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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.
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.
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.'”
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THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 2002-08

REDUCTION OF GENERAL FUND SPENDING AUTHORITY

WHEREAS, article 7, section 11, of the Idaho Constitution provides that except in extraordinary or emergency circumstances, expenditures of state government shall not exceed state government revenue; and

WHEREAS, I have determined that expenditures from the General Fund authorized by the Legislature for the current fiscal year will exceed anticipated state revenue to meet those authorized expenditures for the current fiscal year.

NOW, THEREFORE, I, Dirk Kempthorne, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state, and pursuant to Section 67-3512A, Idaho Code, do hereby order:

1. That the General Fund spending authority on file in the Office of the State Controller be reduced for all departments, offices and institutions of the state by three and a half percent (3.5%) of their Fiscal Year 2003 General Fund Appropriation with the exception of public schools support, colleges and universities, community colleges, School for the Deaf and Blind, Professional Technical Education and Health Education Programs.

2. That each department, office and institution shall notify the Office of the State Controller and the Division of Financial Management of the Executive Office of the Governor of budget changes by September 23, 2002 according to the attachment of this Executive Order which is incorporated herein by reference.

3. That elected State Constitutional officials are requested to reduce General Fund expenditures for Fiscal Year 2003 to reflect the realities of the projected revenue shortfall without impairing the discharge of their constitutional duties.

4. That officers of the legislative and judicial branches are requested to assess and evaluate a reduction in General Fund expenditures for Fiscal Year 2003 to reflect similar revenue shortfalls in the executive branch of state government.

This order shall take effect immediately upon its execution and shall continue in effect until January 31, 2003, unless revoked or modified by the Governor, or until the Legislature or the Board of Examiners takes further action.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this thirtieth day of August in the year of our Lord two thousand and two and of the Independence of the United States of America the two hundred twenty-fifth and of the Statehood of Idaho the one hundred eleventh.

DIRK KEMPTHORNE
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE
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(s) 54-204(1), Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the July 3, 2002 Idaho Administrative Bulletin, Volume 02-7, page 14.

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

DATED this 30th day of August, 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

IDAPA 01, TITLE 01, Chapter 01

IDAHO ACCOUNTANCY RULES

There are no substantive changes from the proposed rule text.


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.
**EFFECTIVE DATE:** The effective date of the amended temporary rule is July 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) 54-204(1), Idaho Code.

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

The proposed rule has been amended to make typographical corrections to the rule, and are being amended pursuant to Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Idaho State Board of Accountancy amended the temporary rule with the same revisions which have been made to the proposed rule. Two typographical errors have been found. The reference to Rule 408.01 in Rules 406.02 and 406.03 should reference Rule 406.01. The exemption in Rule 502.02.a.ii. should refer to tax work done as a licensee.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the July 3, 2002 Idaho Administrative Bulletin, Volume 02-7, page(s) 15 through 37.

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

DATED this 30th day of August, 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, TITLE 01, Chapter 01**

**IDAHO ACCOUNTANCY RULES**
There are substantive changes from the proposed rule text. Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-7, July 3, 2002, pages 15 through 37.

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.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 01-0101-0202

SUBSECTIONS 406.02 AND 406.03

406. FIRM NAMES (Rule 406).

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 406.01 if the title “CPAs” is included in the firm name.

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 406.01 if the title “LPAs” is included in the firm name.

(BREAK IN CONTINUITY OF SECTIONS)

SUBSECTION 502.02.a.ii

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

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:

a. The licensees do not perform or offer to perform for the public services involving:

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

ii. The preparation of tax returns, or the furnishing of advice on tax matters as a licensee.
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(s) 54-204(1), Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the July 3, 2002 Idaho Administrative Bulletin, Volume 02-7, pages 38 through 40.

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

DATED this 30th day of August 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

IDAPA 01, TITLE 01, Chapter 01

IDAHO ACCOUNTANCY RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-7, July 3, 2002, pages 38 through 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.
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 71-111, Idaho Code.

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

The proposed change to this rule is to adopt the 2003 edition of the National Institute of Standards and Technology (NIST) Handbook (HB) 44, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices, by reference, to ensure uniformity in commercially used weighing and measuring devices.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 4, 2002 Idaho Administrative Bulletin, Volume 02-9, page 18.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tom Schafer at 208-332-8690.

DATED this 25th day of September, 2002.

Patrick A. Takasugi
Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, ID 83712
Phone: 332-8500
Fax: 334-2170

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IDAPA 02, TITLE 02, Chapter 14

RULES FOR WEIGHTS AND MEASURES

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 02-9, September 4, 2002, page 18.

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.
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 Sections 54-1006(5) and 54-1007, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 4, 2002 Idaho Administrative Bulletin, Vol. 02-9, pages 75 through 77.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Gary Malmen, Electrical Bureau Chief, Division of Building Safety, (208) 332-7147.

DATED this 24th day of September, 2002.

Dave Munroe, Administrator
Division of Building Safety
1090 E. Watertower St.
Meridian, Idaho 83642
Telephone: (208) 334-3951
Facsimile: (208) 855-2164

IDAPA 07, TITLE 01, Chapter 03

RULES OF ELECTRICAL LICENSING AND REGISTRATION - GENERAL

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 02-9, September 4, 2002, pages 75 through 77.

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 07 - DIVISION OF BUILDING SAFETY

07.01.04 - RULES GOVERNING ELECTRICAL SPECIALTY LICENSING

DOCKET NO. 07-0104-0201

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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1006(5), Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 4, 2002 Idaho Administrative Bulletin, Volume 02-9, pages 78 and 79.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Gary Malmen, Electrical Bureau Chief, Division of Building Safety, (208) 332-7147.

DATED this 24th day of September, 2002.

Dave Munroe, Administrator
Division of Building Safety
1090 E. Watertower St.
Meridian, Idaho 83642
Telephone: (208) 334-3951
Facsimile: (208) 855-2164

IDAPA 07, TITLE 01, Chapter 04

RULES GOVERNING ELECTRICAL SPECIALTY LICENSING

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-9, September 4, 2002, pages 78 and 79.

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.
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 54-2605(1), Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the August 7, 2002 Idaho Administrative Bulletin, Vol. 02-8, pages 17 and 18.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ted Hogander, Plumbing Bureau Chief, 332-7154.

DATED this 24th day of September, 2002.

Dave Munroe, Administrator
Division of Building Safety
1090 E. Watertower St.
Meridian, Idaho 83642
Phone: (208) 334-3951
Fax: (208) 855-2164
EFFECTIVE DATE: The effective dates of the amendment to the temporary rule are September 25, 2002 and April 1, 2003. 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 Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section 54-2605(1), Idaho Code.

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

The pending rule, rather than replacing the word “adoption” in Section 011 as was proposed, adds the words “incorporation by reference” to the current rule text making the 2000 Uniform Plumbing Code, as amended, adopted and incorporated by reference. This is necessary as Idaho Code requires that the Idaho Plumbing Board adopt the 2000 Uniform Plumbing Code, as amended, for it to be of full force and effect.

It was not the intention of the Idaho Plumbing Board to put Subsection 011.06 into effect November 1, 2002 as was proposed. The intention was for that section to go into effect April 1, 2003. This Subsection is being reprinted with no substantive changes being made to it other than the new effective date.

The text of the proposed rule has been amended in accordance with Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Division of Building Safety amended the temporary rule with the same revisions which have been made to the proposed rule. Only the sections that have changes different from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the August 7, 2002 Idaho Administrative Bulletin, Vol. 02-8, pages 19 through 21.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the pending rule and the amended temporary rule, contact Ted Hogander, Plumbing Bureau Chief, 332-7154.

DATED this 24th day of September, 2002.

Dave Munroe, Administrator
Division of Building Safety
1090 E. Watertower St.
Meridian, Idaho 83642
Phone: (208) 334-3951
Fax: (208) 855-2164
SECTION 011

011. ADOPTION AND INCORPORATION BY REFERENCE OF THE 2000 UNIFORM PLUMBING CODE.
The 2000 Uniform Plumbing Code, including Appendices “A, B, C, D, E, G, H, I, J, and L,” is adopted and incorporated by reference with the following amendments. The 2000 Uniform Plumbing Code is available at the Division of Building Safety, 1090 E. Watertower St., Meridian, Idaho 83642; the Division of Building Safety, 611 Wilson, Ste. 4-C, Pocatello, Idaho 83201; and the Division of Building Safety, 1250 Ironwood Dr., Ste. 220, Coeur d’Alene, Idaho 83814.

SUBSECTION 011.06

06. Section 610.2. All new one (1) and two (2) family residences must have a pre-plumbed water softener loop. The kitchen sink must have one (1) hot soft line and one (1) cold soft line and one (1) cold hard line. Exterior cold hose bibbs intended for irrigation purposes must be piped with hard water. Provisions must be made for the discharge of the water softener to terminate in an approved location.
AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the rulemaking previously initiated under this docket. The action is authorized pursuant to Section 72-1333(2).

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for vacating the proposed rulemaking:

The Department has decided to submit a legislative amendment to Section 72-1369, Idaho Code, in lieu of promulgating a rule.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of rulemaking, contact Carol Brassey at (208) 332-3570 ext. 3444.

DATED this 3rd day of October, 2002.

Carol Brassey  
Deputy Attorney General  
Legal Bureau, Idaho Department of Labor  
317 W. Main St.  
Boise, ID 83735  
(208) 332-3570 ext. 3444  
(208) 334-6125 fax
IDAPA 11 - IDAHO STATE POLICE
11.13.01 - THE MOTOR CARRIER RULES
DOCKET NO. 11-1301-0201
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule is effective October 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 67-2901A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows: Public hearings concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 20, 2002.

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

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the proposed rule: The proposed rule is intended to add the Adoption of Registration Enforcement; Part 356 - Authority to Serve a Particular Section - Construction; Part 365 - How to Apply Operating Authority; Part 387 - Financial Responsibility; and update the Code of Federal Regulations to correctly show volume October 1, 2002.

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: It is necessary to further clarify the rule by adding the adoption of federal regulations pursuant to registration enforcement.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Margaret P. White at 884-7050.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before November 27, 2002.

DATED this 30th day of September, 2002.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1301-0201

019. CARRIER SAFETY REQUIREMENTS.

01. Adoption Of Federal Regulations. Adoption of Federal Regulations 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399 are hereby adopted by reference. All interstate and foreign carriers and all intrastate carriers subject to the safety authority of the Idaho State Police while operating in Idaho that transport passengers or property must comply with 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.11(b)(1) for intrastate carriers). The subject matter of 49 CFR
391.11(b)(1) is a twenty-one (21) year minimum age for drivers of commercial vehicles subject to federal safety regulation. Intrastate carriers subject to the safety authority of the Idaho State Police may hire drivers who are eighteen (18) years or older as set forth in Section 49-303, Idaho Code. Whenever any one (1) of these federal regulations (except Section 391.11(b)(1)) exempts intrastate carriers from any of their requirements, this Rule at IDAPA 11.13.01, “The Motor Carrier Rules,” Section 019 removes that exemption and subjects the intrastate carrier to the same requirements. The Department asserts its authority under this Section 019 to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-679 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388.

02. Obligation Of Familiarity With Rules. All interstate and foreign carriers and all intrastate carriers subject to these Rules at IDAPA 11.13.01, “The Motor Carrier Rules,” Section 019 must obtain copies of the federal regulations adopted by reference in Subsection 019.01 and make them available to their drivers and other personnel affected by the regulations. Failure to be familiar with these federal regulations adopted by reference is a violation of this Subsection 019.02 for any carrier subject to those regulations. The federal regulations adopted by reference address the following subject matter:

a. Part 356. Authority to Serve a Particular Section - Construction. (4-5-00)

b. Part 365. How to Apply for Operating Authority. (4-5-00)

c. Part 382. Controlled Substance and Alcohol Use and Testing. (4-5-00)

d. Part 383. Commercial Driver’s License Standards; Requirements and Penalties. (4-5-00)

e. Part 385. Safety Fitness Standards. (4-5-00)

f. Part 387. Financial Responsibility. (4-5-00)

g. Part 388. Cooperative Agreements with States. (4-5-00)

h. Part 390. Federal Motor Carrier Safety Regulations: General. (4-5-00)

i. Part 391. Qualifications of Drivers. (4-5-00)

j. Part 392. Driving of Motor Vehicles. (4-5-00)

k. Part 393. Parts and Accessories Necessary for Safe Operation. (4-5-00)

l. Part 395. Hours of Service of Drivers. (4-5-00)

m. Part 396. Inspection, Repair and Maintenance. (4-5-00)

n. Part 397. Transportation of Hazardous Materials; Driving and Parking Rules. (4-5-00)

0. Part 398. Transportation of Migrant Workers. (4-5-00)

p. Part 399. Employee Safety and Health Standards. (4-5-00)

03. Recognition Of Federal Waivers. Whenever a driver or carrier has applied to a federal agency and been granted a waiver from any of the requirements of the federal regulations adopted in Subsection 019.01, the federal waiver will also be recognized under these rules. The Department reserves the authority to implement a waiver program and grant waivers on the state level for intrastate commercial motor vehicle drivers.

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 Sections 56-201, 56-202(b), 56-203(g), 56-209, 56-209b, and 56-1004(1)(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 November 20, 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:

2002 Legislation effective July 1, 2002, increased the maximum Temporary Assistance for Families in Idaho (TAFI) payment. The rules are being amended to be sure TAFI income will be counted consistently when Medicaid eligibility is being determined. This will provide eligible households with the same length of Medicaid coverage while ensuring TAFI households entering the working world will receive Transitional Medicaid (TM) services to help continue their efforts toward self-reliance. In addition, rules are being updated to clarify Idaho Code references, financial responsibility and income exclusions.

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 confer a benefit for persons eligible to receive TAFI and Medicaid benefits.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because changes were necessary due to 2002 Legislation.

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

Anyone can submit written comments regarding this proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before November 27, 2002.

DATED this 24th day of September, 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. 16-0301-0201

000. LEGAL AUTHORITY.
The Department of Health and Welfare is authorized by In accordance with Sections 56-201, 56-202(b), 56-203(g), 56-209, 56-209.4(b), and 56-1004(1)(a), Idaho Code, the Idaho Legislature has authorized the Department of Health and Welfare to adopt and enforce rules for the administration of the Medicaid program. (7-1-02)

002. WRITTEN INTERPRETATIONS.
In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency has written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. The document is available for public inspection and copying at cost at the Department of Health and Welfare, 450 West State Street, P.O. Box 83720, Boise, Idaho, 83720-0036 or at any of the Department's Regional Offices. (7-1-02)

005. ABBREVIATIONS.
Abbreviations applicable to IDAPA 16.03.01 are listed in Subsections 005.01 through 005.37 of these rules. (7-1-02)

01. AFDC. Aid to Families with Dependent Children, the cash assistance program for families and children in effect through June 30, 1997. (7-1-98)
02. AG. Office of the Attorney General, Health and Welfare Division. (7-1-98)
03. AIM. The Department’s Advanced Information Management system for Medicaid. (7-1-98)
04. ASVI. Alien Status Verification Index. (7-1-98)
05. BCSS. Bureau of Child Support Services. (7-1-98)
06. CHIP. Child Health Insurance Program. (7-1-99)
07. DHW. Department of Health and Welfare. (7-1-98)
08. DOL. Department of Labor. (7-1-99)
09. DVR. Department of Vocational Rehabilitation. (7-1-98)
10. EE. Eligibility Examiner. (7-1-98)
11. EITC. Earned Income Tax Credit. (7-1-98)
12. EPICS. The DHW Eligibility Programs Integrated Computer System. (7-1-98)
13. EPSDT. Early and Periodic Screening, Diagnosis, and Treatment. (7-1-98)
14. **FmHA**. The Farmer’s Home Administration of the U.S. Department of Agriculture. (7-1-98)
15. **FPG**. Federal Poverty Guideline. (7-1-98)
16. **HUD**. The U.S. Department of Housing and Urban Development. (7-1-98)
17. **ICF/MR**. Intermediate Care Facility/Mentally Retarded. (7-1-98)
18. **ICSES**. The Idaho Child Support Enforcement System. (7-1-98)
19. **IEVS**. Income and Eligibility Verification System. (7-1-98)
20. **INA**. Immigration and Naturalization Act. (7-1-98)
21. **IRS**. Internal Revenue Service. (7-1-98)
22. **MA**. Medicaid (Medical Assistance). (7-1-98)
24. **PWE**. Principal Wage Earner. (7-1-99)
25. **RSDI**. Retirement, Survivors, and Disability Insurance. (7-1-98)
26. **SAVE**. Systematic Alien Verification for Entitlement. (7-1-98)
27. **SRS**. Self Reliance Specialist. (7-1-98)
28. **SSA**. Social Security Administration. (7-1-98)
29. **SSI**. Supplemental Security Income. (7-1-98)
30. **SSN**. Social Security Number. (7-1-98)
31. **TAFI**. Temporary Assistance for Families in Idaho. (7-1-98)
32. **TANF**. Temporary Assistance to Needy Families. (7-1-02)
33. **TPL**. Third Party Liability. (7-1-98)
34. **TM**. Transitional Medicaid. (7-1-02)
35. **UIB**. Unemployment Insurance Benefits. (7-1-98)
36. **VA**. Veterans Administration. (7-1-98)
37. **VRS**. Vocational Rehabilitation Services, Department of Education. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

204. **CITIZENSHIP AND LEGAL NON-CITIZEN REQUIREMENT.**
Individuals must be U.S. citizens or nationals or qualified legal non-citizens. Nationals of American Samoa or Swain’s Island are the equivalent of U.S. citizens. Only groups of legal non-citizens listed in Subsections #204.01 through #204.09 of this rule may be eligible.
01. Permanent Residents Admitted Before August 22, 1996. Participants must be:
   a. Legal non-citizens lawfully admitted for permanent residence.
   b. American Indians born in Canada to whom Section 289 of the INA applies or legal non-citizens who are members of Indian tribes.

02. Permanent Residents Admitted On Or After August 22, 1996. A lawful permanent resident admitted on or after August 22, 1996:
   a. Who is a veteran honorably discharged for a reason other than alienage or is on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty; or
   b. Who has lived in the U.S. for five (5) years and has forty (40) quarters of work.

03. Refugees. A refugee admitted under Section 207 of the INA, a Cuban/Haitian entrant as defined in Section 501(e) of the Refugee Assistance Act of 1980, or an Amerasian admitted under Section 584 of Public Law 100-202 and amended by Public Law 100-461 is eligible:
   a. For seven (7) years from the date of entry; or
   b. With no time limit if the refugee is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty.

04. Asylees. An asylee admitted under Section 208 of the INA is eligible:
   a. For seven (7) years from the date asylee status is assigned; or
   b. With no time limit if the asylee is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty.

05. Deportation Withheld. An individual whose deportation has been withheld under Section 241(b)(3) or 243(h) of the INA is eligible:
   a. For seven (7) years from the date deportation was withheld; or
   b. With no time limit if the deportee is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty.

06. Conditional Entrants. A conditional entrant admitted under Section 203(a)(7) of the INA who is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty.

07. Parolees. A person paroled into the U.S. under Section 212(d)(5) of the INA for a period of at least one (1) year, who is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty.

08. Battered Non-Citizen Admitted Before August 22, 1996. A legal non-citizen admitted to the U.S. before August 22, 1996, as a battered non-citizen under Section 204(a)(1)(A) or 204(a)(1)(B) of the INA, as a non-citizen whose deportation is suspended under Section 244(a)(3) of the INA and is a veteran honorably discharged for a reason other than alienage, or on active duty in the U.S. Armed Forces for other than training, or the spouse or...
unmarried dependent of the veteran or person on active duty. (7-1-99)

09. Battered Non-Citizen Admitted On Or After August 22, 1996. A legal non-citizen admitted to the U.S. on or after August 22, 1996, as a battered non-citizen under Section 204(a)(1)(A) or 204(a)(1)(B) of the INA, or as a non-citizen whose deportation is suspended under Section 244(a)(3) of the INA, who is:

a. A veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty; or

b. Who has lived in the U.S. for five (5) years. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

300. FINANCIAL ELIGIBILITY.
Financial eligibility is determined using Section 300 through Section 4706 of these rules. Income disregards described in Sections 357 through 361 and in Section 3868 of these rules do not apply to the Children’s Health Insurance Program (CHIP) coverage group. (3-30-01)

301. FINANCIAL RESPONSIBILITY.
The income and resources of individuals who are financially responsible for the Medicaid participant are counted in determining eligibility. Individuals are financially responsible for themselves. Parents are financially responsible for their adoptive and natural children but not step children. Spouses are financially responsible for each other. (7-1-98)(7-1-02)

(BREAK IN CONTINUITY OF SECTIONS)

303. PERSONS WHO MUST BE INCLUDED IN A MEDICAID BUDGET UNIT.
Persons in the home listed in Subsections 303.01 through 303.05 must be included in an AFDC-related budget unit. (3-30-01)

01. Parents. A natural or adoptive parent must be included in the budget unit. Both parents must be included if:

a. One (1) or both parents is incapacitated; (4-5-00)

b. One (1) parent is receiving AABD Medicaid based on the Community Property method and is not an SSI recipient; or

(4-5-00)

c. One (1) or both parents is unemployed or underemployed. (3-30-01)

02. Disqualified Parents. Disqualified parents are members of the budget unit, but are not included in the family size. A disqualified parent’s income and resources are counted in full. A person is disqualified if:

a. He does not meet the financial eligibility criteria found in Sections 300 through 706 of these rules; (7-1-02)

b. He does not meet the non-financial eligibility criteria found in Sections 200 through 214 of these rules; or

(7-1-02)

c. He fails to cooperate with Medicaid requirements found in Sections 215 through 220 of these rules.
03. **Siblings.** A child’s natural or adoptive brother or sister, including half (1/2) siblings, must be included in the budget unit. (4-5-00)

04. **Pregnant Woman With No Other Children.** A pregnant woman, who does not have a child residing in the home, may receive Medicaid. (4-5-00)
   a. The needs, income and resources of all persons in the home, who would be included in the budget unit if the child was born, must be counted for Medicaid eligibility. (4-5-00)
   b. The father of the child, if living in the home, must be included in the budget unit if the couple is married. The father is not eligible for Medicaid until the child is born. (4-5-00)

05. **Stepparent Incapacitated Or Unemployed.** A stepparent, who lives in the home and has a child in common with the parent, must be included in the budget unit if he is unemployed, or has a physical or mental incapacity expected to last at least thirty (30) days. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

361. **DEPENDENT CARE DISREGARD.**
A dependent care disregard is subtracted from earnings for dependents requiring care because of employment related reasons. Dependents can be either children or an incapacitated spouse. The amount disregarded is the anticipated cost of care or the maximum care allowance, whichever is less. Maximum dependent care allowances are listed in Subsections 361.01 and 361.02 of this rule. (3-30-01)(4-5-00)(7-1-02)

01. **Dependents Two Years Of Age Or Older.** Dependents, two (2) years of age or older, have up to one hundred seventy-five dollars ($175) disregarded when the caretaker relative works full-time, eighty (80) or more hours in a month. When the caretaker relative works part-time, less than eighty (80) hours in a month, up to one hundred fifteen dollars ($115) is disregarded. (7-1-98)(7-1-02)

02. **Dependents Under Two Years Of Age.** Dependents under two (2) years of age have up to two hundred dollars ($200) disregarded when the caretaker relative works full-time, eighty (80) or more hours per month. When the caretaker relative works part-time, less than eighty (80) hours in a month, up to one hundred thirty-five dollars ($135) is disregarded. (7-1-98)(7-1-02)

362. -- 369. (RESERVED).

370. **UNEARNED INCOME.**
Unearned income includes payments from pensions, RSDI, unemployment compensation, worker’s compensation, veteran’s benefits, other government benefits, TAFI, TANF, contributions, support payments, and money gifts. Unearned income includes capital investment returns, such as dividends and interest, or other income not gained through employment. (7-1-98)(7-1-02)

371. **SUPPORT INCOME.**
Support income is any payment an absent parent or absent spouse makes to the family. The payment is support when either parent defines it as such, or when the payment is used to meet the family’s needs. A child support payment is unearned income to the child. The first fifty dollars ($50) of child support received for each child is disregarded. (7-1-98)(7-1-02)

(BREAK IN CONTINUITY OF SECTIONS)
380. RETIREMENT ACCOUNT WITHDRAWALS.
Monthly withdrawals from retirement accounts are unearned income. Principal withdrawn in one (1) lump sum is a resource. Interest from a retirement account withdrawn in one (1) lump sum is unearned income. **(7-1-99)**

382. EDUCATIONAL INCOME.
Monies obtained for purposes of education are earned or unearned income as listed in Subsections 382.01 through 382.05. Any student financial assistance provided under Title IV of the Higher Education Act or under Bureau of Indian Affairs education program is excluded. **(7-1-98)**

01. Carl D. Perkins Vocational And Applied Technology Education Act. Any money in excess of attendance costs is unearned income prorated over the period the grant. **(7-1-98)**

02. State Work Study Income Of Student. Work Study income, partially or wholly funded through the State, is earned income. **(7-1-98)**

03. VA Educational Assistance. VA Educational Assistance payments are unearned income. **(7-1-98)**

04. AmeriCorps. The AmeriCorps living allowance or stipend is earned income. **(7-1-98)**

05. Federal Or Nonfederal Supported Sources. Individuals may receive scholarships, grants, or awards from state sources, civic, fraternal and alumni organizations, relatives, or other individuals. The amount of the award, minus costs of attendance, is unearned income prorated over the period of the award. **(7-1-98)**

385. INCOME EXCLUDED BY FEDERAL LAW.
Income excluded by federal law is not counted in determining income available to the participant. The following kinds of income are excluded by federal law: **(7-1-98)**

01. Agent Orange Settlement Funds. Payments made to veterans from the Agent Orange Settlement Fund. **(7-1-02)**

02. Alaska Native Claims. Tax-exempt portions of payments made in accordance with the Alaska Native Claims Settlement Act, PL 92-203. Cash, including cash dividend on stock, received from a Native Corporation unless the amount exceeds two thousand dollars ($2,000) per individual, per year. **(7-1-02)**

03. AmeriCorps. AmeriCorps payments, other than stipends or living allowances, are excluded. These payments are made for child care allowances and educational awards. **(7-1-02)**

04. Child Nutrition Benefits. The value of supplemental food assistance received under the Child Nutrition Act of 1966, as amended, and the food service program for children under the National School Fund Act, as amended. (PL 92-433 and PL 93-150). These are the WIC program and school lunch program. **(7-1-02)**

05. Commodities And Food Stamps. The value of U.S. Department of Agriculture donated commodities and Food Stamps. **(7-1-02)**

06. Disaster Relief. Assistance paid under the Disaster Relief Act of 1974 and aid provided under any federal statute for a President-declared disaster and comparable disaster assistance provided by states, local government and disaster assistance organizations. **(7-1-02)**
07. **Elderly Nutritional Benefits.** Any benefits received under Title VII, Nutritional Program for the Elderly, of the Older Americans Act of 1965.

08. **Foster Care/Adoption Assistance Payment.** Foster care payments paid by the Department are excluded. Adoption Assistance payments paid by federal, state or local agencies are excluded.

09. **Garnishments.** Income garnished by court order is not available.

10. **Home Energy Assistance.** PL 100-203 excludes Home Energy Assistance. The aid must be provided based on need certified by the Department.

11. **Home Produce.** The value of home produce used by the family.

12. **Housing Subsidies.** The value of government rent and/or housing subsidies.

13. **HUD Family Self-Sufficiency Escrow Account.** Interest earned on an escrow account established by HUD for families participating in the Family Self-Sufficiency Program established by Section 544 of the National Affordable Housing Act.

14. **Income Tax Refunds And EITC Payments.** Income tax refunds are excluded from income, but counted as a resource. Earned Income Tax Credit (EITC) payments, or the advance payment of the EITC, is excluded.

15. **Indian Payments.** Payments distributed to or held in trust for members of any Indian tribe issued under Public Law (PL) 92-254, PL 93-134, or PL 94-540. Payments distributed to certain Indian tribes, including the Shoshone-Bannock Tribe of Fort Hall, Idaho, referenced under Section 5 of PL 94-114, effective October 10, 1975. Per capita judgment funds paid to members of the Blackfoot Tribe of the Blackfoot Indian Reservation, Montana and the Gros Ventre Tribe of the Fort Belknap Reservation, Montana. Per capita funds held in trust by the Secretary of the Interior for tribal members paid under PL 98-64. Effective January 1, 1994, up to two thousand dollars ($2,000) of payments derived from interests of individual Indians in trust or restricted lands are excluded by Section 8 of the PL 93-134 as amended by PL 103-66.

16. **Loans.** A bona fide loan is not available income.

17. **Low Income Energy Assistance.** Money paid to families under the Low Income Energy Assistance Act of 1981 is excluded.

18. **Radiation Exposure Compensation Act.** Payments made to individuals under this act are excluded.

19. **Relocation Assistance.** Payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and relocation payments paid to civilians of World War II per Public Law 100-383.

20. **SSI Income Or AABD Income.** Income and resources of a person who has been determined eligible for or is receiving SSI or AABD is excluded.

21. **Senior Volunteer Programs.** Payments for supportive services or out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aids, or senior companions and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other program under Title II and Title III of the Domestic Volunteer Service Act of 1973, Section 418, PL 93-113.

22. **Spina Bifida.** Spina bifida allowances paid to children of Vietnam veterans.

23. **Third Party Deposits To A Checking Account.** Third party deposits to a participant’s checking account are excluded if the deposit is solely for the use of the third party and the participant receives no benefit from the deposit.
24. **Title IV Educational Income.** Any student financial assistance provided under Title IV of the Higher Education Act or under Bureau of Indian Affairs education program. (7-1-02)

25. **Utility Reimbursement Payments.** Utility reimbursement payments made to persons living in housing subsidized by HUD. (7-1-02)

26. **VISTA Volunteers.** Payments to individual volunteers under PL 96-143, the Domestic Volunteer Act of 1979, under Title I of PL 93-113 pursuant to Section 404(g), which governs the Volunteers in Service to America (VISTA). (7-1-02)

27. **Work-Related Payments.** Payments made by an employer for work-related expenses are excluded. Work-related expenses include travel and per diem. (7-1-02)

306. **COUNTING TEMPORARY ASSISTANCE TO FAMILIES IN IDAHO (TAFI) INCOME.**

Individuals and families are eligible for Medicaid coverage under the Low Income Families With Children group (MA or MU) as described in Section 413 of these rules, if:

01. **TAFI Income.** Their only income is Idaho TAFI. (7-1-02)

02. **TAFI Income And Unearned Income.** Their only income is a combination of Idaho TAFI and other unearned income, but whose total income is equal to or less than the current Idaho TAFI maximum grant amount. (7-1-02)

03. **TAFI Income And Medicaid Eligible.** Their income includes Idaho TAFI and they meet the Medicaid financial eligibility criteria described in Sections 346 through 388 of these rules. (7-1-02)

307. **COUNTING OUT-OF-STATE TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BENEFITS.**

When determining eligibility for Medicaid coverage, TANF payments received from other states are countable unearned income. (7-1-02)

308. **UNEARNED CHILD SUPPORT INCOME DISREGARD.**

Unearned income disregards are subtracted from monthly income as listed in Subsections 306.01 and 306.02. The first fifty dollars ($50) of child support received for each child is disregarded. (7-1-98)

01. **Child Support Disregard.** The first fifty dollars ($50) of child support is disregarded. (7-1-98)

02. **TAFI.** One hundred dollars ($100) of TAFI income is disregarded for one (1) and two (2) person families. One-time only TAFI diversion payments are excluded as income. (3-30-01)

309. -- 399. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

413. **LOW INCOME FAMILIES WITH CHILDREN.**

Families with minor children in the home, who would be AFDC eligible if the program was in effect, are eligible if non-financial, financial, and the conditions listed in Subsections 413.01 through 413.04 of these rules are met. (7-1-98)

01. **Living With A Relative.** A child must live in a home with an adult caretaker who is related to the child by blood, marriage, or adoption. (7-1-98)

02. **Dependent Child.** A dependent child is a child under eighteen (18) years of age or, if over eighteen
(18) years of age, is expected to graduate from high school by the nineteenth (19th) birthday. (7-1-98)

03. **Financial Deprivation.** The dependent child must be deprived. Deprivation is the lack of, or interruption in parental care, guidance and support ordinarily received from one (1) or both parents. A child is financially deprived when one (1) of the conditions listed in Subsections 413.03.a. through 413.03.d. exists, the family’s income does not exceed the income limit for their family size as described in Section 401 of this rule. (3-30-01)

   a. **Continued Absence.** A child is deprived when a parent is continuously absent from the home and no longer provides support, care or parental guidance. This may be due to death, divorce, desertion, marital separation, annulment, deportation or confinement in an institution for more than thirty (30) days. A child is not deprived when the sole reason for the parent’s absence is employment away from home. A child is not deprived when the sole reason for a parent’s absence is active duty in a uniformed service. (3-30-01)

   b. **Paternity Not Established.** A child is deprived when paternity is not established or an Acknowledgement of Paternity form is not signed. (3-30-01)

   c. **Incapacity.** A child is deprived when a parent has a physical or mental incapacity expected to last for at least thirty (30) days. A parent is incapacitated when qualified for SSI, AABD, or Social Security Disability. A parent is incapacitated when physically or mentally unable to work full-time at his usual occupation, or the occupation for which he was trained, or is unable to perform homemaking activities without help from others. (3-30-01)

   d. **Unemployment or Underemployment.** A child is deprived in a two (2) parent family when the family meets financial requirements. The budget unit must include at least one (1) child common to both parents. (3-30-01)

04. **One Hundred Eighty-Five Percent Test.** The family is ineligible for AFDC-related Medicaid when total gross income exceeds one hundred eighty-five percent (185%) of the monthly need standard. (3-30-01)

**(BREAK IN CONTINUITY OF SECTIONS)**

416. **TRANSITIONAL MEDICAID (TM).**
Individuals and families who were eligible for Medicaid coverage under the Low Income Families with Children group (MA or MU) are eligible for Transitional Medicaid (TM) if the family income exceeds limits because of a reason listed in Subsections 416.01 through 416.03 of this rule. The caretaker must have earnings each month. The family must have received Medicaid in three (3) of the six (6) months before the month they became ineligible unless the family meets the condition in Subsection 416.01 of this rule. Eligible families may get TM for up to twelve (12) months. (4-5-00)

   01. **Hours Of Employment Increased.** Family income exceeds limits because the caretaker relative’s hours of employment increased. Idaho TAFI Income and Income From Employment. Family income exceeds limits because they have Idaho TAFI income and income from employment. (4-5-00)

   02. **Employment Income Increased.** Family income exceeds limits because employment income increased. (4-5-00)

   03. **Disregard Expired.** Family income exceeds limits because the thirty dollar ($30) plus one-third (1/3) or the thirty dollar ($30) disregard expired. (4-5-00)
EFFECTIVE DATE: These temporary rules are effective October 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) 39-106(1)(a), 56-202, 56-203, and 56-1004, Idaho Code.

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

These changes are to bring current rules into compliance with recent changes in Federal statutes and to reflect changes in the Code of Federal Regulations.

This rule is being amended to: remove the requirement that legal and qualified immigrants who receive disability benefits be legally present in the U. S. as of August 22, 1996 in order to be eligible to receive Food Stamps, add references throughout the rule to the disability criteria in IDAPA 16.03.04 Subsections 216.02 through 216.10, add a new non-TAFI participant student exemption from JSAP and delete references to SSI being a means-tested program. The changes also update: the total number of weekly hours for part-time employment, references to standard income deductions, and the gross monthly income eligibility standards, net monthly income eligibility standards and maximum food stamp benefit.

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(1)(b), Idaho Code, and are necessary in order to comply with deadlines in amendments to governing law or federal programs.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes in the rule were made to bring rules into compliance with recent changes in Federal statutes and regulations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Phil Gordon, (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 November 27, 2002.

DATED this 24th day of September, 2002.

Sherri Kovach
Administrative Procedures Coordinator
THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0304-0202

204. CITIZENSHIP OR SATISFACTORY IMMIGRATION STATUS.
A person must be a U.S. resident to get Food Stamps. A person must be a U.S. citizen, a U.S. non-citizen, or a qualified legal non-citizen to get Food Stamps. To be eligible for Food Stamps, legal non-citizens must meet a category in Subsections 204.01 through 204.10 of this rule.

01. Permanent Residents. A non-citizen lawfully admitted to the United States for permanent residence is eligible indefinitely if meeting a condition in Subsection 204.01.a. or 204.01.b. of these rules:

a. The non-citizen is a veteran honorably discharged for a reason other than alienage, or is on active duty in the U.S. Armed Forces for other than training, or is the spouse or unmarried dependent of the veteran.

b. The non-citizen has forty (40) quarters of work. A quarter worked by the legal non-citizen's parent, while the legal non-citizen was under age eighteen (18) and a quarter worked by the legal non-citizen’s spouse during marriage if the legal non-citizen remains married to the spouse or the spouse is deceased can be counted as a quarter of work for the legal non-citizen. Any quarter after January 1, 1997, in which a legal non-citizen received any Federal means-tested benefit is not counted as a quarter of work.

02. Lawful Non-Citizen, Permanent Residents Residing In The U.S. On August 22, 1996. Lawful non-citizen, permanent residents residing in the U.S. on August 22, 1996 who are:

a. Blind or disabled of any age under the disability criteria listed in Subsections 216.02 through 216.10 of these rules.

b. Sixty-five (65) years of age or older, at that time;

c. A child who is now under the age of eighteen (18).

03. Lawful Non-Citizen, Permanent Residents Who Are Blind Or Disabled. Lawful non-citizen, permanent residents who are blind or disabled and meet one (1) of the disability criteria listed in Subsections 216.02 through 216.10 of these rules.

034. Refugees. A refugee admitted under Section 207 of the Immigration and Nationality Act, a Cuban/Haitian entrant as defined in Section 501(e) of the Refugee Assistance Act of 1980, or an Amerasian admitted under Section 584 of Public Law 100-202 and amended by Public Law 100-461, is eligible:

a. For seven (7) years from refugee’s date of entry;

b. With no time limit if the refugee is a veteran honorably discharged for a reason other than alienage, or on active duty in the U.S. Armed Forces for other than training, or the spouse or unmarried dependent of the veteran or person on active duty.
045. **Asylees.** An asylee admitted under Section 208 of the Immigration and Nationality Act is eligible:
   (7-1-99)
   a. For seven (7) years from the date asylee status is assigned; or
   (4-5-00)
   b. With no time limit if the asylee is a veteran honorably discharged for a reason other than alienage, or on active duty for other than training in the U.S. Armed Forces, or the spouse or unmarried dependent of the veteran or person on active duty. (7-1-99; 10-1-02)

046. **Deportation Withheld.** An individual whose deportation has been withheld under Section 241(b)(3) or 243(h) of the Immigration and Nationality Act is eligible:
   (7-1-99)
   a. For seven (7) years from the date deportation was withheld; or
   (4-5-00)
   b. With no time limit if the deportee is a veteran honorably discharged for a reason other than alienage, or on active duty in the U.S. Armed Forces for other than training, or the spouse or unmarried dependent of the veteran or person on active duty. (7-1-99; 10-1-02)

047. **Conditional Entrants.** A conditional entrant admitted under Section 203(a)(7) of the Immigration and Nationality Act who is a veteran honorably discharged for a reason other than alienage, or on active duty in the U.S. Armed Forces for other than training, or the spouse or unmarried dependent of the veteran or person on active duty. (7-1-99; 10-1-02)

048. **Parolees.** A person paroled into the United States under Section 212(d)(5) of the Immigration and Nationality Act for a period of at least one (1) year who is a veteran honorably discharged for a reason other than alienage, or on active duty in the U.S. Armed Forces for other than training, or the spouse or unmarried dependent of the veteran or person on active duty. (7-1-99; 10-1-02)

049. **Battered Non-Citizen.** A legal non-citizen admitted to the United States as a battered non-citizen under Section 204(a)(1)(A), or 204(a)(1)(B) of the Immigration and Nationality Act (INA), as a non-citizen whose deportation is suspended under Section 244(a)(3) of the INA who is a veteran honorably discharged for a reason other than alienage, or on active duty in the U.S. Armed Forces for other than training, or the spouse or unmarried dependent of the veteran or person on active duty. (7-1-99; 10-1-02)

050. **Certain Hmong and Highland Laotians.** Certain Hmong and Highland Laotians who were:
   (4-5-00)
   a. Members of a Hmong or Highland Laotian tribe at the time the tribe rendered assistance to United States personnel by taking part in a military or rescue operation during the Vietnam era beginning August 5, 1964 and ending May 7, 1975; or
   (4-5-00)
   b. The spouse or unmarried dependent child of such an individual; or
   (4-5-00)
   c. The unremarried surviving spouse of such an individual who is deceased. (4-5-00)

101. **Native Americans.** Native Americans with treaty rights to cross the U.S. borders, American Indians born in Canada to whom the provisions of Section 289 of the Immigration and Nationality Act apply, or members of an Indian tribe as defined in Section 4(e) of the Indian Self-Determination and Education Assistance Act. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)
267. GOOD CAUSE FOR VOLUNTARILY QUITTING A JOB OR REDUCING WORK HOURS.
If a household member voluntarily quits a job, determine if the quit was for good cause. All facts and circumstances submitted by the household and the employer must be considered. Good cause includes, but is not limited to, the reasons listed below:

01. Personal Difficulties. Personal difficulties include:
   a. Health problems;
   b. Structured drug and alcohol treatment;
   c. Jailed or necessary court appearances; and
   d. Conflicts with verified and practiced religious and ethical beliefs.

02. Family Emergencies. Family emergencies include:
   a. Crisis in family health; and
   b. Child legal or behavioral problems.

03. Environmental Barriers. Environmental barriers include:
   a. Weather conditions preventing the person from reaching the work site;
   b. Unexpected loss of transportation; and
   c. Housing or utility problems requiring immediate attention.

04. Work Site Problems. Work site problems include:
   a. Temporary layoff from a regular, full-time job. The person must be able to return to the job within ninety (90) days;
   b. Work site conditions not meeting legal or local standards of health and safety, hours, pay, or benefits; and
   c. Alleged discrimination on the job site.

05. Employment Or School. The household member accepts employment, or enrolls at least half-time in any recognized school, training program, or an institution of higher education.

06. Employment Or School In Another Area. Another household member accepts employment in another area, requiring the household to move. Another household member enrolls at least half-time in a recognized school, a training program, or an institution of higher education in another area, requiring the household to move.

07. Retirement. Persons under age sixty (60) resign, if the resignation is recognized as retirement.

08. Full Time Job Does Not Develop. A person accepts a bona fide offer of a full time job. The job does not develop. The job results in employment of less than twenty thirty (20) hours a week, or weekly earnings of less than the Federal minimum wage multiplied by twenty thirty (20) hours.

09. Temporary Pattern Of Employment. Person leaves a job where workers move from one (1) employer to another, such as migrant farm labor or construction work. Households may apply for benefits between jobs, when work is not yet available at the new site. Even though the new employment has not actually begun, the
previous quit is with good cause if it is the pattern of that type of employment. (6-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

276. FAILURE TO COMPLY WITH A REQUIREMENT OF ANOTHER MEANS - TESTED PROGRAM.
Food Stamps must not increase when a failure to comply causes other means-tested benefits to decrease. Benefits from means-tested programs like TAFI and SSI may decrease due to failure to comply with a program requirement. Food Stamp benefits must not increase because of this income loss. If a reduction in benefits from another means-tested program occurs, verify the reason for the reduction. If the reason for the reduction cannot be verified, document the case record to reflect the good faith effort to verify the information. (6-1-94) (10-1-02)

277. PENALTY FOR FAILURE TO COMPLY WITH A REQUIREMENT OF ANOTHER MEANS - TESTED PROGRAM.
The To prevent an increase in Food Stamp benefits, penalties will be applied to the a Food Stamp case for failure to comply with a requirement of another means-tested program to prevent an increase in Food Stamp benefits are listed in Subsections 277.01 and 277.02 such as TAFI. When a Food Stamp recipient fails to comply with a requirement of the TAFI program, count that portion of the benefit decrease attributed to the TAFI penalty. Conditions for ending the penalty are listed in Subsections 277.01 through 277.03 of this rule.

   01. Failure To Comply With A TAFI Requirement. When a Food Stamp recipient fails to comply with a requirement of the TAFI program count that portion of the benefit decrease attributed to the TAFI penalty. Conditions for ending the penalty are listed below. (7-1-98)
      a01. Time-Limited TAFI Penalty. If the TAFI penalty is time-limited, end the FS penalty when the TAFI penalty is ended. (7-1-98)
      b02. Lifetime TAFI Penalty. If the TAFI penalty is a lifetime penalty, apply the FS penalty for a length of time to match the remaining months of TAFI eligibility for the household. End the FS penalty if the household subsequently reaps TAFI and is denied for a reason other than the noncompliance that caused the TAFI penalty. (7-1-98)
      c03. Member Who Caused The TAFI Penalty Leaves The Household. End the FS penalty when the member who caused the TAFI penalty leaves the household. (7-1-98)

   02. Failure To Comply With A Requirement Of A Means-Tested Program Such As SSI. For a failure to comply with a requirement of another means-tested program, such as SSI, which results in a reduction of benefits, count that portion of the benefit decrease which is attributed to the penalty. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

305. RESOURCE LIMIT.
The Food Stamp resource limit for households with one (1) member who is age sixty (60) or over, or disabled, is three thousand dollars ($3,000). The resource limit is three thousand dollars ($3,000), even if the person age sixty (60) or over is the only person in the household. The resource limit for other households is two thousand dollars ($2,000). To be considered as disabled, a person must meet one (1) of the criteria listed in Subsections 216.02 through 216.10 of these rules. (6-1-94) (10-1-02)

306. CHANGE IN RESOURCE LIMIT.
The Food Stamp resource limit changes from two thousand dollars ($2,000) to three thousand dollars ($3,000) the month a household member turns age sixty (60) or when the household member is disabled and meets one (1) of the criteria listed in Subsections 216.02 through 216.10 of these rules. (6-1-94) (10-1-02)
307. RESOURCES AND CHANGE IN HOUSEHOLD MEMBERS.
A change in household members can change the resource limit. If a household gains one member age sixty (60) or older, or who is disabled, the resource limit changes the month the Department adds the member to the Food Stamp household. If a household loses all members age sixty (60) or older, or who is disabled, the resource limit changes the month the Department removes the member from the Food Stamp household. (6-1-94)(10-1-02)

(BREAK IN CONTINUITY OF SECTIONS)

512. SPECIAL CASES FOR COUNTING INCOME.
Special cases for counting income are listed below: (6-1-94)

01. Wages Held At The Request Of Employee. Wages held at the request of the employee are income in the month the wages would have been paid by the employer. (6-1-94)

02. Garnishments Held By Employer. Garnishments withheld by an employer are income in the month the wages would have been paid. (6-1-94)

03. Wages Held By Employer, Other Than Garnishment And Employee Request. Wages held by the employer, even if in violation of law, are not counted as income. (6-1-94)

04. Advances On Wages. Advances on wages will count as income if the household reasonably expects the advance to be paid. (6-1-94)

05. Varying Payment Cycles. Households getting unearned or earned income on a recurring monthly or semi-monthly basis do not have varying income merely because mailing or payment cycles cause additional payments to be received in a month. The income is counted for the month it is intended. (7-1-98)

06. Nonrecurring Lump Sum Payments And Capital Gains. Nonrecurring lump sum payments must not be counted as income. Nonrecurring lump sum payments are counted as a resource starting in the month received. Nonrecurring lump sum payments include capital gains from the sale or transfer of securities, real estate, or other real property held as an investment for a set period of time. The capital gains are income only if the assets were used in self-employment. (6-1-94)

07. SSI Or PA Entitlement. If a household intentionally fails to comply with a means-tested program, a penalty may be imposed and benefits reduced to collect the means-tested program overpayment. Means-tested programs include SSI or PA. Count the full amount of means tested benefits the household is entitled to, not the reduced amount caused by the failure to comply. (7-1-98)(10-1-02)

(BREAK IN CONTINUITY OF SECTIONS)

532. GROSS INCOME LIMIT.
Households exceeding the gross income limit for the household size are not eligible, unless they are categorically eligible or have an elderly or disabled member. Categorically eligible households are exempt from gross and net income limits. All members of categorically eligible households must be approved for TAFI, AABD, or SSI. Households with elderly or disabled household members are exempt from the gross income limit. Gross income limits are listed in Table 532.
533. INCOME DEDUCTIONS.
A household is entitled to a deduction when it gets a bill or, if there is no bill, when the payment is due. Only the deductions listed below must be taken from household’s gross income:


02. Earned Income Deduction. The earned income deduction is twenty percent (20%) of gross earned income. (6-1-94)

03. Excess Medical Deduction. The excess medical deduction is nonreimbursed medical expenses more than thirty-five dollars ($35) per household per month. The household member must be either age sixty (60) or older or disabled to get this deduction. Special diets are not deductible. (6-1-94)

04. Dependent Care Deduction. The dependent care deduction each month is dependent care expenses up to a maximum of two hundred dollars ($200) per dependent child under age two (2) and one hundred seventy-five dollars ($175) for any other dependent. The care must be needed for a household member to accept, continue, or seek employment, or attend school or training for employment. (9-1-94)

05. Child Support Deduction. The child support deduction is the legally obligated child support amount the household pays, or expects to pay, on behalf of a non-household member. (7-1-97)

06. Shelter Costs. The monthly shelter cost, over fifty percent (50%) of the household’s income after all other deductions, is the excess shelter cost. (6-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

543. STANDARD UTILITY ALLOWANCE (SUA).
The shelter deduction is computed using the SUA or actual utility costs. The Standard Utility Allowance (SUA) can be used instead of actual costs of heating, cooling, cooking fuel, electricity, the basic service fee for one (1)

<table>
<thead>
<tr>
<th>Household Size</th>
<th>Gross Income Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$431 960</td>
</tr>
<tr>
<td>2</td>
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<td>$1,585 1,628</td>
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<tr>
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<td>$1,913 1,961</td>
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<tr>
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<td>$2,240 2,295</td>
</tr>
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<td>$2,567 2,629</td>
</tr>
<tr>
<td>7</td>
<td>$2,894 2,962</td>
</tr>
<tr>
<td>8</td>
<td>$3,221 3,296</td>
</tr>
<tr>
<td>Each Added Person</td>
<td>Add $328 334</td>
</tr>
</tbody>
</table>
telephone, water, sewer and garbage collection. The SUA is two hundred thirty-one forty-four dollars ($231.44). The household must be told if actual utility costs exceed the SUA, the actual costs can be used if the household proves these costs. To qualify for the SUA, households must receive direct or indirect energy assistance payments made under the Low Income Home Energy Assistance Act of 1981 (LIHEAP); or meet the conditions in Subsections 543.01 through 543.06 of this rule.

01. **Primary Heating Or Cooling System.** The household must have a primary heating or cooling system to qualify for the SUA. A primary heating system is a central heating system, or space heating stove, used to heat the living quarters of the home. A cooling system is a central air conditioning system or a room air conditioner. The household must have out-of-pocket heating or cooling costs billed on a regular or irregular basis. The heating or cooling costs must be separate from rent or mortgage payments. This includes households in private rental housing, billed by their landlords for individual usage or charged a flat rate, separately from rent. If not billed regularly for heating or cooling costs, the household must be otherwise Food Stamp eligible between billing periods. (3-15-02)

02. **Cooling Costs.** If the household claims cooling costs, the household must have either an air conditioning system or a room air conditioner to qualify for the SUA. (3-15-02)

03. **Heating Costs.** If the household claims heating costs, the household must have expenses for a primary source of heat. Households buying wood for their primary source of heat may get the SUA. Cutting their own wood for the primary source of heat does not qualify a household for the SUA. Supplemental heat sources like, space heaters, electric blankets, cook stoves and a secondary heat source like a fireplace do not qualify households for the SUA. (3-15-02)

04. **Energy Assistance Excluded From Income.** If the household gets direct or indirect energy assistance that is excluded from income, the household gets the SUA if the amount of the expense exceeds the amount of the assistance. (3-15-02)

05. **Energy Assistance Not Excluded From Income.** If a household gets energy assistance that is not excluded from income, the household must also have out-of-pocket heating or cooling costs to get the SUA. (3-15-02)

06. **Occupied And Unoccupied Home.** A household with both an occupied home and an unoccupied home, is limited to one (1) SUA. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

549. **NET INCOME LIMIT TEST.**
Categorically eligible households do not have a net income limit. For all other households, including those with an elderly or disabled household member, compare the net income to the net income eligibility limit for that size household. This comparison must be completed for initial eligibility and when income changes. When the household income changes to a different income eligibility limit, apply the different limit. If the net income of the household exceeds the net income limit the household is not eligible for Food Stamps, unless categorically eligible. Net income limits are listed in Table 549.

<table>
<thead>
<tr>
<th>Household Size</th>
<th>Net Income Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
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<tr>
<td>3</td>
<td>$12,252</td>
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<td>4</td>
<td>$14,509</td>
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</tbody>
</table>

(IDAHO ADMINISTRATIVE BULLETIN Page 43 November 6, 2002 - Vol. 02-11)
550. STEPS TO COMPUTE FOOD STAMP PAYMENT.
Use the steps in Subsections 550.01 through 550.38 of this rule to compute the Food Stamp issuance. Do not round figures or calculations of income and deductions in determining gross or net income.

01. Step 1. List projected wages and salaries for the household for the month. Do not count excluded income. (6-1-94)

02. Step 2. Compute and list net self-employment income. If a farmer, list any self-employment profit or loss. (6-1-94)

03. Step 3. Add results of Step 1 and Step 2. THIS IS GROSS EARNED INCOME. (6-1-94)

04. Step 4. Compute and list prorated monthly non-excluded educational income. (6-1-94)

05. Step 5. Compute and list prorated monthly tuition, mandatory fees, and allowed expenses. (6-1-94)

06. Step 6. Subtract amount in Step 5 from the amount in Step 4. (6-1-94)

07. Step 7. List other unearned income for household. (6-1-94)

08. Step 8. Add results of Step 6 and Step 7. THIS IS TOTAL UNEARNED INCOME. (6-1-94)

09. Step 9. Add results of Step 3 and Step 8. (6-1-94)

10. Step 10. Subtract any loss not used up in Step 2 from Step 9. THIS IS GROSS MONTHLY INCOME. Record the gross monthly income. Check to see if gross income exceeds the limit for family size. Categorically eligible households are exempt from the gross income test. Households with an elderly or disabled household member are exempt from the gross income test. (6-1-94)

11. Step 11. Multiply amount in Step 3 times twenty percent (20%). (6-1-94)


14. Step 14. List the standard deduction. (4-5-00)


16. Step 16. List converted medical costs over thirty-five dollars ($35) for household with elderly or disabled member. (6-1-94)
17. **Step 17.** Subtract amount in Step 16 from amount in Step 15.  

18. **Step 18.** List converted dependent care costs (not to exceed two hundred dollars ($200) per dependent under age two (2) and one hundred seventy five dollars ($175) for any other dependent).  

19. **Step 19.** Subtract amount in Step 18 from amount in Step 17.  

20. **Step 20.** List child support paid or expected to be paid by the household.  

21. **Step 21.** Subtract amount in Step 20 from amount in Step 19. THIS IS INCOME, AFTER DEDUCTIONS, EXCEPT SHELTER DEDUCTION.  

22. **Step 22.** Divide amount in Step 21 by two (2) (this is used to weigh shelter costs). THIS IS HALF THE ADJUSTED INCOME.  

23. **Step 23.** List rent or mortgage payment.  

24. **Step 24.** List property taxes (averaged over twelve (12) months).  

25. **Step 25.** List homeowners insurance on structure (averaged over twelve (12) months).  

26. **Step 26.** Add amount in Step 23 and amount in Step 24 and amount in Step 25.  

27. **Step 27.** If client chooses the standard utility allowance (SUA), add the SUA to the amount in Step 26. (4-5-00)  

28. **Step 28.** If client has chosen to use actual utility expenses, list and add the following expenses:  

   a. Basic rate for telephone.  
   b. Electric bill.  
   c. Gas bill.  
   d. Heating oil.  
   e. Wood costs (only if purchased for heat).  
   f. Water and sewer bill.  
   g. Garbage and trash collection.  
   h. Installation costs for utilities.  
   i. Other allowed utility costs.  

29. **Step 29.** If client has chosen to use actual utility expenses, add amount in Step 26 and amount in Step 28.  

30. **Step 30.** Use amount from Step 27 (using standard utility allowance) or amount from Step 29 (using actual utility costs) as total shelter cost. (7-1-97)  

31. **Step 31.** Subtract half adjusted income (Step 22) from amount in Step 30. THIS IS THE EXCESS SHELTER DEDUCTION. If any member of the household is age sixty (60) or disabled, use the full excess shelter allowance. For all other households use the excess shelter deduction up to the maximum specified in Title 7 United States Code Section 2014. Current deductions may be found at: http://www.fns.usda.gov/fsp/MENU/ADMIN/
32. **Step 32.** Subtract amount in Step 31 from amount in Step 21. THIS IS THE NET INCOME. (7-1-97)

33. **Step 33.** List maximum net income limit based on household size. (7-1-97)

34. **Step 34.** If amount in Step 32 is less than or equal to amount in Step 33, or if all household members are categorically eligible, compute the Food Stamp amount. If the amount in Step 32 is greater than the amount in Step 33, net income exceeds allowed limits. (7-1-97)

35. **Step 35.** List maximum Food Stamp amount for number of eligible household members. (7-1-97)

36. **Step 36.** Multiply amount in Step 32 times three-tenths (0.3) (thirty percent (30%).) (7-1-97)

37. **Step 37.** Subtract amount in Step 36 from the amount in Step 35. (7-1-97)

38. **Step 38.** Round the amount in Step 37 to the next lower dollar. THIS IS THE FOOD STAMP ISSUANCE AMOUNT. (7-1-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

581. **MAXIMUM FOOD STAMPS BY HOUSEHOLD SIZE.**
The maximum Food Stamp amount by household size is listed in Table 581.

<table>
<thead>
<tr>
<th>Household Size</th>
<th>Maximum Food Stamps</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$135 139</td>
</tr>
<tr>
<td>2</td>
<td>$248 256</td>
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<td>3</td>
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<td>7</td>
<td>$712 733</td>
</tr>
<tr>
<td>8</td>
<td>$814 838</td>
</tr>
<tr>
<td>Each Added Person</td>
<td>Add $102 105</td>
</tr>
</tbody>
</table>

(4-5-00)(10-1-02)T
**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(s) 56-201 through 56-233, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 7, 2002, Idaho Administrative Bulletin, Volume 02-8, pages 27 through 38.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Phil Gordon, Acting Chief, Bureau of Benefit Program Operations at (208) 334-5818.

DATED this 24th day of September, 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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**IDAPA 16, TITLE 03, Chapter 05**

**RULES GOVERNING ELIGIBILITY FOR AID TO AGED, BLIND, AND DISABLED (AABD)**

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 02-8, August 7, 2002, pages 27 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.
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 Sections 56-202(b) and 56-203(g), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 7, 2002, Idaho Administrative Bulletin, Volume 02-8, pages 45 through 48.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Jan Uren at (208) 364-1854.

DATED this 24th day of September, 2002.

Sherri Kovach
Administrative Procedures Coordinator
DHW – Administrative Procedures Section
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IDAPA 16, TITLE 03, Chapter 09

RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM IN IDAHO

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-8, August 7, 2002, pages 45 through 48.

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.
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(s) 56-202(b); 56-203(g), (i), (j); 56-1003(l); 56-1004(l)(a), 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 August 7, 2002, Idaho Administrative Bulletin, Volume 02-8, pages 49 and 50.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Robin Pewtress at (208) 364-1892.

DATED this 24th day of September, 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
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 Sections 56-202(b) and 56-203(g), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 7, 2002, Idaho Administrative Bulletin, Volume 02-8, pages 51 through 55.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Jan Uren at (208) 364-1854.

DATED this 24th day of September, 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
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 Sections 56-202(b) and 56-203(g), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 7, 2002, Idaho Administrative Bulletin, Volume 02-8, pages 56 through 59.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Leslie Clement at (208) 364-1840.

DATED this 24th day of September, 2002.

Sherri Kovach
Administrative Procedures Coordinator
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450 West State Street - 10th Floor
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IDAPA 16, TITLE 03, Chapter 10

RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT

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 02-8, August 7, 2002, pages 56 through 59.

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.
AUTHORITY: In compliance with Section 67-5221, 67-5224, and 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule previously adopted under this docket. The action is authorized pursuant to Section 56-203(b), Idaho Code.

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

The temporary rule adopted by the Department under docket number 16-0612-0201 and published in the May 1, 2002, Idaho Administrative Bulletin, Volume 02-5, pages 71 and 72, is hereby rescinded. The temporary rule is no longer effective and expired under its own terms on May 31, 2002.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rescission, contact Cheryl Bowers (208) 334-5818.

DATED this 24th day of September, 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
AUTHORITY: In compliance with Section 67-5220, Idaho Code, and IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality,” Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This negotiated rulemaking action is authorized by Section 39-105, Idaho Code. The formal rulemaking action is authorized by Sections 39-105 and 39-107, Idaho Code.

MEETING SCHEDULE: Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meetings. Additional meetings may be scheduled if necessary. For information regarding additional meetings, contact Phyllis Heitman at (208)373-0502 or pheitman@deq.state.id.us.

November 14, 2002, 9 a.m. to 12 noon
Department of Environmental Quality
Conference Room B
1410 N. Hilton, Boise, Idaho

December 3, 2002, 9 a.m. to 12 noon
Department of Environmental Quality
Conference Room B
1410 N. Hilton, Boise, Idaho

PRELIMINARY DRAFT: By November 6, 2002, a preliminary draft of the rule can be obtained at www2.state.id.us/deq/rules/58-0101-0205.htm or by contacting Phyllis Heitman at (208) 373-0502 or pheitman@deq.state.id.us.

DESCRIPTIVE SUMMARY: Portable equipment, such as a hot-mix asphalt plant, is currently permitted under the stationary source permit to construct program. The current permitting program requires that every hot-mix asphalt plant obtain a permit to construct prior to operating equipment in the state of Idaho. Although the permits follow a general outline, processing the large number of asphalt plant permits requires considerable Department of Environmental Quality (DEQ) and applicant resources and necessitates a time delay for the permittees. With the rate of growth in the state, a method of streamlining general permits is needed.

This rulemaking focuses on establishing general operating requirements for hot-mix asphalt plants in a rule. The rule would specify the requirements for registration and operation to meet the applicable standards. It is estimated that approximately 75 to 80% of asphalt plants could opt to register and operate within the specified parameters in lieu of obtaining an individual permit. From July 2000 to September 2002, DEQ issued permits to construct to seventeen hot-mix asphalt facilities.

The proposed rule will establish the registration process and specify the operating parameters and requirements that are normally specified in a general permit for hot-mix asphalt plants. The parameters include best management practices for the control of fugitive dust, limitations on the hours of operation or fuel consumption rates for different sizes and types of generators and other associated fuel-burning equipment, and general provisions to ensure compliance with the National Ambient Air Quality Standards and other applicable requirements. The rule will also specify the length of time equipment may be operating at a single location before additional requirements apply. The permitting requirements for hot-mix asphalt plant owners and operators will be reduced. The standards of performance will not be reduced. The permit by rule will be written to ensure that the requirements for protection of human health and the environment are maintained and that enforcement action can be taken if the rule provisions are not met.

Hot-mix asphalt plant operators who are required to obtain permits to construct may be interested in participating in this rulemaking. Citizens living in areas where hot-mix asphalt plants are located, or may locate, and citizens concerned about air quality in general may also be interested in this rulemaking.
Upon conclusion of the negotiated rulemaking process, DEQ intends to present a rule to the Board of Environmental Quality (Board) in February 2003 for temporary adoption and, at the same time, commence formal rulemaking with the publication of a proposed rule.

GENERAL INFORMATION: For more information about DEQ’s programs and activities, visit DEQ’s web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the negotiated rulemaking, contact Phillis Heitman at (208) 373-0502 or pheitman@deq.state.id.us.

Anyone may submit written comments on the preliminary draft by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before December 3, 2002.

Dated this 24th day of September, 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
AUTHORITY: In compliance with Section 67-5220, Idaho Code, and IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality,” Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This negotiated rulemaking action is authorized by Section 39-105, Idaho Code. The formal rulemaking action is authorized by Sections 39-105 and 39-107, Idaho Code.

MEETING SCHEDULE: Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meetings. Additional meetings may be scheduled if necessary. For information regarding additional meetings, contact Phyllis Heitman at (208) 373-0502 or pheitman@deq.state.id.us.

November 14, 2002, 1:30 p.m. to 3:30 p.m.
Department of Environmental Quality
Conference Room B
1410 N. Hilton, Boise, Idaho

December 3, 2002, 1:30 p.m. to 3:30 p.m.
Department of Environmental Quality
Conference Room B
1410 N. Hilton, Boise, Idaho

PRELIMINARY DRAFT: By November 6, 2002, a preliminary draft of the rule can be obtained at www2.state.id.us/deq/rules/58-0101-0206.htm or by contacting Phyllis Heitman at (208) 373-0502 or pheitman@deq.state.id.us.

DESCRIPTIVE SUMMARY: Portable equipment, such as a concrete batch plant, is currently permitted under the stationary source permit to construct program. The current permitting program requires that every concrete batch plant obtain a permit to construct prior to operating equipment in the state of Idaho. Although the permits follow a general outline, processing the large number of concrete plant permits requires considerable Department of Environmental Quality (DEQ) and applicant resources and necessitates a time delay for the permittees. With the rate of growth in the state, a method of streamlining general permits is needed.

This rulemaking focuses on establishing general operating requirements for concrete batch plants in a rule. The rule would specify the requirements for registration and operation to meet the applicable standards. It is estimated that approximately 75 to 80% of concrete plants could opt to register and operate within the specified parameters in lieu of obtaining an individual permit. From July 2000 to September 2002, DEQ issued permits to construct to eighteen concrete batch plants.

The proposed rule will establish the registration process and specify the operating parameters and requirements that are normally specified in a general permit for concrete batch plants. The parameters include best management practices for the control of fugitive dust, limitations on the hours of operation or fuel consumption rates for different sizes and types of generators and other associated fuel-burning equipment, and general provisions to ensure compliance with the National Ambient Air Quality Standards and other applicable requirements. The rule will also specify the length of time equipment may be operating at a single location before additional requirements apply. The permitting requirements for concrete batch plant owners and operators will be reduced. The standards of performance will not be reduced. The permit by rule will be written to ensure that the requirements for protection of human health and the environment are maintained and that enforcement action can be taken if the rule provisions are not met.

Concrete batch plant operators who are required to obtain permits to construct may be interested in participating in this rulemaking. Citizens living in areas where concrete batch plants are located, or may locate, and citizens concerned about air quality in general may also be interested in this rulemaking.

Upon conclusion of the negotiated rulemaking process, DEQ intends to present a rule to the Board of Environmental Quality for public comment and approval.
Quality (Board) in February 2003 for temporary adoption and, at the same time, commence formal rulemaking with the publication of a proposed rule.

GENERAL INFORMATION: For more information about DEQ’s programs and activities, visit DEQ’s web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the negotiated rulemaking, contact Phillis Heitman at (208) 373-0502 or pheitman@deq.state.id.us.

Anyone may submit written comments on the preliminary draft by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before December 3, 2002.

Dated this 24th day of September, 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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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 11 – IDAHO STATE POLICE
P.O. Box 700, Meridian, ID 83680-0700

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
PO Box 83720, Boise, ID 83720-0036
16-0301-0201, Rules Governing Eligibility for Medicaid for Families and Children. Changes will provide eligible households with the same length of Medicaid coverage while ensuring TAFI households entering the work place will receive Transitional Medicaid (TM) services to help them toward self-reliance; clarifies Idaho Code references, financial responsibility and income exclusions. Comment by: 11/27/02.
16-0304-0202, Rules Governing the Food Stamp Program in Idaho. Removes requirement that legal and qualified immigrants who receive disability benefits be legally present in the U.S. as of 8/22/96 to be eligible to receive Food Stamps; adds references to the disability criteria; adds new non-TAFI participant student exemption from JSAP and deletes references to SSI being a means-tested program; updates total number of weekly hours for part-time employment, references to standard income deductions, gross monthly income eligibility standards, net monthly income eligibility standards and maximum food stamp benefit. Comment by: 11/27/02.

*PUBLIC HEARINGS HAVE BEEN SCHEDULED FOR THESE DOCKETS

Department of Environmental Quality
*58-0101-0205 and *58-0101-0206, Rules for the Control of Air Pollution in Idaho – Negotiated Rulemaking

Please refer to the Idaho Administrative Bulletin, November 6, 2002, Volume 02-11 for notices and text of all rulemakings, public hearing schedules, Governor’s executive orders, and agency contact names.

Citizens of your county can view all issues of the Idaho Administrative Bulletin at the county law libraries.

Copies of the Administrative Bulletin and other rules publications are available for purchase. For subscription information and ordering see our website or call (208) 332-1820 or write the Office of Administrative Rules, Department of Administration, 650 W. State St., Room 100, Boise, ID 83720-0306. Visa and MasterCard accepted for most purchases.

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

Idaho Department of Administration
Office of the Administrative Rules Coordinator

Comprehensive Quarterly Index - Fourth Quarter 2002

July 1, 1993 -- November 6, 2002

(eff. *PLR) - Final Rule Adoption Date Pending Legislative Review And Approval
(eff. date)L - Denotes Adoption by Legislative Action
(eff. date)T - Temporary Rule Effective Date

SCR # - denotes the number of a Senate Concurrent Resolution (Legislative Action)
HCR # - denotes the number of a House Concurrent Resolution (Legislative Action)
Citations to the IAC (Idaho Administrative Code) Volumes refer to the July 2002 Edition
All active or current rulemakings are shown with the docket numbers in bold typeface

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01-0101-0201 Temporary and Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 02-7 (eff. 7-1-02)T
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01-0101-0203 Proposed Rulemaking - Fee Rule, Bulletin Vol. 02-7
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**IDAPA 02 -- IDAHO DEPARTMENT OF AGRICULTURE**

**02-0600-0201** Notice of Legislative Action Affecting the Administrative Rules of the Idaho State Department of Agriculture, Division of Plant Industries, Chapters 02.06.05, 02.06.07, 02.06.11, 02.06.14, 02.06.15, 02.06.17, 02.06.18, 02.06.20, 02.06.24, 02.06.26, 02.06.29, 02.06.32, 02.06.35, 02.06.36, 02.06.38, and 02.06.40. Temporary and Proposed Rulemaking, Bulletin Vol. 02-10 (eff. 9-1-02)T

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- 02-0103-9501 Extension of Temporary Rule, Bulletin Vol. 95-4
- 02-0103-9501 Final Rule, Bulletin Vol. 95-5 (eff. 5-24-95)

**02.01.04, (Chapter Repealed) Environmental Audit Protection Rules**
- 02-0104-9601 Temporary and Proposed Rulemaking, Bulletin Vol. 96-1 (eff. 11-22-95)T
- 02-0104-9601 Pending Rule, Bulletin Vol. 96-8
- 02-0104-9701 Temporary and Proposed Rulemaking, Bulletin Vol. 97-1 (eff. 11-20-96)T
- 02-0104-9701 OAR Omnibus Rulemaking Notice - Final Rule, Bulletin Vol. 97-5 (eff. 3-20-97)
- 02-0104-9801 OAR Omnibus Rulemaking Notice - Final Rule, Bulletin Vol. 98-5 (eff. 3-23-98)
- 02-0104-9801 Temporary and Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 98-7 (eff. 5-1-98)T
- 02-0104-9801 Pending Rule (Chapter Repeal), Bulletin Vol. 98-10 (eff. *PLR 1999)
- 02-0104-9801 OAR Omnibus Rulemaking Notice - Final Rule (Chapter Repeal), Bulletin Vol. 99-5 (eff. 3-19-99)

**02.01.05, (Chapter Repealed) Inspection of Processing Potatoes**
- 02-0201-9401 Final Rule, (Chapter Repeal) Bulletin Vol. 94-7 (eff. 5-20-94)

**02.02.01, Controlled Atmosphere Storage Rules, IAC Vol. 1**
- 02-0202-9401 Temporary and Proposed Rulemaking, Bulletin Vol. 94-11
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16.15.14, (Chapter Repealed) Idaho Child Care Program (ICCP), Child Care and Development Block Grant
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39-0381-0101  OAR Omnibus Rulemaking Notice - Final Rule, Bulletin Vol. 02-5 (eff. 3-15-02)

39.04.01, Rules Governing Federal Aviation Regulations (Adopted), IAC Vol. 8
39.04.02, Rules Governing the Marking of Obstructions to Air Flight, IAC Vol. 8
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Adopts as temporary rule, through incorporation by reference, the proposed rule promulgated under Dockets 46-0101-9301 and 46-0102-9301 and repeals the proposed rule. Repromulgation of the temporary and proposed rule continues under previous docket numbers. Temporary rule is effective 12-31-93.

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