period of more than six (6) months a year. (10-1-90)~~
- ~~**d.** A temporary surface water exists continuously for a period of less than two (2) months a year. (10-1-90)~~
- ~~**356. System.** Beginning at the point of entry physically connected piping, treatment devices, receptacles, structures, or areas of land designed, used or dedicated to convey, store, stabilize, neutralize, treat, or dispose of blackwaste or wastewater. (10-1-90)~~
- 37. Unstable Landform.** Areas showing evidence of mass down slope movement. ( )

**368. Wastewater.** Any combination of liquid or water and pollutants from activities and processes occurring in dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any groundwater, surface water, and storm water that may be present; liquid or water that is chemically, biologically, physically or rationally identifiable as containing blackwater, grey water or commercial or industrial pollutants; and sewage. (10-1-90)

**39. Wastewater Master Plan.** A planning document describing the long term plan for wastewater collection, treatment and disposal for a municipality, sewer district or other applicable entity. These plans generally describe the sizing and locations of collection and treatment facilities based on existing and future land use, topography, geology, ground water, surface water, and other factors. They also can describe a proposed order of development, but not construction schedules, since construction schedules are too dependent on financing and other unknown issues. ( )

**3740. Waters Of The State.** All the accumulations of water, surface and underground, natural and artificial, public and private or parts thereof which are wholly or partially within, which flow through or border upon the state of Idaho. (10-1-90)

**3841. Water Table.** The surface of an aquifer. (10-1-90)

**004. GENERAL REQUIREMENTS.**

**01. Intent Of Rules.** The Board, in order to protect the health, safety, and environment of the people of the state of Idaho establishes these rules governing the design, construction, siting and abandonment of individual and subsurface sewage ~~disposal~~ treatment and distribution systems. These rules are intended to insure that blackwastes and wastewater generated in the state of Idaho are safely contained and treated and that blackwaste and wastewater contained in or discharged from each system: (5-7-93)( )

- a. Are not accessible to insects, rodents, or other wild or domestic animals; (10-1-90)
- b. Are not accessible to individuals; (10-1-90)
- c. Do not give rise to a public nuisance due to odor or unsightly appearance; (10-1-90)
- d. Do not injure or interfere with existing or potential beneficial uses of the waters of the State. (10-1-90)

**02. Compliance With Intent Required.** The Director shall not authorize or approve any system if, in the opinion of the Director, the system will not be (is not) in compliance with the intent of these rules. (5-7-93)

**03. System Limitations.** Cooling water, backwash or backflush water, hot tub or spa water, air conditioning water, water softener brine, groundwater, oil, or roof drainage cannot be discharged into any system unless that discharge is approved by the Director. (10-1-90)

**04. Increased Flows.** Unless authorized by the Director, no person shall provide for or connect additional blackwaste or wastewater sources to any system if the resulting flow or volume would exceed the design flow of the system. (10-1-90)

**05. Failing System.** The owner of any failing system shall obtain a permit ~~and cause the failing system's repair~~ (10-1-90)

~~a.~~ As soon as practical after the owner becomes aware of its failure, ~~or~~ (10-1-90)

~~b.~~ As directed in proper notice from the Director. In no case shall the time frame for obtaining a permit exceed seven (7) working days. Construction shall be completed within thirty (30) calendar days of permit issuance unless otherwise specified by the Director in writing. (10-1-90)( )

**06. Subsurface System Replacement Area.** An area of land which is suitable in all respects for the

complete replacement of a new subsurface system ~~disposal~~ treatment and distribution field shall be reserved as a replacement area. This area will be kept vacant, free of vehicular traffic and free of any soil modification which would negatively affect its use as a replacement ~~disposal~~ treatment and distribution field construction site.

(10-1-90)(\_\_\_\_)

**07. Technical Guidance Committee.** The Director shall appoint a Technical Guidance Committee composed of three (3) representatives from the seven (7) Health Districts, one (1) representative from the Department of Environmental Quality, one (1) professional engineer licensed in the state of Idaho and one (1) licensed installer. Initially two (2) committee members shall be appointed to each of one (1), two (2) and three (3) year terms. Appointments to vacancies thereafter shall be to three (3) year terms. (12-31-91)

**08. Duties Of The Technical Guidance Committee.** The Committee shall maintain a technical guidance manual which shall be used in the design, construction, alteration, operation, and maintenance of conventional systems, their components and alternatives. The Committee shall review variances at the request of the Director and provide recommendations on such variances. (10-1-90)

**09. Technical Guidance Manual For Individual And Subsurface Alternative Sewage ~~Disposal~~ Treatment And Distribution.** The manual maintained by the Technical Guidance Committee shall provide state-of-the-art technical guidance on alternative sewage ~~disposal~~ treatment and distribution components and systems, soil type determination methodology and other information pertinent to the best management practices of individual and subsurface sewage ~~disposal~~ treatment and distribution. (10-1-90)(\_\_\_\_)

**10. Alternative System.** If a standard system as described in these rules cannot be installed on a parcel of land, an alternative system may be permitted if that system is in accordance with the recommendations of the Technical Guidance Committee and is approved by the Director. (5-7-93)

**005. PERMIT AND PERMIT APPLICATION.**

**01. Permit Required.** Except as specified in Subsection 005.02 it shall be unlawful for any person to cause or to perform the modification, repair or construction of any individual or subsurface sewage ~~disposal~~ treatment and distribution system within the state of Idaho unless there is a valid installation permit authorizing that activity. (12-31-91)(\_\_\_\_)

**02. Exceptions To Permit Requirement.** The activities listed in this subsection may be lawfully performed in the absence of a valid installation permit. They are, however, subject to all other relevant rules and regulations. (10-1-90)

**a.** Portable nondischarging systems may be installed where needed as temporary blackwaste or wastewater systems if they are properly maintained and if they are of a design which has been approved by the Director. (10-1-90)

**b.** Individual and subsurface systems may be repaired when needed as a result of clogged or broken solid piping or of malfunctions in an electrical or mechanical system. Such repair may not expand the system unless authorized by the Director. (10-1-90)

**03. Permit Application.** The owner of the system or the owner's authorized representative shall make application to the Director in writing and in a manner or form prescribed by the Director. (10-1-90)

**04. Contents Of Application.** A permit application will be used to help determine if the proposed construction will be in conformance with applicable rules and regulations. Information required in the application may include, but is not limited to: (10-1-90)

**a.** The name and address of the owner of the system and of the applicant, if different; (10-1-90)

**b.** The legal description of the parcel of land; (10-1-90)

**c.** The type of establishment served; (10-1-90)

- d.** The maximum number of persons served, number of bedrooms, dwelling area square footage, or other appropriate measure of wastewater flow; ~~(10-1-90)~~(\_\_\_\_)
- e.** The type of system; (10-1-90)
- f.** The construction activity (new construction, enlargement, repair); (10-1-90)
- g.** A scaled or dimensioned plot plan including, if needed, adjacent properties illustrating: (10-1-90)
- i.** The location and size of all existing and proposed wastewater systems including disposal distribution field replacement areas; ~~(10-1-90)~~(\_\_\_\_)
- ii.** The location of all existing water supply system features; (10-1-90)
- iii.** The location of all surface waters; (10-1-90)
- iv.** The location of scarps, cuts, and rock outcrops; (10-1-90)
- v.** Land elevations, surface contours, and ground slopes between features of interest; (10-1-90)
- vi.** Property lines, easements, and rights-of-way; and (10-1-90)
- vii.** Location and size of buildings and structures. (7-1-93)
- viii.** The location of unstable landforms. (\_\_\_\_)
- h.** The plans and specifications of the proposed system which include: (10-1-90)
- i.** Diagrams of all system facilities which are to be made or fabricated at the site; (10-1-90)
- ii.** The manufacturer's name and identification of any component approved pursuant to Sections 007 and 009; and (12-31-91)
- iii.** List of materials. (10-1-90)
- i.** Soil description and profile, groundwater data, percolation or permeability test results and/or a site evaluation report. The director may require the applicant to submit a hydrogeologic/environmental investigation report; ~~(10-1-90)~~(\_\_\_\_)
- j.** The nature and quantity of blackwaste and wastewater which the system is to receive including the basis for that estimate; (10-1-90)
- k.** Proposed operation, maintenance, and monitoring procedures to insure the system's performance and failure detection; (10-1-90)
- l.** Copies of legal documents relating to access and to responsibilities for operation, maintenance, and monitoring; (10-1-90)
- m.** A statement from the local zoning or building authority indicating that the proposed system would not be contrary to local ordinances; (10-1-90)
- n.** The signature of the owner of the proposed system and, if different, of the applicant; and (10-1-90)
- o.** Any other information, document, or condition that may be required by the Director to substantiate that the proposed system will comply with applicable rules and regulations. (10-1-90)

**05. Basis For Permit Application Denial.** The Director may deny a permit application if in the Director's judgment any of the following apply: (10-1-90)()

- a. The application is incomplete, inaccurate, or misleading; (10-1-90)
- b. The system as proposed is not in compliance with applicable rules and regulations; (10-1-90)
- c. The system as proposed would, when put into use, be considered a failing system, or a hydrogeologic/environmental investigation determines that the project will adversely impact surface or ground water(s); (10-1-90)()
- d. The design and description of a public system was not made by a professional engineer; (10-1-90)
- e. The site is on an unstable landform; ()
- f. The minimum lot size served by individual water and sewer systems, is less than one (1) acre. Lot size is determined on actual property boundaries and may include common area available for replacement systems; ()

**eg.** Public or central wastewater treatment facilities are reasonably accessible. Factors the Director may consider in determining reasonable access to public or central wastewater facilities include: (10-1-90)()

i. Whether the local governing authority has adopted planning documents, including, but not limited to, comprehensive plans, wastewater master plans, construction plans, and area of impact determinations, that include the proposed project area to be served by a public system; ()

ii. Whether the governing authority over both the wastewater collection and treatment facilities have issued will serve letters and the wastewater collection and treatment facilities have existing capacity; ()

iii. Whether a sewer collection line is scheduled to be constructed within twenty-four (24) months of the projects permit application and the scheduled construction is part of a governing authority's annual budget and or written commitments have been accepted by the governing authority making construction reasonably certain within this time frame; ()

iv. Whether the distance from the property line of the development to the wastewater treatment facility collection line, as shown in the applicable wastewater master plan, is two hundred (200) feet or less per lot or single family dwelling equivalent, with consideration given to geologic and topographic features. For example, a five (5) lot development may be required to connect to the central wastewater facility if the distance is one thousand (1,000) feet or less. In the absence of a wastewater master plan, the director may consider different distances; ()

v. Whether the cost to construct the offsite sewer line to the development property line, less any latecomers reimbursement, is less than two hundred percent (200%) of the estimated costs of installing permittable subsurface sewage disposal systems; or ()

vi. Whether the local jurisdiction has developed a mechanism to ensure that the cost to extend the wastewater collection line to the property line of the development is borne with rough proportionality to the benefit derived by all potential users from the improvement. ()

vii. Whether a right-of-way or easement is available from the property to the central wastewater treatment collection facility. ()

**06. Notice Of Denial.** Upon denial of an application the Director shall notify the applicant of the reason for denial. (10-1-90)

**07. Issuance Of Permit.** When, in the opinion of the Director the system as proposed will be in conformance with applicable rules and regulations, the Director shall issue an "Individual and Subsurface System Installation Permit". (10-1-90)

**08. Application And Permit Valid For One (1) Year.** Unless otherwise stated on the application or permit, it shall become invalid if the authorized construction or activity is not completed and approved within one (1) year of the date of issuance. (10-1-90)

**09. Permit Renewal.** At the discretion of the Director, a permit may be renewed one (1) or more times upon request by the applicant or owner provided that the request is received by the Director prior to the permit's date of expiration. (10-1-90)

**10. Immediate Effect Of The Permit.** A valid permit authorizes the construction of an individual or subsurface system and requires that the construction be conducted in compliance with plans, specifications, and conditions contained in the approved permit application. Any deviation from the plans, specifications, and conditions is prohibited and is cause for permit revocation unless # the deviation is approved in advance by the Director. (10-1-90)(\_\_\_\_)

**11. Cottage Site Facility Certification.** A valid permit shall constitute certification and approval for the purposes of Section 39-36~~37~~37, Idaho Code. (10-1-90)(\_\_\_\_)

**12. Existing Installation Permits.** Individual ~~and~~ subsurface sewage ~~disposal treatment and distribution~~ installation permits or other lot-specific approvals for systems issued prior to ~~February 7, 1978~~ April 1, 2003, pursuant to Idaho Code Title 39, Chapter 1 and Title 39, Chapter 36, ~~will become invalid one (1) year after written notice is given by the Director notifying the owner or holder of such a permit or approval that the permit or approval will no longer be valid unless construction or installation of the system provided for in the permit or approval is commenced within one (1) year after giving of the notice. This provision does not apply to certificates filed to satisfy a sanitary restriction pursuant to Section 50-1326, Idaho Code shall be valid until expiration.~~ (10-1-90)(\_\_\_\_)

**13. Abandonment May Be Required.** The Director may require as a condition for issuing a permit that the system be abandoned by a specified date or under specific predetermined circumstances. The date or circumstances will be established before the issuance of the permit and be contained in the permit application. These conditions may relate to a specific date, dwelling density, completion of a municipal system or other circumstances relative to the availability of central sewerage system services. (10-1-90)

**14. Operation, Maintenance And Monitoring.** The Director may require as a condition of issuing a permit, that specific operation, maintenance, and monitoring procedures be observed. Those procedures will be contained in the permit application. (10-1-90)

**15. As-Built Plans And Specifications.** The Director may require as a condition of issuing a permit, that complete and accurate record drawings and specifications depicting the actual construction be submitted to the Director within thirty (30) days after the completion of the construction. Alternately, if the construction proceeded in compliance with the approved plans and specifications, a statement to that effect may be submitted. (10-1-90)

**16. Permit Fee.** All applications shall be accompanied by payment of ~~the a duly adopted fee specified in Idaho Department of Health and Welfare Rules, IDAPA 16.05.05, Subsections 110 through 110.02, "Rules Governing Fees for Health and Environmental Operating Permits, Licenses, and Inspections Services".~~ (5-7-93)(\_\_\_\_)

**17. Permit Revocation.** (\_\_\_\_)

**a. Conditions for Revocation.** The Director may revoke a permit if the permittee violates any permit condition or these rules. (\_\_\_\_)

**b. Notice of Revocation.** Except in cases of emergency, the Director shall issue a written notice of intent to revoke to the permittee prior to final revocation. Revocation shall become final within thirty-five (35) days of receipt of the notice by the permittee, unless within that time the permittee requests an administrative hearing in writing. The hearing shall be conducted in accordance with IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". Upon receipt of the notice of intent to revoke, all construction, repair,

replacement, or installation activities associated with the permit shall be suspended until a final determination has been made. ( )

c. Emergency Action. If the Director finds the public health, safety or welfare requires emergency action, the Director shall incorporate findings in support of such action in a written notice of emergency revocation issued to the permittee. Emergency revocation shall be effective upon receipt by the permittee. Thereafter, if requested by the permittee in writing, the Director shall provide the permittee a revocation hearing and prior notice thereof. Such hearings shall be conducted in accordance with IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". ( )

**006. INSTALLER'S REGISTRATION PERMIT.**

**01. Permit Required.** Every installer shall secure from the Director, an installer's registration permit. Two (2) types of installer permits are available: (5-7-93)

**a.** A standard and basic alternative system installer's registration permit is required to install all individual systems not listed under Subsection 006.01.b. (5-7-93)

**b.** A complex alternative system installer's registration permit is required to install evapotranspiration systems, extended treatment systems, lagoon systems, large soil absorption systems, pressure distribution systems, ~~intermittent sand and gravel filters, in-trench sand filter,~~ sand mound or other systems as may be specified by the Director. (5-7-93)( )

**02. Examination.** The initial issuance of the installer's permit shall be based on the completion of an examination, with a passing score of seventy (70) or more, of the applicant's knowledge of the principles set forth in this chapter and the applicable sections of the Technical Guidance Manual. The examination will be prepared, administered and graded by the Director. (5-7-93)

**03. Permits Required Annually.** Registration permits expire annually on the first (1st) day of January and all permits issued thereafter will be issued for the balance of the calendar year. Additionally, at least one (1) refresher course approved by the state of Idaho, Department of Environmental Quality, be attended every three (3) years. (5-7-93)

**04. Contents Of Application.** Applications for permits shall be in writing, shall be signed by the applicant or by an officer or authorized agent of a corporation, shall contain the name and address of the applicant, shall indicate whether the permit is to be for installation of standard and basic alternative systems or for installation of standard, basic and complex alternative systems, and shall contain the expiration date of the bond required by Subsection 006.05. (5-7-93)

**05. Bond Required.** At the time of application, all applicants shall deliver to the Director a bond in a form approved by the Director in sum of five thousand dollars (\$5,000) for a standard and basic alternative system installer's registration permit, or in the sum of fifteen thousand dollars (\$15,000) for standard, basic and complex alternative system installer's registration permit. The bond will be executed by a surety company duly authorized to do business in the state of Idaho and must run concurrent with the installer's registration permit to be approved by the Director guaranteeing the faithful performance of all work undertaken under the provisions of the installer's registration permit. Any person who suffers damage as the result of the negligent or wrongful acts of the registrant or by his failure to competently perform any of the work agreed to be done under the terms of the registration permit shall, in addition to other legal remedies, have a right of action in his own name on the bond for all damages not exceeding five thousand dollars (\$5,000) for standard and basic alternative systems or fifteen thousand dollars (\$15,000) for complex alternative systems. The maximum liability of the surety and/or sureties on the bond, regardless of the number of claims filed against the bond, shall not exceed the sum of five thousand dollars (\$5,000) for standard and basic alternative systems or fifteen thousand dollars (\$15,000) for complex alternative systems. (5-7-93)

**06. Exemption.** An installer's permit shall not be required for: (10-1-90)

**a:** ~~Any person, corporation, or firm constructing a central or municipal subsurface sewage disposal~~

~~system if that person, corporation, or firm is a licensed public works contractor as provided in Title 54, Chapter 19, Idaho Code, is experienced in the type of system to be installed and is under the direction of a professional engineer licensed in the state of Idaho; or~~ (5-7-93)

~~b:~~ At a home owner and resident installing his own standard or basic alternative system. This exemption does not apply to general contractors. (5-7-93)(    )

**07. Application Fee.** All applications shall be accompanied by payment of ~~the~~ a duly adopted fee specified in Idaho Department of Health and Welfare Rules, IDAPA 16.05.05, Section 120, "Rules Governing Fees for Health and Environmental Operating Permits, Licenses, and Inspection Services". (5-7-93)(    )

**08. Grounds For Revocation.** Failure to comply with these rules shall be grounds for revocation of the permit. (5-7-93)

**007. SEPTIC TANKS DESIGN AND CONSTRUCTION STANDARDS.**

**01. Materials.** New septic tanks will be constructed of concrete, or other materials approved by the Director. Steel tanks are unacceptable. (10-1-90)

**02. Construction Requirements.** All septic tanks will be water tight, constructed of sound, durable materials and not subject to excessive corrosion, decay, frost damage or cracking. (10-1-90)

**03. Concrete Septic Tanks.** New concrete septic tanks will at a minimum meet the following requirements: (10-1-90)

**a.** The walls and floor must be at least two and one-half (2 1/2) inches thick if adequately reinforced and at least six (6) inches thick if not reinforced. (10-1-90)

**b.** Concrete lids or covers must be at least three (3) inches thick and adequately reinforced. (10-1-90)

**c.** The floor and at least a six (6) inch vertical portion of the walls of a poured tank must be poured at the same time (monolithic pour). (10-1-90)

**d.** Wall sections poured separately must have interlocking joints on joining edge. (10-1-90)

**e.** All concrete outlet baffles must be finished with an asphalt or other protective coating. (10-1-90)

**04. Horizontal Dimension Limit.** No interior horizontal dimension of a septic tank or compartment may be less than two (2) feet. (10-1-90)

**05. Liquid Depth.** The liquid depth shall be at least two and one-half (2 1/2) feet but not greater than five (5) feet. (10-1-90)

**06. Manufactured Tank Markings.** Septic tanks manufactured in accordance with a specified design approved by the Director, will be legibly and indelibly marked with the manufacturer's name or trademark, total liquid capacity and shall indicate the tank's inlet and outlet. (10-1-90)

**07. Minimum Septic Tank Capacities.** (7-1-93)

~~a:~~ *Tanks serving one (1) or two (2) single dwelling units:*

<b>MINIMUM CAPACITY PER DWELLING UNIT</b>	
<b>Number of Bedrooms</b>	<b>Minimum Liquid Capacity (Gallons)</b>
<i>1 or 2</i>	<i>900</i>

<b>MINIMUM CAPACITY PER DWELLING UNIT</b>	
<b>Number of Bedrooms</b>	<b>Minimum Liquid Capacity (Gallons)</b>
3 or 4	1,000

For each bedroom over four (4) add two hundred fifty (250) gallons.

(10-1-90)

**b.** Tanks serving all other flows. Septic tank capacity shall be equal to two (2) times the average daily flow as determined from Subsection 007.08. The minimum tank capacity shall be seven hundred and fifty (750) gallons. The minimum size septic tank capacity is one thousand (1,000) gallons. For wastewater flows exceeding five hundred (500) gallons per day (GPD) the minimum shall be equal to two (2) times the average daily flow as determined in Subsection 007.08 or as determined from similar facilities with metered flow or other published wastewater flow estimates, such as American Water Works Association or Metcalf and Eddy, 1991, which ever is greater or is accepted by the Director. Peak wastewater flow rates for facilities with non-uniform wastewater generation rates shall be used for design purposes unless a method of flow equalization is provided in the design.

(12-31-91)( )

**08. Wastewater Flows From Various Establishments In Gallons Per Day.** The following table shall be used to estimate wastewater flows from dwellings, multiple residential, institutional, food services, commercial and industrial, and seasonal and recreational facilities:

<b>ESTABLISHMENTS</b>	
Single Family Dwelling <del>and Mobile Homes, 3 bedroom.</del> <del>Add/subtract 50 gallons/bedroom</del>	<del>250/Unit</del> <del>150 GPD/</del> <del>bedroom</del>
<u>Dwelling Square Footage</u>	<u>Percentage</u> <u>Increase in GPD</u>
<u>&lt;4,000 ft<sup>2</sup></u>	<u>0</u>
<u>4,000 - 6,000 ft<sup>2</sup></u>	<u>20</u>
<u>6,001 - 8,000 ft<sup>2</sup></u>	<u>40</u>
<u>8,001 - 10,000 ft<sup>2</sup></u>	<u>60</u>
<u>10,001 - 12,000 ft<sup>2</sup></u>	<u>80</u>
<u>&gt;12,000 ft<sup>2</sup></u>	<u>100</u>
<b>MULTIPLE RESIDENTIAL</b>	
Hotel: With Private Baths Without Private Baths	60/Bedspace 40/Bedspace
Motel: With Kitchenette	40/Bedspace 60/Bedspace
Boarding House: Add for each nonresident	150/Bedspace 25
Rooming House/Bunk House Staff Resident Nonresident	40/Resident 40/Staff 15/Staff
Apartments	250/Unit

<b>ESTABLISHMENTS</b>	
<b>INSTITUTIONAL</b>	
Assembly Hall/Meeting House	2/Seat
Church: With Kitchen	3/Seat 7/Seat
Hospital: Kitchen only Laundry only	250/Bedspace 25/Bedspace 40/Bedspace
Nursing Home/Rest Home	125/Bedspace
Day School: Without Showers With Showers With Cafeteria, add Staff-Resident Nonresident	20/Student 25/Student 3/Student 40/Staff 20/Staff
<b>FOOD SERVICE</b>	
Conventional Service: Toilet & Kitchen Wastes Kitchen Wastes	13/Meal 3.3/Meal
Take Out or Single Service	2/Meal
Dining Hall: Toilet & Kitchen Wastes Kitchen Wastes	8/Meal 3.3/Meal
Drinking Establishment	2/Person
Food Service Employee	15/Employee
<b>COMMERCIAL AND INDUSTRIAL</b>	
Bowling Alley	125/Lane
Laundry - Self Service	50/Wash
Public Transportation Terminal	5/Fare
Service Station	10/Vehicle
Car Wash: 1st Bay Additional Bays	50/Vehicle 1000 500 each
Shopping Center (No food/laundry)	1/Pkg.Sp.
Theaters (including Concession Stand): Auditorium Drive-in	5/Seat 10/Space
Offices	20/Employee

<b>ESTABLISHMENTS</b>	
Factories: No Showers With Showers Add for Cafeteria	25/Employee 35/Employee 5/Employee
Stores	2/Employee
Public Restrooms <u>Toilet Wastes</u> <u>Toilet &amp; Shower Wastes</u>	<u>5/Person</u> <u>15/Person</u>
<b>SEASONAL AND RECREATIONAL</b>	
Fairground (Peak Daily Attend)	1/Person
Stadium	2/Seat
Swimming Pool: Toilet & Shower Wastes	10/Person
Parks & Camps (Day Use): Toilet & Shower Wastes	15/Person
Roadside Rest Area: Toilet & Shower Wastes Toilet Waste	10/Person 5/Person
Overnight Accommodation: Central Toilet Central Toilet & Shower	25/Person 35/Person
Designated Camp Area: Toilet & Shower Wastes Toilet Wastes	90/Space 65/Space
Seasonal Camp	50/Space
Luxury Cabin	75/Person
Travel Trailer Park with Sewer and Water Hook-up	125/Space
Construction Camp	50/Person
Resort Camps	50/Person
Luxury Camps	100/Person
Country Clubs Resident Member Add for Nonresident Member	100/Member 25/Person
Public Restrooms: Toilet Wastes Toilet & Shower Wastes	5/Person 15/Person

(10-1-90)( )

**09. Total Volume.** The total volume of a septic tank will at a minimum be one hundred fifteen percent (115%) of its liquid capacity. (10-1-90)

**10. Inlets.** (7-1-93)

a. The inlet into the tank will be at least four (4) inches in diameter and enter the tank three (3) inches above the liquid level. (10-1-90)

b. The inlet of the septic tank and each compartment will be submerged by means of a vented tee or baffle. (10-1-90)

c. Vented tees or baffles will extend above the liquid level seven (7) inches or more but not closer than one (1) inch to the top of the tank. (10-1-90)

d. Tees and baffles should not extend horizontally into the tank beyond two (2) times the diameter of the inlet. ~~(10-1-90)~~(\_\_\_\_)

**11. Outlets.** (7-1-93)

a. The outlet of the tank will be at least four (4) inches in diameter. (10-1-90)

b. The outlet of the septic tank and each compartment will be submerged by means of a vented tee or baffle. (10-1-90)

c. Vented tees and baffles will extend above the liquid level seven (7) inches or more ~~above the liquid level~~ but no closer than one (1) inch to the inside top of the tank. ~~(10-1-90)~~(\_\_\_\_)

d. Tees and baffles will extend below the liquid level to a depth where forty percent (40%) of the tank's liquid volume is above the bottom of the tee or baffle. For vertical walled rectangular tanks, this point is at forty percent (40%) of the liquid depth. In horizontal cylindrical tanks this point is about thirty-five percent (35%) of the liquid depth. (10-1-90)

e. Tees and baffles should not extend horizontally into the tank beyond two (2) times the diameter of the outlet. (10-1-90)

**12. Scum Storage.** A septic tank will provide an air space above the liquid level which will be equal to or greater than fifteen percent (15%) of the tank's liquid capacity. For horizontal cylindrical tanks, this condition is met when the bottom of the outlet port is located at nineteen percent (19%) of the tank's diameter when measured from the inside top of the tank. (10-1-90)

**13. Manholes.** Access to each septic tank or compartment shall be provided by a manhole twenty (20) inches in minimum dimension or a removable cover of equivalent size. Each manhole cover will be provided with a corrosion resistant strap or handle to facilitate removal. (10-1-90)

**14. Inspection Ports.** An inspection port measuring at least eight (8) inches in its minimum dimension will be placed above each inlet and outlet. Manholes may be substituted for inspection ports. (10-1-90)

**15. Split Flows.** The wastewater from a single building sewer or sewer line may not be divided and discharged into more than one (1) septic tank or compartment. (10-1-90)

**16. Multiple Tank Or Compartment Capacity.** Multiple septic tanks or compartmented septic tanks connected in series may be used so long as the sum of their liquid capacities is at least equal to the minimum tank capacity computed in Subsection 007.07 and the initial tank or compartment has a liquid capacity of more than one-half (1/2) but no more than two-thirds (2/3) of the total liquid capacity of the septic tank facility. (12-31-91)

**17. Minimum Separation Distances Between Septic Tanks and Features of Concern.**

Features of Concern	Minimum Distance to Septic Tank in Feet	
Well or Spring or Suction Line	Public Water	100
	Other	50
Water Distribution Line	Public Water	25
	Other	10
Permanent or Intermittent Surface Water		50
Temporary Surface Water		25
Downslope Cut or Scarp		25
Dwelling Foundation or Building		5
Property Line		5
Seasonal High Water Level (Vertically from Top of Tank)		2

(10-1-90)

**18. Installation Of Manufactured Tanks.** If written installation instructions are provided by the manufacturer of a septic tank, those instructions relative to the stability and integrity of the tank are to be followed unless otherwise specified in the installation permit of these rules. (5-7-93)

**19. Manhole Extension.** If the top of the septic tank is to be located more than twenty-four (24) inches below the finished grade, manholes will be extended to within eighteen (18) inches of the finished grade. (10-1-90)

**20. Sectional Tanks.** Sectional tanks will be joined in a manner that will insure that the tank is watertight. (10-1-90)

**21. Inlet And Outlet Piping.** Unless otherwise specified in the installation permit, piping to and from a septic tank or dosing chamber, to points three (3) feet beyond the tank excavation shall be of a material approved by the Director. The following materials are required: (5-7-93)

**a.** ABS schedule forty (40) or material of equal or greater strength piping shall be used to span the excavations for the septic tank and dosing chamber. (5-7-93)

**b.** ASTM-D-3033 or 3034 plastic pipe may be used to span the septic tank and dosing chamber if the excavation is compacted with fill material. (5-7-93)

**i.** The fill material must be granular, clean and compacted to ninety percent (90%) standard proctor density. (5-7-93)

**ii.** Placement of ASTM-D-3033 or 3034 on undisturbed earth is suitable, but in no installation shall there be less than twelve (12) inches of cover over the pipe. (5-7-93)

**22. Effluent Pipe Separation Distances.** Effluent pipes shall not be installed closer than fifty (50) feet from an individual well and one hundred (100) feet from a public water supply well. Effluent pipes shall meet the minimum separation distances between septic tanks and features of concern, Subsection 007.17, excluding the separation distance from seasonal high ground water. (~~5-7-93~~) ( )

**23. Septic Tank Abandonment.** Responsibility of properly abandoning a septic tank shall remain with the property owner. Septic tanks shall be abandoned in accordance with the following: (5-7-93)

- a. Disconnection of the inlet and outlet piping; (5-7-93)
- b. Pumping of the scum and septage with approved disposal; (5-7-93)
- c. Filling the septic tank with earthen materials; or (5-7-93)
- d. Physically destroying the septic tank or removing the septic tank from the ground. (5-7-93)

**008. STANDARD SUBSURFACE ~~DISPOSAL~~ TREATMENT AND DISTRIBUTION FACILITY DESIGN AND CONSTRUCTION.**

**01. Standard Drainfield.** A drainfield consisting of an effluent sewer, one (1) or more aggregate filled trenches and a gravity flow wastewater distribution system. These standards will be the basis of acceptable design and configuration. Overall dimensions of a specific facility will depend upon site characteristics and the volume of wastewater. (10-1-90)

**02. Site Suitability.** The area in which a standard drainfield is to be constructed must meet the conditions stated in this subsection: (10-1-90)

- a. Slope. The natural slope of the site will not exceed twenty percent (20%). (10-1-90)
- b. Soil types. Suitable soil types must be present at depths corresponding with the sidewalls of the proposed drainfield and at depths which will be between the bottom of the proposed drainfield and any limiting soil layer (effective soil depth).

Design Soil Group	Soil Textural Classification	USDA Field Test Textural Classification	
<b>Unsuitable</b>	Gravel	10 Mesh	
	Coarse Sand	10-35 Mesh	Sand
<b>A</b>	Medium Sand	35-60 Mesh	Sand
	Fine Sand	65-140 Mesh	Sand
	Loamy Sand		Sand
<b>B</b>	Very Fine Sand	140-270 Mesh	Sand
	Sandy Loam		Sandy Loam
	Very Fine Loamy Sand		Sandy Loam
<b>C</b>	Loam		
	Silt Loam		Silt Loam
	Silt		Silt Loam
	Clay Loam		Clay Loam
	Sandy Clay Loam		Clay Loam
<b>Unsuitable</b>	Silty Clay Loam		Clay Loam
	Sandy Clay		Clay
	Silty Clay		Clay
	Clay		Clay

Design Soil Group	Soil Textural Classification	USDA Field Test Textural Classification
	Clay soils with high shrink/swell potential	Clay
	Organic mucks	
	Claypan, Duripan,	
	Hardpan	

(10-1-90)

c. Effective Soil Depths. Effective soil depths, in feet, below the bottom of the drainfield must be equal to or greater than those values listed in the following table.

EFFECTIVE SOIL DEPTHS TABLE			
Site Conditions	Design	Soil	Group
Limiting Layer	A	B	C
Impermeable Layer	4	4	4
Fractured Bedrock, Fissured Bedrock or Extremely Permeable Material	6	4	3
Normal High Groundwater Level	6	4	3
Seasonal High Groundwater Level	1	1	1

(5-7-93)

d. Separation Distances. The drainfield must be located so that the separation distances given in feet be maintained or exceeded according to the following ~~T~~table:

Feature of Interest	Soil Types All	A	B	C
Public Water Supply ( <u>wells</u> )	100			
All Other Domestic Water Supplies ( <u>wells</u> ) including Springs and Suction Lines	100			
Water Distribution Lines, <u>including public and domestic water supply:</u> Pressure Suction	25 100			
Permanent or Intermittent Surface Water <del>other than Irrigation Canals &amp; Ditches</del> <u>to the high water mark</u>		300	200	100
<del>Temporary Surface Water and</del> Irrigation Canals and Ditches <u>that do not intercept ground water</u>	50			
<u>Temporary Surface Water</u>	<u>25</u>			
<u>Watertight Pipe and Tiled Ditches used for irrigation</u>	<u>25</u>			

Feature of Interest	Soil Types All	A	B	C
Downslope Cut or Scarp: Impermeable Layer Above Base Impermeable Layer Below Base		75 50	50 25	50 25
Building Foundations: Crawl Space or Slab Basement	10 20			
Property Line	5			

(5-7-93)( )

**03. Subsurface ~~Disposal~~ Treatment And Distribution Facility Sizing.** The size of a subsurface ~~disposal~~ treatment and distribution system will be determined by the following procedures: (10-1-90)( )

**a.** Daily flow estimates should be determined in the same manner as are flow estimates for septic tank sizing in Subsection 007.08. (5-7-93)

**b.** The total required absorption area is obtained by dividing the estimated daily flow by a value below.

Design Soil Group	A	B	C
Absorption Area - Gallons/Square Foot/Day	1.0	0.5	0.2

(10-1-90)

**c.** Required Area. The size of an acceptable site must be large enough to construct two (2) complete drainfields in which each are sized to receive one hundred percent (100%) of the design wastewater flow. (10-1-90)

**04. Standard Subsurface ~~Disposal~~ Treatment And Distribution Facility Specifications.** The following table presents additional design specifications for new subsurface sewage ~~disposal~~ treatment and distribution facilities.

<b>SUBSURFACE <del>DISPOSAL</del> TREATMENT AND DISTRIBUTION FACILITY TABLE</b>	
Item	All Soil Groups
Length of Individual Distribution Laterals	100 Feet Maximum
Grade of Distribution Laterals and Trench Bottoms	Level
Width of Trenches	1 Foot Minimum 6 Feet Maximum
Depth of Trenches	2 Feet Minimum 4 Feet Maximum
Total Square Feet of Trench	≠2500 Sq.ft. Max.
Undisturbed Earth Between Trenches	6 Feet Minimum
Undisturbed Earth Between Septic Tank and Trenches	6 Feet Minimum

SUBSURFACE <del>DISPOSAL</del> TREATMENT AND DISTRIBUTION FACILITY TABLE	
Item	All Soil Groups
Depth of Aggregate	
Total	12 In. Minimum
Over Distribution Laterals	2 In. Minimum
Under Distribution Laterals	6 In. Minimum
Depth of Soil Over Top of Aggregate	12 In. Minimum

(10-1-90)(\_\_\_\_)

**05. Wastewater Distribution.** Systems shall be installed to maintain equal or serial effluent distribution. (10-1-90)

**06. Excavation.** Trenches will not be excavated during the period of high soil moisture content when that moisture promotes smearing and compaction of the soil. (10-1-90)

**07. Soil Barrier.** The aggregate will be covered throughout with untreated building paper, a synthetic filter fabric (geotextile), a three (3) inch layer of straw or other acceptable permeable material. (10-1-90)

**08. Aggregate.** The trench aggregate shall be crushed rock, gravel, or other acceptable, durable and inert material which is, free of fines, and has an effective diameter from one-half (1/2) to two and one-half (2 1/2) inches. (10-1-90)

**09. Impermeable Surface Barrier.** No treatment area trench or replacement area shall be covered by an impermeable surface barrier, such as tar paper, asphalt or tarmac or be used for parking or driving on or in any way compacted and shall be adequately protected from such activities. (5-7-93)

**10. Standard Absorption Bed.** Absorption bed ~~disposal treatment and distribution~~ facilities may be considered when a site is suitable for a standard or basic alternative subsurface ~~disposal treatment and distribution~~ facility except that ~~# the site~~ is not large enough. (10-1-90)(\_\_\_\_)

**a. General Requirements.** Except as specified in this section, rules and regulations applicable to a standard subsurface ~~disposal treatment and distribution~~ system are applicable to an absorption bed facility. (10-1-90)(\_\_\_\_)

**b. Slope Limitation.** Sites with slopes in excess of eight percent (8%) are not suitable for absorption bed facilities. (10-1-90)

**c. Vehicular Traffic.** Rubber tired vehicles must not be driven on the bottom surface of any bed excavation. (10-1-90)

**d. Distribution Lateral Spacing.** Distribution laterals within a bed must be spaced on not greater than six (6) feet centers nor may any sidewall be more than three (3) feet from a distribution lateral. (10-1-90)

**11. Seepage Pit.** Seepage pit disposal facilities may be used on a case by case basis within the boundaries of District Health Department Seven when an applicant can demonstrate to the district director's satisfaction that the soils and depth to ground water are sufficient to prevent ground water contamination. The district director shall document all such cases. (4-2-91)L

**a. General Requirements.** Except as specified in Subsection 008.11.b., rules and regulations applicable to a standard subsurface ~~disposal treatment and distribution~~ system are applicable to a seepage pit. (12-31-91)(\_\_\_\_)

b. Other conditions for approval, sizing and construction will be as provided for in the seepage pit section of the Technical Guidance Manual for Individual and Subsurface Sewage Disposal Treatment and Distribution, except that the site size restriction in condition two (2) of the Conditions for Approval will not apply. (10-1-90)( )

**12. Failing Subsurface Sewage Disposal Treatment And Distribution System.** If the Director determines that ~~the public's health is at risk from~~ a system has failed septic system and that ~~the~~ replacement of ~~a~~ the failing subsurface sewage disposal treatment and distribution system cannot meet the current rules and regulations, then the replacement system must ~~meet the intent of the rules and regulations by utilizing a standard subsurface sewage disposal design or alternative system~~ be a design as specified approved by the Director. (5-7-93)( )

**13. Unstable Landforms.** Subsurface sewage disposal systems shall not be installed on unstable landforms. ( )

**14. Floodways.** Above ground system components shall not be installed in floodways. ( )

**15. Ponding.** The drainfield disposal area shall be constructed to allow for surface drainage and to prevent ponding of water over the drainfield. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**011. INSPECTIONS.**

**01. One Or More Inspections Required.** Such inspection as are necessary to determine compliance with any requirement or provision of these rules shall be required by the Director. (5-7-93)

**02. Duty To Uncover.** The permittee shall, at the request of the Director, uncover or make available for inspection any portion or component of an individual or subsurface sewage disposal treatment and distribution system which was covered or concealed in violation of these rules. (5-7-93)( )

**03. Advance Notice By Permittee.** If an inspection requires some type of preparation, such as test hole excavation or partial construction of the system, the applicant or permittee will notify the Director at least forty-eight (48) hours in advance, excluding weekends and holidays, before the time preparation will be completed. (10-1-90)

**04. Substantiating Receipts And Delivery Slips.** The permittee shall upon request by the Director provide copies of receipts, delivery slips or other similar documents to substantiate the origin, quality, or quantity of materials used in the construction of any individual or subsurface system. (10-1-90)

**012. VIOLATIONS AND PENALTIES.**

**01. Failure To Comply.** All individual and subsurface sewage disposal treatment and distribution systems shall be constructed and installed according to these rules. Failure by any person to comply with the permitting, licensing, approval, installation, or variance provisions of these rules shall be deemed a violation of these rules. (5-7-93)( )

**02. System Operation.** No person shall discharge pollutants into the underground water of the state of Idaho through an individual or subsurface sewage disposal treatment and distribution system unless in accordance with the provisions of these rules. (5-7-93)( )

**03. Violation A Misdemeanor.** Pursuant to Section 39-117, Idaho Code, any person who willfully or negligently violates any of the provisions of these rules shall be guilty of a misdemeanor. (5-7-93)

**013. LARGE SOIL ABSORPTION SYSTEM DESIGN AND CONSTRUCTION.**

**01. Site Investigation.** A site investigation for a large soil absorption system by a soil scientist and/or hydrogeologist may be required by the Director for review and approval and shall be coordinated with the Director. Soil and site investigations shall conclude that the effluent will not adversely impact or harm the waters of the State. (5-7-93)

**02. Installation Permit Plans.** Installation permit application plans, as outlined in Subsection 005.04, for a large soil absorption system submitted for approval shall include provisions for inspections of the work during construction by the design engineer or his designee and/or by the Director. (5-7-93)

**03. Module Size.** The maximum size of any subsurface sewage ~~disposal~~ treatment and distribution module shall be ten thousand (10,000) gallons per day. Developments with greater than ten thousand (10,000) gallons per day flow shall divide the system into absorption modules designed for ten thousand (10,000) gallons per day or less. (~~5-7-93~~)( )

**04. Standard Large Soil Absorption System Design Specifications.** (5-7-93)

**a.** All design elements and applications rates shall be arrived at by sound engineering practice and shall be provided by a professional engineer licensed by the state of Idaho and specializing in environmental or sanitary engineering. (5-7-93)

**b.** Within thirty (30) days of system installation completion the design engineer shall provide either as-built plans or a certificate that the system has been installed in substantial compliance with the installation permit application plans. (5-7-93)

**c.** Effective Soil Depths. Effective soil depths, in feet, below the bottom of the absorption module to the site conditions must be equal to or greater than the following table:

TABLE -- EFFECTIVE SOIL DEPTHS			
Site Conditions	Design	Soil	Group
Limiting Layer	A	B	C
Impermeable Layer	8	8	8
Fractured Bedrock, Fissured Bedrock or Extremely Permeable Material	12	8	6
Normal High Groundwater Level	12	8	6
Seasonal High Groundwater Level	2	2	2

(5-7-93)

**d.** Separation Distances. The ~~disposal~~ treatment and distribution area absorption module must be located so that the following separation distances given, in feet, are maintained or exceeded as outlined in the following table:

TABLE -- SEPARATION DISTANCES			
Feature of Interest	Design	Soil	Group
	A	B	C
<b>All Domestic Water Supplies</b>			
Sewage Volume - 2,500-5,000 GPD	250	200	150

<b>TABLE -- SEPARATION DISTANCES</b>			
<b>Feature of Interest</b>	<b>Design</b>	<b>Soil</b>	<b>Group</b>
	<b>A</b>	<b>B</b>	<b>C</b>
Sewage Volume - 5,000-10,000 GPD	300	250	200
<b>Property Lines</b>			
Sewage Volume - 2,500-5,000 GPD	50	50	50
Sewage Volume - 5,000-10,000 GPD	75	75	75
<b>Building Foundations - Basements</b>			
Sewage Volume - 2,500-5,000 GPD	50	50	50
Sewage Volume - 5,000-10,000 GPD	75	75	75
<b>Downslope Cut or Scarp</b>			
Impermeable Layer - Below Base	100	50	50
Separation Distance - Between Modules	12	12	12

(5-7-93)(\_\_\_\_)

**e.** No large soil absorption system shall be installed above a downslope scarp or cut unless it can be demonstrated that the installation will not result in effluent surfacing at the cut or scarp. (5-7-93)

**f.** A minimum of two (2) ~~disposal~~ treatment and distribution systems will be installed, each sized to accept the daily design flow, and a replacement area equal to the size of one (1) ~~disposal~~ treatment and distribution system will be reserved. (5-7-93)(\_\_\_\_)

**g.** The vertical and horizontal hydraulic limits of the receiving soils shall be established and flows shall not exceed such limits so as to avoid hydraulically overloading any absorption module and replacement area. (5-7-93)

**h.** The distribution system must be pressurized with a duplex dosing system. (5-7-93)

**i.** A geotextile filter fabric shall cover the aggregate. (5-7-93)

**j.** An in-line effluent filter between an extended treatment system or lagoon system and the large soil absorption area shall be installed. (5-7-93)

**k.** Observation pipes shall be installed to the bottom of the drainrock throughout the drainfield. (5-7-93)

**l.** Pneumatic tired machinery travel over the excavated infiltrative surface is prohibited. (5-7-93)

**m.** The drainfield ~~disposal~~ treatment and distribution area shall be constructed to allow for surface drainage and to prevent ponding of surface water. Before the system is put into operation the absorption module ~~disposal~~ treatment and distribution area shall be seeded with typical lawn grasses and/or other appropriate shallow rooted vegetation. (5-7-93)(\_\_\_\_)

**05. Large Septic Tanks.** Large Septic Tanks shall be constructed according to Section 007, except as outlined in this Subsection: (5-7-93)

**a.** Length to width ratios shall be maintained at least at a three to one (3:1) ratio. (5-7-93)

- b. Tank inlet shall allow for even distribution of the influent across the width of the tank. (5-7-93)
- c. The width to liquid depth ratio shall be between one to one (1:1) and two and one-quarter to one (2.25:1). (5-7-93)
- 06. Monitoring And Reporting.** Before an installation permit is issued, a monitoring and reporting plan shall be approved by the Director and shall contain the following minimum criteria: (5-7-93)
- a. Monthly recording and inspection for ponding in all observation pipes. (5-7-93)
- b. Monthly recording of influent flows based on lapse time meter and/or event meter of the dosing system. (5-7-93)
- c. Monthly recording of groundwater elevation measurements at all monitoring wells if high seasonal groundwater is within fifteen (15) feet of the ground surface. (5-7-93)
- d. Semi-annual groundwater monitoring at all monitoring wells. (5-7-93)
- e. Monitoring shall conform to the requirements of all federal, state, and local rules and regulations. (5-7-93)
- f. An annual "Large Soil Absorption System Report" shall be filed with the Director no later than January 31 of each year for the last twelve (12) month period and shall include section on operation, maintenance and monthly and annual monitoring data. (5-7-93)
- 07. Operation And Maintenance.** Before an installation permit is issued, an operation and maintenance plan shall be approved by the Director and shall contain the following minimum criteria: (5-7-93)
- a. Annual or more frequent rotation of the ~~disposal~~ treatment and distribution systems, and whenever ponding is noted. (~~5-7-93~~)( )
- b. A detailed operation and maintenance manual, fully describing and locating all elements of the system and outlining maintenance procedures needed for operation of the system and who will be responsible for system maintenance, shall be submitted to the Director prior to system use. (5-7-93)
- c. A maintenance entity shall be specified to provide continued operation and maintenance. Approval of the entity shall be made by the Director prior to issuance of an installation permit. (5-7-93)

## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.07 - RULES FOR OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS AND LEAKING PETROLEUM STORAGE TANKS

DOCKET NO. 58-0107-0201

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Department of Environmental Quality (DEQ) has proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

**PUBLIC HEARING SCHEDULE:** No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before July 17, 2002. If no such written request is received, a public hearing will not be held.

**DESCRIPTIVE SUMMARY:** This proposed rule implements Department of Environmental Quality's (DEQ) authority to regulate underground storage tank systems (UST systems). This proposed rule covers design, construction, installation, operation, release detection, closure and financial assurance requirements for UST systems. With some modification, this proposed rule incorporates the technical standards for UST system owners and operators found in 40 CFR Part 280.

DEQ currently regulates leaking petroleum storage tank systems (PST systems) through the requirements of IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," Sections 851 and 852. Sections 060 and 070 of this proposed rule contain the language, without modification, currently found in Sections 851 and 852. Concurrent with adoption of this rule, DEQ will repeal Sections 851 and 852, to allow, for ease of use, the requirements for UST systems and leaking PST systems to be located in the same rules.

The Department provides notice that the language in Sections 006, 012, 013, 021, 022, 023, 026, 028, 050, 051, 052, 082 and 084 of the proposed rules differ from the language in comparable federal regulations located in 40 CFR Part 280 and, therefore, may be interpreted as broader in scope or more stringent than the comparable federal regulation.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2002 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2003 session of the Idaho Legislature.

**NEGOTIATED RULEMAKING:** The text of the rule has been drafted based on discussions held and concerns raised during an informal negotiation. An advisory committee made up of industry representatives participated in the negotiations.

**GENERAL INFORMATION:** For more information about DEQ's programs and activities, visit DEQ's web site at [www.state.id.us/deq](http://www.state.id.us/deq).

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning the proposed rulemaking, contact Rick Jarvis at (208)373-0502 or [rjarvis@deq.state.id.us](mailto:rjarvis@deq.state.id.us).

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before July 31, 2002.

Dated this 24th day of May, 2002.

Paula J. Gradwohl  
Environmental Quality Section  
Attorney General's Office  
1410 N. Hilton, Boise, Idaho 83706-1255  
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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0107-0201**

**IDAPA 58**  
**TITLE 01**  
**Chapter 07**

**58.01.07 - RULES FOR OWNERS AND OPERATORS OF UNDERGROUND STORAGE  
TANKS AND LEAKING PETROLEUM STORAGE TANKS**

**000. LEGAL AUTHORITY.**

Sections 39-105 and 39-107, Idaho Code, authorize the Board of Environmental Quality to adopt rules and administer programs to protect surface water quality, ground water quality, and to regulate storage, handling and transportation of solids, liquids and gases which may cause or contribute to water pollution. ( )

**001. TITLE AND SCOPE.**

**01. Title.** This Rule shall be cited as Rules of the Department of Environmental Quality IDAPA 58.01.07, "Rules for Owners and Operators of Underground Storage Tanks and Leaking Petroleum Storage Tanks". ( )

**02. Scope.** These rules establish standards and enforcement authority applicable to Petroleum Storage Tank Systems (PSTs). ( )

**002. WRITTEN INTERPRETATIONS.**

Any written statements pertaining to the interpretation of these rules shall be available for review at the Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255. ( )

**003. ADMINISTRATIVE APPEALS.**

Persons may be entitled to appeal agency actions authorized under this chapter pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". ( )

**004. INCORPORATION BY REFERENCE.**

**01. General.** Unless expressly provided otherwise, any reference in these rules to any document identified in Section 100 shall constitute the full adoption by reference, including any notes and appendices therein. The term "documents" includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. ( )

**02. Availability Of Referenced Material.** Copies of the documents incorporated by reference into these rules are available at the following locations: ( )

**a.** Department of Environmental Quality, 1410 N. Hilton, Boise ID 83706-1255. ( )

**b.** Idaho State Law Library, 451 W. State Street, P.O. Box 83720, Boise ID 83720-0051. ( )

**c.** U.S. Government Printing Office, Superintendent of Documents, Washington, D.C. 20402, or U.S. Government Bookstore, Room 194 Federal Bldg., 915 Second Ave., Seattle, WA 98174. ( )

**d.** [www.access.gpo.gov/nara/cfr/index.html](http://www.access.gpo.gov/nara/cfr/index.html). ( )

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

The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are

located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8:00 a.m. to 5:00 p.m. Monday through Friday. ( )

**006. APPLICABILITY.**

**01. Applicability.** The requirements of this rule apply to all owners and operators of an UST system as defined in Subsection 012.59 of this rule except as otherwise provided in Subsections 006.02, 006.03 and 006.04. Any UST system listed in Subsection 006.03 must meet the requirements of Section 011 of this rule. ( )

**02. Exclusions.** The following UST systems are excluded from the requirements of this part: ( )

**a.** Any UST system holding hazardous wastes listed or identified under Subtitle C of the Solid Waste Disposal Act, or a mixture of such hazardous waste and other regulated substances. ( )

**b.** Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act. ( )

**c.** Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks. ( )

**d.** Any UST system whose capacity is one hundred ten (110) gallons or less. ( )

**e.** Any UST system that contains a de minimis concentration of regulated substances. ( )

**f.** Any emergency spill or overflow containment UST system that is expeditiously emptied after use. ( )

**03. Deferrals.** Sections 013 through 060 and 080 through 085 do not apply to any of the following types of UST systems: ( )

**a.** Wastewater treatment tank systems; ( )

**b.** Any UST systems containing radioactive material that are regulated under the Atomic Energy Act of 1954 (42 U.S.C. 2011 and following); ( )

**c.** Any UST system that is part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under 10 CFR part 50, appendix A; ( )

**d.** Airport hydrant fuel distribution systems; and ( )

**e.** UST systems with field-constructed tanks. ( )

**04. Deferrals.** Any UST system that stores fuel solely for use by emergency power generators shall comply with Sections 027 through 052 of this rule no later than five (5) years after the effective date of this rule. ( )

**05. Application.** The requirements of Sections 060 and 070 of this rule apply to all owners and operators of a PST system as defined in Subsection 012.41 of this rule. ( )

**007. CONFIDENTIALITY OF RECORDS.**

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 3, Title 9, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality". ( )

**008. -- 010. (RESERVED).**

**011. INTERIM PROHIBITION FOR DEFERRED UST SYSTEMS.**

**01. Corrosion Prevention Requirements For Deferred UST Systems.** No person may install an UST system listed in Subsection 006.03 for the purpose of storing regulated substances unless the UST system (whether of single- or double-wall construction): ( )

**a.** Will prevent releases due to corrosion or structural failure for the operational life of the UST system; ( )

**b.** Is cathodically protected against corrosion, constructed of noncorrodible material, steel clad with a noncorrodible material, or designed in a manner to prevent the release or threatened release of any stored substance; and ( )

**c.** Is constructed or lined with material that is compatible with the stored substance. ( )

**012. DEFINITIONS.**

**01. Aboveground Release.** Any release to the surface of the land or to surface water. This includes, but is not limited to, releases from the above-ground portion of an UST system and aboveground releases associated with overfills and transfer operations as the regulated substance moves to or from an UST system. ( )

**02. Ancillary Equipment.** Any devices including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps used to distribute, meter, or control the flow of regulated substances to and from an UST. ( )

**03. Belowground Release.** Any release to the subsurface of the land and to ground water. This includes, but is not limited to, releases from the belowground portions of an underground storage tank system and belowground releases associated with overfills and transfer operations as the regulated substance moves to or from an underground storage tank. ( )

**04. Beneath The Surface Of The Ground.** Beneath the surface of the ground means beneath the ground surface or otherwise covered with earthen materials. ( )

**05. Cathodic Protection.** A technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current. ( )

**06. Cathodic Protection Tester.** A person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. Such a person must have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and tank systems. Such a person must be accredited or certified as being qualified by the National Association of Corrosion Engineers, or another Department approved method, as a cathodic protection tester. ( )

**07. CERCLA.** The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended. ( )

**08. Common Carrier.** A person who physically delivers a regulated substance into an UST directly from a cargo tank which is affixed or mounted to a self-propelled, towable, or pushable vehicle. (e.g. truck, trailer) ( )

**09. Compatibility.** The ability of two (2) or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the tank system under conditions likely to be encountered in the UST. ( )

**10. Connected Piping.** All underground piping including valves, elbows, joints, flanges, and flexible connectors attached to a tank system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual UST system, the piping that joins two (2) UST systems should be

allocated equally between them. ( )

**11. Consumptive Use.** With respect to heating oil means, consumed on the premises. ( )

**12. Corrosion Expert.** A person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be accredited or certified as being qualified by the National Association of Corrosion Engineers or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks. ( )

**13. Department.** Means the Idaho Department of Environmental Quality. ( )

**14. Dielectric Material.** A material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate UST systems from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the UST system (e.g., tank from piping). ( )

**15. Electrical Equipment.** Underground equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable. ( )

**16. Excavation Zone.** The volume containing the tank system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the UST system is placed at the time of installation. ( )

**17. Existing Tank System.** A tank system used to contain an accumulation of regulated substances or for which installation has commenced on or before December 22, 1988. Installation is considered to have commenced if: ( )

**a.** The owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system; and if, ( )

**b.** Either a continuous on-site physical construction or installation program has begun or the owner or operator has entered into contractual obligations -- which cannot be cancelled or modified without substantial loss -- for physical construction at the site or installation of the tank system to be completed within a reasonable time.( )

**18. Farm Tank.** A tank located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes fish hatcheries, rangeland and nurseries with growing operations. ( )

**19. Field Constructed Tank.** A tank with a capacity of fifty thousand (50,000) gallons or larger. ( )

**20. Flow-Through Process Tank.** A tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction into the production process or for the storage of finished products or by-products from the production process. ( )

**21. Free Product.** For purposes of Sections 000 through 052 and 080 through 085 of this rule a regulated substance that is present as a non-aqueous phase liquid (e.g., liquid not dissolved in water.) ( )

**22. Free Product.** For the purpose of Sections 060 and 070 of this rule, a petroleum product that is present as a nonaqueous phase liquid. Free product includes the presence of petroleum greater than one-tenth (0.1) inch as measured in the water surface for surface water of the water table for ground water. ( )

**23. Gathering Lines.** Any pipeline, equipment, facility, or building used in the transportation of oil or gas during oil or gas production or gathering operations. ( )

- 24. Hazardous Substance UST System.** An underground storage tank system that contains a hazardous substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (but not including any substance regulated as a hazardous waste under subtitle C) or any mixture of such substances and petroleum, and which is not a petroleum UST system. ( )
- 25. Heating Oil.** Petroleum that is No. 1, No. 2, No. 4 -- light, No. 4 -- heavy, No. 5 -- light, No. 5 -- heavy, and No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); and other fuels when used as substitutes for one (1) of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers, or furnaces. ( )
- 26. Hydraulic Lift Tank.** A tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices. ( )
- 27. Liquid Trap.** Sumps, well cellars, and other traps used in association with oil and gas production, gathering, and extraction operations (including gas production plants), for the purpose of collecting oil, water, and other liquids. These liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream, or may collect and separate liquids from a gas stream. ( )
- 28. Maintenance.** The normal operational upkeep to prevent an underground storage tank system from releasing product. ( )
- 29. Major Modification.** Replacing any portion of the UST system, including but not limited to the cathodic protection system, piping, dispenser islands, or spill buckets. ( )
- 30. Motor Fuel.** Petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any grade of gasohol, and is typically used in the operation of a motor engine. ( )
- 31. New Tank System.** A tank system that will be used to contain an accumulation of regulated substances and for which installation has commenced after December 22, 1988. (See also "Existing Tank System.") ( )
- 32. Noncommercial Purposes.** With respect to motor fuel means not for resale. ( )
- 33. On The Premises Where Stored.** With respect to heating oil means UST systems located on the same property where the stored heating oil is used. ( )
- 34. Operational Life.** Referring to the period beginning when installation of the tank system has commenced until the time the tank system is properly closed under Sections 080 through 084. ( )
- 35. Operator.** For purposes of Sections 000 through 052 and 080 through 085 of this rule, any person in control of, or having responsibility for, the daily operation of the UST system. ( )
- 36. Operator.** For purposes of Sections 060 and 070 of this rule, any person presently or who was at any time during a release in control of, or having responsibility for the daily operation of the PST system. ( )
- 37. Overfill Release.** A release that occurs when a tank is filled beyond its capacity, resulting in a discharge of the regulated substance to the environment. ( )
- 38. Owner.** For purposes of Sections 000 through 052 and 080 through 85 of this rule: ( )
- a.** In the case of an UST system in use on November 8, 1984, or brought into use after that date, any person who owns an UST system used for storage, use, or dispensing of regulated substances; and ( )
- b.** In the case of any UST system in use before November 8, 1984, but no longer in use on that date, any person who owned such UST immediately before the discontinuation of its use. ( )
- 39. Owner.** For purposes of Sections 060 and 070 of this rule, any person who owns or owned a PST

system any time during a release and the current owner of the property where the PST system is or was located.

( )

**40. Person.** An individual, trust, firm, joint stock company, Federal agency, corporation, state, municipality, commission, political subdivision of a state, or any interstate body. "Person" also includes a consortium, a joint venture, a commercial entity, and the United States Government.

( )

**41. Petroleum UST System.** An underground storage tank system that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

( )

**42. Petroleum Storage Tank (PST) System.** For purposes of Sections 060 and 070 of this rule, any one or combination of storage tanks or other containers, including pipes connected thereto, dispensing equipment, and other connected ancillary equipment, and stationary or mobile equipment, that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances.

( )

**43. Pipe Or Piping.** A hollow cylinder or tubular conduit that is constructed of non-earthen materials.

( )

**44. Pipeline Facilities.** (including gathering lines) are new and existing pipe rights-of-way and any associated equipment, facilities, or buildings.

( )

**45. Regulated Substance.** The term "regulated substance" includes but is not limited to petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

( )

**a.** Any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 (but not including any substance regulated as a hazardous waste under subtitle C), and

( )

**b.** Petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (sixty (60) degrees Fahrenheit and fourteen point seven (14.7) pounds per square inch absolute).

( )

**46. Release.** Any spilling, leaking, emitting, discharging, escaping, leaching or disposing from an UST into ground water, surface water or subsurface soils.

( )

**47. Release Detection.** Determining whether a release of a regulated substance has occurred from the UST system into the environment or into the interstitial space between the UST system and its secondary barrier or secondary containment around it.

( )

**48. Repair.** To restore a tank or UST system component that has caused a release of product from the UST system.

( )

**49. Residential Tank.** A tank located on property used primarily for dwelling purposes.

( )

**50. SARA.** The Superfund Amendments and Reauthorization Act of 1986.

( )

**51. Septic Tank.** A water-tight covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from such receptacle is distributed for disposal through the soil and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

( )

**52. Storm-Water Or Wastewater Collection System.** Piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation, or domestic, commercial, or industrial wastewater to and from retention areas or any areas where treatment is designated

to occur. The collection of storm-water and wastewater does not include treatment except where incidental to conveyance. ( )

**53. Surface Impoundment.** A natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials) that is not an injection well. ( )

**54. Tank.** A stationary device designed to contain an accumulation of regulated substances and constructed of non-earthen materials (e.g., concrete, steel, plastic) that provide structural support. ( )

**55. Underground Area.** An underground room, such as a basement, cellar, shaft or vault, providing enough space for physical inspection of the exterior of the tank situated on or above the surface of the floor. ( )

**56. Underground Release.** Any below ground release. ( )

**57. Underground Storage Tank Or UST.** Any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is ten percent (10%) or more beneath the surface of the ground. The term "underground storage tank" or "UST" does not include any pipes connected to any tank which is described in Subsections 012.57.a. through 012.57.i. of this rule. This term does not include any: ( )

**a.** Farm or residential tank of one thousand one hundred (1,100) gallons or less capacity used for storing motor fuel for noncommercial purposes; ( )

**b.** Tank used for storing heating oil for consumptive use on the premises where stored; ( )

**c.** Septic tank; ( )

**d.** Pipeline facility (including gathering lines) regulated under: ( )

**i.** The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671, et seq.), or ( )

**ii.** The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001, et seq.), or ( )

**iii.** Which is an intrastate pipeline facility regulated under state laws comparable to the provisions of the law referred to in Subsection 012.57.d.i. or 012.57.d.ii. of this rule; ( )

**e.** Surface impoundment, pit, pond, or lagoon; ( )

**f.** Storm-water or wastewater collection system; ( )

**g.** Flow-through process tank; ( )

**h.** Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or ( )

**i.** Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor. ( )

**58. Upgrade.** The addition or retrofit of some systems such as cathodic protection, lining, or spill and overfill controls to improve the ability of an underground storage tank system to prevent the release of product. ( )

**59. UST System Or Tank System.** An underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any. ( )

**60. Wastewater Treatment Tank.** A tank that is designed to receive and treat an influent wastewater

through physical, chemical, or biological methods. ( )

**013. PERFORMANCE STANDARDS FOR NEW UST SYSTEMS.**

In order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances, all owners and operators of new UST systems must meet the following requirements. ( )

**01. Tanks.** Each tank must be properly designed and constructed, and any portion underground that routinely contains product must be protected from corrosion, in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below: ( )

**a.** The tank is constructed of fiberglass-reinforced plastic, (Subsection 085.01 may be used to comply with Subsection 013.01.a.); or ( )

**b.** The tank is constructed of steel and cathodically protected in the following manner (the codes and standards in Subsection 085.02 may be used to comply with Subsection 013.01.b.) ( )

i. The tank is coated with a suitable dielectric material; ( )

ii. Field-installed cathodic protection systems are designed by a corrosion expert; ( )

iii. Impressed current systems are designed to allow determination of current operating status as required in Subsection 023.03; and ( )

iv. Cathodic protection systems are operated and maintained in accordance with Section 023 or according to guidelines established by the Department; or ( )

**c.** The tank is constructed of a steel-fiberglass-reinforced-plastic composite (the codes and standards in (Subsection 085.03 may be used to comply with Subsection 013.01.c.); or ( )

**d.** The tank construction and corrosion protection are determined by the Department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than Subsections 013.01.a. through 013.01.c. of this rule. ( )

**02. Piping.** The piping that routinely contains regulated substances and is in contact with the ground must be properly designed, constructed, and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below: ( )

**a.** The piping is constructed of fiberglass-reinforced (Subsection 085.04 may be used to comply with Subsection 013.02.a.); or ( )

**b.** The piping is constructed of steel and cathodically protected in the following manner (Subsection 085.05 may be used to comply with Subsection 013.02.b.): ( )

i. The piping is coated with a suitable dielectric material; ( )

ii. Field-installed cathodic protection systems are designed by a corrosion expert; ( )

iii. Impressed current systems are designed to allow determination of current operating status as required in Subsection 023.03; and ( )

iv. Cathodic protection systems are operated and maintained in accordance with Section 023 or guidelines established by the Department; or ( )

**c.** The piping construction and corrosion protection are determined by the Department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements in Subsections 013.02.a. and 013.02.b. of this rule. ( )

**03. Spill And Overfill Prevention Equipment.** ( )

**a.** Except as provided in Subsection 013.03.b. of this rule, to prevent spilling and overfilling associated with product transfer to the UST system, owners and operators must use the following spill and overfill prevention equipment: ( )

i. Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill catchment basin); and ( )

ii. Overfill prevention equipment that will: ( )

(1) Automatically shut off flow into the tank when the tank is no more than ninety-five percent (95%) full; or ( )

(2) Alert the transfer operator when the tank is no more than ninety percent (90%) full by restricting the flow into the tank or triggering a high-level alarm; or ( )

(3) Restrict flow thirty (30) minutes prior to overfilling, alert the operator with a high level alarm one (1) minute before overfilling, or automatically shut off flow into the tank so that none of the fittings located on top of the tank are exposed to product due to overfilling. ( )

**b.** Owners and operators are not required to use the spill and overfill prevention equipment specified in Subsection 013.03.a. if: ( )

i. Alternative equipment is used that is determined by the Department to be no less protective of human health and the environment than the equipment specified in Subsection 013.03.a.i. or 013.03.a.ii.; or ( )

ii. The UST systems has a capacity of less than one thousand one hundred (1,100) gallons and is filled by transfers of no more than twenty-five (25) gallons at one (1) time. ( )

**04. Installation.** All tanks and piping must be properly installed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions Subsection 085.06 may be used to comply with Subsection 013.04) ( )

**05. Certification Of Installation.** All owners and operators must ensure that one (1) or more of the following methods of certification, testing, or inspection is used to demonstrate compliance with Subsection 013.04 of this rule by providing a certification of compliance on the UST notification form in accordance with Section 021 of this rule. ( )

**a.** The installer has been certified by the tank and piping manufacturers; or ( )

**b.** The installer has been certified or licensed by the Department; or ( )

**c.** The installation has been inspected and certified by a registered professional engineer with education and experience in UST system installation; or ( )

**d.** The installation has been inspected and approved by the Department; or ( )

**e.** All work listed in the manufacturer's installation checklists has been completed; or ( )

**f.** The owner and operator have complied with another method for ensuring compliance with Subsection 013.04 that is determined by the Department to be no less protective of human health and the environment. ( )

**014. -- 019. (RESERVED).**

**020. UPGRADING OF EXISTING UST SYSTEMS.**

In order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances, owners and operators of existing UST systems must meet the following requirements. (Subsection 085.07 may be used to comply with Section 020) ( )

**01. Alternatives Allowed.** Not later than December 22, 1998, all existing UST systems must comply with one of the following requirements: ( )

- a. New UST system performance standards under Section 013 of this rule; ( )
- b. The upgrading requirements in Subsections 020.02 through 020.04; or ( )
- c. Closure requirements under Sections 080 through 085 of this rule, including applicable requirements for corrective action under Section 070 of this rule. ( )

**02. Tank Upgrading Requirements.** Steel tanks must be upgraded to meet one (1) of the following requirements in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory: ( )

- a. Interior Lining. A tank may be upgraded by internal lining if: ( )
  - i. The lining is installed in accordance with the requirements of Section 025 of this rule; and ( )
  - ii. Within ten (10) years after lining, and every five (5) years thereafter, the lined tank is internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications. ( )

**b. Cathodic Protection.** A tank may be upgraded by cathodic protection if the cathodic protection system meets the requirements of Subsections 013.01.b.ii. through 013.01.b.iv. and the integrity of the tank is ensured using one of the following methods: ( )

- i. The tank is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes prior to installing the cathodic protection system; or ( )
- ii. The tank has been installed for less than ten (10) years and is monitored monthly for releases in accordance with Subsections 050.04 through 050.06; or ( )
- iii. The tank has been installed for less than ten (10) years and is assessed for corrosion holes by conducting two (2) tightness tests that meet the requirements of Subsection 050.03 of this rule. The first tightness test must be conducted prior to installing the cathodic protection system. The second tightness test must be conducted between three (3) and six (6) months following the first operation of the cathodic protection system; or ( )
- iv. The tank is assessed for corrosion holes by a method that is determined by the Department to prevent releases in a manner that is no less protective of human health and the environment than Subsections 020.02.b.i. through 020.02.b.iii. of this rule. ( )

**c. Internal Lining Combined with Cathodic Protection.** A tank may be upgraded by both internal lining and cathodic protection if: ( )

- i. The lining is installed in accordance with the requirements of Section 025 of this rule; and ( )
- ii. The cathodic protection system meets the requirements of Subsections 013.01.b.ii. through 013.01.b.iv. of this rule. ( )

**03. Piping Upgrading Requirements.** Metal piping that routinely contains regulated substances and is in contact with the ground must be cathodically protected in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and must meet the requirements of Subsections

013.02.b.ii. through 013.02.b.iv. (Subsection 085.05 may be used to comply with Subsection 020.03): ( )

**04. Spill And Overfill Prevention Equipment.** To prevent spilling and overfilling associated with product transfer to the UST system, all existing UST systems must comply with new UST system spill and overfill prevention equipment requirements specified in Subsection 013.03 of this rule. ( )

**021. NOTIFICATION REQUIREMENTS.**

**01. Notification.** Any owner who brings an underground storage tank system into use after May 8, 1986, must within thirty (30) days of bringing such tank into use, complete and submit to the Department the Department's Notification for USTs form. ( )

**a.** Owners and operators of UST systems that were in the ground on or after May 8, 1986, unless taken out of operation on or before January 1, 1974, were required to notify the designated state or local agency in accordance with the Hazardous and Solid Waste Amendments of 1984, Pub. L. 98-616, on a form published by EPA on November 8, 1985 (50 FR 46602) unless notice was given pursuant to Section 103(c) of CERCLA. Owners and operators who have not complied with the notification requirements may use the Department's Notification For USTs form. ( )

**02. Notification.** All owners and operators must notify the Department, using the Department's Notification for USTs form, or another Department approved method, of the following events within the prescribed time frame: ( )

**a.** UST system installation at least thirty (30) before the UST system installation; ( )

**b.** The new owner or operator must notify of a change in owner or operator of the UST system or the property within which the UST system is located no more than thirty (30) days after the change in ownership or operation; ( )

**c.** Any major modification in an UST system no more than thirty (30) days before the major modification and no more than thirty (30) days after the major modification is completed; ( )

**d.** Removal or closure of an UST at least thirty (30) days before removal or closure and no more than thirty (30) days after removal or closure; and ( )

**e.** Documentation evidencing compliance with the financial responsibility requirements of this rule within thirty (30) days of promulgation of this rule, and annually thereafter. ( )

**03. Notification.** Owners required to submit notices under Subsection 021.01 must provide notices to the Department for each tank they own. Owners may provide notice for several tanks using one (1) notification form, but owners who own tanks located at more than one (1) place of operation must file a separate notification form for each separate place of operation. ( )

**04. Notification.** Required to be submitted under Subsection 021.01 must provide all of the information in the Department's Notification For USTs form for each tank for which notice must be given. ( )

**05. Notification.** All owners and operators of new UST systems must certify in the notification form compliance with the following requirements: ( )

**a.** Installation of tanks and piping under Subsection 013.05 of this rule; ( )

**b.** Cathodic protection of steel tanks and piping under Subsections 013.01 and 013.02 of this rule; ( )

**c.** Financial responsibility under Section 100 of this rule; and ( )

**d.** Release detection under Sections 028 through 049 of this rule. ( )

**06. Installer Certification.** All owners and operators of new UST systems must ensure that the installer certifies in the notification form that the methods used to install the tanks and piping complies with the requirements in Subsection 013.04 of this rule. ( )

**07. Purchaser Notification.** Beginning October 24, 1988, any person who sells a tank intended to be used as an underground storage tank must notify the purchaser of such tank of the owner's notification obligations under Subsection 021.01. The Department's Notification For USTs form may be used to comply with this requirement. ( )

**022. SPILL AND OVERFILL CONTROL.**

**01. Release Prevention From Product Transfers.** Owners, operators and common carriers must ensure that releases due to spilling or overfilling do not occur. The owner, operator and common carrier must ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling. (Subsection 085.08 may be used to comply with Subsection 022.01) ( )

**02. Reporting And Corrective Action.** The owner and operator of a PST system must report, investigate, and clean up any spills and overfills in accordance with Sections 060 and 070 of this rule. ( )

**023. OPERATION AND MAINTENANCE OF CORROSION PROTECTION.**

All owners and operators of steel UST systems with corrosion protection must comply with the following requirements to ensure that releases due to corrosion are prevented for as long as the UST system is used to store regulated substances: ( )

**01. Corrosion Protection System Maintenance.** All corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground. ( )

**02. Frequency And Criteria.** All UST systems equipped with cathodic protection systems must be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements: ( )

**a.** All cathodic protection systems must be tested within six (6) months of installation and at least every three (3) years thereafter or according to another reasonable time frame established by the Department; and ( )

**b.** The criteria that are used to determine that cathodic protection is adequate as required by this Section 023 must be in accordance with a code of practice developed by a nationally recognized association, (Subsection 085.09 may be used to comply with Subsection 023.02.b.) ( )

**03. Thirty Day Inspection.** UST systems with impressed current cathodic protection systems must also be inspected every thirty (30) days to ensure the equipment is running properly. ( )

**04. Record Keeping.** For UST systems using cathodic protection, records of the operation of the cathodic protection must be maintained (in accordance with Section 026 of this rule) to demonstrate compliance with the performance standards in Section 023. These records must provide the following: ( )

**a.** The results of the last three (3) inspections required in Subsection 023.03; and ( )

**b.** The results of testing from the last two (2) inspections required in Subsection 023.02. ( )

**024. COMPATIBILITY.**

Owners and operators must use an UST system made of or lined with materials that are compatible with the substance stored in the UST system. (Subsection 085.10 may be used to comply with Section 024) ( )

**025. REPAIRS ALLOWED.**

Owners and operators of UST systems must ensure that repairs will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances. The repairs must meet the following requirements: ( )

**01. UST System Repairs.** Repairs to UST systems must be properly conducted in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory. (Subsection 085.11 may be used to comply with Subsection 025.01): ( )

**02. Fiberglass-Reinforced Plastic Tank Repairs.** Repairs to fiberglass-reinforced plastic tanks may be made by the manufacturer's authorized representatives or in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory. ( )

**03. Metal Pipe Sections And Fitting Replacement.** Metal pipe sections and fittings that have released product as a result of corrosion or other damage must be replaced. Fiberglass pipes and fittings may be repaired in accordance with the manufacturer's specifications. ( )

**04. Tightness Testing.** Repaired tanks and piping must be tightness tested in accordance with Subsections 050.03 and 051.02 of this rule within thirty (30) days following the date of the completion of the repair except as follows: ( )

**a.** The repaired tank is internally inspected in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory; or ( )

**b.** The repaired portion of the UST system is monitored monthly for releases in accordance with a method specified in Subsections 050.04 through 050.06; or ( )

**c.** Another test method is used that is determined by the Department to be no less protective of human health and the environment than those listed above. ( )

**05. Testing Following Repairs.** Within six (6) months following the repair of any cathodically protected UST system, the cathodic protection system must be tested in accordance with Subsections 023.02 and 023.03 to ensure that it is operating properly. ( )

**06. Record Keeping.** UST system owners and operators must maintain records of each repair for the remaining operating life of the UST system that demonstrate compliance with the requirements of Section 025. ( )

**026. REPORTING AND RECORDKEEPING.**

Owners and operators of UST systems or PST systems must cooperate fully with inspections, monitoring and testing conducted by the Department, as well as requests for document submission, testing, and monitoring by the owner or operator pursuant to Section 9005 of Subtitle I of the Resource Conservation and Recovery Act, as amended. ( )

**01. Reporting.** Owners and operators must submit the following information to the Department:( )

**a.** Notification for all UST systems (Section 021), which includes certification of installation for new UST systems (Subsection 013.05); ( )

**b.** Owners and operators of all PST systems must submit reports of all releases including suspected releases (Section 060), spills and overfills (Section 060), and confirmed releases (Section 070); ( )

**c.** Owners and operators of all PST systems must submit reports of all corrective actions planned or taken including initial abatement measures (Section 070), initial site characterization (Section 070), free product removal (Section 070), investigation of soil and ground-water cleanup (Section 070), and corrective action plan (Section 070); and ( )

- d. A notification before permanent closure or change-in-service (Section 081). ( )
- 02. **Recordkeeping.** Owners and operators must maintain the following information: ( )
  - a. Documentation of operation of corrosion protection equipment (Section 023); ( )
  - b. Documentation of UST system repairs (Subsection 025.06); ( )
  - c. Recent compliance with release detection requirements (Section 052); and ( )
  - d. Results of the site investigation conducted at permanent closure (Section 084). ( )
- 03. **Availability And Maintenance Of Records.** Owners and operators must keep the records required either: ( )
  - a. At the UST site and immediately available for inspection by the Department; or ( )
  - b. At a readily available alternative site and be provided for inspection to the Department upon request. ( )
  - c. Owners and operators must submit to the Department the results of the site investigation conducted at permanent closure within thirty (30) days of completion of permanent closure (Section 082). ( )

**027. GENERAL REQUIREMENTS FOR ALL UST SYSTEMS.**

- 01. **Release Detection.** Owners and operators of new and existing UST systems must provide a method, or combination of methods, of release detection that: ( )
  - a. Can detect a release from any portion of the tank and the connected underground piping that routinely contains product; ( )
  - b. Is installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition; and ( )
  - c. Meets the performance requirements in Section 050 or 051, with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, methods used after the date shown in the following table corresponding with the specified method except for methods permanently installed prior to that date, must be capable of detecting the leak rate or quantity specified for that method in the corresponding Section of the rule (also shown in the table) with a probability of detection (Pd) of ninety-five hundredths (0.95) and a probability of false alarm (Pfa) of five hundredths (0.05).

Method	Section	Date After Which Pd/Pfa Must Be Demonstrated
Manual Tank Gauging	050.02	December 22, 1990
Tank Tightness Testing	050.03	December 22, 1990
Automatic Tank Gauging	050.04	December 22, 1990
Automatic Line Leak Detectors	051.01	September 22, 1991
Line Tightness Testing	051.02	December 22, 1990

( )

- 02. **Release Notification.** When a release detection method operated in accordance with the performance standards in Sections 050 and 051 indicates a release may have occurred, owners and operators must

notify the Department in accordance with Section 060. ( )

**03. Time Table.** Owners and operators of all UST systems must comply with the release detection requirements of Section 027 by December 22 of the year listed in the following table:

Schedule for Phase-in of Release Detection					
Year system was installed	Year when release detection is required (by December 22 of the year indicated)				
	1989	1990	1991	1992	1993
Before 1965 or date unknown	RD	P			
1965-69		P/RD			
1970-74		P	RD		
1975-79		P		RD	
1980-88		P			RD
New tanks (after December 22) immediately upon installation.					

P = Must begin release detection for all pressurized piping as defined in Subsection 028.02.a.  
 RD = Must begin release detection for tanks and suction piping in accordance with Subsections 028.01, 028.02.b and Section 040. ( )

**04. Closure Requirements.** Any existing UST system that cannot apply a method of release detection that complies with the requirements of Section 027 must complete the closure procedures in Sections 080 through 084 of this rule by the date on which release detection is required for that UST system under subsection 027.03. ( )

**028. RELEASE DETECTION REQUIREMENTS FOR PETROLEUM UST SYSTEMS.**  
 Owners and operators of petroleum UST systems must provide release detection for tanks and piping as follows: ( )

**01. Tanks.** Tanks must be monitored at least every thirty (30) days for releases using one (1) of the methods listed in Subsections 050.04 through 050.06 except that: ( )

**a.** UST systems that meet the performance standards in Section 013 or 020, and the monthly inventory control requirements in Subsection 050.01 or 050.02, may use tank tightness testing (conducted in accordance with Subsection 050.03) at least every five (5) years until December 22, 2008, or until ten (10) years after the tank is installed or upgraded under Subsection 020.02, whichever is earlier; ( )

**b.** UST systems that do not meet the performance standards in Section 013 or 020 may use monthly inventory controls (conducted in accordance with Subsection 050.01 or 050.02) and annual tank tightness testing (conducted in accordance with Subsection 050.03) until December 22, 1998 when the tank must be upgraded under Section 020 or permanently closed under Section 081; and ( )

**c.** Tanks with capacity of one thousand (1000) gallons or less may use weekly tank gauging (conducted in accordance with Subsection 050.02). ( )

**02. Piping.** Underground piping that routinely contains regulated substances must be monitored for releases in a manner that meets one (1) of the following requirements: ( )

**a.** Pressurized Piping. Underground piping that conveys regulated substances under pressure must: ( )

- i. Be equipped with an automatic line leak detector conducted in accordance with Subsection 051.01; and ( )
- ii. Have an annual line tightness test conducted in accordance with Subsection 051.02 or have monthly monitoring conducted in accordance with Subsection 051.03. ( )
- b. Suction Piping.** Underground piping that conveys regulated substances under suction must either have a line tightness test conducted at least every three (3) years and in accordance with Subsection 051.02, or use a monthly monitoring method conduct in accordance with Subsection 051.03. No release detection is required for suction piping that is designed and constructed to meet the following standards: ( )
  - i. The below-grade piping operates at less than atmospheric pressure; ( )
  - ii. The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released; ( )
  - iii. Only one (1) check valve is included in each suction line; ( )
  - iv. The check valve is located directly below and as close as practical to the suction pump; and ( )
  - v. A method is provided that allows compliance with Subsections 028.02.b.ii. through 028.02.b.iv. to be readily determined. ( )

**029. -- 039. (RESERVED).**

**040. RELEASE DETECTION REQUIREMENTS FOR HAZARDOUS SUBSTANCE UST SYSTEMS.**

Owners and operators of hazardous substance UST systems must provide release detection that meets the following requirements: ( )

**01. Release Detection Requirements For Existing UST Systems.** Release detection at existing UST systems must meet the requirements for petroleum UST systems in Section 028. By December 22, 1998, all existing hazardous substance UST systems must meet the release detection requirements for new systems in Subsection 040.02. ( )

**02. Release Detection At New Hazardous Substance UST Systems.** Release detection at new hazardous substance UST systems must meet the following requirements: (Subsection 085.12 may be used to comply with Subsection 040.02): ( )

- a.** Secondary containment systems must be designed, constructed and installed to: ( )
  - i. Contain regulated substances released from the tank system until they are detected and removed; ( )
  - ii. Prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and ( )
  - iii. Be checked for evidence of a release at least every thirty (30) days. ( )
- b.** Double-walled tanks must be designed, constructed, and installed to: ( )
  - i. Contain a release from any portion of the inner tank within the outer wall; and ( )
  - ii. Detect the failure of the inner wall. ( )
- c.** External liners (including vaults) must be designed, constructed, and installed to: ( )

- i. Contain one hundred percent (100%) of the capacity of the largest tank within its boundary; ( )
  - ii. Prevent the interference of precipitation or ground-water intrusion with the ability to contain or detect a release of regulated substances; and ( )
  - iii. Surround the tank completely (i.e., it is capable of preventing lateral as well as vertical migration of regulated substances). ( )
- d.** Underground piping must be equipped with secondary containment that satisfies the requirements of Subsection 040.02.a. (e.g., trench liners, jacketing of double-walled pipe). In addition, underground piping that conveys regulated substances under pressure must be equipped with an automatic line leak detector in accordance with Subsection 051.01 of this rule. ( )
- e.** Other methods of release detection may be used if owners and operators: ( )
- i. Demonstrate to the Department that an alternate method can detect a release of the stored substance as effectively as any of the methods allowed in Subsections 050.02 through 050.06 of this rule can detect a release of petroleum; ( )
  - ii. Provide information to the Department on effective corrective action technologies, health risks, and chemical and physical properties of the stored substance, and the characteristics of the UST site; and, ( )
  - iii. Obtain approval from the Department to use the alternate release detection method before the installation and operation of the new UST system. ( )

**041. -- 049. (RESERVED).**

**050. METHODS OF RELEASE DETECTION FOR TANKS.**

Each method of release detection for tanks used to meet the requirements of Section 028 of this rule must be conducted in accordance with the following: ( )

**01. Inventory Control.** Product inventory control (or another test of equivalent performance) must be conducted monthly to detect a release of at least ten percent (10%) of flow-through plus one hundred thirty (130) gallons on a monthly basis in the following manner, practices described in the American Petroleum Institute Publication 1621, "Recommended Practice for Bulk Liquid Stock Control at Retail Outlets," may be used, where applicable, as guidance in meeting the requirements of Subsection 050.01. ( )

**a.** Inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tank are recorded each operating day; ( )

**b.** The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth (.125) of an inch; ( )

**c.** The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery; ( )

**d.** Deliveries are made through a drop tube that extends to within one (1) foot of the tank bottom; ( )

**e.** Product dispensing is metered and recorded within the local standards for meter calibration or an accuracy of six (6) cubic inches for every five (5) gallons of product withdrawn; and ( )

**f.** The measurement of any water level in the bottom of the tank is made to the nearest one-eighth (.125) of an inch at least once a month. ( )

**02. Manual Tank Gauging.** Manual tank gauging must meet the following requirements: ( )

a. Tank liquid level measurements are taken at the beginning and ending of a period of at least thirty-six (36) hours during which no liquid is added to or removed from the tank; ( )

b. Level measurements are based on an average of two (2) consecutive stick readings at both the beginning and ending of the period; ( )

c. The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth (.125) of an inch; ( )

d. A leak from a PST system is suspected and subject to the requirements of Section 060 if the variation between beginning and ending measurements exceeds the weekly or monthly standards in the following table:

Nominal Tank Capacity	Weekly Standard (one test)	Monthly Standard (average of four tests)
550 gallons or less	10 gallons	5 gallons
551-1,000 gallons	13 gallons	7 gallons
1,001 - 2,000 gallons	26 gallons	13 gallons

( )

e. Only tanks of one thousand (1,000) gallons or less nominal capacity may use this as the sole method of release detection. Tanks of one thousand one (1,001) to two thousand (2,000) gallons may use the method in place of manual inventory control in Subsection 050.01. Tanks of greater than two thousand (2,000) gallons nominal capacity may not use this method to meet the requirements of Section 050. ( )

**03. Tank Tightness Testing.** Tank tightness testing (or another test of equivalent performance) must be capable of detecting a one-tenth (0.1) gallon per hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table. ( )

**04. Automatic Tank Gauging.** Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control must meet the following requirements: ( )

a. The automatic product level monitor test can detect a two-tenth (0.2) gallon per hour leak rate from any portion of the tank that routinely contains product; and ( )

b. Inventory control (or another test of equivalent performance) is conducted in accordance with the requirements of Subsection 050.01. ( )

**05. Interstitial Monitoring.** Interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it may be used, but only if the system is designed, constructed and installed to detect a leak from any portion of the tank that routinely contains product and also meets one (1) of the following requirements, (Subsection 085.13 may be used to comply with Subsection 050.05): ( )

a. For double-walled UST systems, the sampling or testing method can detect a release through the inner wall in any portion of the tank that routinely contains product; ( )

b. For UST systems with a secondary barrier within the excavation zone, the sampling or testing method used can detect a release between the UST system and the secondary barrier: ( )

i. The secondary barrier around or beneath the UST system consists of artificially constructed material that is sufficiently thick and impermeable (at least ten (10) to the minus six (6) cm/sec for the regulated substance stored) to direct a release to the monitoring point and permit its detection; ( )

ii. The barrier is compatible with the regulated substance stored so that a release from the UST system will not cause a deterioration of the barrier allowing a release to pass through undetected; ( )

iii. For cathodically protected tanks, the secondary barrier must be installed so that it does not interfere with the proper operation of the cathodic protection system; ( )

iv. The ground water, soil moisture, or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than thirty (30) days; ( )

v. The site is assessed to ensure that the secondary barrier is always above the ground water and not in a twenty-five (25) year flood plain, unless the barrier and monitoring designs are for use under such conditions; and ( )

vi. Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering. ( )

c. For tanks with an internally fitted liner, an automated device can detect a release between the inner wall of the tank and the liner, and the liner is compatible with the substance stored. ( )

**06. Other Methods.** Any other type of release detection method, or combination of methods, can be used if: ( )

a. It can detect a two-tenth (0.2) gallon per hour leak rate or a release of one hundred and fifty (150) gallons within a month with a probability of detection of ninety-five hundredths (0.95) and a probability of false alarm of five hundredths (0.05); or ( )

b. The Department may approve another method if the owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in Subsections 050.03 through 050.06. In comparing methods, the Department shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner and operator must comply with any conditions imposed by the Department on its use to ensure the protection of human health and the environment. ( )

**051. METHODS OF RELEASE DETECTION FOR PIPING.**

Each method of release detection for piping used to meet the requirements of Section 028 of this rule must be conducted in accordance with the following: ( )

**01. Automatic Line Leak Detectors.** Methods which alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if they detect leaks of three (3) gallons per hour at ten (10) pounds per square inch line pressure within one (1) hour. Owners and operators may not use a sump sensor to satisfy this requirement. An annual test of the operation of the leak detector must be conducted in accordance with the manufacturer's requirements. ( )

**02. Line Tightness Testing.** A periodic test of piping may be conducted only if it can detect a one-tenth (0.1) gallon per hour leak rate at one and one-half (1 1/2) times the operating pressure. ( )

**03. Applicable Tank Methods.** Any of the methods in Subsection 050.05 or 050.06 may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances. ( )

**052. RELEASE DETECTION RECORDKEEPING.**

All UST system owners and operators must maintain records in accordance with Section 026 of this rule demonstrating compliance with all applicable requirements of Section 052. These records must include the following: ( )

**01. Recordkeeping.** All written performance claims pertaining to any release detection system used,

and the manner in which these claims have been justified or tested by the equipment manufacturer or installer, must be maintained as long as the release detection system is in use; ( )

**02. Sampling Records Maintenance.** The results of any sampling, testing, or monitoring must be maintained for at least one (1) year, or for another reasonable period of time determined by the Department, except that the results of tank tightness testing conducted in accordance with Subsection 050.03 must be retained until the next test is conducted; and ( )

**03. Release Detection Maintenance Records.** Written documentation of all calibration, maintenance, and repair of release detection equipment permanently located on-site must be maintained as long as the release detection system is in use. Any schedules of required calibration and maintenance provided by the release detection equipment manufacturer must be retained as long as the release detection system is in use. ( )

**053. -- 059. (RESERVED).**

**060. PETROLEUM RELEASE REPORTING, INVESTIGATION, AND CONFIRMATION FOR PST SYSTEMS.**

**01. Reporting Of Suspected Releases For All Petroleum Storage Tank Systems.** Owners and operators of petroleum storage tank (PST) systems shall report to the Department within twenty-four (24) hours and follow the procedures in Subsection 060.03 for any of the following conditions: ( )

**a.** The discovery by owners and operators or others of a petroleum release at the PST site or in the surrounding area other than spills and overfills described in Subsection 060.04, such as the presence of free product or dissolved product in nearby surface water or ground water or vapors in soils, basements, sewer or utility lines. ( )

**b.** Unusual operating conditions observed by owners and operators such as the erratic behavior of product dispensing equipment, the sudden loss of product from the PST system, or an unexplained presence of water in the PST system, unless system equipment is found to be defective but not leaking, and is immediately repaired or replaced. ( )

**c.** Monitoring results from a release detection method that indicate a release may have occurred unless: ( )

**i.** The monitoring device is found to be defective, and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result; or ( )

**ii.** In the case of inventory control, a second month of data does not confirm the initial result. ( )

**02. Investigation Due To Off-Site Impacts.** When required by the Department, owners and operators shall follow the procedures in Subsection 060.03 to determine if the PST system is the source of off-site impacts. These impacts include the discovery of petroleum, such as the presence of free product or dissolved product in nearby surface water or ground water or vapors in soils, basements, sewer and utility lines, that has been observed by the Department or brought to its attention by another party. ( )

**03. Release Investigation and Confirmation Steps.** Unless corrective action is initiated in accordance with Section 070, owners and operators shall immediately investigate and confirm all suspected releases of petroleum within seven (7) days, or another time period specified by the Department, of discovery and using at least one (1) of the following steps or another procedure approved by the Department: ( )

**a.** Owners and operators shall conduct tightness tests that determine whether a leak exists in any portion of the PST system, including the tank, the attached delivery piping, and any connected tanks and piping. All such portions shall be tested either separately or together or in combinations thereof, as required by the Department. ( )

**i.** Owners and operators shall repair, replace or upgrade the PST system in accordance with

applicable federal, state and local laws, and begin corrective action in accordance with Section 070 if the test results for the system, tank, or delivery piping indicate that a leak exists. ( )

ii. Further investigation is not required if the test results for the system, tank, and delivery piping do not indicate that a leak exists and if environmental contamination is not the basis for suspecting a release. ( )

iii. Owners and operators shall conduct a site check as described in Subsection 060.03.b. if the test results for the system, tank, and delivery piping do not indicate that a leak exists but environmental contamination is the basis for suspecting a release. ( )

b. Owners and operators shall measure for the presence of a release where contamination is most likely to be present. In selecting sample types, sample locations, and measurement methods, owners and operators shall consider the nature of the petroleum, the type of initial alarm or cause for suspicion, the type of backfill, the depth of ground water, and other factors appropriate for identifying the presence and source of the release. Methods of sample collection and sample analysis are subject to Department approval. ( )

i. If release has occurred, owners and operators shall begin corrective action in accordance with Section 070 of this rule. ( )

ii. If test results for the PST system do not indicate that a release has occurred, further investigation is not required. ( )

**04. Reporting And Cleanup Of Above Ground Spills And Overfills.** Owners and operators shall contain and immediately clean up an above ground spill or overflow of petroleum only after identifying and mitigating any fire, explosion and vapor hazards. ( )

a. An above ground spill or overflow of petroleum that results in a release that exceeds twenty-five (25) gallons or that causes a sheen on nearby surface water shall be reported to the Department within twenty-four (24) hours and owners and operators shall begin corrective action in accordance with Section 070. ( )

b. An above ground spill or overflow of petroleum that results in a release that is less than twenty-five (25) gallons and does not cause a sheen on nearby surface water shall be reported to the Department only if cleanup cannot be accomplished within twenty-four (24) hours. ( )

**061. -- 069. (RESERVED).**

**070. PETROLEUM RELEASE RESPONSE AND CORRECTIVE ACTION FOR PST SYSTEMS.**

**01. Release Response.** Upon confirmation of a petroleum release in accordance with Section 060 or after a release from the PST system is identified in any other manner, owners and operators shall perform the following initial response actions within twenty-four (24) hours: ( )

a. Identify and mitigate fire, explosion and vapor hazards; ( )

b. Take immediate action to prevent any further release of petroleum into the environment; and ( )

c. Report the release to the Department. ( )

**02. Initial Abatement Measures.** Unless directed to do otherwise by the Department, owners and operators shall perform the following abatement measures: ( )

a. Remove as much of the petroleum from the leaking PST system as is necessary to prevent further release to the environment; ( )

b. Visually inspect any above ground releases or exposed below ground releases and prevent further migration of the released substance into surrounding soils, surface water and ground water; ( )

c. Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the PST site and entered into subsurface structures such as sewers or basements; ( )

d. Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement, or corrective action activities. If these remedies include treatment or disposal of soils, the owner and operator shall comply with applicable state and local requirements. ( )

**03. Initial Site Characterization.** Unless directed to do otherwise by the Department, owners and operators shall assemble information about the site and the nature of the release, including information gained while confirming the release or completing the initial abatement measures in Subsection 070.02. This information shall include, but is not necessarily limited to the following: ( )

a. Data on the nature and estimated quantity of release; ( )

b. Data from available sources and/or site investigations concerning the following factors: surrounding populations, water quality, use and approximate location of wells potentially affected by the release, subsurface soil condition, locations of subsurface sewers, climatological conditions and land use; and ( )

c. Data from measurements that assess the site for the presence of petroleum contamination including: ( )

i. Measurements for the presence of a release where contamination is most likely to be present, unless the presence and source of the release have been confirmed in accordance with the site check required by Subsection 060.03.b. or the closure site assessments required by applicable federal, state, or local laws. Sample types, sample locations and analytical methods are subject to Department approval and shall be based on consideration of the nature of the petroleum, the type of backfill, depth to ground water and other factors appropriate for identifying the presence and source of the release; and ( )

ii. Measurements to determine the presence of free product. ( )

d. Within forty-five (45) days of release confirmation, or another time specified by the Department, owners and operators shall submit the information collected in compliance with Subsection 070.03 to the Department in a manner that demonstrates its applicability and technical adequacy to be reviewed as follows: ( )

i. If the Department determines that the information shows that no further corrective action is required, owners and operators shall be notified accordingly. ( )

ii. If the Department determines that the information shows petroleum contamination is limited to soils, owners and operators shall treat or dispose of contaminated soils in accordance with Department guidelines, and need not perform any further corrective action. ( )

iii. If the Department determines that the information shows that any of the conditions in Subsections 070.05.a. through 070.05.c. exist, owners and operators shall comply with the requirements in Subsections 070.04 through 070.07. ( )

**04. Free Product Removal.** At sites where investigations under Subsection 070.03.c.ii. indicate the presence of free product, owners and operators shall remove free product to the maximum extent practicable as determined by the Department while continuing, as necessary, any actions initiated under Subsections 070.01 through 070.03 or preparing for actions required under Subsections 070.05 and 070.06. In meeting the requirements of Subsection 070.04, owners and operators shall: ( )

a. Conduct free product removal in a manner that minimizes the spread of contamination into previously uncontaminated areas by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site, and that properly treats, discharges or disposes of recovery by-products in compliance with applicable local, state and federal regulations; ( )

**b.** Use abatement of free product migration as a minimum objective for the design of the free product removal system; ( )

**c.** Handle any flammable products in a safe and competent manner to prevent fires or explosions; and ( )

**d.** Unless directed to do otherwise by the Department, prepare and submit to the Department for review and approval, within forty-five (45) days after confirming a release, a free product removal report that provides at least the following information: ( )

i. The name of the person(s) responsible for implementing the free product removal measures;( )

ii. The estimated quantity, type and thickness of free product observed or measured in wells, boreholes, and excavations; ( )

iii. The type of free product recovery system used; ( )

iv. Whether any discharge will take place on-site or off-site during the recovery operation and where this discharge will be located; ( )

v. The type of treatment applied to, and the effluent quality expected from, any discharge; ( )

vi. The steps that have been or are being taken to obtain necessary permits for any discharge; and ( )

vii. The disposition of the recovered free product. ( )

**05. Investigations For Soil And Water Cleanup.** If any of the conditions in Subsections 070.05.a. through 070.05.c. exist, and unless directed to do otherwise by the Department, owners and operators shall notify the Department and conduct investigations in accordance with Subsection 070.05.d. of the release, the release site, and the surrounding area possibly affected by the release in order to determine the full extent and location of soils contaminated by the petroleum release and the presence and concentrations of dissolved product contamination in the ground water or surface water: ( )

**a.** There is evidence that ground water or surface water has been affected by the release such as found during release confirmation or previous corrective action measures; ( )

**b.** Free product is found to need recovery in compliance with Subsection 070.04; ( )

**c.** There is evidence that contaminated soils may affect nearby ground water, surface water or the public health and have not been treated or disposed of in accordance with Subsection 070.03.d.ii. ( )

**d.** Unless determined otherwise by the Department, investigations conducted under Subsection, 070.05, shall include, but are not necessarily limited to the following: ( )

i. The physical and chemical characteristics of the petroleum product including its toxicity, persistence, and potential for migration; ( )

ii. The type and age of the PST system, inventory loss, and type of containment failure; ( )

iii. The hydrogeologic characteristics of the release site and the surrounding area; ( )

iv. The background concentrations of contaminants in soil, surface water and ground water; ( )

v. A site drawing, showing boring and monitoring well locations, nearby structures, under ground utilities, drainage ditches, streams, suspected locations of leakage, direction of ground water flow, and any domestic or irrigation wells within a one-fourth (1/4) mile radius of the site; ( )

- vi. Information on ownership and use of any well identified pursuant to Subsection 070.05.d.v.; ( )
  - vii. Site borings and well logs and rationale for choosing drilling locations, and a description of methods and equipment used for all water and soil sampling; ( )
  - viii. A description of contaminant stratigraphy with accompanying geologic cross-section drawings; ( )
  - ix. A demonstration and description of the horizontal and vertical extent of contamination, free product thickness, modes and rate of contaminant transport, and concentrations of dissolved constituents in surface water and ground water; ( )
  - x. The potential effects of residual contamination on nearby surface water and ground water; and ( )
  - xi. A discussion of laboratory analytical methods and information pertaining to laboratory certification. ( )
- e. Owners and operators shall submit the information collected in investigating the release site in compliance with Subsection 070.05 for the Department's review and approval in accordance with a schedule established by the Department as provided in Subsection 070.07. ( )

**06. Corrective Action Plan.** At any point after reviewing the information submitted in compliance with Subsections 070.01 through 070.05, the Department may require owners and operators to submit additional information or to develop and submit a corrective action plan for responding to contaminated soils, surface water and ground water. If a plan is required, owners and operators shall submit the plan according to a schedule and criteria established by the Department as provided in Subsection 070.07. Alternatively, owners and operators may, after fulfilling the requirements of Subsections 070.01 through 070.05, choose to submit a corrective action plan for responding to contaminated soil, surface water and ground water. In either case, owners and operators are responsible for submitting a plan that provides for adequate protection of human health and the environment as determined by the Department, and shall modify their plan as necessary to meet the Department's standards. ( )

**a.** The Department will approve the corrective action plan only after ensuring that implementation of the plan will adequately protect human health and the environment. In making this determination, the Department should consider the following factors as appropriate: ( )

- i. The maximum contaminant levels for drinking water or other health-based levels for water and soil which consider the potential exposure pathway of the petroleum product; ( )
- ii. The physical and chemical characteristics of the petroleum product including its toxicity, persistence, and potential for migration; ( )
- iii. The hydrogeologic characteristics of the release site and the surrounding area; ( )
- iv. The proximity, quality, and current and future uses of nearby surface water and ground water; ( )
- v. The potential effects of residual contamination on nearby surface water and ground water; and ( )
- vi. Other information assembled in compliance with Section 060. ( )

**b.** Upon approval of the corrective action plan or as directed by the Department, owners and operators shall implement the plan including modification to the plan made by the Department. Owners and operators shall monitor, evaluate, and report the results of implementing the plan in accordance with a schedule and criteria

established by the Department as provided in Subsection 070.07. ( )

**c.** Owners and operators may, in the interest of minimizing environmental contamination and promoting more effective cleanup, begin cleanup of soil, surface water, and ground water before the corrective action plan is approved provided that they: ( )

**i.** Notify the Department of their intention to begin cleanup; ( )

**ii.** Comply with any conditions imposed by the Department, including halting cleanup or mitigating adverse consequences from cleanup activities; and ( )

**iii.** Incorporate these self-initiated cleanup measures in the corrective action plan that is submitted to the Department for approval. ( )

**07. Compliance.** If the Department determines that any of the conditions in Subsections 070.05.a. through 070.05.c. exist, owners and operators shall be given an opportunity to enter into a consent order with the Department. ( )

**a.** The Department shall send owners and operators a consent order that sets forth at least the following: ( )

**i.** A schedule for owners and operators to submit the information collected in investigating the release site in compliance with Subsection 070.05. ( )

**ii.** A schedule for owners and operators to submit, and a criteria for, a corrective action plan in compliance with Subsection 070.06. ( )

**iii.** Schedule for the Department to review, modify, and approve the site release investigation and corrective action plan. ( )

**iv.** A schedule and criteria for owners and operators to implement a corrective action plan, and monitor, evaluate, and report the results of implementing the corrective action plan. ( )

**b.** Owners and operators shall be given thirty (30) days from receipt of the consent order in which to reach an agreement with the Department regarding the terms of the consent order. ( )

**c.** If owners and operators cannot reach an agreement with the Department within thirty (30) days, the Department shall establish a schedule and criteria with which owners and operators shall comply in order to meet the requirements of Subsections 070.05 and 070.06. ( )

**071. -- 079. (RESERVED).**

**080. TEMPORARY CLOSURE.**

**01. Operation And Maintenance.** When an UST system is temporarily closed, owners and operators must continue operation and maintenance of corrosion protection in accordance with Section 023 of this rule, and any release detection in accordance with Sections 027 through 052 of this rule. Sections 060 and 070 must be complied with if a release from a PST system is suspected or confirmed. However, release detection is not required as long as the UST system is empty. The UST system is empty when all materials have been removed using commonly employed practices so that no more than two point five (2.5) centimeters (one (1) inch) of residue, or three tenths percent (0.3%) by weight of the total capacity of the UST system, remain in the system. ( )

**02. Temporary Closure.** When an UST system is temporarily closed for three (3) months or more, owners and operators must also comply with the following requirements: ( )

**a.** Leave vent lines open and functioning; and ( )

- b. Cap and secure all other lines, pumps, manways, and ancillary equipment. ( )

**03. Permanent Closure.** When an UST system is temporarily closed for more than twelve (12) months, owners and operators must permanently close the UST system if it does not meet either performance standards in Section 013 of this rule for new UST systems or the upgrading requirements in Section 020 of this rule, except that the spill and overfill equipment requirements do not have to be met. Owners and operators must permanently close the standard UST systems at the end of this twelve (12) month period in accordance with Sections 081 through 084 of this rule, unless the Department provides an extension of the twelve (12) month temporary closure period. Owners and operators must complete a site assessment in accordance with Section 082 of this rule before such an extension can be applied for. ( )

**081. PERMANENT CLOSURE AND CHANGES-IN-SERVICE.**

**01. Notification.** At least thirty (30) days before beginning either permanent closure or a change-in-service under Subsections 081.02 and 081.03 or within another reasonable time period determined by the Department, owners and operators must notify the Department of their intent to permanently close or make the change-in-service, unless such action is in response to corrective action. The required assessment of the excavation zone under Section 082 of this rule must be performed after notifying the Department but before completion of the permanent closure or a change-in-service. ( )

**02. Permanent Closure.** To permanently close a tank, owners and operators must empty and clean it by removing all liquids and accumulated sludges. All tanks taken out of service permanently must also be either removed from the ground or filled with an inert solid material. Subsection 085.14 may be used to comply with Subsection 081.02. ( )

**03. Change In Service.** Continued use of an UST system to store a non-regulated substance is considered a change-in-service. Before a change-in-service, owners and operators must empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment in accordance with Section 082 of this rule. Subsection 085.14 may be used to comply with Subsection 081.03. ( )

**082. ASSESSING THE SITE AT CLOSURE OR CHANGE-IN-SERVICE.**

**01. Site Assessment.** Before permanent closure or a change-in-service is completed, owners and operators must measure for the presence of a release where contamination is most likely to be present at the UST site. In selecting sample types, sample locations, and measurement methods, owners and operators must consider the method of closure, the nature of the stored substance, the type of backfill, the depth to ground water, and other factors appropriate for identifying the presence of a release. Owners and operators must submit to the Department the results of the site assessment conducted pursuant to Subsection 082.01 within thirty (30) days of completion of UST closure. ( )

**02. Corrective Action.** If, with respect to PST systems, contaminated soils, contaminated ground water, or free product is discovered under Subsection 082.01, or by any other manner, owners and operators must begin corrective action in accordance with Section 070 of this rule. ( )

**083. APPLICABILITY TO PREVIOUSLY CLOSED UST SYSTEMS.**

When directed by the Department, the owner and operator of an UST system permanently closed before December 22, 1988 must assess the excavation zone and close the UST system in accordance with Sections 080 through 084 if releases from the UST may, in the judgment of the Department, pose a current or potential threat to human health and the environment. ( )

**084. CLOSURE RECORDS.**

**01. Record Maintenance.** Owners and operators must maintain records in accordance with Section 026 of this rule that are capable of demonstrating compliance with closure requirements under this Rule. For UST systems closed before the effective date of this rule, the results of the excavation zone assessment required in Section 082 of this rule must be maintained for at least three (3) years after completion of permanent closure or change-in-service. For UST systems closed on or after the effective date of this rule, the results of the excavation zone

assessment required in Section 082 of this rule must be maintained for at least ten (10) years after completion of permanent closure or change-in-service. ( )

**02. Records.** The records must be maintained as follows: ( )

**a.** By the owners and operators who took the UST system out of service; and ( )

**b.** By the current owners and operators of the UST system site. ( )

**085. INDUSTRY CODES AND STANDARDS.**

**01. Industry Codes For Fiberglass Reinforced Plastic UST's.** The following industry codes may be used to comply with Subsection 013.01.a. Underwriters Laboratories Standard 1316, "Standard for Glass- Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products"; Underwriter's Laboratories of Canada CAN4-S615-M83, "Standard for Reinforced Plastic Underground Tanks for Petroleum Products"; or American Society of Testing and Materials Standard D4021-86, "Standard Specification for Glass-Fiber-Reinforced Polyester Underground Petroleum Storage Tanks". ( )

**02. Cathodic Protection Standards.** Standards that may be used to comply with Subsection 013.1.b.: ( )

**a.** Steel Tank Institute "Specification for STI-P3 System of External Corrosion Protection of Underground Steel Storage Tanks"; ( )

**b.** Underwriters Laboratories Standard 1746, "Corrosion Protection Systems for Underground Storage Tanks"; ( )

**c.** Underwriters Laboratories of Canada CAN4-S603-M85, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids," and CAN4-G03.1-M85, "Standard for Galvanic Corrosion Protection Systems for Underground Tanks for Flammable and Combustible Liquids," and CAN4-S631-M84, "Isolating Bushings for Steel Underground Tanks Protected with Coatings and Galvanic Systems"; or ( )

**d.** National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and Underwriters Laboratories Standard 58, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids". ( )

**03. Corrosion Protection Standards.** These codes may be used to comply with Subsection 013.01.c.: Underwriters Laboratories Standard 1746, "Corrosion Protection Systems for Underground Storage Tanks," or the Association for Composite Tanks ACT-100, "Specification for the Fabrication of FRP Clad Underground Storage Tanks". ( )

**04. Piping Codes.** The following codes and standards may be used to comply with Subsection 013.02.a.: ( )

**a.** Underwriters Laboratories Subject 971, "UL Listed Non-Metal Pipe"; ( )

**b.** Underwriters Laboratories Standard 567, "Pipe Connectors for Flammable and Combustible and LP Gas"; ( )

**c.** Underwriters Laboratories of Canada Guide ULC-107, "Glass Fiber Reinforced Plastic Pipe and Fittings for Flammable Liquids"; and ( )

**d.** Underwriters Laboratories of Canada Standard CAN 4-S633-M81, "Flexible Underground Hose Connectors". ( )

**05. Tank Codes.** The following codes and standards may be used to comply with Subsection 013.02.b.: ( )

- a. National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code"; ( )
  - b. American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage Systems"; ( )
  - c. American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems"; and ( )
  - d. National Association of Corrosion Engineers Standard RP-01-69, "Control of External Corrosion on Submerged Metallic Piping Systems". ( )
- 06. Tank And Piping System Installation Practices And Procedures.** The following codes may be used to comply with the requirements of Subsection 013.04: ( )
- a. American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage System"; or ( )
  - b. Petroleum Equipment Institute Publication RP100, "Recommended Practices for Installation of Underground Liquid Storage Systems"; or ( )
  - c. American National Standards Institute Standard B31.3, "Petroleum Refinery Piping," and American National Standards Institute Standard B31.4 "Liquid Petroleum Transportation Piping System". ( )
- 07. Tank Lining Codes And Standards.** The following codes may be used to comply with the requirements of Subsection 020.02.c.: ( )
- a. American Petroleum Institute Publication 1631, "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks"; ( )
  - b. National Leak Prevention Association Standard 631, "Spill Prevention, Minimum 10 Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection"; ( )
  - c. National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems"; and ( )
  - d. American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems". ( )
- 08. Transfer Procedures.** The transfer procedures described in National Fire Protection Association Publication 385 may be used to comply with Subsection 022.01. Further guidance on spill and overfill prevention appears in American Petroleum Institute Publication 1621, "Recommended Practice for Bulk Liquid Stock Control at Retail Outlets," and National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code". ( )
- 09. Corrosion Standards.** National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," may be used to comply with Subsection 023.02.b. of this rule. ( )
- 10. Codes For Alcohol Blends.** Owners and operators storing alcohol blends may use the following codes to comply with the requirements of Section 024: ( )
- a. American Petroleum Institute Publication 1626, "Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations"; and ( )
  - b. American Petroleum Institute Publication 1627, "Storage and Handling of Gasoline-Methanol/

Cosolvent Blends at Distribution Terminals and Service Stations” ( )

**11. UST System Repairs.** The following codes and standards may be used to comply with Subsection 025.01: ( )

**a.** National Fire Protection Association Standard 30, “Flammable and Combustible Liquids Code”; ( )

**b.** American Petroleum Institute Publication 2200, “Repairing Crude Oil, Liquefied Petroleum Gas, and Product Pipelines”; ( )

**c.** American Petroleum Institute Publication 1631, “Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks”; and ( )

**d.** National Leak Prevention Association Standard 631, “Spill Prevention, Minimum 10 Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection”. ( )

**12. Release Detection Provisions.** The provisions of 40 CFR 265.193, Containment and Detection of Releases, may be used to comply with the requirements found in Subsection 040.02. ( )

**13. Standards For Dual Wall UST.** The provisions outlined in the Steel Tank Institute's “Standard for Dual Wall Underground Storage Tanks” may be used as guidance for aspects of the design and construction of underground steel double-walled tanks as it applies to Subsection 050.05.a. ( )

**14. Removal And Cleaning Standards For UST’s.** The following codes may be used to comply with the requirements of Subsection 081.04: ( )

**a.** American Petroleum Institute Recommended Practice 1604, “Removal and Disposal of Used Underground Petroleum Storage Tanks”; ( )

**b.** American Petroleum Institute Publication 2015, “Cleaning Petroleum Storage Tanks”; ( )

**c.** American Petroleum Institute Recommended Practice 1631, “Interior Lining of Underground Storage Tanks,” may be used as guidance for compliance with Section 085; and ( )

**d.** The National Institute for Occupational Safety and Health “Criteria for a Recommended Standard \* \* Working in Confined Space” may be used as guidance for conducting safe closure procedures at some hazardous substance tanks. ( )

**086. -- 099. (RESERVED).**

**100. FINANCIAL RESPONSIBILITY.**

**01. Incorporation By Reference.** This reference to requirements, procedures, or specific forms contained in the Code of Federal Regulations (CFR), Title 40, Part 280 shall constitute the full adoption by reference of that part and Sections as they appear in 40 CFR, including any notes and appendices therein, unless expressly provided otherwise in this Rule. 40 CFR 280.90 through 280.115, revised as of July 1, 2001, are incorporated by reference, except 40 CFR 280.90(d), which is incorporated as modified in Subsection 100.02 of this rule. ( )

**02. Modified Requirements.** 40 CFR 280.90(d) is modified to provide that the requirements of Section 100 do not apply to owners and operators of any UST system described in Subsection 006.02 or 006.03 of this rule. ( )

**101. -- 999. (RESERVED).**

## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0102

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Chapter 1, Title 39, Idaho Code and Chapter 21, Title 37, Idaho Code. In addition, states which have primary enforcement responsibility for the Safe Drinking Water Act are required by 40 CFR 142.10(a) and 40 CFR 142.12(b) through (d) to adopt within two years of promulgation, national primary drinking water regulations that are no less stringent than the federal regulations in effect under 40 CFR Part 141.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this proposed rulemaking will be held as follows:

**July 18, 2002, 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:** Engineering standards dealing with design, construction, and operation of public water systems have not been systematically revisited since the mid-1980's. Advancing technologies and new national regulations have combined to make some portions of the rules increasingly dated and, in some instances, overly restrictive. This rulemaking is to update obsolete provisions, add flexibility where possible and appropriate, and clarify certain language that has presented interpretive difficulties in the past.

Additionally, a number of housekeeping changes are included in this rulemaking as a matter of convenience. These changes address spelling, punctuation, and syntax problems throughout the rules. Addresses and phone numbers of organizations referenced in the rules have been changed where necessary. In addition, provision is made for temporarily waiving continuing education requirements for certified operators who are called to active military service and are unable to comply.

The engineering standards apply to newly designed public water systems and to significant modifications proposed for existing public water systems. As such they affect consulting engineers, developers of new systems, and owners of new and existing systems. The housekeeping changes included in this rulemaking are for the benefit of all users of the rules and also serve to meet standards established by the Legislature and the Department of Administration.

The engineering standards for design, construction, and operation of public water systems regulate activities that are not regulated by the federal government. These standards were promulgated to fulfill the requirements Section 39-118, Idaho Code and pre-date the Safe Drinking Water Act. This rulemaking proposes only to update and clarify long-standing administrative rules. The changes made in this rulemaking are no more stringent than the applicable federal regulations.

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, the Idaho Department of Environmental Quality (DEQ) intends to present the final proposal to the Board of Environmental Quality in the fall of 2002 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2003 session of the Idaho Legislature.

**NEGOTIATED RULEMAKING:** The text of the rule has been drafted based on discussions held and concerns raised during a negotiation conducted pursuant to Section 67-5220, Idaho Code, and IDAPA 58.01.23.812 - 815. The negotiation was open to the public. Participants in the negotiation included representatives from regulated public water systems, Idaho Rural Water Association, the American Water Works Association, private engineering firms, and professional geologists. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Volume 01-12, December 5, 2001, page 114.

**GENERAL INFORMATION:** For more information about DEQ's programs and activities, visit DEQ's web site at [www.state.id.us/deq](http://www.state.id.us/deq).

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this rulemaking, contact Tom John at (208)373-0502, [tjohn@deq.state.id.us](mailto:tjohn@deq.state.id.us).

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before July 31, 2002.

DATED this 23rd day of May, 2002.

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](mailto:pgradwoh@deq.state.id.us)

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0108-0102**

**000. LEGAL AUTHORITY.**

The Idaho Legislature has given the Idaho ~~Department~~ Board of Environmental Quality the authority to promulgate rules governing quality and safety of drinking water, pursuant to Title 37, Chapter 21 and Title 39, Chapter 1, Idaho Code. (7-1-97)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**002. INCORPORATION BY REFERENCE.**

Any reference in these rules to requirements, procedures, or specific forms contained in any section or subsection of the Code of Federal Regulations (CFR), Title 40, Parts 141 and 143 shall constitute the full adoption by reference of that section or subsection, including any notes and appendices therein, unless expressly provided otherwise in these rules. Any reference in these rules to procedures, methods, standards, or construction criteria contained in a published technical manual shall constitute the full adoption by reference of the part of the technical manual that pertains to the procedure, method, standard, or construction criterion as it appears in the manual. (3-15-02)

**01. Precedence.** In the event of conflict or inconsistency between the language in these rules and that found in any document incorporated by reference, these rules shall prevail. ( )

**02. Availability Of Specific Referenced Material.** Copies of specific documents adopted by reference throughout these rules are available in the following locations: (12-10-92)

**a.** All federal regulations: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Telephone (202)783-3238, or U.S. Government Bookstore, Room 194, Federal Bldg., 915 Second Ave., Seattle, WA 98174, (206) 553-4270; and (7-1-97)

**b.** All documents herein incorporated by reference: Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208) 373-0502. (7-1-97)

c. Recommended Standards for Water Works: a committee report of the Great Lakes -- Upper Mississippi River Board of Department of Public Health and Environmental Health Managers, published by Health Education Services, P.O. Box 7823, Albany, New York, 1997, Telephone (518) 439-7286. (3-30-01)

d. Manual of Individual and Non-Public Water Supply Systems (EPA-~~430/9-74-007~~ 570/9-91-004), published by the U.S. Environmental Protection Agency, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C.20402, Telephone (202) 782-3238. (~~12-10-92~~)( )

e. U.S. Department of Commerce, National Bureau of Standards Handbook, No. 69, "Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure" as amended in 1963, NCRP Publications, P.O. Box 20175, Washington, D.C. 20014. (12-10-92)

f. Rules of the Idaho Water Resources Board, IDAPA 37.03.09, "Well Construction Standards Rules," July 1993, available at the Idaho Department of Water Resources, 1301 North Orchard, P.O. Box 83720, Boise, Idaho 83720-0098, Telephone (208) 327-7900. (7-1-97)

g. USEPA Guidance Manual, Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources, March 1991 Edition, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Telephone (202) 782-3238. (12-10-92)

h. ANSI/NSF Standard 53-2001 -- ~~1992~~ 2001, Drinking Water Treatment Units -- Health Effects, available from the National Sanitation Foundation, ~~3475 Plymouth Road, P.O. Box 1468~~ 789 N. Dixboro Road, Ann Arbor, Michigan 481065, Telephone (~~313~~) 769-8010 (734) 827-6800. (~~10-1-93~~)( )

i. ANSI/NSF Standard 58-2000a -- ~~1992~~ 2000, Reverse Osmosis Drinking Water Treatment Systems, available from the National Sanitation Foundation, ~~3475 Plymouth Road, P.O. Box 1468~~ 789 N. Dixboro Road, Ann Arbor, Michigan 481065, Telephone (~~313~~) 769-8010 (734) 827-6800. (~~10-1-93~~)( )

j. American Water Works Association (AWWA) Standards, Edition effective July, ~~23, 1992~~ 2002, available from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, Telephone (800) 926-7337. (~~7-1-97~~)( )

k. ANSI/NSF Standard 60-2000a -- ~~1988~~ 2000, Drinking Water Treatment Chemicals -- Health Effects, available ~~from~~ from the National Sanitation Foundation, ~~3475 Plymouth Road, P.O. Box 1468~~ 789 N. Dixboro Road, Ann Arbor, Michigan 481065, Telephone (~~313~~) 769-8010 (734) 827-6800. (~~12-10-92~~)( )

l. ANSI/NSF Standard 61-2000a -- ~~1991~~ 2000, Drinking Water System Components -- Health Effects, available from the National Sanitation Foundation, ~~3475 Plymouth Road, P.O. Box 1468~~ 789 N. Dixboro Road, Ann Arbor, Michigan 481065, Telephone (~~313~~) 769-8010 (734) 827-6800. (~~10-1-93~~)( )

m. "Cross Connection Control Manual," December 1995 Edition, available from Pacific Northwest Section of the American Water Works Association, P.O. Box 19581, Portland, OR, 97280-0581, Telephone (503) 246-5845. ( )

02. **Federal Regulations.** 40 CFR 141.2, revised as of July 1, 2001, is herein incorporated by reference, except for the definition of the terms action level, disinfection, noncommunity water system, and person. (3-15-02)

**003. DEFINITIONS.**

The definitions set forth in 40 CFR 141.2, revised as of July 1, 2002, are herein incorporated by reference except for the definition of the terms "action level," "disinfection," "noncommunity water system," and "person". ( )

01. **ABC.** The abbreviation for "Association of Boards of Certification for Operating Personnel," an international organization representing water utility and pollution control certification boards. (4-5-00)

**02. Action Level.** The concentration of lead or copper in water that determines, in some cases, whether a water system must install corrosion control treatment, monitor source water, replace lead service lines, or undertake a public education program. (12-10-92)

**03. Administrator.** The Administrator of the United States Environmental Protection Agency. (4-5-00)

**04. Annual Samples.** Samples that are required once per calendar year. (12-10-92)

**05. Aquifer.** A geological formation of permeable saturated material, such as rock, sand, gravel, etc., capable of yielding an economic quantity of water to wells and springs. ( )

**056. Available.** Based on system size, complexity, and source water quality, a certified operator must be on site or able to be contacted as needed to initiate the appropriate action in a timely manner. (4-5-00)

**067. Average Daily Demand.** The volume of water used by a system on an average day based on a one (1) year period. (12-10-92)

**078. Backflow.** The reverse from normal flow direction in a plumbing system or water system caused by back pressure or back siphonage. (12-10-92)

**089. Board.** The Idaho ~~State~~ Board of Environmental Quality. (~~12-10-92~~)( )

**0910. Capacity.** The capabilities required of a public drinking water system in order to achieve and maintain compliance with these rules and the requirements of the federal Safe Drinking Water Act. It is divided into three (3) main elements: (4-5-00)

**a.** Technical capacity means the system has the physical infrastructure to consistently meet drinking water quality standards and treatment requirements and is able to meet the requirements of routine and emergency operations. It further means the ability of system personnel to adequately operate and maintain the system and to otherwise implement technical knowledge. Certification and training of the operator(s) is required, as appropriate, for the system size and complexity. (4-5-00)

**b.** Financial capacity means the financial resources of the water system, including an appropriate budget, rate structure, cash reserves sufficient for future needs and emergency situations, and adequate fiscal controls. (4-5-00)

**c.** Managerial capacity means that the management structure of the water system embodies the aspects of water treatment operations, including, but not limited to; (4-5-00)

i. Short and long range planning; (4-5-00)

ii. Personnel management; (4-5-00)

iii. Fiduciary responsibility; (4-5-00)

iv. Emergency response; (4-5-00)

v. Customer responsiveness; (4-5-00)

vi. Source water protection; (4-5-00)

vii. Administrative functions such as billing and consumer awareness; and (4-5-00)

viii. Ability to meet the intent of the federal Safe Drinking Water Act. (4-5-00)

**101. Certificate.** Documentation of competency issued by the Director stating that the person (to be

certified) has met requirements for a specific classification of the certification program. (4-5-00)

**122. Community Water System.** A public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents. (12-10-92)

**123. Composite Correction Program (CCP).** A systematic approach to identifying opportunities for improving the performance of water treatment and implementing changes that will capitalize on these opportunities. The CCP consists of two (2) elements: (4-5-00)

**a. Comprehensive Performance Evaluation (CPE).** A thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation, and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. The CPE must consist of at least the following components: assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report. (4-5-00)

**b. Comprehensive Technical Assistance (CTA).** The implementation phase that is carried out if the CPE results indicate improved performance potential. During the CTA phase, the system must identify and systematically address plant-specific factors. The CTA consists of follow-up to the CPE results, implementation of process control priority setting techniques, and maintaining long term involvement to systematically train staff and administrators. (4-5-00)

**134. Compositing Of Samples.** The mixing of up to five (5) samples by the laboratory. (4-5-00)

**15. Confining Layer.** A nearly impermeable subsurface stratum which is located adjacent to one (1) or more aquifers and does not yield a significant quantity of water to a well. ( )

**146. Confirmation Sample.** A sample of water taken from the same point in the system as the original sample and at a time as soon as possible after the original sample was taken. (12-10-92)

**157. Connection.** Each structure, facility, or single family residence which is connected to a water system, and which is or could be used for domestic purposes, is considered a single connection. Multi-family dwellings and apartment, condominium, and office complexes are considered single connections unless individual units are billed separately for water by the water system, in which case each such unit shall be considered a single connection. (10-1-93)

**168. Consumer.** Any person served by a public water system. (12-10-92)

**179. Consumer Confidence Report (CCR).** An annual report that community water systems must deliver to their customers. The reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner. (4-5-00)

**1820. Contaminant.** Any physical, chemical, biological, or radiological substance or matter in water. (12-10-92)

**1921. Continuing Education Unit (CEU).** An alternate unit (to semester or quarter systems) of formal credit assignment to post-secondary training activities, which is based upon regionally or nationally established and recognized education criteria. (4-5-00)

**202. Cross Connection.** Any actual or potential connection or piping arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable water system used water, water from any source other than an approved public water system, industrial fluid, gas or substance other than the intended potable water with which the system is supplied. Cross connections include bypass arrangements, jumper connections, removable sections, swivel or change-over devices

and other temporary or permanent devices which, or because of which "backflow" can or may occur. (10-1-93)

~~243.~~ **Department.** The Idaho Department of Environmental Quality. (12-10-92)

~~224.~~ **Director.** The Director of the Department of Environmental Quality or his designee. (12-10-92)

~~235.~~ **Disinfection.** Introduction of chlorine or other agent or process approved by the Department, in sufficient concentrations, ~~followed by adequate contact and for the time so as required~~ to kill or inactivate pathogenic and indicator organisms. (~~12-10-92~~)(\_\_\_\_)

~~246.~~ **Disinfection Profile.** A summary of daily Giardia lamblia inactivation through the drinking water treatment plant. The procedure for developing a disinfection profile is contained in 40 CFR 141.172. (4-5-00)

~~257.~~ **Distribution System.** Any combination of pipes, tanks, pumps, and other equipment which delivers water from the source(s) and/or treatment facility(ies) to the consumer. (4-5-00)

~~268.~~ **Drinking Water System.** All mains, pipes, and structures through which water is obtained and distributed, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use. (12-10-92)

~~279.~~ **DWIMS.** Idaho Department of Environmental Quality Drinking Water Information Management System. Replaced by SDWISS April 2001. (3-15-02)

~~2830.~~ **Enhanced Coagulation.** The addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment. Conventional filtration treatment is defined in 40 CFR 141.2. (~~4-5-00~~)(\_\_\_\_)

~~2931.~~ **Enhanced Softening.** The improved removal of disinfection byproduct precursors by precipitative softening. (4-5-00)

~~302.~~ **Exemption.** A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only if the system demonstrates to the satisfaction of the Department that the system cannot comply due to compelling factors and the deferment does not cause an unreasonable risk to public health. (12-10-92)

~~313.~~ **Fee Assessment.** A charge assessed on public drinking water systems based on a rate structure calculated by system size. (10-1-93)

~~324.~~ **Filter Profile.** A graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed. (4-5-00)

~~335.~~ **GAC10.** Granular activated carbon filter beds with an empty bed contact time of ten (10) minutes based on average daily flow and a carbon reactivation frequency of every one hundred eighty (180) days. (4-5-00)

~~346.~~ **Groundwater System.** A public water system which is supplied exclusively by a groundwater source or sources. (12-10-92)

~~357.~~ **Groundwater Under The Direct Influence Of Surface Water.** Any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large diameter pathogens such as Giardia lamblia or (for subpart H systems serving at least ten thousand (10,000) people only) Cryptosporidium, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions. Direct influence must be determined for individual sources in accordance with criteria established by the State. The State determination of direct influence may be based on site-specific measurements of water quality and/or documentation of well construction characteristics and geology with field evaluation. (4-5-00)

**368. Haloacetic Acids (Five) (HAA5).** The sum of the concentrations in milligrams per liter of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid) rounded to two (2) significant figures after addition. (4-5-00)

**379. Health Hazards.** Any condition which creates, or may create, a danger to the consumer's health. Health hazards may consist of, but are not limited to, design, construction, operational, structural, collection, storage, distribution, monitoring, treatment or water quality elements of a public water system. See also the definition of Significant Deficiency, which refers to a health hazard identified during a sanitary survey. ~~(10-1-93)~~( )

**3840. Inorganic.** Generally refers to compounds that do not contain carbon and hydrogen. (12-10-92)

**3941. Laboratory Certification Reciprocity.** Acceptance of a laboratory certification made by another state. Laboratory reciprocity may be granted to laboratories outside of Idaho after application, proof of home state certification, and EPA performance evaluation results are submitted and reviewed. Reciprocity must be renewed after a time specified by the Idaho Laboratory Certification Officer to remain valid. (4-5-00)

**402. Log.** Logarithm to the base ten (10). (12-10-92)

**413. Maximum Daily Consumption Rate.** The average rate of consumption for the twenty-four (24) hour period in which total consumption is the largest on record. (12-10-92)

**424. Maximum Hourly Demand.** The greatest volume of water used in any hour during a one (1) year period. (12-10-92)

**435. Maximum Residual Disinfectant Level (MRDL).** A level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects. For chlorine and chloramines, a public water system is in compliance with the MRDL, when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. For chlorine dioxide, a public water system is in compliance with the MRDL when daily samples are taken at the entrance to the distribution system and no two (2) consecutive daily samples exceed the MRDL. MRDLs are enforceable in the same manner as maximum contaminant levels under Section 1412 of the Safe Drinking Water Act. There is convincing evidence that addition of a disinfectant is necessary for control of waterborne microbial contaminants. Notwithstanding the MRDLs listed in 40 CFR 141.65, operators may increase residual disinfectant levels of chlorine or chloramines (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health to address specific microbiological contamination problems caused circumstances such as distribution line breaks, storm runoff events, source water contamination, or cross-connections. (4-5-00)

**446. Maximum Residual Disinfectant Level Goal (MRDLG).** The maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. MRDLGs are nonenforceable health goals and do not reflect the benefit of the addition of the chemical for control of waterborne microbial contaminants. (4-5-00)

**457. Method Detection Limit (MDL).** The lowest concentration which can be determined to be greater than zero with ninety-nine percent (99%) confidence, for a particular analytical method. (12-10-92)

**468. New System.** Any water system that meets, for the first time, the definition of a public water system provided in Section 1401 of the federal Safe Drinking Water Act (42 U.S.C. Section 300f). This includes systems that are entirely new construction and previously unregulated systems that are expanding. (4-5-00)

**479. Noncommunity Water System.** A public water system that is not a community water system. A non-community water system is either a transient noncommunity water system or a non-transient noncommunity water system. (4-5-00)

**4850. Nontransient Noncommunity Water System.** A public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year.

(12-10-92)

**4951. Nuclear Facility.** Factories, processing plants or other installations in which fissionable material is processed, nuclear reactors are operated, or spent (used) fuel material is processed, or stored. (12-10-92)

**502. Operator Certifying Entity.** An organization that contracts with the Department to provide public drinking water operator certification services. (4-5-00)

**513. Operating Experience.** The number of years spent at a drinking water system in performance of duties. (4-5-00)

**524. Operating Shift.** That period of time during which water system operator decisions that affect public health are necessary for proper operation of the system. (4-5-00)

**535. Operator/Owner/Purveyor Of Water/Supplier Of Water.** The person, company, corporation, association, or other organizational entity which holds legal title to the public water system, who provides, or intends to provide, drinking water to the customers and/or is ultimately responsible for the public water system operation. (4-5-00)

**546. Operator Reciprocity.** Means on a case by case basis the acceptance of certificates issued by other certification programs, which satisfy the state of Idaho requirements for operator certification. (4-5-00)

**557. Peak Hourly Flow.** The highest hourly flow during any day. (12-10-92)

**568. Person.** A human being, municipality, or other governmental or political subdivision or other public agency, or public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent or other legal representative of the foregoing or other legal entity. (12-10-92)

**579. Pesticides.** Substances which meet the criteria for regulation pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, and any regulations adopted pursuant to FIFRA. For example, pesticides include, but are not limited to insecticides, fungicides, rodenticides, herbicides, and algacides. (12-10-92)

**5860. Public Notice.** The notification of public water system consumers of information pertaining to that water system including information regarding water quality or compliance status of the water system. (12-10-92)

**5961. Public Drinking Water System.** (4-5-00)

**a.** In General. A system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the operator of such system, and used primarily in connection with such system, and (2) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. A public drinking water system is either a "community water system" or a "noncommunity water system". (4-5-00)

**b.** Connections. (4-5-00)

**i.** In General. For purposes of ~~Subsection 003-59, paragraph a. of this Subsection~~, a connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection, if: ~~(3-15-02)(\_\_\_\_\_)~~

(1) The water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses); (4-5-00)

(2) The Director determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulation is provided for residential or similar uses for drinking and cooking; or (4-5-00)

(3) The Director determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations. (4-5-00)

ii. Irrigation Districts. An irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use shall not be considered to be a public drinking water system if the system or the residential or similar users of the system comply with ~~Subsections 003.59, paragraphs b.i.(2) and 003.59.b.i.(3) of this Subsection.~~ (3-15-02)(\_\_\_\_)

c. Transition Period. A supplier of water that would be a public drinking water system only as a result of modifications made to ~~Subsection 003.59, the definition of a public drinking water system~~ by the Safe Drinking Water Act Amendments of 1996 shall not be considered a public drinking water system for purposes of the Safe Drinking Water Act until the date that is two (2) years after the date of enactment of the Safe Drinking Water Act Amendments of 1996. If a supplier of water does not serve fifteen (15) service connections (as ~~defined set forth in Subsections 003.59, paragraphs a. and 003.59.b. of this Subsection~~) or twenty-five (25) people at any time after the conclusion of the two (2) year period, the supplier of water shall not be considered a public drinking water system. (3-15-02)(\_\_\_\_)

~~602.~~ **Public Water System/Water System/System.** Means “public drinking water system”. (4-5-00)

~~613.~~ **Reciprocity.** A system by which certificates issued by any other certification program are recognized as valid and equal to Idaho’s Certification Program provision. (4-5-00)

~~624.~~ **Repeat Compliance Period.** Any subsequent compliance period after the initial compliance period. (12-10-92)

~~635.~~ **Responsible Charge (RC).** Responsible Charge means, active, daily on-site and/or on-call responsibility for the performance of operations or active, on-going, on-site and on-call direction of employees and assistants. (4-5-00)

***SUBSECTION 003.64 HAS BEEN MOVED AND RENUMBERED TO SUBSECTION 003.69***

~~656.~~ **Sampling Point.** The location in a public water system from which a sample is drawn. (12-10-92)

~~667.~~ **Sanitary Defects.** Any faulty structural condition which may allow the water supply to become contaminated. (12-10-92)

~~678.~~ **Sanitary Survey.** An onsite review of the water source, facilities, equipment, operation and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water. The sanitary survey will include, but is not limited to the following elements: (4-5-00)

- a. Source; (4-5-00)
- b. Treatment; (4-5-00)
- c. Distribution system; (4-5-00)
- d. Finished water storage; (4-5-00)
- e. Pumps, pump facilities, and controls; (4-5-00)
- f. Monitoring and reporting and data verification; (4-5-00)
- g. System management and operation; and (4-5-00)

- h. Operator compliance with state requirements. (4-5-00)
- ~~649.~~ **SDWIS-State.** An acronym that stands for “Safe Drinking Water Information System-State Version”. It is a software package developed under contract to the U.S. Environmental Protection Agency and used by a majority of U.S. states to collect, maintain, and report data about regulated public water systems. Replaced See also the definition of DWIMS April 2007. (3-15-02)(\_\_\_\_)
- ~~6870.~~ **Significant Deficiency.** As identified during a sanitary survey. Any defect in a system’s design, operation, maintenance, or administration, as well as any failure or malfunction of any system component, that the State Department or its agent determines to cause, or have potential to cause, risk to health or safety, or that could affect the reliable delivery of safe drinking water. See also the definition of Health Hazards. (4-5-00)(\_\_\_\_)
- ~~6971.~~ **Spring.** A source of water which flows from a laterally percolating water table's intersection with the surface or from a geological fault that allows the flow of water from an artesian aquifer. (12-10-92)
- ~~702.~~ **Surface Water System.** A public water system which is supplied by one (1) or more surface water sources or groundwater sources under the direct influence of surface water. Also called subpart H systems in applicable sections of 40 CFR Part 141. (4-5-00)
- ~~713.~~ **Specific Ultraviolet Absorption (SUVA).** SUVA means Specific Ultraviolet Absorption at two hundred fifty-four (254) nanometers (nm), an indicator of the humic content of water. It is a calculated parameter obtained by dividing a sample’s ultraviolet absorption at a wave length of two hundred fifty-four (254) nm (UV254) (in  $m^{-1}$ ) by its concentration of dissolved organic carbon (DOC) (in mg/l). (4-5-00)
- ~~724.~~ **Total Organic Carbon (TOC).** Total organic carbon in mg/l measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two (2) significant figures. (4-5-00)
- ~~735.~~ **Transient Noncommunity Water System.** A noncommunity water system which does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year. (10-1-93)
- ~~746.~~ **Treatment Facility.** Any place(s) where a public drinking water system or nontransient noncommunity water system alters the physical or chemical characteristics of the drinking water. Chlorination may be considered as a function of a distribution system. (4-5-00)
- ~~757.~~ **Turbidity.** A measure of the interference of light passage through water, or visual depth restriction due to the presence of suspended matter such as clay, silt, nonliving organic particulates, plankton and other microscopic organisms. Operationally, turbidity measurements are expressions of certain light scattering and absorbing properties of a water sample. Turbidity is measured by the Nephelometric method. (12-10-92)
- ~~768.~~ **Uncovered Finished Water Storage Facility.** An uncovered tank, reservoir, or other facility that is used to store water that will undergo no further treatment except residual disinfection ~~and is open to the atmosphere.~~ (4-5-00)(\_\_\_\_)
- ~~779.~~ **Unregulated Contaminant.** Any substance that may affect the quality of water but for which a maximum contaminant level or treatment technique has not been established. (12-10-92)
- ~~780.~~ **Variance.** A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only when the system demonstrates to the satisfaction of the Department that the raw water characteristics prevent compliance with the MCL or requirement after installation of the best available technology or treatment technique and the deferment does not cause an unreasonable risk to public health. (12-10-92)
- ~~7981.~~ **Very Small Public Drinking Water System.** A Community or Nontransient Noncommunity Public Water System that serves five hundred (500) persons or less and has no treatment other than disinfection or has only treatment which does not require any chemical treatment, process adjustment, backwashing or media

regeneration by an operator (e.g. calcium carbonate filters, granular activated carbon filters, cartridge filters, ion exchangers). (4-5-00)

**802. Volatile Organic Chemicals (VOCs).** VOCs are lightweight organic compounds that vaporize or evaporate easily. (10-1-93)

**813. Vulnerability Assessment.** A determination of the risk of future contamination of a public drinking water supply. (12-10-92)

**824. Waiver.** (12-10-92)

**a.** For the purposes of these rules, except Sections 550 through 552, “waiver” means the Department approval of a temporary reduction in sampling requirements for a particular contaminant. (10-1-93)

**b.** For purposes of Sections 550 through 552, “waiver” means a dismissal of any requirement of compliance. (12-10-92)

**c.** For the purposes of Section 010, “waiver” means the deferral of a fee assessment for a public drinking water system. (10-1-93)

**d.** For purposes of Subsection 558.09 (Professional Growth Requirement), “waiver” means the deferral of the annual continuing education units (CEU) required for annual operator certification renewal for any certified operator deployed out of state or country due to active military service, when such deployment makes it impossible for the operator to accrue the required units by the annual renewal date (March 1). ( )

**85. Water For Human Consumption.** Water that is used by humans for drinking, bathing for purposes of personal hygiene (including hand-washing), showering, cooking, dishwashing, and maintaining oral hygiene. In common usage, the terms “culinary water”, “drinking water,” and “potable water” are frequently used as synonyms. ( )

**86. Water Main.** A pipe within a public water system which is under the control of the system operator and conveys water to two (2) or more service connections. The collection of water mains within a given water supply is called the distribution system. ( )

**837. Water System Operator.** The person who is employed, retained, or appointed to conduct the tasks associated with day to day operation and maintenance of a public drinking water system in order to safeguard the public health and environment. (4-5-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**005. GENERAL PROVISIONS FOR WAIVERS, VARIANCES, AND EXEMPTIONS.** 40 CFR 141.4, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

**01. Waivers.** (12-10-92)

**a.** The Department may waive any requirement of Sections 550 through 552 that is not explicitly imposed by Idaho Statute, if it can be shown to the satisfaction of the Department that the requirement is not necessary for the protection of public health, protection from contamination, and satisfactory operation and maintenance of a public water system. (12-10-92)( )

**b.** The Department may at its discretion waive the requirements outlined in Section 010. (10-1-93)

**c.** Waiver of monitoring requirements is addressed in Subsection 100.07. ( )

**d.** The Department may, at its discretion, temporarily waive the CEU requirements outlined in Subsection 558.09 for certified operators who present documentation of deployment out of state or country on active military duty for a period of time that makes it impossible for the operator to meet the CEU requirements prior to the annual renewal date. Upon completion of active deployment, the operator shall have twelve (12) calendar months from the date of return to the state to make up the CEUs missed during deployment. This waiver does not alter the CEU requirements in Subsection 558.09 for the certification renewal cycle in progress at the time the operator returns to the state. ( )

**02. Variances.** ( )

**a.** General Variances. A variance may be granted by the Department if a public water system submits an application and demonstrates to the satisfaction of the Department that the following minimum requirements as required by 42 USC Section 1415(a) (The Safe Drinking Water Act) are met. These include but are not limited to: ( )

**i.** The system has installed the best available technology, treatment techniques, or other means to comply with the maximum contaminant level; and ( )

**ii.** Alternative sources of water are not reasonably available to the system. ( )

**iii.** For provisions of a national primary drinking water regulation which requires the use of a specific treatment technique with respect to a contaminant, the system must demonstrate that the technique is not necessary to protect the health of the system's customers. ( )

**b.** Small System Variances. A small system variance for a maximum contaminant level or treatment technique may be granted by the Department if a public water system submits an application and demonstrates to the satisfaction of the Department that the following minimum requirements as required by 42 USC Section 1415(e) are met. These include, but are not limited to: ( )

**i.** The system serves three thousand three hundred (3,300) or fewer persons; ( )

**ii.** If the system serves more than three thousand three hundred (3,300) persons but fewer than ten thousand (10,000) persons, the application shall be approved by the U.S. Environmental Protection Agency; ( )

**iii.** The U.S. Environmental Protection Agency has identified a variance technology that is applicable to the size and source water quality conditions of the public water system; ( )

**iv.** The system installs, operates and maintains such treatment technology, treatment technique, or other means; and ( )

**v.** The system cannot afford to comply with a national primary drinking water regulation in accordance with affordability criteria established by the state, including compliance through treatment, alternative source of water supply, restructuring or consolidation. ( )

**03. Exemptions.** An exemption may be granted by the Department if a public water system submits an application and demonstrates to the satisfaction of the Department that the following minimum requirements as required by 42 USC Section 1416(a) are met. These include but are not limited to: ( )

**a.** The system is unable to comply with a maximum contaminant level or treatment technique due to compelling factors, which may include economic factors; ( )

**b.** The system was in operation by the effective date of such contaminant level or treatment technique and no reasonable source of water is available to the system; or ( )

**c.** If the system was not in operation by the effective date of such contaminant level or treatment technique, then no reasonable alternative source of water is available to the system; and ( )

- d.** The granting of an exemption will not result in an unreasonable risk to health; ( )
- e.** Management or restructuring changes cannot reasonably be made to comply with the contaminant level or treatment technique to improve the quality of the drinking water; ( )
- f.** The system cannot meet the standard without capital improvements which cannot be completed prior to the date established pursuant to 42 USC Section 1412b(10); ( )
- g.** If the system needs financial assistance, the system has entered into an agreement to obtain such financial assistance; or ( )
- h.** The system has entered into an enforceable agreement to become a part of a regional public water system and is taking all practical steps to meet the standard. ( )

**024. Conditions.** A waiver, exemption or variance may be granted upon any conditions that the Department, in its discretion, determines are appropriate. Failure by the public water system to comply with any condition voids the waiver, variance or exemption. (12-10-92)

**035. Public Hearing.** The Department shall provide public notice and an opportunity for public hearing in the area served by the public water system before any exemption or variance under Section 005 is granted by the Department. At the conclusion of the hearing, the Department shall record the findings and issue a decision approving, denying, modifying, or conditioning the application. (~~12-10-92~~)( )

**046. Exceptions.** Any person aggrieved by the Department's decision on a request for a waiver, variance or exemption may file a petition for a contested case with the Board. Such petitions shall be filed with the Board, as prescribed in, IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". (3-15-02)

**057. Surface Water Variances.** Variances from the requirements of Sections 300 through 303 are not allowed. (4-5-00)

**068. Surface Water Exemptions.** Exemptions from 40 CFR 141.72(a)(3) and 40 CFR 141.72(b)(2), incorporated by reference herein, are not allowed. (10-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**007. DISAPPROVAL DESIGNATION.**

A The Department or its agent may assign a disapproved designation ~~may be assigned~~ to a public water system when: (~~12-10-92~~)( )

- 01. Defects.** There are design and/or construction defects; or (12-10-92)
- 02. Operating Procedures.** Operating procedures constitute a health hazard; or (12-10-92)
- 03. Quality.** Physical, chemical, microbiological or radiological quality does not meet the requirements of these rules; or (10-1-93)
- 04. Monitoring.** The required monitoring as specified in these rules has not been conducted; or (10-1-93)
- 05. Unapproved Source.** An unapproved source of drinking water is used or the system is interconnected with a disapproved water system. (12-10-92)
- 06. Non-Payment Of Annual Fee Assessment.** The annual drinking water system fee assessment is

not paid as set forth in Section 010.

(7-1-97)

**07. Public Notification.** The Department may require the owner of a water system that has been given a disapproval designation to notify the public. The manner, content, and timing of this notification will be determined by the Department. This requirement is in addition to any public notification requirements set forth in Section 150 that may also apply to the disapproved system. ( )

**008. HEALTH HAZARDS.**

**01. Prohibited.**

(10-1-93)

a. No public water system, or portion of a public water system, shall constitute a health hazard, as determined by the Department ~~during a sanitary survey~~ and defined in Section 003 of these rules. ~~(10-1-93)~~( )

b. No public water system, or portion of a public water system, shall create a condition which prevents, or may prevent, the detection of a health hazard, as determined by the Department ~~during a sanitary survey~~. ~~(10-1-93)~~( )

**02. Schedule.** Health hazards and conditions which prevent, or may prevent, the detection of a health hazard must be mitigated as required by the Department and terminated within a time schedule established by the Department. ~~(10-1-93)~~( )

**03. Standards.** Design and construction revisions necessary to correct a health hazard or conditions which prevent, or may prevent, the detection of a health hazard, must be reviewed and approved by the Department, and comply with Sections 550 and 551, unless otherwise specified by the Department. (10-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**011. CONTINUITY OF SERVICE.**

**01. Transfer Of Ownership.** No owner shall transfer system ownership without providing written notice to the Department and all customers. Notification shall include a schedule for transferring responsibilities and identification of the new owner. ( )

**02. Maintenance Of Standards.** The system transferring ownership shall ensure that all health related standards are met during transfer and shall ensure that water rights, operation and maintenance manuals, and all other pertinent documentation is transferred to the new owner. ( )

**012. WRITTEN INTERPRETATIONS.**

The Department of Environmental Quality may have written statements in the form of guidance and policy documents that pertain to the interpretation of the rules of this chapter. Such written statements may be inspected and copies obtained at the Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706-1255. ( )

~~013.~~ -- 049. (RESERVED).

**(BREAK IN CONTINUITY OF SECTIONS)**

**300. FILTRATION AND DISINFECTION.**

**01. General Requirements.** 40 CFR 141.70, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

a. Each community and nontransient noncommunity system using a surface water source or ground water source directly influenced by surface water shall be operated by personnel as specified in 40 CFR 141.70(c) and Sections 553 through 562 of these rules. (4-5-00)

b. Each transient water system using a surface water source or ground water source directly influenced by surface water shall be operated by personnel as specified in 40 CFR 141.70(c). Such personnel must: (4-5-00)

i. Be certified as Drinking Water System Operators pursuant to the requirements of Sections 553 through 562; or (4-5-00)

ii. Be certified as qualified to operate the water system by the Department. The Department may certify an individual as qualified to operate the water system if: (12-10-92)

(1) The individual operated the system on or before December 31, 1992; and (12-10-92)

(2) The Department determines that the system has not been modified after December 31, 1992; or (4-5-00)

(3) The Department determines that the compliance history of the system is acceptable; and (12-10-92)

(4) The individual passes any field evaluation of operating and record keeping procedures required by the Department; and (4-5-00)

(5) Upon thirty (30) days notice, personnel operating the system shall attend periodic training sessions as required by the Department. (12-10-92)

**02. Criteria For Avoiding Filtration.** 40 CFR 141.71, revised as of July 1, ~~1999~~ 2001, is herein incorporated by reference. (~~4-5-00~~)(\_\_\_\_)

**03. Disinfection.** 40 CFR 141.72 is herein incorporated by reference. (10-1-93)

a. In addition to the disinfection requirements in 40 CFR 141.72, each system with a surface water source or groundwater source directly influenced by surface water shall maintain a minimum of at least two-tenths (0.2) parts per million of chlorine in the treated water after an actual contact time of at least thirty (30) minutes at maximum hourly demand before delivery to the first customer. (12-10-92)

b. The Department may allow a system to utilize automatic shut-off of water to the distribution system whenever total disinfectant residual is less than two-tenths (0.2) mg/l rather than provide redundant disinfection components and auxiliary power as required in 40 CFR 141.72(a)(2). An automatic water shut-off may be used if the system demonstrates to the satisfaction of the Department that, at all times, a minimum of twenty (20) psi pressure and adequate fire flow can be maintained in the distribution system when water delivery is shut-off to the distribution system and, at all times, minimum Giardia lamblia and virus inactivation removal rates can be achieved prior to the first customer. (12-10-92)

c. Each system which provides filtration treatment must provide disinfection treatment such that filtration plus disinfection provide at least ninety-nine and nine tenths percent (99.9%) inactivation and/or removal of Giardia lamblia cysts and ninety-nine and ninety-nine one hundredths percent (99.99%) inactivation and/or removal of viruses as specified in 40 CFR 141.72 and Section 300. However, in all cases the disinfection portion of the treatment train shall be designed to provide not less than five tenths (0.5) log Giardia inactivation, irrespective of the Giardia removal credit awarded to the filtration portion of the treatment train. (~~12-10-92~~)(\_\_\_\_)

i. Each system which provides filtration treatment shall submit engineering evaluations and/or other documentation as required by the Department to demonstrate ongoing compliance with Subsection 300.03.c.(7-1-97)

ii. The Department will establish filtration removal credit on a system-by-system basis. Unless otherwise demonstrated to the satisfaction of the Department, the maximum log removal and/or inactivation credit

allowed for filtration is as follows:

Maximum Log Removal		
Filtration Type	Giardia	Viruses
Conventional	2.5	2.0
Direct	2.0	1.0
Slow sand	2.0	2.0
Diatomaceous earth	2.0	1.0
<u>Membrane</u>	<u>3.0</u>	<u>1.0</u>
Alternate technology	2.0	0

(12-10-92)( )

- iii. Filtration removal credit shall be granted for filtration treatment provided the system is; (12-10-92)
  - (1) Operated in accordance with the Operations Plan specified in Subsection 552.06.a.; and (12-10-92)
  - (2) The system is in compliance with the turbidity performance criteria specified under 40 CFR 141.73; and (12-10-92)
  - (3) Coagulant chemicals must be added and coagulation and flocculation unit process must be used at all times during which conventional and direct filtration treatment plants are in operation; and (12-10-92)
  - (4) Slow sand filters are operated at a rate not to exceed one-tenth (0.1) gallons per minute per square foot; and (12-10-92)
  - (5) Diatomaceous earth filters are operated at a rate not to exceed one and one-half (1.5) gallons per minute per square foot. (12-10-92)

**04. Filtration.** 40 CFR 141.73, revised as of July 1, ~~1999~~ 2001, is herein incorporated by reference. (4-5-00)( )

**05. Analytical and Monitoring Requirements.** 40 CFR 141.74, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

- a. Each public water system which provides filtration treatment shall monitor as follows: (12-10-92)
  - i. Each day the system is in operation, the purveyor shall determine the total level of inactivation of Giardia lamblia cysts and viruses achieved through disinfection based on CT99.9 values provided in 40 CFR 141.74(b)(3) (Tables 1.1 through 1.6, 2.1 and 3.1). (12-10-92)
  - ii. At least once per day, the system shall monitor the following parameters to determine the total inactivation ratio achieved through disinfection: (12-10-92)
    - (1) Temperature of the disinfected water at each residual disinfectant concentration sampling point; and (12-10-92)
    - (2) If using chlorine, the pH of the disinfected water at each chlorine residual sampling point. (12-10-92)
    - (3) The disinfectant contact time, "T," must be determined each day during peak hourly flow. Disinfectant contact time, "T," in pipelines used for Giardia lamblia and virus inactivation shall be calculated by

dividing the internal volume of the pipe by the peak hourly flow rate through that pipe. Disinfectant contact time, "T," for all other system components used for *Giardia lamblia* and virus inactivation shall be determined by tracer studies or equivalent methods. (12-10-92)

(4) The residual disinfectant concentrations at each residual disinfectant sampling point at or before the first customer, must be determined each day during peak hourly flow, or at other times approved by the Department. (12-10-92)

iii. The purveyor may demonstrate to the Department, based on a Department approved on-site disinfection challenge study protocol, that the system is achieving disinfection requirements specified in Subsection 300.03 utilizing CT99.9 values other than those specified in 40 CFR 141.74(b)(3) (Tables 2.1 and 3.1) for ozone, chlorine dioxide, and chloramine. (10-1-93)

iv. The total inactivation ratio shall be calculated as follows: (12-10-92)

(1) If the system applies disinfectant at only one (1) point, the system shall determine the total inactivation ratio by either of the two (2) following methods: (12-10-92)

(a) One inactivation ratio (CT<sub>calc</sub>/CT<sub>99.9</sub>) is determined at/or before the first customer during peak hourly flow; or (12-10-92)

(b) Sequential inactivation ratios are calculated between the point of disinfectant application and a point at or before the first customer during peak hourly flow. The following method must be used to calculate the total inactivation ratio: (12-10-92)

(i) Step 1: Determine (CT<sub>calc</sub>/CT<sub>99.9</sub>) for each sequence. (12-10-92)

(ii) Step 2: Add the (CT<sub>calc</sub>/CT<sub>99.9</sub>) values for all sequences. The result is the total inactivation ratio. (12-10-92)

(2) If the system uses more than one point of disinfectant application at or before the first customer, the system must determine the CT value of each disinfection sequence immediately prior to the next point of disinfectant application during peak hourly flow. The sum of the (CT<sub>calc</sub>/CT<sub>99.9</sub>) values from all sequences is the total inactivation ratio. (CT<sub>calc</sub>/CT<sub>99.9</sub>) must be determined by the methods described in 40 CFR 141.74(b)(4)(i)(B). (12-10-92)

v. Log removal credit for disinfection shall be determined by multiplying the total inactivation ratio by three (3). (12-10-92)

vi. The Department may reduce the CT monitoring requirements specified under Section 300, for any system which demonstrates that the required inactivation levels are consistently exceeded. Reduced CT monitoring shall be allowed only where the reduction in monitoring will not endanger the health of consumers served by the water system. (12-10-92)

b. Residual disinfectant concentrations for ozone must be measured using the Indigo Method, or automated methods may be used if approved as provided for in 40 CFR 141.74(a)(5) and Subsection 300.05. Automated methods for ozone measurement will be allowed by the Department provided they are listed as "Recommended" in the USEPA Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems using Surface Water Sources, Appendix D, as set forth in Subsection 002.01.g., and provided they are calibrated on a schedule approved by the Department using the Indigo Method. (12-10-92)

c. As provided for in 40 CFR 141.74(b), the Department may specify interim monitoring requirements for systems notified by the Department or U.S. Environmental Protection Agency that filtration treatment must be installed. Until filtration is installed, systems shall conduct monitoring for turbidity and disinfectant residuals as follows unless otherwise specified by the Departments; (12-10-92)

i. Disinfectant residual concentrations entering the distribution system shall be measured at the

following minimum frequencies, and samples must be taken at evenly spaced intervals throughout the workday.

Minimum Frequencies	
Population	Samples/day
Less than 500	1
501 - 1000	2
1,001 - 2,500	3
Greater than 2501	4

(12-10-92)

- ii. Turbidity shall be measured at least once per day at the entry point to the distribution system.

(12-10-92)

- iii. The Department may, at its discretion, reduce the turbidity monitoring frequency for any noncommunity system which demonstrates to the satisfaction of the Department:

(12-10-92)

(1) A free chlorine residual of two-tenths (0.2) part per million is maintained throughout the distribution system;

(12-10-92)

(2) The water source is well protected;

(12-10-92)

(3) The total coliform MCL is not exceeded; and

(12-10-92)

(4) No significant health risk is present.

(12-10-92)

d. The Department may allow systems with surface water sources or groundwater sources under the direct influence of surface water, to substitute continuous turbidity monitoring for grab sample monitoring as specified in 40 CFR 141.74(b)(2) and 40 CFR 141.74(c)(1) and Subsection 300.05. The Department may allow continuous turbidity monitoring provided the continuous turbidimeter is operated, maintained, standardized and calibrated per the manufacturers recommendations. For purposes of determining compliance with turbidity performance criteria, discrete values must be recorded every four (4) hours water is supplied to the distribution system.

(10-1-93)

e. The Department may allow systems using both a surface water source(s), or groundwater source(s) under the direct influence of surface water, and one (1) or more groundwater sources, to measure disinfectant residual at points other than the total coliform sampling points, as specified in 40 CFR 141.74(b)(6)(i) and 40 CFR 141.74(c)(3)(i) and Subsection 300.05. The Department may allow alternate sampling points provided the system submits an acceptable alternate monitoring plan to the Department in advance of the monitoring requirement.

(10-1-93)

f. The Department may allow a reduced turbidity monitoring frequency for systems using slow sand filtration or technology other than conventional, direct, or diatomaceous earth filtration, as specified in 40 CFR 141.74(c)(1) and Subsection 300.05. To be considered for a reduced turbidity monitoring frequency, a system must submit a written request to the Department in advance of the monitoring requirement.

(12-10-92)

**06. Reporting And Recordkeeping.** 40 CFR 141.75, revised as of July 1, 2001, is herein incorporated by reference.

(3-15-02)

a. As provided in 40 CFR 141.75(a), revised as of July 1, 2001, and Section 300, the Department may establish interim reporting requirements for systems notified by the Department or U.S. Environmental Protection Agency that filtration treatment must be installed as specified in 40 CFR 141.75(a), revised as of July 1, 2001, and as

referred to in Subsection 300.06. Until filtration treatment is installed, systems required to install filtration treatment shall report as follows: (3-15-02)

i. The purveyor shall immediately report to the Department via telephone or other equally rapid means, but no later than the end of the next business day, the following information: (12-10-92)

- (1) The occurrence of a waterborne disease outbreak potentially attributable to that water system; (12-10-92)
- (2) Any turbidity measurement which exceeds five (5) NTU; and (12-10-92)
- (3) Any result indicating that the disinfectant residual concentration entering the distribution system is below two-tenths (0.2) mg/l free chlorine. (12-10-92)

ii. The purveyor shall report to the Department within ten (10) days after the end of each month the system serves water to the public the following monitoring information using a Department-approved form: (12-10-92)

- (1) Turbidity monitoring information; and (12-10-92)
- (2) Disinfectant residual concentrations entering the distribution system. (12-10-92)

iii. Personnel qualified under Subsection 300.01 shall complete and sign the monthly report forms submitted to the Department as required in Subsection 300.06. (12-10-92)

b. In addition to the reporting requirements in 40 CFR 141.75(b), revised as of July 1, 2001, pertaining to systems with filtration treatment, each public water system which provides filtration treatment must report the level of Giardia lamblia and virus inactivation and/or removal achieved each day by filtration and disinfection. (3-15-02)

**(BREAK IN CONTINUITY OF SECTIONS)**

**549. DEMONSTRATION OF TECHNICAL, FINANCIAL, AND MANAGERIAL CAPACITY OF PUBLIC DRINKING WATER SYSTEMS.**

No person shall proceed, or cause to proceed, with construction of a new community or nontransient, noncommunity drinking water system until it has been demonstrated to the Department that the water system will have adequate technical, financial, and managerial capacity, as defined in Section 003 of these rules. Demonstration of capacity shall be submitted to the Department prior to or concurrent with the submittal of plans and specifications, as required in Section 39-118, Idaho Code, and Subsection 551.04 of these rules. The Department shall issue its approval of the new system capacity demonstration in writing. (4-5-00)

**01. Technical Capacity.** In order to meet this requirement, the public water system shall submit documentation to demonstrate the following: (4-5-00)

- a. The system meets the relevant design, construction, and operating requirements of Sections 550, 551, and 552 of these rules; (4-5-00)
- b. The system has an adequate and consistent source of water; (4-5-00)
- c. A plan is in place to protect the water source and deal with emergencies; (4-5-00)
- d. A plan exists for replacement or improvement of infrastructure as necessary; and (4-5-00)
- e. ~~There are~~ The system has trained personnel with an understanding of the technical and operational

characteristics of the system.

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

**02. Financial Capacity.** A demonstration of financial capacity must include but is not limited to the following information: (4-5-00)

a. Documentation that organizational and financial arrangements are adequate to construct and operate the public water system in accordance with these rules (see Sections 550, 551, and 552). This information can be provided by submitting estimated construction, operation, and maintenance costs, letters of credit, or other access to financial capital through public or private sources and, if available, a certified financial statement; (4-5-00)

b. Demonstration of revenue sufficiency, that includes but is not limited to billing and collection procedures, a proposed rate structure which is affordable and ensures availability of operating funds, revenues for depreciation and reserves, and the ability to accrue a capital replacement fund. A preliminary operating budget shall be provided; and (4-5-00)

c. Adequate fiscal controls must be demonstrated. (4-5-00)

**03. Managerial Capacity.** In order to demonstrate adequate managerial capacity, the owner and/or operator of a new drinking water system shall submit at least the following information to the Department: (4-5-00)

a. Clear documentation of legal ownership and any plans that may exist for transfer of that ownership on completion of construction or after a period of operation; (4-5-00)

b. The name, address, and telephone number of the person who will be accountable for ensuring that the water system is in compliance with these rules; (4-5-00)

c. The name, address, and telephone number of the system operator; (4-5-00)

d. A description of the manner in which the water system will be managed. By-laws, restrictive covenants, articles of incorporation, or procedures and policy manuals which describe the management organization structure are a means of providing this information; (4-5-00)

e. A description of staffing should be provided, including training, experience, certification or licensing, and continuing education completed by the water system staff; (4-5-00)

f. An explanation of how the water system will establish and maintain effective communications and relationships between the water system management, its customers, professional service providers, and any applicable regulatory agencies; and (4-5-00)

g. Evidence of planning for future growth, equipment repair and maintenance, and long term replacement of system components. (4-5-00)

**04. Submittal Form.** The Department shall provide a standard form to be used in preparing a new system capacity demonstration. (4-5-00)

**05. Expanding Systems.** A public water system which comes into existence as a result of growth in population or number of service connections within a previously unregulated system will be considered a new system under these rules and is subject to all design, construction and operating requirements herein. (4-5-00)

**06. Consolidation.** In demonstrating new system capacity, the owner of the proposed new system must investigate the feasibility of obtaining water service from an established public water system. If such service is available, but the owner elects to proceed with an independent system, the owner must explain why this choice is in the public interest in terms of environmental protection, affordability to water users, and protection of public health. (4-5-00)

**07. Exclusion.** New public water systems which are public utilities as defined in Sections 61-104 (Corporation), 61-124 (Water System), 61-125 (Water Corporation), and 61-129 (Public Utility), Idaho Code, must

meet the regulatory requirements of the Idaho Public Utilities Commission (IPUC) in Chapter 1, Title 61, Idaho Code, Public Utilities Law, and IDAPA 31.01.01, "Rules of Procedure of the Idaho Public Utilities Commission". Such water systems will not be required to meet any requirements of this Section which are in conflict with the provisions and requirements of the IPUC. (4-5-00)

**550. DESIGN STANDARDS FOR PUBLIC DRINKING WATER SYSTEMS.**

**01. System Design.** Unless otherwise specified by the Department, the design of new, or modifications to existing, public drinking water systems shall be in conformance with "Recommended Standards for Water Works, A Report of the Committee of the Great Lakes-Upper Mississippi River Board of Department Sanitary Engineers," as set forth in Subsection 002.01.c. and with recommended changes and additions to this document as found in the "USEPA Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources," as set forth in Subsection 002.01.g. (7-1-97)

**02. Materials.** Materials which are used to construct public drinking water systems and which have water contact surfaces must comply with applicable AWWA standards ~~or~~ and ANSI/NSF standard 61 or NSF standard 53 or 58, unless otherwise approved by the Department on a site specific basis. Corrosion control shall be taken into account during all aspects of public water system design. (10-1-93)( )

**03. Wells.** Any supplier of water for a public water system served by one (1) or more wells shall ensure that the following requirements are met: (12-10-92)

**a.** Prior to drilling, the site of a PWS well must be approved in writing by the Department. The Department shall require the supplier of water to submit a well site evaluation report that takes into account the proposed size, depth, and location of the well. The evaluation may include, but is not limited to the following types of information: ( )

i. An evaluation of the potability and quality of anticipated groundwater. ( )

ii. Identification of the known aquifers and the extent of each aquifer, based on the stratigraphy, sedimentation, and geologic structure beneath the proposed well site. ( )

iii. An estimate of hydrologic and geologic properties of each aquifer and confining layers. ( )

iv. Prediction of the sources of water to be extracted by the well and the drawdown of existing wells, springs, and surface water bodies that may be caused by pumping the proposed well. This prediction may be based on analytical or numerical models. ( )

v. Demonstration of the extent of the capture zone of the well, based on the well's design discharge and on aquifer geology, using estimates of hydraulic conductivity and storativity. ( )

vi. Description of potential sources of contamination within five hundred (500) feet of the well site. ( )

**~~b.~~** Each well shall be located a minimum of fifty (50) feet from any potential source of contamination and no closer to specified sources of contamination than set forth in Subsection 900.01; in vulnerable settings, the Department may require engineering or hydrologic analysis to determine if the required setback distance is adequate to prevent contamination; (12-10-92)( )

**~~b.c.~~** Each well shall comply with the minimum Well Construction Standards and with the permitting requirements of the Idaho Water Resources Board, as set forth in Subsection 002.01.f.; except that no public water system well shall have less than fifty-eight (58) feet of annular seal of not less than two (2) inches thickness, unless: (7-1-97)( )

i. It can be demonstrated to the Department's satisfaction that there is a confining layer at lesser depth that is capable of preventing unwanted water from reaching the intake zone of the well; or ( )

- ii. The best and most practical aquifer at a particular site is less than fifty-eight (58) feet deep; or: ( )
- iii. The Department specifies a different annular seal depth based on local hydrologic conditions. ( )
- d.** All tools, bits, pipe, and other materials to be inserted in the borehole must be cleaned and disinfected in accordance with the Well Construction Standards and permitting requirements of the Idaho Water Resources Board, as set forth in Subsection 002.01.f. This applies to new well construction and repair of existing wells. ( )
- eg.** Upon completion of a groundwater source, and prior to its use as drinking water, the following information and data must be submitted by the water system to the Department: (12-10-92)( )
- i. A copy of all well logs; (12-10-92)
- ii. ~~For all wells, Results of test pumping, data including sand production, static water level, yield, drawdown and duration of test pumping as specified in Subsection 550.03.f.;~~ (12-10-92)( )
- iii. As constructed plans showing at least the following: (12-10-92)
- (1) ~~Surface Annular seal, including depth and sealant material used and method of application;~~ (12-10-92)( )
- (2) Casing that meets the requirements set forth in Section 3.2.5.4 of Recommended Standards for Water Works, including weights and thicknesses specified in Table 1 of that publication; (12-10-92)( )
- (3) Casing perforations, results of sieve analysis used in designing screens installed in sand or gravel aquifers, gravel packs; and (12-10-92)( )
- (4) Pump location; and (12-10-92)
- (5) For community water systems, a permanent means for measuring water level. All equipment required for conducting water level measurements shall be purchased and made available to the water system operator at the time well construction is completed. ( )
- iv. Other information as may be specified by the Department. (12-10-92)
- v.** Sampling results for iron, manganese, corrosively, and other secondary contaminants specified by the Department. Other monitoring requirements are specified in Subsection 551.01. ( )
- df.** Test pumping. Upon completion of a groundwater source, test pumping shall be conducted in accordance with the following procedures to meet the specified requirements: (12-10-92)
- i. ~~A small capacity well yielding less than fifty (50) gallons per minute shall be test pumped for a minimum of four (4) hours at a rate equal to the permanent pump rate or until the drawdown stabilizes; The well shall be test pumped at the desired yield (design capacity) of the well for at least twenty-four (24) consecutive hours after the drawdown has stabilized. Alternatively, the well may be pumped at a rate of one hundred fifty percent (150%) of the desired yield for at least six (6) continuous hours after the drawdown has stabilized. In either case, if the drawdown does not stabilize, the pumping must continue for at least seventy-two (72) consecutive hours. The field pumping equipment must be capable of maintaining a constant rate of discharge during the test. Discharge water must be piped an adequate distance to prevent recharge of the well during the test. If the well fails the test protocol, the well design shall be re-evaluated and submitted to the Department for approval.~~ (12-10-92)( )
- ii. ~~A large capacity well, one that yields more than fifty (50) gallons per minute, shall be test pumped at a rate of one hundred twenty five percent (125%) of the desired yield of the well. The test period shall be a minimum of six (6) hours, and longer if necessary to stabilize the drawdown. If the well fails the test, the design must~~

~~be re-evaluated and resubmitted to the Department; and~~

~~(12-10-92)~~

~~iii. Fifteen (15) minutes after the start of the test pumping, the sand content of a new well shall not be more than five (5) parts per million. Sand production shall be measured by a centrifugal sand sampler or equivalent other means acceptable to the Department. If sand production exceeds five (5) ppm, the well shall be screened ~~and gravel packed, and re-developed.~~~~ ~~(12-10-92)( )~~

~~iii. The following data shall be provided: ( )~~

~~(1) Static water level in the well prior to test pumping: ( )~~

~~(2) Well yield in gpm and duration of the pump test, including a discussion of any discrepancy between the desired yield and the yield observed during the test: ( )~~

~~(3) Water level in the well recorded at regular intervals during pumping: ( )~~

~~(4) Profile of water level recovery from the pumping level projected to the original static water level. ( )~~

~~(5) Depth at which the test pump was positioned in the well: ( )~~

~~(6) Test pump capacity and head characteristics: ( )~~

~~(7) Sand production data. ( )~~

~~(8) Any available results of analysis based on the drawdown and recovery test pertaining to aquifer properties, sustained yield, and boundary conditions affecting drawdown. ( )~~

~~iv. The Department may allow the use of other pump test protocols that are generally accepted by engineering firms with specialized experience in well construction, by the well drilling industry, or as described in national standards (such as ANSI/AWWA A100-97), as long as the minimum data specified in Subsection 550.03.d.iii. are provided. The Department welcomes more extensive data about the well, such as step-drawdown evaluations used in determining well capacity for test pumping purposes, zone of influence calculations, and any other information that may be of use in source protection activities or in routine water system operations. ( )~~

~~eg. A smooth-nosed sample tap shall be provided on the discharge piping from every well at a point where pressure is maintained but prior to any treatment. Any threaded taps installed in the wellhouse must be equipped with an appropriate backflow prevention device. (12-10-92)( )~~

~~fh. The discharge line shall be equipped with the necessary valves and appurtenances to allow a well to be pumped to waste via an approved air gap at a location prior to the first service connection; (12-10-92)( )~~

~~gi. A pressure gauge shall be provided at all installations; (12-10-92)~~

~~hj. A totalizing flow meter shall be installed on the discharge line of each well. An accessible check valve shall be installed above ground in the discharge line of each well; (12-10-92)( )~~

~~ik. All wells except flowing artesian wells shall be vented, with the open end of the vent screened and terminated downward at least eighteen (18) inches above the floor of the pump house. (12-10-92)~~

~~jl. The following requirements apply to well casings and seals: (12-10-92)~~

~~i. Casings shall extend a minimum of twelve (12) inches above the finished ground surface and six (6) inches above the well house floor. (12-10-92)~~

~~ii. Wells shall be cased and sealed in such a manner that surface water cannot enter the well. (12-10-92)~~

iii. A watertight seal shall be provided at the top of the well casing, and shall not allow water to enter the well. (12-10-92)

iv. Wells completed in unconsolidated water bearing formations shall be constructed to prevent caving of the walls of the well and sand pumping. Screens and/or gravel packs shall be provided where fine grained materials such as sands are being developed as the source of water. (12-10-92)

~~km.~~ The following requirements apply to well houses: (12-10-92)

i. Well houses shall be protected from flooding and be adequately drained. An electrically powered ventilation fan or automated air flow system shall be provided to remove excess heat and moisture during peak summer temperatures. If the well operates year round, a thermostatically regulated heater shall also be installed to prevent moisture buildup during cold weather. In all cases, measures must be taken to minimize corrosion of metallic and electrical components. (12-10-92)(\_\_\_\_)

ii. Well houses shall be provided with a locking door or access to prohibit unauthorized entrance. Plans and specifications for well houses must provide enough detail to enable the reviewing engineer to determine that the facility is secure, safe, accessible, and that it conforms to electrical and plumbing codes. (12-10-92)(\_\_\_\_)

iii. Well houses shall be kept clean and in good repair and shall not be used to store toxic or hazardous materials. (12-10-92)

iv. Floor drains shall not be connected to sewers, storm drains, chlorination room drains, or any other source of contamination. (12-10-92)

v. Sumps for well house floor drains shall not be closer than thirty (30) feet from the well. (12-10-92)

vi. Pitless adapters or pitless units: (12-10-92)

(1) Shall be of the type marked approved by the National Sanitation Foundation or Pitless Adapter Division of the Water Systems Council. (12-10-92)

(2) Shall be designed, constructed and installed to be watertight including the cap, cover, casing extension and other attachments. (12-10-92)

(3) Shall be field tested for leaks before being put into service. The procedure outlined in "Manual of Individual and Non-Public Water Supply Systems," as set forth in Subsection 002.01.d., or other procedure approved by the Department shall be followed. (12-10-92)(\_\_\_\_)

~~kn.~~ Wells shall not be located in pits. Exceptions to Subsection 550.03.1. will be granted by the Department if the well was constructed prior to November 5, 1964, and the installation is constructed or reconstructed in accordance with the requirements of the Department to provide watertight construction of pit walls and floors, floor drains and acceptable pit covers. (12-10-92)

~~ko.~~ A well lot shall be provided for wells constructed after November 1, 1977. The well lot shall be owned in fee simple by the supplier of water or controlled by lease with a term of not less than the useful life of the well and be large enough to provide a minimum distance of fifty (50) feet between the well and the nearest property line. (12-10-92)

~~kp.~~ *Prior to drilling, the well site must be approved in writing by the Department.* (12-10-92)

~~kp.~~ New community water systems served by ground water and constructed after July 1, 1985, or existing community water systems served by ground water that are substantially modified after July, 2002, shall have a minimum of two (2) sources if they are intended to serve more than twenty-five (25) homes or equivalent. The second source shall be capable of producing at least eight hundred (800) gallons per day per service connection. The Department shall consider a system to be "substantially modified" when there is a combined increase of twenty-five

percent (25%) or more above the system's existing configuration in the following factors: (12-10-92)( )

i. Population served or number of service connections: ( )

ii. Length of water mains: ( )

iii. Peak or average water demand per connection. ( )

~~pg.~~ Department. No pesticides, herbicides, or fertilizers shall be applied to a well lot without prior approval from the Department. (12-10-92)

~~gr.~~ No pesticides, herbicides, fertilizers, portable containers of petroleum products, or other toxic or hazardous materials shall be stored on a well lot, except that: (12-10-92)( )

i. An internal combustion engine to drive either a generator for emergency standby power or a pump to provide fire flows, and an associated fuel tank, may be placed on the well lot. ( )

ii. A propane or natural gas powered generator is preferable to reduce risk of fuel spillage. ( )

iii. If a diesel or gasoline-fueled engine is used, the fuel tank and connecting piping must be double-walled. The tank must be above ground and may be contained within the structural base of the generator unit. A certified water system operator shall be present during filling of the tank following a period of usage, or during periodic extraction and replacement of outdated fuel. ( )

iv. Should the internal combustion engine be located within the well house, the floor of the well house shall be constructed so as to contain all petroleum drips and spills so that they will not be able to reach the floor drain(s). Engine exhaust shall be directly discharged outside the well house. ( )

v. A spill containment structure shall surround all fuel tanks and be sized to contain one hundred fifty percent (150%) of the fuel tank volume. ( )

**04. Springs.** For new spring sources, the Department may require a site evaluation report as set forth for wells in Subsection 550.03.a. Any supplier of water for a public water system served by one (1) or more springs shall ensure that the following requirements are met: (12-10-92)( )

a. Springs shall be housed in a permanent structure and protected from contamination including the entry of surface water, animals, and dust; (12-10-92)

b. A sample tap shall be provided; (12-10-92)

c. A flow meter or other flow measuring device shall be provided; and (12-10-92)

d. The entire area within a one hundred (100) ~~feet of the spring~~ foot radius of the spring box shall be owned by the supplier of water or controlled by a long term lease, fenced to prevent trespass of livestock and void of buildings, dwellings and sources of contamination. Surface water and drainage ditches shall be diverted from this area. (12-10-92)( )

**05. Surface Sources And Groundwater Sources Under The Direct Influence Of Surface Water.** (10-1-93)

a. Design Criteria. (12-1-92)

i. The system shall ensure that filtration and disinfection facilities for surface water or groundwater directly influenced by surface water sources are designed, constructed and operated in accordance with all applicable engineering practices designated by the Department. (12-10-92)

ii. Filtration facilities (excluding disinfection) shall be designed, constructed and operated to achieve

at least two (2) log removal of *Giardia lamblia* cysts and one (1) log removal of viruses, except as allowed under Subsection 550.05.b.iii.; and (10-1-93)

iii. Disinfection facilities shall be designed, constructed and operated so as to achieve at least one half (0.50) log inactivation of *Giardia lamblia* cysts; and (10-1-93)

(1) Two (2) log inactivation of viruses if using conventional and slow sand filtration technology; or (12-10-92)

(2) Three (3) log inactivation of viruses if using direct and diatomaceous earth filtration technology; or (12-10-92)

(3) Four (4) log inactivation of viruses if using alternate filtration technology. (12-10-92)

(4) Four (4) log inactivation of viruses if filtration treatment is not used. (10-1-93)

iv. Higher levels of disinfection than specified under Subsection 550.05.a.iii. may be required by the Department in order to provide adequate protection against giardia and viruses. (10-1-93)

v. For plants constructed after December 31, 1992, each filter unit must be capable of filter to waste. (12-10-92)

vi. For plants constructed prior to December 31, 1992, each filter unit must be capable of filter to waste unless the system demonstrates through continuous turbidity monitoring or other means acceptable to the Department that water quality is not adversely affected following filter backwashing, cleaning or media replacement. (12-10-92)

vii. For conventional, direct, membrane, and diatomaceous earth filtration technology, equipment must be provided to continuously measure the turbidity of each filter bed. (~~12-10-92~~)(    )

viii. Equipment must be provided and operated for continuous measurement of disinfectant residual

viii. Equipment must be provided and operated for continuous measurement of disinfectant residual prior to entry to the distribution system, unless the system serves fewer than three thousand three hundred (3,300) people. (12-10-92)

ix. Diatomaceous earth filtration facilities shall include an alternate power source with automatic startup and alarm, or be designed in a manner to ensure continuous operation. (12-10-92)

**b.** Filtration technology. (12-10-92)

i. The purveyor shall select a filtration technology acceptable to the Department. (12-10-92)

ii. Conventional, direct, membrane, slow sand and diatomaceous earth filtration technologies are generally acceptable to the Department on a case-by-case basis. (~~12-10-92~~)(    )

iii. Alternate filtration technologies may be acceptable if the purveyor demonstrates all of the following to the satisfaction of the Department: (12-10-92)

(1) That the filtration technology: (12-10-92)

(a) Is certified and listed by the National Sanitation Foundation (NSF) under Standard 53, Drinking Water Treatment Units - Health Effects, as achieving the NSF criteria for cyst reduction; or (12-10-92)

(b) Removes or inactivates at least ninety-nine (99%) percent (two (2) logs) of *Giardia lamblia* cysts or *Giardia lamblia* cyst surrogate particles in a challenge study acceptable to the Department. (12-10-92)

(2) Using field studies or other means acceptable to the Department, that the filtration technology:

(12-10-92)

(a) In combination with disinfection treatment, consistently achieves at least ninety-nine and nine tenths percent (99.9%) (three (3) logs) removal or inactivation of *Giardia lamblia* cysts and ninety-nine and ninety-nine hundredths percent (99.99%) (four (4) logs) removal or inactivation of viruses; and ~~(12-10-92)~~(\_\_\_\_)

(b) Meets the turbidity performance requirements of 40 CFR 141.73 (b). (12-10-92)

c. Pilot Studies. The system shall conduct pilot studies in accordance with the following requirements for all proposed filtration facilities and structural modifications to existing filtration facilities, unless the Department modifies the requirements in writing: (12-10-92)

i. The system shall obtain the Department's approval of the pilot study plan before the pilot filter is constructed and before the pilot study is undertaken. (12-10-92)

ii. The design and operation of the pilot study shall be overseen by a licensed professional engineer. (12-10-92)

iii. The system's pilot study plan shall identify at a minimum: (12-10-92)

(1) The objectives of the pilot study; (12-10-92)

(2) Pilot filter design; (12-10-92)

(3) Water quality and operational parameters to monitor; (12-10-92)

(4) Amount of data to collect; and (12-10-92)

(5) Qualifications of the pilot plant operator. (10-1-93)

iv. The system shall ensure that the pilot study is: (12-10-92)

(1) Conducted to simulate conditions of the proposed full-scale design; (12-10-92)

(2) Conducted for at least twelve (12) consecutive months or for a shorter period upon approval by the Department; ~~(12-10-92)~~(\_\_\_\_)

(3) Conducted to evaluate the reliability of the treatment system to achieve applicable water quality treatment criteria specified for filtration systems in 40 CFR 141.72 and 40 CFR 141.73; and (12-10-92)

(4) Designed and operated in accordance with good engineering practices documented in references acceptable to the Department. (12-10-92)

d. New systems constructed after July 1, 1985, are required to install ~~backup~~ redundant disinfection ~~facilities~~ components as required to maintain constant application of disinfectant whenever water is being delivered to the distribution system. ~~(12-10-92)~~(\_\_\_\_)

**06. Distribution System.** Any supplier of water for a public water system shall ensure that the distribution system complies with all of the following requirements: (12-10-92)

a. The distribution system shall be protected from contamination and be designed to prevent contamination by steam condensate or cooling water from engine jackets or other heat exchange devices. (12-10-92)

b. All pumps connected directly to the distribution system shall be designed in conjunction with a water pressure relief valve of type, size, and material approved by the Department unless the Department approves another method that will prevent excessive pressure development. (\_\_\_\_)

**c.** All source pumps and booster pumps connected directly to the distribution system shall have instantaneous and totalizing flow meters unless deemed unnecessary by the Department in a particular application. The Department may require larger water systems to provide a means of automatically recording the total water pumped. ( )

**bd.** Booster pumps must comply with the following: (12-10-92)

i. In-line booster pumps shall maintain an operating pressure ~~no less than twenty (20) psi that is consistent with the requirements specified in Subsection 552.01,~~ and shall be supplied with an automatic cutoff when intake pressure is less than or equal to five (5) psi. ~~(12-10-92)~~( )

ii. Booster pumps located on suction lines directly connected to any storage reservoirs shall be supplied with an automatic cutoff when pressure is equal to or less than two and one-half (2.5) psi. (12-10-92)

**iii.** Buildings enclosing booster pump stations shall be provided with an electrically powered ventilation fan or automated air flow system to remove heat and moisture during peak summer temperatures. If the facility is operated year round, a thermostatically regulated heater shall be installed to prevent moisture buildup during cold weather. ( )

**ee.** Pipe materials and standards will comply with the following: (12-10-92)

i. Pipe, packing and jointing materials shall be manufactured, installed and tested in conformance with the current standards of the American Water Works Association, as set forth in Subsection 002.01.j, or other standards approved in writing by the Department. (7-1-97)

ii. Pipe shall be manufactured of materials resistant internally or externally to corrosion, and not imparting tastes, odors, color or any contaminant into the system. (12-10-92)

**iii.** All distribution system appurtenances shall comply with AWWA Standards, as set forth in Subsection 002.01.j. ( )

**ff.** Fire hydrants shall not be connected to water mains smaller than six (6) inches in diameter, and fire hydrants shall not be installed unless fireflow ~~is provided~~ volumes are available. If fire flow is not provided, water mains shall be no less than three (3) inches in diameter. Any departure from this minimum standard shall be supported by hydraulic analysis and detailed projections of water use. ~~(12-10-92)~~( )

**eg.** Water and ~~sewer (sanitary or storm)~~ non-potable water mains shall be separated by a horizontal distance no less than ten (10) feet. In any instance where such separation is not achievable, the following standards shall be met: ~~(7-1-97)~~( )

i. The water and ~~sewer~~ non-potable water mains shall be separated by at least six (6) horizontal feet measured between the outside walls of the pipes, and the sewer main shall be constructed to water main standards ~~or shall be encased in no less than four (4) inches of concrete at all such points;~~ and ~~(12-10-92)~~( )

ii. The water main shall be a minimum of eighteen (18) inches above the sewer main. (12-10-92)

**fh.** The requirements for vertical separation of water and sewer mains are as follows: ~~(10-1-93)~~( )

i. At any point where the ~~sewer~~ non-potable water and water mains cross, they shall be separated by a vertical distance of no less than eighteen (18) inches. ~~(12-10-92)~~( )

ii. At any point where the ~~sewer~~ non-potable water main crosses above the water main, the ~~sewer non-potable water~~ main shall be supported to prevent settling. ~~(12-10-92)~~( )

iii. At any point where the ~~sewer~~ non-potable water and water mains cross, the water main shall be centered at the crossing so that the joints will be an equal distance and as far as possible from the ~~sewer non-potable water~~ main. ~~(12-10-92)~~( )

iv. If the water main is below the ~~sewer non-potable water~~ main, the ~~sewer non-potable water~~ main shall be constructed of materials conforming to water main standards if the eighteen (18) inch vertical separation cannot be maintained. (12-10-92)( )

v. In lieu of constructing or reconstructing the ~~sewer non-potable water~~ main either the ~~sewer non-potable water~~ main or water main may be encased with ~~four (4) inches of concrete~~ a sleeving material acceptable to the Department for a distance of ten (10) horizontal feet on both sides of the crossing. (12-10-92)( )

~~g~~i. All other pipelines which carry nonpotable ~~water~~ liquids shall meet the minimum separation requirements of Subsections 550.06.eg. and 550.06.fh. (10-1-93)( )

~~h~~j. A minimum horizontal distance of twenty-five (25) feet shall be maintained between a subsurface sewage disposal system and any water distribution pipe. (12-10-92)

~~i~~k. All dead end water mains shall be equipped with a means of flushing and shall be flushed at least semiannually at a water velocity of five (5) feet per second. (12-10-92)( )

~~j~~l. Leaking water mains shall be repaired or replaced upon discovery and disinfected in accordance with American Water Works Association standards as set forth in Subsection 002.01.j. (7-1-97)

~~m~~. Water mains shall be separated by at least five (5) feet from buildings, industrial facilities, and other permanent structures. ( )

~~n~~. All new public water systems shall include a meter vault at each service connection. A lockable shut-off valve shall be installed in the meter vault. ( )

~~o~~. All new public water systems that are constructed where topographical relief may affect water pressure at the customers' premises shall provide the Department with an analysis which demonstrates that the pressure at each designated building site will be at least forty (40) psi, based on dynamic pressure in the main, as set forth in Subsections 552.01.b.i. and ii., plus a static compensation from the elevation of the main to the elevation of each building site. ( )

~~i~~. If forty (40) psi cannot be provided at each designated building site, the Department may require that reasonable effort be made to provide notification to existing and potential customers of the expected pressure. ( )

~~ii~~. The Department will not authorize a service connection at any designated building site where analysis indicates that pressure will be less than twenty (20) psi static pressure (or twenty-six point five (26.5) psi for two (2) story buildings). ( )

~~07. Cross Connection. All suppliers of water for community water systems shall implement a cross connection control program to prevent the entrance of toxic or hazardous substances to the system. The program will include:~~ There shall be no connection between the distribution system and any pipes, pumps, hydrants, or tanks whereby unsafe water or other contaminating materials may be discharged or drawn into a public water system. (12-10-92)( )

~~a.~~ All suppliers of water for community water systems shall implement a cross connection control program to prevent the entrance of toxic or hazardous substances to the system. The program will include: ( )

~~ai.~~ An inspection once a year of all facilities listed in Subsection 900.02 (Table 2) to locate cross connections and determine required suitable protection. For new connections, suitable protection must be installed prior to providing water service. (12-10-92)( )

~~bii.~~ Required installation and operation of adequate backflow prevention ~~devices~~ assemblies. A list of minimum recommended devices for various facilities is provided in Subsection 900.02 (Table 2). (12-10-92)( )

~~eiii.~~ Annual inspections of all installed backflow prevention assemblies by ~~an American Water Works Association-certified~~ tester certified by the Department, or ~~equal, of all installed backflow prevention devices to insure operability~~ by a certifying authority recognized by the Department. Testers are to be re-certified every two (2) years. (7-1-97)(    )

~~div.~~ Discontinuance of service to any facility where suitable backflow protection has not been provided for a cross connection. (12-10-92)

~~ev.~~ If double check valves and/or reduced pressure principle backflow prevention ~~devices~~ assemblies are used, they must pass a performance test conducted by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research or meet American Water Works Association C-510 or C-511 standard, or another equal test approved by the Department. (7-1-97)(    )

~~fvi.~~ If atmospheric vacuum breakers and pressure vacuum breakers are used, they shall be marked approved by the International Association of Plumbing and Mechanical Officials (IAPMO) or by the American Society of Sanitation Engineers (ASSE). (10-1-93)

~~gvii.~~ Resilient seated shutoff valves shall be used after the effective date of these rules when double check valves, reduced pressure backflow prevention ~~devices~~ assemblies, and pressure vacuum breakers are installed. (12-10-92)(    )

**b.** All suppliers of water for non-community water systems shall ensure that cross-connections do not exist or are isolated from the potable water system by an approved backflow prevention assembly. Backflow prevention assemblies shall be inspected for functionality on a regular basis by a certified tester, as specified in Subsection 550.07.a.iii. (    )

**08. Water Storage.** Storage reservoirs shall be constructed and maintained so that the following requirements are met: (12-10-92)

**a.** All storage reservoirs shall be protected from flooding; (12-10-92)

**b.** Stored water shall be protected from contamination; (12-10-92)

**i.** No public water supply storage tank shall be located within five hundred (500) feet of any municipal or industrial wastewater treatment plant or any land which is spray irrigated with wastewater or used for sludge disposal. (    )

**ii.** No storage tank or clear well located below ground level is allowed within fifty (50) feet of a sanitary sewer or septic tank. However, if the sanitary sewer is constructed to water main standards, the minimum separation distance is ten (10) feet. (    )

**c.** All storage reservoirs shall have watertight roofs or covers and be sloped so that water will drain; (12-10-92)

**d.** Manholes shall be fitted with an overlapping watertight locked cover and be at least four (4) inches above the surface of the roof. At least two (2) manholes located above the water line shall be provided where space permits. (12-10-92)(    )

**e.** Overflows and drains shall have free fall discharges which are screened and shall not be connected to a sewer (storm or sanitary); (12-10-92)

**f.** Any vent shall extend twelve (12) inches above the roof and be constructed and screened to exclude rain, snow, birds, animals, insects, dust and other potential sources of contamination; (12-10-92)

**g.** The bottom of any reservoir located below the ground surface shall be constructed a minimum of four (4) feet above the high groundwater table; and (12-10-92)

**h.** There shall be a minimum distance of fifty (50) feet between any buried or partially buried storage reservoir and any sanitary sewers, storm sewers, ~~standing water~~, or any other source of contamination. Hydropneumatic (pressure) tanks are acceptable only for small water systems serving less than fifty (50) homes. The area around ground level reservoirs shall be graded in a manner that will prevent standing water within ten (10) feet. (12-10-92)( )

**i.** Hydroneumatic (pressure) tanks shall be acceptable for small water systems serving up to one hundred fifty (150) homes. ( )

**j.** Removable silt stops shall be provided to prevent sediment from entering the reservoir discharge pipe. ( )

**k.** All unused subsurface storage tanks shall be removed and backfilled, or abandoned by extracting residual fluids and filling the structure with sand or fine gravel. ( )

**09. Disinfection.** Any supplier of water for a public water system shall ensure that new construction or modifications to an existing system will be flushed and disinfected in accordance with American Water Works Association Standards, as set forth in Subsection 002.01.j., prior to being placed into service. (7-1-97)

**10. Violations.** Any failure to comply with any provision contained in Section 550 shall be considered a design or construction defect. (12-10-92)

#### 551. CONSTRUCTION REQUIREMENTS FOR PUBLIC WATER SYSTEMS.

**01. Engineering Report.** For all new water systems or modifications to existing water systems, an engineering report shall be submitted for the Department's review and approval prior to or concurrent with the submittal of plans and specifications as required in Subsection 551.04. This report shall provide the following information: (12-10-92)

**a.** A general description and location of the project; (12-10-92)

**b.** The estimated design population of the project; (12-10-92)

**c.** Design data for domestic, irrigation, fire fighting, commercial and industrial water uses, including maximum hourly, maximum daily, and average daily demands; (12-10-92)

**d.** Storage requirements; (12-10-92)

**e.** Pressure ranges for normal and peak flow conditions; (12-10-92)

**f.** A hydraulic computer analysis of the hydraulics of the distribution system if requested by the Department; any analysis of an existing distribution system shall be properly calibrated. (12-10-92)( )

**g.** Adequacy, quality and availability of sources of water; A water system that is to be served by a separate non-potable irrigation system must provide documentation of legal water rights sufficient to ensure that the irrigation system will not compete with or in any way diminish the source of water for the potable water system. (12-10-92)( )

**h.** For a community system, results of analysis for total coliform, ~~turbidity~~ inorganic chemical contaminants, organic chemicals, and radionuclide contaminants ~~listed set forth~~ in Subsections 050.01, 050.02, 050.05, 100.01, 100.03, 100.04, 100.05, and 100.02~~6~~, unless analysis is waived pursuant to Subsection 100.07. (4-5-00)( )

**i.** For a nontransient noncommunity system, results of analysis for total coliform and inorganic and organic chemical contaminants listed in Subsections 050.01, 050.02, 100.01, 100.03, ~~and~~ 100.04, unless analysis is waived pursuant to Subsection 100.07. (12-10-92)( )

**j.** For a transient noncommunity system, results of a total coliform, nitrite, and nitrate analysis listed in Subsections ~~050.01~~, 100.01 and 100.03. (3-15-02)(\_\_\_\_)

**k.** For any system supplied by surface water or groundwater under the direct influence of surface water, results of turbidity analysis listed in Subsection 100.02. (12-10-92)

**l.** For all new groundwater sources, including but not limited to wells, springs, and infiltration galleries, systems shall supply information as required by the Department to determine if these sources are under the direct influence of the surface water. (12-10-92)

**m.** Potential sources of contamination to proposed sources of water; (12-10-92)

**n.** Mechanisms for protection of the system from flooding; (12-10-92)

**o.** In addition to the items listed in Subsections 551.01.a. through 551.01.n., the following information must be provided for proposed surface water sources and groundwater sources under the direct influence of surface water: (12-10-92)

i. Hydrological and historical low stream flow data; (12-10-92)

ii. A copy of the water right from the Idaho Department of Water Resources; (12-10-92)

iii. Anticipated turbidity ranges, high and low; and (12-10-92)

iv. Treatment selection process and alternative evaluations. (12-10-92)

**p.** In addition to the items listed in Subsections 551.01.a. through 551.01.n., the following information must be provided for a proposed groundwater source: (12-10-92)

i. A site ~~plan including potential sources of contamination within five hundred (500) feet of a well or spring~~ evaluation report as required in Subsection 550.03.a. for wells and Subsection 550.04 for springs; (12-10-92)(\_\_\_\_)

ii. Dimensions of the well lot; and (12-10-92)

iii. Underground geological data and existing well logs. (12-10-92)

**02. Ownership.** Documentation of the ownership and responsibility for operating the proposed system shall be made available to the Department prior to or concurrent with the submittal of plans and specifications as required in Subsection 551.04. The documentation must show organization and financial arrangements adequate to assure construction, operation and maintenance of the system according to these rules. Documentation shall also include the name of the water system, the name, address, and phone number of the supplier of water, the system size, and the name, address, and phone number of the system operator. (10-1-93)

**03. Connection To An Existing System.** If the proposed project is to be connected to an existing public water system, a letter from the purveyor must be submitted to the Department stating that they will be able to provide services to the proposed project. This letter must be submitted prior to or concurrent with the submittal of plans and specifications as required in Subsection 551.04. (12-10-92)

**04. Review Of Plans And Specifications.** (12-1-92)

**a.** Prior to construction of new public water ~~supply~~ systems or modifications of existing public water ~~supply~~ systems, plans and specifications must be submitted to the Department for review, and approved. The minimum review requirements are as follow: (10-1-93)(\_\_\_\_)

i. Plans and specifications shall be submitted by an Idaho registered professional engineer and bear the imprint of the engineer's seal; except that the Department will accept the seal of an Idaho registered professional

geologist on the following:

(12-10-92)( )

- (1) Well or spring source site evaluation reports, as specified in Subsections 550.03.a. and 550.04. ( )
- (2) Plans and specifications for well construction and results of field inspection and testing, as specified in Subsections 550.03.e. and f. ( )
- ii. Plans shall provide topographical data; (12-10-92)
- iii. Plans shall show location of sources or potential sources of contamination. If a separate, non-potable irrigation system is to be provided, the irrigation system shall be fully documented in the plans and specifications; (12-10-92)( )
- iv. Plans shall require all new equipment, piping, and appurtenances to meet American Water Works Association standards, as set forth in Subsection 002.01.j. Used materials shall be approved by the Department prior to installation, and shall have been used previously only in the delivery of potable water; and (7-1-97)
- v. Plans shall specify that the project is to be disinfected prior to use in accordance with American Water Works Association standards, as set forth in Subsection 002.01.j. (7-1-97)
- b. During construction or modification, no deviation can be made from the approved plans without the Department's prior written approval; and (12-10-92)
- c. Within thirty (30) days after the completion of construction, ~~as constructed plans and specifications are to be submitted to the Department by an Idaho registered professional engineer. If the construction did not deviate from the approved plans and specifications, a registered professional engineer may certify in writing that the constructed plans and specifications are the same as the originally submitted plans and specifications~~ the water system shall submit to the Department plans and specifications prepared and stamped by an Idaho registered professional engineer responsible for supervision of construction observation on behalf of the owner. These plans and specifications shall depict significant deviations in the actual construction and illustrate alterations or modifications performed, based on as-built drawings provided by the contractor and field observations made by observer(s) under the direction of the professional engineer. (12-10-92)( )
- d. If actual construction of the water system does not deviate from the originally approved plans and specifications, the water system may submit a written statement to this effect, prepared and stamped by an Idaho registered professional engineer. This statement shall be based on as-built drawings provided by the contractor and field observations made by observer(s) under the direction of the professional engineer. ( )
05. **Exclusion Exception.** A District Health Department may exclude noncommunity water systems from the Department's plan and specification review if the District has reviewed the project and will inspect it during construction. (12-10-92)( )
06. **Construction.** No construction shall commence until all of the necessary approvals have been received from the Department. (12-10-92)
07. **Source.** Before a public water system uses a new source of water to provide water to consumers, the source shall be approved by the Department. (12-10-92)
08. **Well Abandonment.** Any water supply well that will no longer be used must be abandoned by sealing the borehole carefully to prevent pollution of the groundwater, eliminate any physical hazard, conserve aquifer yield, maintain confined head conditions in artesian wells, and prevent mixing of waters from different aquifers. The objective of proper well abandonment procedures is to restore, as far as possible, the original hydrogeologic conditions. The services of a licensed well driller are required. Instructions for abandoning various types of wells may be obtained from the Idaho Department of Water Resources. ( )

552. OPERATING CRITERIA FOR PUBLIC WATER SYSTEMS.

01. Quantity And Pressure Requirements. (12-1-92)

**a.** ~~Minimum Quantity. The capacity of a public drinking water system shall in no instance be less than eight hundred (800) gallons per day per residence, plus irrigation flows.~~ ( )

**ab.** Minimum Pressure. (12-1-92)

i. Any public water system shall be capable of providing sufficient water during maximum hourly demand conditions (~~excluding~~ including fire flow) to maintain a minimum pressure of twenty (20) psi ~~within the system measured at the consumer's water tap~~ throughout the distribution system, as measured at the service connection or along the property line adjacent to the consumer's premises. ~~(12-10-92)~~( )

ii. Any public water system constructed or significantly modified after July 1, 1985, shall maintain a minimum ~~design working~~ pressure of ~~thirty-five forty (3540) psi and a normal working pressure of sixty (60) psi, measured at the consumer's water tap~~ throughout the distribution system, at peak hour flow during peak day of the year, excluding fire flow, measured at the service connection or along the property line adjacent to the consumer's premises. ~~(12-10-92)~~( )

(1) Existing water systems that are planning to expand their service area shall meet the criteria in Subsections 552.01.b.i. and 552.01.b.ii. in the new service area. Such systems should upgrade pressure standards in the existing system at the same time as the expansion occurs. ( )

(2) Compliance with these requirements by water systems that do not have a meter vault or other point of access at the service connection or along the property line adjacent to the consumer's premises where pressure in the distribution system can be reliably measured shall be determined by measurements within the consumer's premises, or at another representative location acceptable to the Department. ( )

iii. Any public water system shall keep static pressure within the distribution system below one hundred (100) psi and should ordinarily keep static pressure below eighty (80) psi. Pressures above one hundred (100) psi shall be controlled by pressure reducing devices installed in the distribution main. The Department may approve the use of pressure reducing devices at individual service connections on a case by case basis, if it can be demonstrated that higher pressures in portions of the distribution system are required for efficient system operation. ( )

iv. When pressures within the system are known to have fallen below twenty (20) psi, the water system must provide public notice and disinfect the system. ( )

**bc.** Fire Flows. Any public water system designed to provide fire flows shall ensure that such flows are compatible with the water demand of existing and planned fire fighting equipment and fire fighting practices in the area served by the system. ~~(12-1-92)~~( )

i. ~~Any public water system designed to provide fire flows shall be designed to provide such flows in addition to maximum daily demand for all other uses combined.~~ ~~(12-10-92)~~

ii. ~~Fire flows shall be compatible with the water demand of existing and planned fire fighting equipment and fire fighting practices in the area served by the system.~~ ~~(12-10-92)~~

**ed.** Irrigation Flows. (12-1-92)

i. Any public water system constructed after November 1, 1977, shall be capable of providing water for uncontrolled, simultaneous foreseeable irrigation demand, which shall include all ~~cultivable land up to one (1) acre per lot~~ acreage that the system is designed to irrigate. ~~(12-10-92)~~( )

(1) The Department must concur with assumptions regarding the acreage to be irrigated. In general, an assumption that no outside watering will occur is considered unsound and is unlikely to be approved. ( )

(2) An assumption of minimal outside watering, as in recreational subdivisions, may be acceptable if design flows are adequate for maintenance of "green zones" for protection against wildland fire. ( )

ii. The requirement of Subsection 552.01.ed.i. ~~shall not apply~~ may be modified by the Department if: (12-10-92)( )

(1) A separate irrigation system is provided; or (12-10-92)

(2) The supplier of water can regulate the rate of irrigation through its police powers, and the water system is designed to accommodate a regulated rate of irrigation flow. The Department may require the water system to submit a legal opinion addressing the enforceability of such police powers. (12-10-92)( )

iii. If a separate nonpotable irrigation system is provided for the consumers, all mains, hydrants and appurtenances shall be easily identified as nonpotable. ~~All new potable services shall be sampled after installation for coliform bacteria to assure no cross-connections with the irrigation system exist.~~ The Department must concur with a plan to ensure that each new potable water service is not cross-connected with the irrigation system. (12-10-92)( )

**02. Additives.** No chemical or other substance shall be added to drinking water, nor shall any process be utilized to treat drinking water, unless specifically approved by the Department. All chemicals shall conform to applicable American Water Works Association Standards as set forth in Subsection 002.01.j., and be listed as approved under ANSI/NSF standard 60 or 61, as set forth in Subsections 002.01.k.i. and 002.01.l. (7-1-97)

**03. Groundwater.** (12-10-92)

a. Public water systems constructed after July 1, 1985, and supplied by groundwater, shall treat water within the system by disinfection if the groundwater source is not protected from contamination. (12-10-92)

b. The Department may, in its discretion, require disinfection for any existing public water system supplied by groundwater if the system consistently exceeds the MCL for coliform, and if the system does not appear adequately protected from contamination. Adequate protection will be determined based upon at least the following factors: (12-10-92)

i. Location of possible sources of contamination; (12-10-92)

ii. Size of the well lot; (12-10-92)

iii. Depth of the source of water; (12-10-92)

iv. Bacteriological quality of the aquifer; (12-10-92)

v. Geological characteristics of the area; and (12-10-92)

vi. Adequacy of development of the source. (12-10-92)

**04. Operating Criteria.** The operating criteria for systems supplied by surface water or groundwater under the direct influence of surface water shall be as follows: (12-10-92)

a. Each system must develop and follow a water treatment operations plan acceptable to the Department, by July 31, 1993, or within six (6) months of installation of filtration treatment, whichever is later. For a maximum of twelve (12) months, this may be a draft operations plan based on pilot studies or other criteria acceptable to the Department. After twelve (12) months the plan shall be finalized based on full scale operation. (12-10-92)

b. The purveyor shall ensure that treatment facilities are operated in accordance with good engineering practices such as those found in the Recommended Standards for Water Works, A Committee Report of

the Great Lakes - Upper Mississippi River Board of Department Public Health and Environmental Managers as set forth in Subsection 002.01.c., or other equal standard designated by the Department. (12-10-92)

c. New treatment facilities shall be operated in accordance with Subsection 552.04.b., and the system shall conduct monitoring specified by the Department for a trial period specified by the Department before serving water to the public in order to protect the health of consumers served by the system. (12-10-92)

**05. Disinfection.** Where chlorine is used as a disinfectant: (12-10-92)

a. Chlorinator capacity shall be such that a free chlorine residual of at least two (2) parts per million can be attained in the water after a contact time of thirty (30) minutes. This condition must be attainable even when the maximum hourly demand coincides with anticipated maximum chlorine demands. (12-10-92)

b. A minimum of at least two-tenths (0.2) ppm free chlorine shall be maintained in the treated water after an actual contact period of at least thirty (30) minutes at maximum hourly demand before delivery to the first consumer. (10-1-93)

c. Automatic proportioning chlorinators are required where the rate of flow is not reasonably constant. (12-10-92)

d. Analysis for free chlorine residual shall be made at least daily and records of these analyses shall be kept by the supplier of water for five (5) years. The frequency of measuring free chlorine residuals shall be sufficient to detect variations in chlorine demand or changes in water flow. (12-10-92)

e. A separate and ventilated room for gas chlorination equipment shall be provided. (12-10-92)

f. The Department may, in its discretion, require a treatment rate higher than that specified in Subsection 552.05.b. (12-10-92)

g. When chlorine gas is used, chlorine leak detection devices and safety equipment shall be provided in accordance with the 1992 Recommended Standards for Water Works, as set forth in Subsection 002.01.c. (12-10-92)

**06. Fluoridation.** (12-1-92)

a. Commercial sodium fluoride, sodium silico fluoride and hydrofluosilicic acid which conform to the applicable American Water Works Association Standards are acceptable as set forth in Subsection 002.01.j. Use of other chemicals shall be specifically approved by the Department. (4-5-00)

b. The accuracy of chemical feeders used for fluoridation shall be plus or minus five percent (5%) of the intended dose. (12-10-92)

c. Fluoride compounds shall be stored in covered or unopened shipping containers. Storage areas shall be ventilated. (12-10-92)

d. Provisions shall be made to minimize the quantity of fluoride dust. (12-10-92)

e. Daily records of flow and amounts of fluoride added shall be kept. An analysis for fluoride in finished water shall be made at least weekly. Records of these analyses shall be kept by the supplier of water for five (5) years. (12-10-92)

**(BREAK IN CONTINUITY OF SECTIONS)**

900. TABLES

01. Table 1 - Minimum Distances From A Public Water System Well.

Minimum Distances from a Public Water System Well	
Sewer line	50 feet
Individual home septic tank	100 feet
Individual home disposal field	100 feet
Individual home seepage pit	100 feet
Privies	100 feet
Livestock	50 feet
Canals, streams, ditches, lakes, ponds and tanks used to store nonpotable substances	50 feet

(12-10-92)

02. Table 2 - Selection Chart For Minimum Backflow Prevention Services.

Selection Chart for Minimum Backflow Prevention Devices					
FACILITY	ATMOSPHERIC TYPE VACUUM BREAKER	PRESSURE TYPE VACUUM BREAKER	DOUBLE CHECK VALVE ASSEMBLY	REDUCED PRESSURE BACKFLOW PREVENTER	AIR GAP
Animal Watering	X	X		X	X
Aspirators, harmful substance	X	X		X	X
Autopsy Equipment	X	X		X	
Autoclaves				X	
Boiler Feeds with harmful chemicals (unharmful)			(X)	X	X
Bed Pan Washers	X	X			
Cuspidors, Open Outlet	X	X			
Cuspidors, Valved Outlet		X			
<u>Dairies and Farms (high risk)</u>				<u>X</u>	<u>X</u>
<u>Dairies and Farms (low risk)</u>			<u>X</u>	<u>X</u>	<u>X</u>
Dishwashers	X	X			X
Domestic Water Booster Pump on service lines			X	X	
Garbage Can Washers		X			X
Heat Exchangers with transfer fluids			X	X	
High Rise Buildings, 3 stories or more, bldgs. on hill			X	X	

<b>Selection Chart for Minimum Backflow Prevention Devices</b>					
<b>FACILITY</b>	<b>ATMOSPHERIC TYPE VACUUM BREAKER</b>	<b>PRESSURE TYPE VACUUM BREAKER</b>	<b>DOUBLE CHECK VALVE ASSEMBLY</b>	<b>REDUCED PRESSURE BACKFLOW PREVENTER</b>	<b>AIR GAP</b>
Irrigation Systems, such as cemeteries, golf courses, playgrounds, parks, estates, ranches, schools (with chemicals added)	X	X	X	(X)	(X)
Laundries with under rim or bottom-fill inlets, dry cleaning, and dye works	X	X		X	X
Mobile Home and RV Parks with nonapproved waste valves		X	X	X	
Mobile Home and RV Parks with below ground level service line termination				X	
Fixing Tees with steam and water used with harmful substances (unharmful)			(X)	X	
Private Water Sources which are unmonitored				X	
Radiator-Vats				X	X
Slaughter Houses (unable to eliminate or prevent cross connection)				X	
Car Washes using soaps and waxes (recycling water)			X	X	
Chemical Plants				X	X
Dockside Watering Facilities, Marinas	X		X	X	X
Film Laboratories				X	X
Food Processing Plants (unable to eliminate or prevent cross connections)			X	X	X
Fertilizer Plants (unable to eliminate or prevent cross connections)				(X)	X
Hospitals handling harmful substances (unable to eliminate or prevent cross connections)				X	
Lab Sink using toxics (unharmful)	X	X	X	X	
Meat Packing Plants (unable to eliminate or prevent cross connections)				X	
Medical Bldgs, clinics, laboratories, etc. (unable to eliminate or prevent cross connections)				X	
Nonpotable Water				X	X
Oil Refinery and Petroleum Storage Facilities (unable to eliminate or prevent cross connections)				X	
Sanitariums (unable to eliminate or prevent cross connections)	X	X		X	
Sewage Piping or Plants (unable to eliminate or prevent cross connections)				X	

<b>Selection Chart for Minimum Backflow Prevention Devices</b>					
<b>FACILITY</b>	<b>ATMOSPHERIC TYPE VACUUM BREAKER</b>	<b>PRESSURE TYPE VACUUM BREAKER</b>	<b>DOUBLE CHECK VALVE ASSEMBLY</b>	<b>REDUCED PRESSURE BACKFLOW PREVENTER</b>	<b>AIR GAP</b>
Tank Truck Fill Station				X	X
Mortuaries (unable to eliminate or prevent cross connections)				X	
Mortuary body washing hoses (installed at service connection)	X	X		(X)	
Hoses that could be in contact with animal waste	X	X			
Shampoo Sprays	X	X			
Sterilizers				X	
Steam Cookers using harmful substance (unharmful)			X	X	
Swim Pools, Hot Tubs, private or semiprivate	X	X		X	X
Swim Pools direct connection	X	X		X	X
Urinals	X			X	
Water Cooling or Heating Coils		X		X	
Water Closets	X			X	

X - indicates suitable protection to be required by the public water system. For facilities with multiple options, the public water system will determine the lowest degree of protection that is acceptable. ~~(12-10-92)~~( )

## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0201

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Chapter 1, Title 39, Idaho Code and Chapter 21, Title 37, Idaho Code. In addition, states which have primary enforcement responsibility for the Safe Drinking Water Act are required by 40 CFR 142.10(a) and 40 CFR 142.12(b) through (d) to adopt within two years of promulgation, national primary drinking water regulations that are no less stringent than the federal regulations in effect under 40 CFR Part 141.

**PUBLIC HEARING SCHEDULE:** No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before July 17, 2002. If no such written request is received, a public hearing will not be held.

**DESCRIPTIVE SUMMARY:** The U.S. Environmental Protection Agency promulgated the Filter Backwash Recycling Rule and the Long Term 1 Enhanced Surface Water Treatment Rule on June 8, 2001 and January 14, 2002. These are national primary drinking water regulations. As a State that has primacy for administering the Safe Drinking Water Act, Idaho must adopt these rules within two years of promulgation.

**Filter Backwash Recycling Rule:** Requires public water systems that use surface water or ground water under the direct influence of surface water to notify the State if they recycle and waste fluids from their treatment process. Systems must provide the State with a description of their recycling practices and identify the point at which these recycled streams enter the treatment train. Systems may be required to modify recycling practices if it is demonstrated that these practices adversely affect the ability of the system to meet surface water treatment requirements.

**Long Term 1 Enhanced Surface Water Treatment Rule:** Requires public water systems that use surface water or ground water under the direct influence of surface water and serve less than 10,000 persons to meet tighter standards for turbidity, to monitor individual filter bed turbidity continuously, and to undertake corrective actions if turbidity excursions occur. Systems must prepare a disinfection profile of their treatment plant unless they can demonstrate to the State that they have disinfection by-product levels that are less than 80% of the maximum contaminant levels set forth in the Stage 1 Disinfection By-products Rule.

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, the Idaho Department of Environmental Quality (DEQ) intends to present the final proposal to the Board of Environmental Quality in the fall of 2002 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2003 session of the Idaho Legislature.

**NEGOTIATED RULEMAKING:** Due to the nature of this rulemaking, negotiations were not held.

**GENERAL INFORMATION:** For more information about DEQ's programs and activities, visit DEQ's web site at [www.state.id.us/deq](http://www.state.id.us/deq).

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this rulemaking, contact Tom John at (208)373-0502, [tjohn@deq.state.id.us](mailto:tjohn@deq.state.id.us).

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before July 31, 2002.

DATED this 23rd day of May, 2002.

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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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0106-0201**

**003. DEFINITIONS.**

**01. ABC.** The abbreviation for "Association of Boards of Certification for Operating Personnel," an international organization representing water utility and pollution control certification boards. (4-5-00)

**02. Action Level.** The concentration of lead or copper in water that determines, in some cases, whether a water system must install corrosion control treatment, monitor source water, replace lead service lines, or undertake a public education program. (12-10-92)

**03. Administrator.** The Administrator of the United States Environmental Protection Agency. (4-5-00)

**04. Annual Samples.** Samples that are required once per calendar year. (12-10-92)

**05. Available.** Based on system size, complexity, and source water quality, a certified operator must be on site or able to be contacted as needed to initiate the appropriate action in a timely manner. (4-5-00)

**06. Average Daily Demand.** The volume of water used by a system on an average day based on a one (1) year period. (12-10-92)

**07. Backflow.** The reverse from normal flow direction in a plumbing system or water system caused by back pressure or back siphonage. (12-10-92)

**08. Board.** The Idaho State Board of Environmental Quality. (12-10-92)

**09. Capacity.** The capabilities required of a public drinking water system in order to achieve and maintain compliance with these rules and the requirements of the federal Safe Drinking Water Act. It is divided into three (3) main elements: (4-5-00)

a. Technical capacity means the system has the physical infrastructure to consistently meet drinking water quality standards and treatment requirements and is able to meet the requirements of routine and emergency operations. It further means the ability of system personnel to adequately operate and maintain the system and to otherwise implement technical knowledge. Certification and training of the operator(s) is required, as appropriate, for the system size and complexity. (4-5-00)

b. Financial capacity means the financial resources of the water system, including an appropriate budget, rate structure, cash reserves sufficient for future needs and emergency situations, and adequate fiscal controls. (4-5-00)

c. Managerial capacity means that the management structure of the water system embodies the aspects of water treatment operations, including, but not limited to; (4-5-00)

i. Short and long range planning; (4-5-00)

- ii. Personnel management; (4-5-00)
  - iii. Fiduciary responsibility; (4-5-00)
  - iv. Emergency response; (4-5-00)
  - v. Customer responsiveness; (4-5-00)
  - vi. Source water protection; (4-5-00)
  - vii. Administrative functions such as billing and consumer awareness; and (4-5-00)
  - viii. Ability to meet the intent of the federal Safe Drinking Water Act. (4-5-00)
- 10. Certificate.** Documentation of competency issued by the Director stating that the person (to be certified) has met requirements for a specific classification of the certification program. (4-5-00)
- 11. Community Water System.** A public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents. (12-10-92)
- 12. Composite Correction Program (CCP).** A systematic approach to identifying opportunities for improving the performance of water treatment and implementing changes that will capitalize on these opportunities. The CCP consists of two (2) elements: (4-5-00)
- a. Comprehensive Performance Evaluation (CPE). A thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation, and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. The CPE must consist of at least the following components: assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report. (4-5-00)
  - b. Comprehensive Technical Assistance (CTA). The implementation phase that is carried out if the CPE results indicate improved performance potential. During the CTA phase, the system must identify and systematically address plant-specific factors. The CTA consists of follow-up to the CPE results, implementation of process control priority setting techniques, and maintaining long term involvement to systematically train staff and administrators. (4-5-00)
- 13. Compositing Of Samples.** The mixing of up to five (5) samples by the laboratory. (4-5-00)
- 14. Confirmation Sample.** A sample of water taken from the same point in the system as the original sample and at a time as soon as possible after the original sample was taken. (12-10-92)
- 15. Connection.** Each structure, facility, or single family residence which is connected to a water system, and which is or could be used for domestic purposes, is considered a single connection. Multi-family dwellings and apartment, condominium, and office complexes are considered single connections unless individual units are billed separately for water by the water system, in which case each such unit shall be considered a single connection. (10-1-93)
- 16. Consumer.** Any person served by a public water system. (12-10-92)
- 17. Consumer Confidence Report (CCR).** An annual report that community water systems must deliver to their customers. The reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner. (4-5-00)

18. **Contaminant.** Any physical, chemical, biological, or radiological substance or matter in water. (12-10-92)
19. **Continuing Education Unit (CEU).** An alternate unit (to semester or quarter systems) of formal credit assignment to post-secondary training activities, which is based upon regionally or nationally established and recognized education criteria. (4-5-00)
20. **Cross Connection.** Any actual or potential connection or piping arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable water system used water, water from any source other than an approved public water system, industrial fluid, gas or substance other than the intended potable water with which the system is supplied. Cross connections include bypass arrangements, jumper connections, removable sections, swivel or change-over devices and other temporary or permanent devices which, or because of which "backflow" can or may occur. (10-1-93)
21. **Department.** The Idaho Department of Environmental Quality. (12-10-92)
22. **Director.** The Director of the Department of Environmental Quality or his designee. (12-10-92)
23. **Disinfection.** Introduction of chlorine or other agent or process approved by the Department, in sufficient concentrations, followed by adequate contact time so as to kill or inactivate pathogenic and indicator organisms. (12-10-92)
24. **Disinfection Profile.** A summary of daily Giardia lamblia inactivation through the drinking water treatment plant. The procedure for developing a disinfection profile is contained in 40 CFR 141.172 and 40 CFR 141.530-141.536. (~~4-5-00~~)(      )
25. **Distribution System.** Any combination of pipes, tanks, pumps, and other equipment which delivers water from the source(s) and/or treatment facility(ies) to the consumer. (4-5-00)
26. **Drinking Water System.** All mains, pipes, and structures through which water is obtained and distributed, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use. (12-10-92)
27. **DWIMS.** Idaho Department of Environmental Quality Drinking Water Information Management System. Replaced by SDWISS April 2001. (3-15-02)
28. **Enhanced Coagulation.** The addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment. (4-5-00)
29. **Enhanced Softening.** The improved removal of disinfection byproduct precursors by precipitative softening. (4-5-00)
30. **Exemption.** A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only if the system demonstrates to the satisfaction of the Department that the system cannot comply due to compelling factors and the deferment does not cause an unreasonable risk to public health. (12-10-92)
31. **Fee Assessment.** A charge assessed on public drinking water systems based on a rate structure calculated by system size. (10-1-93)
32. **Filter Profile.** A graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed. (4-5-00)
33. **GAC10.** Granular activated carbon filter beds with an empty bed contact time of ten (10) minutes

based on average daily flow and a carbon reactivation frequency of every one hundred eighty (180) days. (4-5-00)

**34. Groundwater System.** A public water system which is supplied exclusively by a groundwater source or sources. (12-10-92)

**35. Groundwater Under The Direct Influence Of Surface Water.** Any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large diameter pathogens such as *Giardia lamblia* or *(for subpart H systems serving at least ten thousand (10,000) people only)* *Cryptosporidium*, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions. Direct influence must be determined for individual sources in accordance with criteria established by the State. The State determination of direct influence may be based on site-specific measurements of water quality and/or documentation of well construction characteristics and geology with field evaluation. ~~(4-5-00)( )~~

**36. Haloacetic Acids (Five) (HAA5).** The sum of the concentrations in milligrams per liter of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid) rounded to two (2) significant figures after addition. (4-5-00)

**37. Health Hazards.** Any condition which creates, or may create, a danger to the consumer's health. Health hazards may consist of, but are not limited to, design, construction, operational, structural, collection, storage, distribution, monitoring, treatment or water quality elements of a public water system. (10-1-93)

**38. Inorganic.** Generally refers to compounds that do not contain carbon and hydrogen. (12-10-92)

**39. Laboratory Certification Reciprocity.** Acceptance of a laboratory certification made by another state. Laboratory reciprocity may be granted to laboratories outside of Idaho after application, proof of home state certification, and EPA performance evaluation results are submitted and reviewed. Reciprocity must be renewed after a time specified by the Idaho Laboratory Certification Officer to remain valid. (4-5-00)

**40. Log.** Logarithm to the base ten (10). (12-10-92)

**41. Maximum Daily Consumption Rate.** The average rate of consumption for the twenty-four (24) hour period in which total consumption is the largest on record. (12-10-92)

**42. Maximum Hourly Demand.** The greatest volume of water used in any hour during a one (1) year period. (12-10-92)

**43. Maximum Residual Disinfectant Level (MRDL).** A level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects. For chlorine and chloramines, a public water system is in compliance with the MRDL, when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. For chlorine dioxide, a public water system is in compliance with the MRDL when daily samples are taken at the entrance to the distribution system and no two (2) consecutive daily samples exceed the MRDL. MRDLs are enforceable in the same manner as maximum contaminant levels under Section 1412 of the Safe Drinking Water Act. There is convincing evidence that addition of a disinfectant is necessary for control of waterborne microbial contaminants. Notwithstanding the MRDLs listed in 40 CFR 141.65, operators may increase residual disinfectant levels of chlorine or chloramines (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health to address specific microbiological contamination problems caused circumstances such as distribution line breaks, storm runoff events, source water contamination, or cross-connections. (4-5-00)

**44. Maximum Residual Disinfectant Level Goal (MRDLG).** The maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. MRDLGs are nonenforceable health goals and do not reflect the benefit of the addition of the chemical for control of waterborne microbial contaminants. (4-5-00)

- 45. Method Detection Limit (MDL).** The lowest concentration which can be determined to be greater than zero with ninety-nine percent (99%) confidence, for a particular analytical method. (12-10-92)
- 46. New System.** Any water system that meets, for the first time, the definition of a public water system provided in Section 1401 of the federal Safe Drinking Water Act (42 U.S.C. Section 300f). This includes systems that are entirely new construction and previously unregulated systems that are expanding. (4-5-00)
- 47. Noncommunity Water System.** A public water system that is not a community water system. A non-community water system is either a transient noncommunity water system or a non-transient noncommunity water system. (4-5-00)
- 48. Nontransient Noncommunity Water System.** A public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. (12-10-92)
- 49. Nuclear Facility.** Factories, processing plants or other installations in which fissionable material is processed, nuclear reactors are operated, or spent (used) fuel material is processed, or stored. (12-10-92)
- 50. Operator Certifying Entity.** An organization that contracts with the Department to provide public drinking water operator certification services. (4-5-00)
- 51. Operating Experience.** The number of years spent at a drinking water system in performance of duties. (4-5-00)
- 52. Operating Shift.** That period of time during which water system operator decisions that affect public health are necessary for proper operation of the system. (4-5-00)
- 53. Operator/Owner/Purveyor Of Water/Supplier Of Water.** The person, company, corporation, association, or other organizational entity which holds legal title to the public water system, who provides, or intends to provide, drinking water to the customers and/or is ultimately responsible for the public water system operation. (4-5-00)
- 54. Operator Reciprocity.** Means on a case by case basis the acceptance of certificates issued by other certification programs, which satisfy the state of Idaho requirements for operator certification. (4-5-00)
- 55. Peak Hourly Flow.** The highest hourly flow during any day. (12-10-92)
- 56. Person.** A human being, municipality, or other governmental or political subdivision or other public agency, or public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent or other legal representative of the foregoing or other legal entity. (12-10-92)
- 57. Pesticides.** Substances which meet the criteria for regulation pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, and any regulations adopted pursuant to FIFRA. For example, pesticides include, but are not limited to insecticides, fungicides, rodenticides, herbicides, and algaecides. (12-10-92)
- 58. Public Notice.** The notification of public water system consumers of information pertaining to that water system including information regarding water quality or compliance status of the water system. (12-10-92)
- 59. Public Drinking Water System.** (4-5-00)
- a. In General. A system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the operator of such system, and used primarily in connection with such system, and (2) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. A public drinking water system is either a "community water system" or a "noncommunity water system". (4-5-00)

- b. Connections. (4-5-00)
- i. In General. For purposes of Subsection 003.59.a., a connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection, if: (3-15-02)
- (1) The water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses); (4-5-00)
- (2) The Director determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulation is provided for residential or similar uses for drinking and cooking; or (4-5-00)
- (3) The Director determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations. (4-5-00)
- ii. Irrigation Districts. An irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use shall not be considered to be a public drinking water system if the system or the residential or similar users of the system comply with Subsections 003.59.b.i.(2) and 003.59.b.i.(3). (3-15-02)
- c. Transition Period. A supplier of water that would be a public drinking water system only as a result of modifications made to Subsection 003.59 by the Safe Drinking Water Act Amendments of 1996 shall not be considered a public drinking water system for purposes of the Safe Drinking Water Act until the date that is two (2) years after the date of enactment of the Safe Drinking Water Act Amendments of 1996. If a supplier of water does not serve fifteen (15) service connections (as defined in Subsections 003.59.a. and 003.59.b.) or twenty-five (25) people at any time after the conclusion of the two (2) year period, the supplier of water shall not be considered a public drinking water system. (3-15-02)
- 60. Public Water System/Water System/System.** Means “public drinking water system”. (4-5-00)
- 61. Reciprocity.** A system by which certificates issued by any other certification program are recognized as valid and equal to Idaho’s Certification Program provision. (4-5-00)
- 62. Repeat Compliance Period.** Any subsequent compliance period after the initial compliance period. (12-10-92)
- 63. Responsible Charge (RC).** Responsible Charge means, active, daily on-site and/or on-call responsibility for the performance of operations or active, on-going, on-site and on-call direction of employees and assistants. (4-5-00)
- 64. SDWISS.** Safe Drinking Water Information System-State Version. Replaced DWIMS April 2001. (3-15-02)
- 65. Sampling Point.** The location in a public water system from which a sample is drawn. (12-10-92)
- 66. Sanitary Defects.** Any faulty structural condition which may allow the water supply to become contaminated. (12-10-92)
- 67. Sanitary Survey.** An onsite review of the water source, facilities, equipment, operation and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water. The sanitary survey will include, but is not limited to the following elements: (4-5-00)
- a. Source; (4-5-00)

- b. Treatment; (4-5-00)
  - c. Distribution system; (4-5-00)
  - d. Finished water storage; (4-5-00)
  - e. Pumps, pump facilities, and controls; (4-5-00)
  - f. Monitoring and reporting and data verification; (4-5-00)
  - g. System management and operation; and (4-5-00)
  - h. Operator compliance with state requirements. (4-5-00)
- 68. Significant Deficiency.** Any defect in a system's design, operation, maintenance, or administration, as well as any failure or malfunction of any system component, that the State determines to cause, or have potential to cause, risk to health or safety, or that could affect the reliable delivery of safe drinking water. (4-5-00)
- 69. Spring.** A source of water which flows from a laterally percolating water table's intersection with the surface or from a geological fault that allows the flow of water from an artesian aquifer. (12-10-92)
- 70. Surface Water System.** A public water system which is supplied by one (1) or more surface water sources or groundwater sources under the direct influence of surface water. Also called subpart H systems in applicable sections of 40 CFR Part 141. (4-5-00)
- 71. Specific Ultraviolet Absorption (SUVA).** SUVA means Specific Ultraviolet Absorption at two hundred fifty-four (254) nanometers (nm), an indicator of the humic content of water. It is a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wave length of two hundred fifty-four (254) nm (UV254) (in  $m^{-1}$ ) by its concentration of dissolved organic carbon (DOC) (in mg/l). (4-5-00)
- 72. Total Organic Carbon (TOC).** Total organic carbon in mg/l measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two (2) significant figures. (4-5-00)
- 73. Transient Noncommunity Water System.** A noncommunity water system which does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year. (10-1-93)
- 74. Treatment Facility.** Any place(s) where a public drinking water system or nontransient noncommunity water system alters the physical or chemical characteristics of the drinking water. Chlorination may be considered as a function of a distribution system. (4-5-00)
- 75. Turbidity.** A measure of the interference of light passage through water, or visual depth restriction due to the presence of suspended matter such as clay, silt, nonliving organic particulates, plankton and other microscopic organisms. Operationally, turbidity measurements are expressions of certain light scattering and absorbing properties of a water sample. Turbidity is measured by the Nephelometric method. (12-10-92)
- 76. Uncovered Finished Water Storage Facility.** A tank, reservoir, or other facility that is used to store water that will undergo no further treatment except residual disinfection and is open to the atmosphere. (4-5-00)
- 77. Unregulated Contaminant.** Any substance that may affect the quality of water but for which a maximum contaminant level or treatment technique has not been established. (12-10-92)
- 78. Variance.** A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only when the system demonstrates to the satisfaction of the Department that the raw water characteristics prevent compliance with the MCL or requirement after installation of the best available technology or treatment technique and the deferment does not cause an unreasonable risk to public

health. (12-10-92)

**79. Very Small Public Drinking Water System.** A Community or Nontransient Noncommunity Public Water System that serves five hundred (500) persons or less and has no treatment other than disinfection or has only treatment which does not require any chemical treatment, process adjustment, backwashing or media regeneration by an operator (e.g. calcium carbonate filters, granular activated carbon filters, cartridge filters, ion exchangers). (4-5-00)

**80. Volatile Organic Chemicals (VOCs).** VOCs are lightweight organic compounds that vaporize or evaporate easily. (10-1-93)

**81. Vulnerability Assessment.** A determination of the risk of future contamination of a public drinking water supply. (12-10-92)

**82. Waiver.** (12-10-92)

a. For the purposes of these rules, except Sections 550 through 552, "waiver" means the Department approval of a temporary reduction in sampling requirements for a particular contaminant. (10-1-93)

b. For purposes of Sections 550 through 552, "waiver" means a dismissal of any requirement of compliance. (12-10-92)

c. For the purposes of Section 010, "waiver" means the deferral of a fee assessment for a public drinking water system. (10-1-93)

**83. Water System Operator.** The person who is employed, retained, or appointed to conduct the tasks associated with day to day operation and maintenance of a public drinking water system in order to safeguard the public health and environment. (4-5-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**050. MAXIMUM CONTAMINANT LEVELS AND MAXIMUM RESIDUAL DISINFECTANT LEVELS.**

**01. Inorganic Contaminants.** (10-1-93)

a. 40 CFR 141.11, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

b. 40 CFR 141.62 is herein incorporated by reference. (10-1-93)

c. The maximum contaminant level for cyanide is two-tenths milligram per liter (0.2 mg/l). (12-10-92)

**02. Organic Contaminants.** (10-1-93)

a. 40 CFR 141.12, revised as of July 1, ~~1999~~ 2002, is herein incorporated by reference. ~~(4-5-00)~~( )

b. 40 CFR 141.61 is herein incorporated by reference. except that the best available technology (BAT) treatment listed in 40 CFR 141.61(b) shall be changed to reflect that packed tower aeration will not be listed for toxaphene but will be listed for toluene. (10-1-93)

**03. Turbidity.** 40 CFR 141.13 is herein incorporated by reference. (10-1-93)

**04. Radionuclides.** 40 CFR 141.66, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

**05. Microbiological Contaminants.** 40 CFR 141.63, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

**06. Maximum Contaminant Levels For Disinfection Byproducts.** 40 CFR 141.64, revised as of July 1, ~~1999~~ 2002, is herein incorporated by reference. (~~4-5-00~~)(      )

**07. Maximum Residual Disinfectant Levels.** 40 CFR 141.65, revised as of July 1, ~~1999~~ 2002, is herein incorporated by reference. (~~4-5-00~~)(      )

**08. Effective Dates.** Effective date information provided in specified Sections of 40 CFR that are incorporated by reference are applicable. (12-10-92)

**(BREAK IN CONTINUITY OF SECTIONS)**

**150. REPORTING, PUBLIC NOTIFICATION, RECORDKEEPING.**

**01. Reporting Requirements.** 40 CFR 141.31, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

**02. Public Notification.** 40 CFR 141, Subpart Q, revised as of July 1, 2002, is herein incorporated by reference. (~~3-15-02~~)(      )

*a. 40 CFR 141.32, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)*

*b. 40 CFR Part 141, Subpart Q, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)*

**03. Record Maintenance.** 40 CFR 141.33, revised as of July 1, 2002, is herein incorporated by reference. (~~10-1-93~~)(      )

**04. Lead Public Notice Requirements.** *40 CFR 141.34 is herein incorporated by reference. (10-1-93)*

**054. Unregulated Contaminant Reporting And Public Notification.** 40 CFR 141.35 is herein incorporated by reference. (10-1-93)

**065. Reporting And Record Keeping For The Interim Enhanced Surface Water Treatment Rule.** 40 CFR 141.175, revised as of July 1, 200~~1~~2, is herein incorporated by reference. (~~3-15-02~~)(      )

**076. Reporting And Record Keeping Requirements For The Disinfectants And Disinfectant Byproducts Rule.** 40 CFR 141.134, revised as of July 1, ~~1999~~ 2002, is herein incorporated by reference. (~~4-5-00~~)(      )

**151. CONSUMER CONFIDENCE REPORTS.** 40 CFR Part 141, Subpart O, revised as of July 1, 200~~1~~2, is herein incorporated by reference. (~~3-15-02~~)(      )

**(BREAK IN CONTINUITY OF SECTIONS)**

**250. MAXIMUM CONTAMINANT LEVEL GOALS AND MAXIMUM RESIDUAL DISINFECTION LEVEL GOALS.**

**01. Organic Contaminants.** 40 CFR 141.50 is herein incorporated by reference. (10-1-93)

**02. Inorganic Contaminants.** 40 CFR 141.51 is herein incorporated by reference. (10-1-93)

**03. Microbiological Contaminants.** 40 CFR 141.52, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

**04. Maximum Contaminant Level Goals For Disinfection Byproducts.** 40 CFR 141.53, revised as of July 1, ~~1999~~ 2002, is herein incorporated by reference. (~~4-5-00~~)(\_\_\_\_)

**05. Maximum Residual Disinfectant Level Goals For Disinfectants.** 40 CFR 141.54, revised as of July 1, ~~1999~~ 2002, is herein incorporated by reference. (~~4-5-00~~)(\_\_\_\_)

**06. Radionuclides.** 40 CFR 141.55, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

**(BREAK IN CONTINUITY OF SECTIONS)**

**300. FILTRATION AND DISINFECTION.**

**01. General Requirements.** 40 CFR 141.70, revised as of July 1, ~~1999~~ 2002, is herein incorporated by reference. (~~4-5-00~~)(\_\_\_\_)

**a.** Each community and nontransient noncommunity system using a surface water source or ground water source directly influenced by surface water shall be operated by personnel as specified in 40 CFR 141.70(c) and Sections 553 through 562 of these Rules. (4-5-00)

**b.** Each transient water system using a surface water source or ground water source directly influenced by surface water shall be operated by personnel as specified in 40 CFR 141.70(c). Such personnel must: (4-5-00)

**i.** Be certified as Drinking Water System Operators pursuant to the requirements of Sections 553 through 562; or (4-5-00)

**ii.** Be certified as qualified to operate the water system by the Department. The Department may certify an individual as qualified to operate the water system if: (12-10-92)

(1) The individual operated the system on or before December 31, 1992; and (12-10-92)

(2) The Department determines that the system has not been modified after December 31, 1992; or (4-5-00)

(3) The Department determines that the compliance history of the system is acceptable; and (12-10-92)

(4) The individual passes any field evaluation of operating and record keeping procedures required by the Department; and (4-5-00)

(5) Upon thirty (30) days notice, personnel operating the system shall attend periodic training sessions as required by the Department. (12-10-92)

**02. Criteria For Avoiding Filtration.** 40 CFR 141.71, revised as of July 1, ~~1999~~ 2002, is herein incorporated by reference. (~~4-5-00~~)(\_\_\_\_)

**03. Disinfection.** 40 CFR 141.72 is herein incorporated by reference. (10-1-93)

**a.** In addition to the disinfection requirements in 40 CFR 141.72, each system with a surface water source or groundwater source directly influenced by surface water shall maintain a minimum of at least two-tenths (0.2) parts per million of chlorine in the treated water after an actual contact time of at least thirty (30) minutes at maximum hourly demand before delivery to the first customer. (12-10-92)

b. The Department may allow a system to utilize automatic shut-off of water to the distribution system whenever total disinfectant residual is less than two-tenths (0.2) mg/l rather than provide redundant disinfection components and auxiliary power as required in 40 CFR 141.72(a)(2). An automatic water shut-off may be used if the system demonstrates to the satisfaction of the Department that, at all times, a minimum of twenty (20) psi pressure and adequate fire flow can be maintained in the distribution system when water delivery is shut-off to the distribution system and, at all times, minimum *Giardia lamblia* and virus inactivation removal rates can be achieved prior to the first customer. (12-10-92)

c. Each system which provides filtration treatment must provide disinfection treatment such that filtration plus disinfection provide ninety-nine and nine tenths percent (99.9%) inactivation and/or removal of *Giardia lamblia* cysts and ninety-nine and ninety-nine one hundredths percent (99.99%) inactivation and/or removal of viruses as specified in 40 CFR 141.72 and Section 300. (12-10-92)

i. Each system which provides filtration treatment shall submit engineering evaluations and/or other documentation as required by the Department to demonstrate ongoing compliance with Subsection 300.03.c.(7-1-97)

ii. The Department will establish filtration removal credit on a system-by-system basis. Unless otherwise demonstrated to the satisfaction of the Department, the maximum log removal and/or inactivation credit allowed for filtration is as follows:

Maximum Log Removal		
Filtration Type	<i>Giardia</i>	Viruses
Conventional	2.5	2.0
Direct	2.0	1.0
Slow sand	2.0	2.0
Diatomaceous earth	2.0	1.0
Alternate technology	2.0	0

(12-10-92)

iii. Filtration removal credit shall be granted for filtration treatment provided the system is; (12-10-92)

(1) Operated in accordance with the Operations Plan specified in Subsection 552.06.a.; and (12-10-92)

(2) The system is in compliance with the turbidity performance criteria specified under 40 CFR 141.73; and (12-10-92)

(3) Coagulant chemicals must be added and coagulation and flocculation unit process must be used at all times during which conventional and direct filtration treatment plants are in operation; and (12-10-92)

(4) Slow sand filters are operated at a rate not to exceed one-tenth (0.1) gallons per minute per square foot; and (12-10-92)

(5) Diatomaceous earth filters are operated at a rate not to exceed one and one-half (1.5) gallons per minute per square foot. (12-10-92)

**04. Filtration.** 40 CFR 141.73, revised as of July 1, ~~1999~~ 2002, is herein incorporated by reference. (4-5-00)( )

**05. Analytical and Monitoring Requirements.** 40 CFR 141.74, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

- a. Each public water system which provides filtration treatment shall monitor as follows: (12-10-92)
- i. Each day the system is in operation, the purveyor shall determine the total level of inactivation of *Giardia lamblia* cysts and viruses achieved through disinfection based on CT99.9 values provided in 40 CFR 141.74(b)(3) (Tables 1.1 through 1.6, 2.1 and 3.1). (12-10-92)
- ii. At least once per day, the system shall monitor the following parameters to determine the total inactivation ratio achieved through disinfection: (12-10-92)
- (1) Temperature of the disinfected water at each residual disinfectant concentration sampling point; and (12-10-92)
- (2) If using chlorine, the pH of the disinfected water at each chlorine residual sampling point. (12-10-92)
- (3) The disinfectant contact time, "T," must be determined each day during peak hourly flow. Disinfectant contact time, "T," in pipelines used for *Giardia lamblia* and virus inactivation shall be calculated by dividing the internal volume of the pipe by the peak hourly flow rate through that pipe. Disinfectant contact time, "T," for all other system components used for *Giardia lamblia* and virus inactivation shall be determined by tracer studies or equivalent methods. (12-10-92)
- (4) The residual disinfectant concentrations at each residual disinfectant sampling point at or before the first customer, must be determined each day during peak hourly flow, or at other times approved by the Department. (12-10-92)
- iii. The purveyor may demonstrate to the Department, based on a Department approved on-site disinfection challenge study protocol, that the system is achieving disinfection requirements specified in Subsection 300.03 utilizing CT99.9 values other than those specified in 40 CFR 141.74(b)(3) (Tables 2.1 and 3.1) for ozone, chlorine dioxide, and chloramine. (10-1-93)
- iv. The total inactivation ratio shall be calculated as follows: (12-10-92)
- (1) If the system applies disinfectant at only one (1) point, the system shall determine the total inactivation ratio by either of the two (2) following methods: (12-10-92)
- (a) One inactivation ratio (CTcalc/CT99.9) is determined at/or before the first customer during peak hourly flow; or (12-10-92)
- (b) Sequential inactivation ratios are calculated between the point of disinfectant application and a point at or before the first customer during peak hourly flow. The following method must be used to calculate the total inactivation ratio: (12-10-92)
- (i) Step 1: Determine (CTcalc/CT99.9) for each sequence. (12-10-92)
- (ii) Step 2: Add the (CTcalc/CT99.9) values for all sequences. The result is the total inactivation ratio. (12-10-92)
- (2) If the system uses more than one point of disinfectant application at or before the first customer, the system must determine the CT value of each disinfection sequence immediately prior to the next point of disinfectant application during peak hourly flow. The sum of the (CTcalc/CT99.9) values from all sequences is the total inactivation ratio. (CTcalc/CT99.9) must be determined by the methods described in 40 CFR 141.74(b)(4)(i)(B). (12-10-92)
- v. Log removal credit for disinfection shall be determined by multiplying the total inactivation ratio by three (3). (12-10-92)

vi. The Department may reduce the CT monitoring requirements specified under Section 300, for any system which demonstrates that the required inactivation levels are consistently exceeded. Reduced CT monitoring shall be allowed only where the reduction in monitoring will not endanger the health of consumers served by the water system. (12-10-92)

b. Residual disinfectant concentrations for ozone must be measured using the Indigo Method, or automated methods may be used if approved as provided for in 40 CFR 141.74(a)(5) and Subsection 300.05. Automated methods for ozone measurement will be allowed by the Department provided they are listed as "Recommended" in the USEPA Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems using Surface Water Sources, Appendix D, as set forth in Subsection 002.01.g., and provided they are calibrated on a schedule approved by the Department using the Indigo Method. (12-10-92)

c. As provided for in 40 CFR 141.74(b), the Department may specify interim monitoring requirements for systems notified by the Department or U.S. Environmental Protection Agency that filtration treatment must be installed. Until filtration is installed, systems shall conduct monitoring for turbidity and disinfectant residuals as follows unless otherwise specified by the Departments; (12-10-92)

i. Disinfectant residual concentrations entering the distribution system shall be measured at the following minimum frequencies, and samples must be taken at evenly spaced intervals throughout the workday.

Minimum Frequencies	
Population	Samples/day
Less than 500	1
501 - 1000	2
1,001 - 2,500	3
Greater than 2501	4

(12-10-92)

ii. Turbidity shall be measured at least once per day at the entry point to the distribution system. (12-10-92)

iii. The Department may, at its discretion, reduce the turbidity monitoring frequency for any noncommunity system which demonstrates to the satisfaction of the Department: (12-10-92)

(1) A free chlorine residual of two-tenths (0.2) part per million is maintained throughout the distribution system; (12-10-92)

(2) The water source is well protected; (12-10-92)

(3) The total coliform MCL is not exceeded; and (12-10-92)

(4) No significant health risk is present. (12-10-92)

d. The Department may allow systems with surface water sources or groundwater sources under the direct influence of surface water, to substitute continuous turbidity monitoring for grab sample monitoring as specified in 40 CFR 141.74(b)(2) and 40 CFR 141.74(c)(1) and Subsection 300.05. The Department may allow continuous turbidity monitoring provided the continuous turbidimeter is operated, maintained, standardized and calibrated per the manufacturers recommendations. For purposes of determining compliance with turbidity performance criteria, discrete values must be recorded every four (4) hours water is supplied to the distribution system. (10-1-93)

**e.** The Department may allow systems using both a surface water source(s), or groundwater source(s) under the direct influence of surface water, and one (1) or more groundwater sources, to measure disinfectant residual at points other than the total coliform sampling points, as specified in 40 CFR 141.74(b)(6)(i) and 40 CFR 141.74(c)(3)(i) and Subsection 300.05. The Department may allow alternate sampling points provided the system submits an acceptable alternate monitoring plan to the Department in advance of the monitoring requirement. (10-1-93)

**f.** The Department may allow a reduced turbidity monitoring frequency for systems using slow sand filtration or technology other than conventional, direct, or diatomaceous earth filtration, as specified in 40 CFR 141.74(c)(1) and Subsection 300.05. To be considered for a reduced turbidity monitoring frequency, a system must submit a written request to the Department in advance of the monitoring requirement. (12-10-92)

**06. Reporting And Recordkeeping.** 40 CFR 141.75, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

**a.** As provided in 40 CFR 141.75(a), revised as of July 1, 2001, and Section 300, the Department may establish interim reporting requirements for systems notified by the Department or U.S. Environmental Protection Agency that filtration treatment must be installed as specified in 40 CFR 141.75(a), revised as of July 1, 2001, and as referred to in Subsection 300.06. Until filtration treatment is installed, systems required to install filtration treatment shall report as follows: (3-15-02)

**i.** The purveyor shall immediately report to the Department via telephone or other equally rapid means, but no later than the end of the next business day, the following information: (12-10-92)

- (1) The occurrence of a waterborne disease outbreak potentially attributable to that water system; (12-10-92)
- (2) Any turbidity measurement which exceeds five (5) NTU; and (12-10-92)
- (3) Any result indicating that the disinfectant residual concentration entering the distribution system is below two-tenths (0.2) mg/l free chlorine. (12-10-92)

**ii.** The purveyor shall report to the Department within ten (10) days after the end of each month the system serves water to the public the following monitoring information using a Department-approved form: (12-10-92)

- (1) Turbidity monitoring information; and (12-10-92)
- (2) Disinfectant residual concentrations entering the distribution system. (12-10-92)

**iii.** Personnel qualified under Subsection 300.01 shall complete and sign the monthly report forms submitted to the Department as required in Subsection 300.06. (12-10-92)

**b.** In addition to the reporting requirements in 40 CFR 141.75(b), revised as of July 1, 2001, pertaining to systems with filtration treatment, each public water system which provides filtration treatment must report the level of Giardia lamblia and virus inactivation and/or removal achieved each day by filtration and disinfection. (3-15-02)

**07. Recycle Provisions.** 40 CFR 141.76, revised as of July 1, 2002, is herein incorporated by reference. ( )

**a.** The Department shall evaluate recycling records kept by water systems pursuant to 40 CFR 141.76 during sanitary surveys, comprehensive performance evaluations, or other inspections. ( )

**b.** The Department may require a system to modify recycling practices if it can be shown that these practices adversely affect the ability of the system to meet surface water treatment requirements. ( )

**301. ENHANCED FILTRATION AND DISINFECTION - SYSTEMS SERVING TEN THOUSAND OR MORE PEOPLE.**

This Section incorporates, 40 CFR Part 141, Subpart P, of the National Primary Drinking Water Regulations, known as the Interim Enhanced Surface Water Treatment Rule. (4-5-00)

**01. General Requirements.** 40 CFR 141.170, revised as of July 1, ~~1999~~ 2002, is herein incorporated by reference. (4-5-00)( )

**02. Criteria For Avoiding Filtration.** 40 CFR 141.171, revised as of July 1, ~~1999~~ 2002, is herein incorporated by reference. (4-5-00)( )

**03. Disinfection Profiling And Benchmarking.** 40 CFR 141.172, revised as of July 1, ~~1999~~ 2002, is herein incorporated by reference. (4-5-00)( )

**04. Filtration.** 40 CFR 141.173, revised as of July 1, ~~1999~~ 2002, is herein incorporated by reference. (4-5-00)( )

**05. Filtration Sampling Requirements.** 40 CFR 141.174, revised as of July 1, ~~1999~~ 2002, is herein incorporated by reference. (4-5-00)( )

**06. Reporting And Record Keeping.** 40 CFR 141.175, revised as of July, 1, 200~~1~~2, is herein incorporated by reference. (3-15-02)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**304. -- 3~~0~~9. (RESERVED).**

**310. ENHANCED FILTRATION AND DISINFECTION - SYSTEMS SERVING FEWER THAN TEN THOUSAND PEOPLE.**

40 CFR 141, Subpart T, revised as of July 1, 2002, is herein incorporated by reference. ( )

**311. -- 319. (RESERVED).**

**320. DISINFECTANT RESIDUALS, DISINFECTION BYPRODUCTS, AND DISINFECTION BYPRODUCT PRECURSORS.**

This Section incorporates 40 CFR Part 141, Subpart L, of the National Primary Drinking Water Regulations, known as the Disinfectants and Disinfection Byproducts Rule. (4-5-00)

**01. General Requirements.** 40 CFR 141.130, revised as of July 1, ~~1999~~ 2002, is herein incorporated by reference. (4-5-00)( )

**02. Analytical Requirements.** 40 CFR 141.131, revised as of July 1, ~~1999~~ 2002, is herein incorporated by reference. DPD colorimetric test kits may be used to measure residual disinfectant concentrations for chlorine, chloramines, and chlorine dioxide. (4-5-00)( )

**03. Monitoring Requirements.** 40 CFR 141.132, revised as of July 1, ~~1999~~ 2002, is herein incorporated by reference. (4-5-00)( )

**04. Compliance Requirements.** 40 CFR 141.133, revised as of July 1, 200~~1~~2, is herein incorporated by reference. (3-15-02)( )

**05. Treatment Techniques For Control Of Disinfection Byproduct (DBP) Precursors.** 40 CFR 141.135, revised as of July 1, ~~1999~~ 2002, is herein incorporated by reference. (4-5-00)( )

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# Bulletin Summary of Proposed Rulemakings

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## **PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES**

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

### **IDAPA 01 – STATE BOARD OF ACCOUNTANCY P.O. Box 83720, Boise, ID 83720-0002**

Docket No. **01-0101-0201**, Idaho Accountancy Rules. Repeal of chapter. Comment by: 7/24/02.

Docket No. **01-0101-0202**, Idaho Accountancy Rules. Rewrite of chapter addresses education and experience requirements to sit for CPA Exam and become licensed; ability for licensees to practice across state lines via a streamlined process; recognition of foreign credentials; non-licensee ownership of firms; acceptance of commissions and contingent fees; issuance of inactive and retired status licenses; and allowing licensees to issue plain paper financial statements. Comment by: 7/24/02.

Docket No. **01-0101-0203**, Idaho Accountancy Rules. Updates fee structure to allow the Board to recover the actual expenses incurred for providing services and administering programs. Comment by: 7/24/02.

### **IDAPA 02 – DEPARTMENT OF AGRICULTURE P.O. Box 790, Boise, ID 83701**

Docket No. **02-0212-0201**, Bonded Warehouse Rules. Clarifies the following: when the Department will issue duplicate licenses; extensions for filing financial statements; exemptions from requirement to pay, collect or remit assessments; requirements to pay indemnity fund assessments and amount required; and allows for the acceptance of records held in an electronic format. Comment by: 7/24/02.

Docket No. **02-0213-0201**, Commodity Dealers' Rules. Clarifies the following: when the Department will issue duplicate licenses; extensions for filing financial statements; exemptions from requirement to pay, collect or remit assessments; and allows for the acceptance of records held in an electronic format. Comment by: 7/24/02.

Docket No. **02-0215-0201**, Rules Governing the Seed Indemnity Fund. Provides for a Seed Indemnity Fund and a seed buyer license. For licensure seed buyers must fill out an application, provide a current and sufficient policy of insurance covering loss, provide a sufficient bond and will be responsible for the collection and remittance of seed indemnity fund assessments. Comment by: 7/24/02.

Docket No. **02-0403-0201**, Rules Governing Animal Industry. Rule sections dealing with Brucellosis have been moved to a new chapter - 02.04.20. Those sections dealing with the import of animals have been moved to a new chapter - 02.04.21. Comment by: 7/24/02.

Docket No. **02-0420-0201**, Rules Governing Brucellosis. New chapter of rules updates and modernizes the brucellosis program in accordance with the National Brucellosis Program Standards and state law. Comment by: 7/24/02.

Docket No. **02-0421-0201**, Rules Governing the Importation of Animals. New chapter updates and modernizes import requirements in accordance with state law and federal regulations. Comment by: 7/24/02.

### **IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE P.O. Box 83720, Boise, ID 83720-0036**

Docket No. **16-0210-0201**, Idaho Reportable Diseases. Defines "waterborne outbreak," and deletes definition of "week"; updates incorporation by reference section, adds 5 conditions detectable by newborn screening and 3 infectious diseases; and updates reporting timeframes. Comment by: 7/24/02.

Docket No. **16-0612-0201**, Rules Governing Procedures and Testing to Be Performed on Newborn Infants. Repeal of chapter. Comment by: 7/24/02.

Docket No. **16-0612-0202**, Rules Governing Procedures and Testing to Be Performed on Newborn Infants. Rewrite of chapter updates terminology and clarifies newborn screening responsibilities and procedures to be followed to ensure all infants are screened appropriately after birth. Comment by: 7/24/02.

Docket No. **16-0304-0201**, Rules Governing the Food Stamp Program. Revises work and training activities for Food Stamp participants; specifies criteria for determining a voluntary job quit or reduction in number of hours of employment and requirements to re-establish eligibility after a job quit or reduction in hours. Comment by: 7/24/02.

Docket No. **16-0308-0201**, Rules Governing Temporary Assistance to Families in Idaho. Implements changes regarding work and training activities; specifies that cooperation with Child Support Services includes assigning to the state child support payments received while the family is receiving TAFI; implements increase to the TAFI grant as provided by legislative authorization; and changes the maximum monthly TAFI grant to \$309. Comment by: 7/24/02.

Docket No. **16-0309-0207**, Rules Governing the Medical Assistance Program. Independent Residential Habilitation Providers who provide services in the consumer's residence will need to be employed by a Residential Habilitation Agency. The Department will no longer issue payments directly to Independent Personal Care Services, Residential Habilitation Services Providers and residential habilitation providers, who provide services in their home, as a Certified Family Home, must be affiliated with a Residential Habilitation Agency. Comment by: 7/24/02.

Docket No. **16-0602-0201**, Rules Governing Child Care Licensing. Addresses the placement of children in therapeutic outdoor camps not previously covered under the childcare licensing rules. Comment by: 7/24/02.

**IDAPA 18 – DEPARTMENT OF INSURANCE  
P.O. Box 83720, Boise, ID 83720-0043**

Docket No. **18-0132-0201**, Qualifications of Licensed Insurance Consultants. Repeal of chapter. Comment by: 7/24/02.

Docket No. **18-0142-0201**, Listing Fee-Surplus Lines Insurers. Repeal of chapter. Comment by: 7/24/02.

Docket No. **18-0143-0201**, Certification of Fire Inspectors. Conforms to a statutory change from using the Uniform Fire Code to the International Fire Code. Comment by: 7/24/02.

Docket No. **18-0149-0201**, Fire Protection Sprinkler Contractors. Conforms to statutory change from using the Uniform Fire Code to the International Fire Code; corrects a technical reference. Comment by: 7/24/02.

Docket No. **18-0153-0201**, Continuing Education. Rewrite of state law requires rule to be updated and includes reciprocity requirements, electronic renewal of licenses, and allows director to deny an individual or firm to offer a program of instruction if their license has been revoked or suspended. Comment by: 7/24/02.

Docket No. **18-0162-0201**, Annual Audited Financial Reports. Changes conform to the NAIC model audit rule adopted in December 2001 regarding indemnification and mediation/arbitration. Comment by: 7/24/02.

Docket No. **18-0178-0201**, Mutual Insurance Holding Company Rules. Changes filing date for the mutual insurance company's annual financial statement so it coincides with the filing date of the affiliated insurer's audited financial statement from April 1 to June 1. Comment by: 7/24/02.

**IDAPA 21 – DIVISION OF VETERANS SERVICES  
320 Collins Road, Boise, ID 83702**

Docket No. **21-0105-0201**, Rules Governing Medical Transportation Payment for Wheelchair Confined Veterans. Provides for a wheelchair confined veterans transportation payment pilot project for the period of 7/1/02 to 6/30/03. Comment by: 7/24/02.

**IDAPA 45 – IDAHO HUMAN RIGHTS COMMISSION****P.O. Box 83720, Boise, ID 83720**

Docket No. **45-0101-0201**, Rules of the Idaho Human Rights Commission. Removes language that required the Commission to serve a complaint of discrimination on a Respondent and its determination of probable cause or no probable cause to believe that discrimination had occurred on the Complainant and the Respondent by certified mail. Comment by: 7/26/02.

**IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY****1410 N. Hilton, Boise, ID 83706-1255**

Docket No. **58-0102-0202**, Water Quality Standards and Wastewater Treatment Requirements. Changes cover design, construction, installation, operation, release detection, closure and financial assurance requirements for UST systems and with some modification, incorporates the technical standards for UST system owners and operators found in 40 CFR Part 280. Comment by: 7/31/02.

Docket No. **58-0103-0201**, Individual/Subsurface Sewage Disposal Rules. Provides greater detail to DEQ and health districts for determining when central wastewater treatment facilities are reasonably accessible for new development and for issuing subsurface sewage disposal permits; establishes the conditions in which septic systems are an acceptable alternative to central wastewater treatment facilities; revises the estimate of wastewater flow from single family dwellings; revises the list of systems installed by complex septic system installers; deletes the exemption from licensure requirement for public works contractors and specifies that general contractors do not qualify for the exemption; revises the separation distance to surface waters by adding additional categories for watertight pipe (irrigation) and tiled ditches; and adopts additional siting criteria. Comment by: 7/31/02.

Docket No. **58-0107-0201**, Rules for Owners and Operators of Underground Storage Tanks and Leaking Petroleum Storage Tanks. New chapter covers design, construction, installation, operation, release detection, closure and financial assurance requirements for UST systems and with some modification, incorporates the technical standards for UST system owners and operators found in 40 CFR Part 280. Comment by: 7/31/02.

Docket No. **58-0108-0102**, Idaho Rules for Public Drinking Water Systems. Updates obsolete provisions, adds flexibility where possible and appropriate, and clarifies language to incorporate new engineering standards dealing with design, construction, and operation of public water systems. Comment by: 7/31/02.

Docket No. **58-0108-0201**, Idaho Rules for Public Drinking Water Systems. Adopts the EPA Filter Backwash Recycling Rule and the Long Term 1 Enhanced Surface Water Treatment Rule for public drinking water systems. Comment by: 7/31/02.

**SCHEDULED PUBLIC HEARINGS**

Public hearing have been scheduled for the following dockets:

Department of Agriculture

Docket No. **02-0420-0201**, Rules Governing Brucellosis.

Department of Health and Welfare

Docket No. **16-0309-0203**, Rules Governing the Medical Assistance Program.

Idaho Human Rights Commission

Docket No. **45-0101-0201**, Rules of the Idaho Human Rights Commission.

Department of Environmental Quality

Docket No. **58-0103-0201**, Individual/Subsurface Sewage Disposal Rules.Docket No. **58-0108-0102**, Idaho Rules for Public Drinking Water Systems.

Please refer to the Idaho Administrative Bulletin, **July 3, 2002, Volume 02-7** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact names.

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The Idaho Administrative Bulletin and Administrative Code are available on-line at: <http://www2.state.id.us/adm/adminrules/>

**CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES**

**This index tracks the history of all agency rulemakings from 1993 to the present.  
It includes all rulemaking activities on each chapter of rules  
and includes negotiated, temporary, proposed, pending  
and final rules, public hearing notices  
and vacated rulemaking notices.**

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