

IDAHO ADMINISTRATIVE BULLETIN

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Preface

The Idaho Administrative Bulletin is published once each month by the Department of Administration, Office of the Administrative Rules Coordinator, pursuant to Section 67-5203, Idaho Code. The Bulletin is a monthly compilation of all administrative rulemaking documents in Idaho. The Bulletin publishes the official rulemaking notices and administrative rule text of state agency rulemakings and other official documents as necessary.

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 Rulemaking Notice published in the Bulletin. 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 Bulletins are cited by year and volume number. For example, Bulletin 02-1 refers to the first Bulletin issued in calendar year 2002, 03-1 refers to the first Bulletin issued in calendar year 2003. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No.02-1 refers to January 2002; Volume No. 02-2 refers to February 2002; and so forth. Example: The Bulletin published in January of 2003 is cited as Volume 03-1, the December 2002 Bulletin is cited as Volume 02-12, etc.

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, governed by the Administrative Procedure Act, comprises five distinct activities; Negotiated, Proposed, Temporary, Pending, and Final rulemaking. Not all rulemakings include 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, and in some cases required, to engage in this rulemaking activity whenever it is feasible to do so. Publication of a Notice of Intent to Promulgate a Rule in the Administrative Bulletin by the agency is optional. This process should result in the formulation of a proposed and/or temporary rule.

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. However, a temporary rule that imposes a fee or charge may be adopted only if the Governor finds that the fee or charge is necessary to avoid an immediate danger which justifies the imposition of the fee or charge.

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.

State law requires that the text of both a proposed rule and a temporary rule be published in the Administrative Bulletin. 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. Combining the rulemaking allows for a single publication of the text.

An agency may, at any time, rescind a temporary rule that has been adopted and is in effect. If the temporary rule is being replaced by a new temporary rule or if it has been published concurrently with a proposed rulemaking that is being vacated, the agency, in most instances, should rescind the temporary rule.

PENDING RULEMAKING

A pending rule is a rule that has been adopted by an agency under regular rulemaking procedures 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 procedures and is in effect and enforceable.

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 may be adopted to reject the rulemaking 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 or FAX (208) 332-1896.

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. 38-0501-0301"

"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).

"0301" 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 2003.

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

"(BREAK IN CONTINUITY OF SECTIONS)"

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

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

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

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

"...in accordance with IDAPA 38.05.01.201."

"38" denotes the IDAPA number of the agency.

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

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

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

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

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

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2003

Volume No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
03-1	January, 2003	*November 13, 2002	January 1, 2003	January 22, 2003
03-2	February, 2003	December 18, 2002	February 5, 2003	February 26, 2003
03-3	March, 2003	January 22, 2003	March 5, 2003	March 26, 2003
03-4	April, 2003	February 19, 2003	April 2, 2003	April 23, 2003
03-5	May, 2003	March 26, 2003	May 7, 2003	May 28, 2003
03-6	June, 2003	April 23, 2003	June 4, 2003	June 25, 2003
03-7	July, 2003	May 21, 2003	July 2, 2003	July 23, 2003
03-8	August, 2003	June 25, 2003	August 6, 2003	August 27, 2003
03-9	September, 2003	July 23, 2003	September 3, 2003	September 24, 2003
03-10	October, 2003	**August 20, 2003	October 1, 2003	October 22, 2003
03-11	November, 2003	September 24, 2003	November 5, 2003	November 26, 2003
03-12	December, 2003	October 22, 2003	December 3, 2003	December 24, 2003

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2004

Volume No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
04-1	January, 2004	*November 12, 2003	January 7, 2004	January 28, 2004
04-2	February, 2004	December 24, 2002	February 4, 2004	February 25, 2004
04-3	March, 2004	January 21, 2004	March 3, 2004	March 24, 2004
04-4	April, 2004	February 18, 2004	April 4, 2004	April 25, 2004
04-5	May, 2004	March 24, 2004	May 5, 2004	May 26, 2004
04-6	June, 2004	April 21, 2004	June 2, 2004	June 22, 2004
04-7	July, 2004	May 26, 2004	July 7, 2004	July 28, 2004
04-8	August, 2004	June 23, 2004	August 4, 2004	August 25, 2004
04-9	September, 2004	July 21, 2004	September 1, 2004	September 22, 2004
04-10	October, 2004	**August 25, 2004	October 6, 2004	October 27, 2004
04-11	November, 2004	September 22, 2004	November 3, 2004	November 24, 2004
04-12	December, 2004	October 20, 2004	December 1, 2004	December 22, 2004

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

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

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IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.06.05 - RULES GOVERNING DISEASES OF HOPS (*Humulus lupulus*)
DOCKET NO. 02-0605-0301

NOTICE OF RULEMAKING - TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is February 21, 2003.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule. The action is authorized pursuant to Title 22, Chapters 7 and 20, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of the supporting reasons for temporary rulemaking:

A request was made by the Idaho Hop Commission to remove Boundary County from IDAPA 02.06.05 Section 100. Control Area for the purpose of allowing imported hops planting material into the county without the requirement for a two-year evaluation of disease freedom outside of the control area.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: To confer a benefit to the commercial hop producers in Boundary County, Idaho.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Curtis Thornburg, Program Manager, at (208) 332-8620.

DATED this 21st day of February, 2003.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0605-0301

100. CONTROL AREA.

Except as stated in Subsection 350.03 of this rule, the control area is Bonner, ~~Boundary~~, and Kootenai Counties, State of Idaho. ~~(3-19-99)~~(2-21-03)T

**OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR
AND THE IDAHO DEPARTMENT OF HEALTH AND WELFARE**

IDAPA 16 - IDAHO DEPARTMENT OF HEALTH AND WELFARE

16.04.03 - RULES GOVERNING FEES FOR COMMUNITY MENTAL HEALTH CENTER SERVICES

DOCKET NO. 16-0403-0301

NOTICE OF CORRECTIVE ACTION - CORRECTION TO FINAL RULE

EFFECTIVE DATE: The effective date of this corrective action is July 1, 1995.

AUTHORITY: In compliance with Sections 67-5204, 67-5221, 67-5223, 67-5224, and 67-5291, Idaho Code, notice is hereby given that this corrective action is being taken by the Office of Administrative Rules. The original action is authorized pursuant to Sections 39-119, 39-3133, and 39-3137, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the corrective action:

During the publication of the printed edition of the 1995 Idaho Administrative Code, part of the rule text, that had been previously promulgated as a final rule under Docket No. 16-0403-9302, was inadvertently omitted from the Administrative Code. A portion of Subsection 100.08, Established Fee, was left out of the printed edition of the Idaho Administrative Code, dated July 1, 1995. Subsection 100.08 is being reprinted here as it was originally adopted and codified as a final rule on January 1, 1994 under Docket No. 16-0403-9302 that published in the January 5, 1994 Idaho Administrative Bulletin, Vol. 94-1. It published as a proposed rule in the September 3, 1993, Administrative Bulletin, Vol. 93-3. Because this rule was codified in compliance with all provisions of Chapter 67, Title 52, Idaho Code, it is being reprinted here as it now appears in the Idaho Administrative Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this correction, contact Dennis Stevenson at 332-1820.

DATED this 18th day of February, 2003.

Dennis R. Stevenson
Assistant Administrative Rules Coordinator
Department of Administration
Office of Administrative Rules
P.O. Box 83720
Boise, ID 83720-0306
(208) 332-1820
(208) 332-1896 Fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0403-0301

SECTION 100

100. FEE DETERMINATION.

The service recipient, parent or guardian must make application for Mental Health Program services and complete a "Fee Determination Form" (HW-0733) prior to delivery of services. The fee determination process includes the following procedures: (1-1-94)

SUBSECTION 100.08

08. Established Fee. The maximum fee charged for Community Mental Health Center services shall be that established by the Department of Health and Welfare. The fees for services based on Medicaid reimbursement rates may vary according to Medicaid inflationary increases. Fees will be reviewed and adjusted as the Medicaid rates vary. Current information regarding services and fee charges can be obtained from Mental Health Centers. (1-1-94)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.01 - RULES GOVERNING THE PROTECTION AND DISCLOSURE OF DEPARTMENT RECORDS

DOCKET NO. 16-0501-0301 - (REPEAL OF CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY RULE

EFFECTIVE DATE: These temporary rules are effective April 14, 2003.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules. The action is authorized pursuant to Section(s) 39-242, 39-5403, 56-221, 56-222, 56-1003 and 56-1004, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

This chapter of rules is being repealed and rewritten in order to comply with the Health Insurance Portability and Accountability Act (HIPAA). The rewrite of this chapter is being published in this Bulletin under Docket Number 16-0501-0302 immediately following this notice and the chapter is renamed "Use and Disclosure of Department Records".

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and the Governor has found that temporary adoption of the rule is appropriate and 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 rulemaking is to comply with amendments to governing law and federal programs.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Jeanne Goodenough, Division Chief, Office of the Attorney General, Division of Legal Services at (208) 334-5537.

DATED this 19th day of February, 2003.

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

IDAPA 16.05.01 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.01 - USE AND DISCLOSURE OF DEPARTMENT RECORDS

DOCKET NO. 16-0501-0302 - (REWRITE OF CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY RULE

EFFECTIVE DATE: These temporary rules are effective April 14, 2003.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules. The action is authorized pursuant to Section(s) 39-242, 39-5403, 56-221, 56-222, 56-1003 and 56-1004, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

This chapter of rules has been rewritten in order to comply with the Health Insurance Portability and Accountability Act (HIPAA). This chapter is renamed the "Use and Disclosure of Department Records". The rewrite of rules conforms to the needed changes within HIPAA and clarifies and simplifies the current rules pertaining to Department confidentiality of records. They establish clear guidelines for the use and disclosure of protected health information, and grant certain rights to individuals relating to their health information. The new rule provides one simplified set of rules for the entire Department.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and the Governor has found that temporary adoption of the rule is appropriate and necessary in order to comply with deadlines in amendments to governing law and federal programs.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Jeanne Goodenough, Division Chief, Office of the Attorney General, Division of Legal Services at (208) 334-5537.

DATED this 19th day of February, 2003.

Sherri Kovach
Administrative Procedures Coordinator
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0501-0302

IDAPA 16, TITLE 05, Chapter 01

16.05.01 - USE AND DISCLOSURE OF DEPARTMENT RECORDS

000. LEGAL AUTHORITY.

The Idaho Department of Health and Welfare and the Board of Health and Welfare have authority to promulgate rules governing the use and disclosure of Department records, according to Sections 39-242, 39-5403, 56-221, 56-222, 56-1003, and 56-1004, Idaho Code. (4-14-03)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 16.05.01, "Use and Disclosure of Department Records". (4-14-03)T

02. Scope. These rules govern the use and disclosure of information maintained by the Department, in compliance with applicable state and federal laws, and federal regulations. (4-14-03)T

a. These rules apply to all Department employees, contractors, providers of services, and other individuals or entities who request or use that information. (4-14-03)T

b. These rules apply to all use and disclosure information, regardless of the form in which it is retained or disclosed. (4-14-03)T

c. All individuals and entities must comply with any standards in state or federal law or regulation that contain additional requirements, or are more restrictive than the requirements of these rules. (4-14-03)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (4-14-03)T

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeal before the Department under the scope of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." To file a district court appeal, to file a complaint or to request a reconsideration to access health information, see Section 007 of these rules. (4-14-03)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (4-14-03)T

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

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except state holidays. (4-14-03)T

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (4-14-03)T

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83720-0036. (4-14-03)T

006. PUBLIC RECORDS ACT COMPLIANCE AND REQUESTS.

Individuals have a right to review and copy records maintained by the Department, subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code, these rules, and state and federal laws that make records confidential. The Department's Administrative Procedures Section (APS) and designated custodians in Department offices receive and respond to public records requests. The APS can be reached at the mailing address for the Department's business office. Non-identifying or non-confidential information provided to the public by the Department in the ordinary course of business are not required to be reviewed by a public records custodian. Original records must not be removed from the Department by individuals who make public records requests. (4-14-03)T

007. DISTRICT COURT APPEALS, COMPLAINTS AND REQUESTS FOR RECONSIDERATION.

The confidentiality of health information is defined in part by the Health Insurance Portability and Accountability Act (HIPAA), Sections 262 and 264 of Public Law 104-191, 42 USC 1320d, 110 Statutes at Large 2033-4, and 45 CFR

Sections 160 and 164. (4-14-03)T

01. Appeals To District Court. Anyone who is aggrieved by a denial of disclosure or amendment of a public record may file an appeal in the appropriate district court in compliance with the Idaho Public Records Act, Title 9, Section 3, Idaho Code. (4-14-03)T

02. Complaints To Privacy Officer. Individuals who are dissatisfied with a Department decision regarding confidential information may file a written complaint with the Department's Privacy Officer. Complaints must be submitted to the Department's Privacy Officer at the mailing address for the Department's business office. The Privacy Officer determines if a complaint is valid and makes a recommendation for its resolution to the Department within twenty-eight (28) days after the complaint is received. (4-14-03)T

a. Secretary of Health and Human Services (HHS). Complaints that involve the use and disclosure of health information may also be submitted to the Secretary of Health and Human Services at the following address: The U.S. Department of Health and Human Services, 200 Independence Avenue, S.W., Washington, DC 20201. (4-14-03)T

b. Time for filing complaints. Complaints must be filed within one hundred eighty (180) days from the date of the alleged violation. (4-14-03)T

03. Request For Reconsideration To Access Health Information. The individual or legal representative may submit a written request for reconsideration to the Privacy Officer if access to health information is denied in compliance with this chapter. (4-14-03)T

a. The request for reconsideration must be postmarked no later than twenty-eight (28) days after notice of the denial was mailed. (4-14-03)T

b. The reconsideration will be conducted by another licensed health care professional who did not participate in the original decision. (4-14-03)T

c. The Department will notify the individual of the outcome of the review within twenty-eight (28) days after the request is received. (4-14-03)T

008. -- 009. (RESERVED).

010. DEFINITIONS.

01. Authorization. A time-limited written consent for the disclosure of confidential information to a specific individual or entity outside the Department, and outside of normal business processes for providing Department services. (4-14-03)T

02. Confidential Information. Information that may only be used or disclosed as provided by state or federal law, federal regulation, or state rule. (4-14-03)T

03. Consent. Permission to use or disclose confidential information. Consent may be inferred from the circumstances. (4-14-03)T

04. Department. Department means the Idaho Department of Health and Welfare. (4-14-03)T

05. Guardian Ad Litem. The person appointed by the court, according to law, to protect the interest of a minor or an incompetent in a case before the court. (4-14-03)T

06. Health Information. Identifying information about the past, present or future: (4-14-03)T

a. Physical or mental health or condition of an individual; (4-14-03)T

b. Provision of health care to an individual; or (4-14-03)T

c. Payment for health care for an individual. (4-14-03)T

07. Identifying Information. The name, address, social security number or other information by which an individual could be identified. Information may also be identifying without a name, based on the context or circumstances of a disclosure. (4-14-03)T

08. Informal Representative. A person who is not a legal representative, but who is a relative, friend, or other person permitted to communicate with the Department on behalf of an individual. The individual or legal representative may give such permission verbally, in writing, or through his conduct. (4-14-03)T

09. Legal Representative. The parent of a minor, a guardian, conservator, attorney, or an individual who has an appropriate power of attorney. (4-14-03)T

10. Minimally Necessary. The information that is essential to provide benefits or services, and to perform normal business processes of the Department. (4-14-03)T

11. Need-To-Know. Confidential information that is necessary to provide benefits or services, and to perform normal business processes of the Department. (4-14-03)T

12. Psychotherapy Notes. Notes recorded in any format by a mental health professional that documents or analyzes the content of individual or group counseling sessions, and that are separated from the rest of the individual's medical record. The term "psychotherapy notes" excludes: (4-14-03)T

a. Medication prescription and monitoring; (4-14-03)T

b. Counseling session start and stop times; (4-14-03)T

c. Types and frequencies of treatment furnished; (4-14-03)T

d. Results of clinical tests; and (4-14-03)T

e. Any summary of diagnosis, functional status, the treatment plan, symptoms, prognosis and progress to date. (4-14-03)T

011. DEFINITIONS FOR VITAL STATISTICS.

The definitions provided in Subsection 011 of these rules apply to Vital Statistics and to the disclosure provisions of Section 39-270, Idaho Code. (4-14-03)T

01. Authorized Representative. An attorney, physician, funeral director, a legally designated agent, or an entity whose purpose for obtaining a vital record is to pay direct benefits to a person with a direct and tangible interest defined in Subsection 011.03 of this rule. (4-14-03)T

02. Certificate. A certificate of birth, death, stillbirth, marriage, or divorce, filed pursuant to law, excluding information contained in the statistical section of any record. (4-14-03)T

03. Individuals With A Direct And Tangible Interest. Individuals who have a direct and tangible interest in a vital record are: (4-14-03)T

a. The registrant and that person's spouse, children, parents, grandparents, grandchildren, siblings, or guardian; (4-14-03)T

b. A person conducting genealogical research on the person's own family; (4-14-03)T

c. Any other person who demonstrates that the record is needed for the determination or protection of that person's property right, or an authorized representative of any of them; (4-14-03)T

d. The surviving next-of-kin if a deceased registrant has no other surviving family member listed in Subsection 011.03.a. of this rule; and (4-14-03)T

e. The Idaho Attorney General, and state and federal prosecuting attorneys, if such attorney submits an affidavit affirming that the record is necessary in the furtherance of the attorney's official law enforcement duties, is not reasonably available from another source, and that reasonable steps will be taken to preserve the confidentiality of the record. (4-14-03)T

f. Any person, upon the order of an Idaho court of competent jurisdiction, where the court finds that disclosure of the record is necessary in the interests of justice. (4-14-03)T

04. Registrar. The state Registrar as defined in Section 39-241(r), Idaho Code. The mailing and street address for the state Registrar is Bureau of Vital Records and Health Statistics, 450 W. State St., 1st Floor, PO Box 83720, Boise, Idaho 83720-0036. (4-14-03)T

05. Research. Organized scientific inquiry or examination of data in order to discover and interpret facts. (4-14-03)T

06. Parent. Does not include a biological parent whose parental rights have been terminated. (4-14-03)T

07. Public Health. The science and art of: (4-14-03)T

a. Preventing disease, prolonging life, or promoting health and efficiency through organized community effort for the sanitation of the environment; (4-14-03)T

b. The control of communicable infections; (4-14-03)T

c. The education of the individual in personal hygiene; (4-14-03)T

d. The organization of medical and nursing services for the early diagnosis and preventive treatment of disease; and (4-14-03)T

e. The development of the social machinery to ensure everyone a standard of living adequate for the maintenance of health, so organizing these benefits as to enable every citizen to realize his birthright of health and longevity. (4-14-03)T

08. Putative Father. The biological father of a child as identified by himself, the natural mother, an adoption agency, or a court. (4-14-03)T

09. Statistical Purposes. The collection, analysis, interpretation and presentation of masses of non-identifying numerical information. (4-14-03)T

012. -- 049. (RESERVED).

GENERAL CONSENT AND DISCLOSURE REQUIREMENTS
(Sections 050 through 199)

050. CONSENT TO GATHER, USE AND DISCLOSE INFORMATION.

When individuals, legal representatives or informal representatives sign an application, they consent for the Department to gather, use and disclose information as needed for an individual to receive Department benefits or services. If none of these individuals provide a consent on an application, service may be denied. An informal representative may only consent to the disclosure of confidential information when permitted by these rules. (4-14-03)T

051. AUTHORIZATION FOR THE USE AND DISCLOSURE OF CONFIDENTIAL INFORMATION.

An authorization for the use and disclosure of health and other confidential information must be in writing, and identify the individual who is the subject of the record. (4-14-03)T

01. Content Of Authorization. An authorization must be dated and signed by the individual or legal representative, and: (4-14-03)T

a. Identify the specific information involved; (4-14-03)T

b. State the duration of the authorization, defined by a specific date or the description of an event; (4-14-03)T

c. Identify the recipient of the information; (4-14-03)T

d. State the purpose for the authorization; (4-14-03)T

e. Specify any restrictions on use or disclosure of the information; and (4-14-03)T

f. Provide for revocation of the authorization. (4-14-03)T

02. Defective Authorization. An authorization must not be acted upon if the authorization has expired or has been revoked, or if any essential information is omitted or is false. (4-14-03)T

03. Psychotherapy Notes. Psychotherapy notes that are separate from the rest of an individual's record may not be used or disclosed without an authorization except to the originator of the notes for treatment or to defend the Department in a legal action brought by the individual. (4-14-03)T

04. Revocation Of An Authorization. An individual or legal representative may revoke an authorization at any time by submitting a written request at any Department office. (4-14-03)T

05. Effect On Benefits And Services. An individual's refusal to provide an authorization does not affect the receipt of benefits or services the individual would otherwise receive. (4-14-03)T

06. Copy Of Authorization. The Department will provide a copy of the signed authorization to the individual or legal representative. (4-14-03)T

052. -- 074. (RESERVED).

075. USE AND DISCLOSURE OF CONFIDENTIAL INFORMATION.

Without a consent or an authorization, no one may use or disclose health or other confidential information except as provided in Section 100 of this chapter. With a consent or an authorization, confidential information will be used or disclosed only on a need-to-know basis and to the extent minimally necessary for the conduct of the Department's business and the provision of benefits or services, subject to law and the exceptions listed in these rules. Recipients of information must protect against unauthorized disclosure or use of the information for purposes that are not specified in a consent or an authorization. Access to an individual's own records is governed by Section 125 of this chapter. Specific consent and disclosure requirements are identified in Sections 200 through 283 of these rules. (4-14-03)T

01. Identity. Any individual who requests to review, copy, restrict or amend confidential information must provide verification of identity, and where appropriate, present proof that the individual is a legal representative of the subject of the record. Except for verifications or requests for certified copies of vital records, requests submitted by mail must be notarized. (4-14-03)T

02. Order Of Court Or Hearing Officer. If information is subpoenaed in a civil, criminal or administrative action, the Department will provide such information as would be disclosed with a public records request, without an order from the court or hearing officer. Alternatively, the Department may submit the record with a request for a review solely by the judge or hearing officer, and an order appropriately limiting its use by the parties. If Department staff have reason to believe that release of a record through a public records request may be detrimental

to any individual, the Department will seek a protective order. (4-14-03)T

03. Informant. Unless the individual is a witness in litigation, identifying information must not be disclosed about an individual who reported concerns relating to any Department function, including: (4-14-03)T

a. Fraud; (4-14-03)T

b. Abuse, neglect or abandonment of a child; (4-14-03)T

c. Abuse, neglect or abandonment of a vulnerable adult; and (4-14-03)T

d. Concerns about the mental health of another. (4-14-03)T

04. Collateral Contact. Identifying information must not be disclosed about individuals who are not the subject of the record and who provide information to the Department in the ordinary course of business. (4-14-03)T

05. Alternative Communication. The Department, contractors and providers must comply with an individual's request that confidential information be communicated by alternative means of delivery unless it is administratively difficult to do so or the request is unreasonable. If approved, all information from a Department program will use the same alternative means of delivery. (4-14-03)T

06. Restriction On Disclosure Of Health Information.

a. An individual may request in writing that use or disclosure of health information be restricted. The Department will respond in writing, and may deny the request if: (4-14-03)T

i. Disclosure is required; (4-14-03)T

ii. Necessary for the safety of the individual or others; (4-14-03)T

iii. Necessary for the provision of services, benefits or payment; or (4-14-03)T

iv. If the restriction is unreasonable. (4-14-03)T

b. The uses and disclosures of confidential information are subject to a restriction after it is received and recorded by the Department. Department employees, contractors, and the individual may request the Department to terminate the restriction. The Department will notify the individual of its response to a request to terminate a restriction. (4-14-03)T

07. Discovery. Records will be provided only in response to valid discovery in any federal or state criminal, civil or administrative proceeding, as required by the Public Records Act, Section 9-343(3), Idaho Code. (4-14-03)T

08. "Do Not Re-Release" Records. If the Department receives health information that is marked "Do not re-release," that information will not be disclosed except to the subject of the record or legal representative, if allowed by these rules or applicable law. (4-14-03)T

076. -- 099. (RESERVED).

100. EXCEPTIONS TO REQUIREMENT FOR AUTHORIZATION.

Confidential information will be released without an authorization to individuals and entities under court order, or if they are legally authorized to receive it. The following are exceptions to the requirement for an authorization: (4-14-03)T

01. Advocates And Guardians. Federally-recognized protection and advocacy agencies or duly appointed guardians ad litem have access to an individual's file as necessary to perform their legal functions.

(4-14-03)T

02. Police Functions. Police officers and sheriffs are entitled to receive confidential information for the purpose of conducting an investigation, or to determine whether to place an individual in protective custody, subject to limitations regarding substance abuse treatment. (4-14-03)T

03. Fugitives And Missing Persons.

a. A state or local law enforcement officer may receive the current address of any cash assistance recipient who is a fugitive felon, in compliance with Section 56-221, Idaho Code. (4-14-03)T

b. The following health information may be disclosed to a law enforcement officer for the purpose of identifying or locating a suspect, fugitive, material witness or missing person: (4-14-03)T

i. Name and address; (4-14-03)T

ii. Date and place of birth; (4-14-03)T

iii. Social security number; (4-14-03)T

iv. Blood type and rh factor; (4-14-03)T

v. Type of injury; (4-14-03)T

vi. Date and time of treatment or death, if applicable; and (4-14-03)T

vii. Distinguishing physical characteristics. (4-14-03)T

c. DNA, dental records, or typing, samples or analysis of body fluids or tissue must not be disclosed. (4-14-03)T

04. Duty To Warn Or Report. Confidential information may be released without an authorization if necessary under a legal duty to warn or to report. (4-14-03)T

05. Department Business, Monitoring And Legal Functions. Department employees and contractors may use and disclose records as necessary to perform normal business functions, including health treatment, audit and quality improvement, investigation of fraud and abuse, establishment of overpayments and recoupment, public health, or other functions authorized by law. Information will be made available to state and federal auditors and compliance monitors. Confidential information will be provided to counsel as needed to evaluate, prepare for and represent the Department in legal actions. (4-14-03)T

06. Emergencies. Confidential information may be disclosed to qualified medical personnel to the extent necessary to respond to a medical emergency that requires immediate attention. (4-14-03)T

07. Multidisciplinary Staffing. Confidential information may be disclosed to employees of the Department, law enforcement, and other appropriate individuals to participate in a multidisciplinary team evaluation of child protection cases under Section 16-1609A, Idaho Code, or interdisciplinary Department staffing of services for an individual. All individuals who participate in such staffing must not redisclose the information and must comply with any other pertinent statute, rule or regulation. (4-14-03)T

08. Collaborative Staffing. Confidential information may be disclosed in staffing by the Department and other individuals or entities if all participants are involved with the same or similar populations and have an equal obligation or promise to maintain confidentiality. Disclosure of information in inter-agency staffing must be necessary to coordinate benefits or services, or to improve administration and management of the services. Confidential information may be disclosed only on a need-to-know basis and to the extent minimally necessary for the conduct of the staffing. All individuals who participate in such staffing must not redisclose the information except in compliance with any other pertinent statute, rule or regulation. (4-14-03)T

09. Elected State Official. As provided by Section 16-1623(f), Idaho Code, any duly elected state official carrying out his official functions may have access to child protection records of the Department, and must not redisclose the information. (4-14-03)T

10. Child Protection Agency. A legally mandated child protection agency may provide information necessary to investigate a report of known or suspected child abuse or neglect, or to treat a child and family who are the subjects of the record. (4-14-03)T

11. Legally Authorized Agency. An agency will be provided appropriate information if the agency is legally responsible for or authorized to care for, treat or supervise a child who is the subject of the record. (4-14-03)T

12. Informal Representatives. Informal representatives may be permitted to receive and deliver information on behalf of an individual, and may be given health information if the informal representative is directly involved with the individual's care. Confidential information may be disclosed in whole or part if professional staff determines that disclosure is in the best interest of the individual, based on the circumstances and their professional judgement. The Department will not disclose information that is prohibited from being disclosed by these rules or any other legal requirement. (4-14-03)T

101. ABUSE, NEGLECT, OR DOMESTIC VIOLENCE.

Health information may be disclosed to a law enforcement officer if the victim of abuse, neglect, or domestic violence agrees to the disclosure. (4-14-03)T

01. Incapacity Of Victim. If the victim is unable to agree because of incapacity, health information will be disclosed if the officer states: (4-14-03)T

a. That the information is not intended to be used against the victim; and (4-14-03)T

b. That immediate enforcement activity would be materially and adversely affected by waiting for the victim's agreement. (4-14-03)T

02. Judgement Of Professional Staff. The victim must be promptly informed that a report to law enforcement has been or will be made unless in the judgement of professional staff: (4-14-03)T

a. Informing the victim would place him at risk of serious harm; or (4-14-03)T

b. The probable perpetrator of the abuse, neglect or domestic violence would be the recipient of the report, and disclosure would not be in the victim's best interest. (4-14-03)T

102. VICTIM OF OTHER CRIME.

Health information may be disclosed in response to a law enforcement official's request about a victim or suspected victim of a crime other than adult or child abuse, neglect, or domestic violence. The individual must agree to the disclosure. (4-14-03)T

01. Incapacity Of Victim Or Emergency Circumstance. If the individual is unable to agree because of incapacity or emergency circumstance, health information will be disclosed if the official states that the information is needed to determine whether a violation of law has occurred, and that it is not intended to be used against the individual. (4-14-03)T

02. Best Interest Of The Individual. The officer must also represent that immediate enforcement activity would be materially and adversely affected by waiting for the individual's agreement. Professional staff must agree that disclosure is in the best interest of the individual. (4-14-03)T

103. SERIOUS THREAT TO HEALTH OR SAFETY.

Subject to the restrictions in this rule, health information may be used or disclosed if necessary to prevent or lessen a serious and imminent threat to the health and safety of a person or the public. Disclosure must be based on actual

knowledge or credible information from a person with apparent knowledge or authority. Disclosure will be made only to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat. (4-14-03)T

01. Apprehension By Law Enforcement. Health information may be disclosed as necessary to law enforcement to identify or apprehend an individual. Disclosure is limited to an admission that an individual participated in a violent crime if it is reasonable to believe that serious physical harm has been caused to the victim. (4-14-03)T

02. Escape From Law Enforcement. Health information may be disclosed as necessary for law enforcement to identify or apprehend an individual where it appears from all the circumstances that the individual has escaped from a correctional institution or lawful custody. (4-14-03)T

03. Prohibition On Disclosure. Disclosure of an admission of participation in a violent crime is prohibited if the information is learned in the course of treatment to affect the individual's tendency to commit the criminal conduct, or through a request by the individual to initiate such treatment. (4-14-03)T

104. REPORTING OF CRIME ON PREMISES.
Health information may be disclosed to a law enforcement official if the information constitutes evidence of criminal conduct that occurred on the Department's premises. (4-14-03)T

105. REPORTING CRIME IN EMERGENCIES.
If a Department employee is providing emergency health care off the Department's premises, health information may be disclosed if necessary to alert law enforcement to a crime; the location of the crime or victim; and the identity, description and location of the perpetrator. If the crime involves abuse, neglect or domestic violence, the requirements of Section 101 of this chapter apply. (4-14-03)T

106. -- 124. (RESERVED).

125. ACCESS TO AN INDIVIDUAL'S OWN RECORD.
An individual who is at least fourteen (14) years old, or a legal representative, may review and obtain a copy of Department records that pertain to the individual, subject to the exceptions listed in Subsections 125.01 through 125.04. Requests must be in writing, identifying the individual whose record is sought, and the record or information requested. The principles of disclosing only minimally necessary information on a need-to-know basis do not apply to a request for an individual's own records. The following information must not be disclosed: (4-14-03)T

01. Children's Mental Health. Records of a child's mental health services must not be disclosed to the child when a physician or other mental health professional has noted that disclosure would be damaging to the child, unless access is ordered by a court according to Section 16-2428, Idaho Code. (4-14-03)T

02. Legal Action. No disclosure will be made to an individual of information compiled in an ongoing investigation, that is exempt from disclosure, or that relates to adoption. Information compiled in reasonable anticipation of litigation that is not otherwise discoverable must not be disclosed. Information compiled for use in a civil, criminal, or administrative proceeding to which the individual is a party must not be disclosed except in compliance with valid discovery. (4-14-03)T

03. Clinical Laboratories. There will be no disclosure of information maintained by a clinical laboratory except as authorized by the provider who ordered the test or study. (4-14-03)T

04. Health Information. Health information will not be disclosed to the individual if a licensed health care professional makes a professional determination that disclosure is likely to endanger the life or physical safety of the individual or another person. Disclosure to a legal representative will be denied if there is a professional determination that access by the representative is likely to cause substantial harm to the subject of the record or another person. (4-14-03)T

126. -- 149. (RESERVED).

150. AMENDMENT OF RECORD.

Unless otherwise provided by law, individuals may request in writing to amend the content of a record created by the Department. The Department will respond in writing within ten (10) days, granting or denying the amendment. A record created by a third party will not be amended by the Department. (4-14-03)T

01. Amendment Of Health Information. Once an amendment regarding health information is approved and recorded, the Department will provide the amended health information when the record is disclosed in the future. If an amendment of health information is denied, the individual may provide a written response, which the Department may rebut in writing to the individual. Upon request, documentation of all the records involved in the denial will be provided whenever that information is disclosed in the future. (4-14-03)T

02. Updating Identifying Information. Name and address changes, and similar updates of information in Department files, will be made without using the amendment process. (4-14-03)T

151. -- 174. (RESERVED).

175. REPORT OF DISCLOSURES OF HEALTH INFORMATION.

01. Documented Disclosures. The following disclosures of identifying health information for a purpose other than providing health treatment, payment or operations will be documented: (4-14-03)T

- a.** Required by law; (4-14-03)T
- b.** Public health activities; (4-14-03)T
- c.** Related to victims of abuse, neglect or domestic violence; (4-14-03)T
- d.** Health care oversight; (4-14-03)T
- e.** Judicial and administrative proceedings; (4-14-03)T
- f.** Correctional institutions or custodial law enforcement situations; (4-14-03)T
- g.** Coroners, medical examiners, and funeral directors; (4-14-03)T
- h.** Organ or tissue donations; (4-14-03)T
- i.** Research; (4-14-03)T
- j.** To avert a serious threat of health and safety; and (4-14-03)T
- k.** Specialized government functions such as national security or intelligence purposes. (4-14-03)T

02. Content Of Disclosure. Disclosure documentation will identify when the disclosure occurred, to whom, what information was disclosed and for what purpose. (4-14-03)T

03. Maintenance Of Documentation. The Department maintains documentation of these disclosures of health information for six (6) years. (4-14-03)T

04. Request For Report Of Disclosures. An individual or legal representative may receive one (1) free report of disclosures per calendar year for six (6) years beginning April 14, 2003. Additional requests for a report of disclosures are processed as public record requests, and may be subject to fees. (4-14-03)T

05. Pending Investigation. The Department must suspend reporting of a disclosure of health information at the request of any federal, state or local entity that is conducting an investigation related to the oversight of health care, illegal discrimination, licensing, certification or accreditation. If the request is verbal, the suspension will terminate after thirty (30) days unless renewed in writing. (4-14-03)T

176. -- 189. (RESERVED).

190. RECORDS OF DECEDENTS.

Records of decedents are confidential for as long as the Department maintains the records, except as needed by coroners or medical examiners, funeral directors, and law enforcement if there is suspicion that the death was the result of criminal conduct. While records are maintained, the same confidentiality requirements apply to the personal representative of the estate or other legal representative of the deceased individual. (4-14-03)T

191. DATA FOR RESEARCH OR OTHER PURPOSES.

Records that contain non-identifying information may be disclosed for Department approved research or other purposes without a written authorization. (4-14-03)T

192. -- 199. (RESERVED).

SPECIFIC CONSENT AND DISCLOSURE REQUIREMENTS
(Sections 200 through 283)

200. ABORTION FOR MINORS.

Consent for an abortion for a minor is governed by Section 18-609A, Idaho Code. (4-14-03)T

201. ABUSE, NEGLECT OR DOMESTIC VIOLENCE.

Abuse, abandonment or neglect of a minor is required to be reported in compliance with Section 16-1619, Idaho Code. Abuse, neglect or exploitation of adults is governed by Section 39-5303, Idaho Code. An exception to the physician/patient privilege for domestic violence is contained in Section 9-203, Idaho Code. (4-14-03)T

202. ADOPTION.

Disclosure of adoption records is governed by the provisions of Sections 9-340B(6), 16-1501, 39-258, 39-259A, and 39-7501 through 39-7905, Idaho Code. (4-14-03)T

203. -- 209. (RESERVED).

210. CHILD PROTECTION.

Unless allowed by these rules or other provision of law, the Department will disclose information from child protection records in its possession upon a court order obtained in compliance with Subsection 075.02 of these rules. Disclosure of Department records under the Child Protective Act is governed by Section 16-1623(f), Idaho Code. Court records of Child Protective Act proceedings are governed by Section 16-1621, Idaho Code. Pertinent federal laws and regulations include 42 USC 5106 and 45 CFR 134.20. Information regarding child fatalities or near fatalities is required to be made public by 42 USC 5106a(b)(2)(A)(vi). (4-14-03)T

211. CHILDREN'S MENTAL HEALTH.

Consent to voluntary treatment for a minor with serious emotional disturbance, emergency and involuntary treatment are governed by the Children's Mental Health Services Act, Title 16, Chapter 24, Idaho Code. Section 16-2428, Idaho Code, describes requirements for confidentiality. (4-14-03)T

212. -- 219. (RESERVED).

220. HARD TO PLACE CHILDREN.

The Department disseminates information to prospective adoptive families and families who wish to be appointed legal guardians of a child in the state's custody, as to the availability of hard-to-place children, adoption and guardianship procedures, and of the existence of financial aid to adoptive families and guardians of hard-to-place children, in compliance with Section 56-804, Idaho Code. (4-14-03)T

221. HOSPITAL RECORDS.

Records of hospitalization in a state facility are governed by Sections 39-1392b, 39-1392e and 39-1394, Idaho Code. (4-14-03)T

222. HUMAN RESOURCES.

Disclosure of employee information is governed by Section 9-340C(1), Idaho Code. (4-14-03)T

223. INFANT/TODDLER PROGRAM.

Consent to early intervention services and confidentiality of records that relate to the Infant/Toddler program are governed by the Individuals with Disabilities Education Act (IDEA), 20 USC 1414(a)(1)(C) and (c)(3), and 20 USC 1415(b)(3); the Family Educational Rights and Privacy Act (FERPA), 20 USC 1232g; and 34 CFR 303.400, 34 CFR 303.500 and 34 CFR part 99. (4-14-03)T

224. -- 229. (RESERVED).

230. MEDICAL CARE.

Consent to apply for services or treatment is governed by Chapter 43, Title 39, Idaho Code, for hospital, medical, dental or surgical care, treatment or procedure. (4-14-03)T

231. - 239. (RESERVED).

240. MENTAL ILLNESS.

Records of assessment, treatment, and commitment or hospitalization of individuals with mental illness are governed by Sections 66-318, 66-348, 66-355, 66-329(i), 66-337, and 66-339, Idaho Code. (4-14-03)T

241. MINOR'S CONSENT REGARDING INFECTIOUS, CONTAGIOUS OR COMMUNICABLE DISEASE.

Section 39-3801, Idaho Code, governs consent to treatment for infectious, contagious or communicable disease by a minor who is at least fourteen (14) years of age. (4-14-03)T

242. -- 249. (RESERVED).

250. SUBSTANCE ABUSE.

Consent to treatment and confidentiality of alcohol and drug abuse patient records are governed by 42 CFR 2.12 through 2.67, and Sections 37-2743, 37-3102, 39-307 and 39-308, Idaho Code. (4-14-03)T

01. Drug Abuse. A medical practitioner will not disclose identifying information, treatment or request for treatment, to any law enforcement officer or agency or in any proceeding, in compliance with Sections 37-2743 and 37-3102, Idaho Code. (4-14-03)T

02. Age Sixteen And Over. Information regarding substance abuse treatment of an individual who is at least age sixteen (16) years old will not be disclosed to a parent or guardian unless authorized by the individual, in compliance with Section 37-3102, Idaho Code, and 42 CFR 2.14. Individuals who are at least sixteen (16) years old may consent to substance abuse treatment. (4-14-03)T

251. -- 259. (RESERVED).

260. TERMINATION OF PARENTAL RIGHTS.

Disclosure of information regarding the termination of parental rights is governed by Section 16-2013, Idaho Code. (4-14-03)T

261. -- 269. (RESERVED).

270. VENEREAL DISEASES.

Disclosures of health information pertaining to the control of venereal diseases, including Human Immunodeficiency Virus (HIV), is governed by Title 9, Chapter 6, Idaho Code. (4-14-03)T

271. -- 279. (RESERVED).

280. VITAL STATISTICS - VERIFICATION OF DATA.

The Registrar will only confirm or deny the presence and accuracy of data already known to a governmental agency that requests information from a vital record. Such verifications may be conducted by telephone for Idaho state agencies. Other requests for verification require a signed application on forms provided or approved by the Registrar, and a copy of the front and back of signed photo identification or such other information as the Registrar requests.

(4-14-03)T

281. VITAL STATISTICS - DISCLOSURE FOR RESEARCH, PUBLIC HEALTH OR STATISTICAL PURPOSES.

Upon agreement in writing to such conditions as the Registrar may impose, the Registrar may permit the use of data from vital statistics records for research, public health or statistical purposes. The Registrar may deny a request for access to identifying information if the Registrar determines that the benefits would be outweighed by the possible adverse consequences to those individuals whose records would be used.

(4-14-03)T

282. VITAL STATISTICS - REGISTRY OF PUTATIVE FATHERS.

Except by Idaho court order or in accordance with the provisions of Section 16-1513, Idaho Code, information acquired by the confidential registry of putative fathers will not be disclosed.

(4-14-03)T

283. VITAL STATISTICS - PROCEDURES FOR REQUESTING INFORMATION.

Individuals who request access to, information from, or copies of vital records must present a signed application on forms provided or approved by the Registrar, and a copy of the front and back of signed photo identification or such other information as the Registrar requests. Minors who are less than fourteen (14) years old may receive certified copies of vital records that pertain to them if they present the required information.

(4-14-03)T

01. Expedited Copy. An expedited certified copy of a vital record may be issued using proprietary telecommunications services.

(4-14-03)T

02. Certified Copy. When a certified copy is issued, it is certified as a true copy or abstract of the original vital record by the officer who has custody of the record. The certified copy will include the date issued, the Registrar's signature or an authorized facsimile thereof, and the seal of the issuing office. Full or short form certified copies of vital records may be made by mechanical, electronic or other reproduction processes.

(4-14-03)T

284. -- 999. (RESERVED).

IDAPA 17 - INDUSTRIAL COMMISSION

17.07.01 - SAFETY RULES FOR ELEVATORS, ESCALATORS AND MOVING WALKS

DOCKET NO. 17-0701-0301

NOTICE OF RULEMAKING - TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is February 6, 2003.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule. The action is authorized pursuant to Section(s) 72-508, 72-720, and 72-721, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of the supporting reasons for temporary rulemaking:

This new temporary rule will give owners until July 1, 2004 to obtain any periodic elevator inspection coming due from a Qualified Elevator Inspector (QEI) contractor and will extend their certificate to operate those elevators until they get the required inspection on until July 1, 2004, whichever occurs first.

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

There is a current temporary and pending rule which changed the requirements for periodic elevator inspections, effective November 1, 2002. That rule obligates owners to contract for the services of a Qualified Elevator Inspector (QEI) to make that inspection. QEI contractors need to be located and inspections scheduled to meet this new requirement. The logistics involved in meeting this new requirement will, in many cases, cause owners to exceed the time currently provided by rule for completing these inspections to cause the unintentional cancellation of the certificate to operate their elevators.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Tom Limbaugh, Commissioner, Industrial Commission, (208) 334-6000.

DATED this 14th day of February, 2003.

Thomas E. Limbaugh, Commissioner
Industrial Commission
317 Main St.
P.O. Box 83720
Boise, Idaho 83720-0041
Phone: (208) 334-6000
Fax: (208) 334-2321

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0701-0301

026. INSPECTIONS.

Elevators installed or operated in the state of Idaho, unless otherwise exempted by these rules, shall have an inspection in accordance with the ANSI/ASME standards incorporated by reference in Subsections 004.01, 004.02, 004.03, and 004.09 of these rules. The following types of inspections are required. ~~(11-1-02)F(2-6-03)T~~

01. Acceptance Inspection. An acceptance inspection shall be conducted by a Qualified Elevator

Inspector representing the owner for all new or altered elevators, unless otherwise exempted by these rules. In addition, elevators in public schools and in state owned or occupied buildings will have their inspections witnessed by a state inspector from the Division of Building Safety. The changes to Subsection 026.01 shall not apply to new elevator installations that were let for bid before November 1, 2002. (11-6-02)T

02. Routine Inspection. A routine inspection shall be conducted annually by a competent person representing the owner for all installations, unless otherwise exempted by these rules, utilizing forms provided by the Division of Building Safety. (11-1-02)T

03. Periodic Inspection. Periodic inspections shall be conducted every five (5) years by a Qualified Elevator Inspector ~~representing~~ contracted by the owner for all elevators, unless otherwise exempted by these rules. In addition, elevators in public schools and in state owned or occupied buildings will have their inspections witnessed by a state inspector from the Division of Building Safety. Any owner whose periodic elevator inspection is required to be completed between November 1, 2002 and July 1, 2004, shall have until July 1, 2004 to complete that inspection. (~~11-1-02~~)(2-6-03)T

027. CERTIFICATE TO OPERATE ELEVATOR.

An elevator, unless otherwise exempted by these rules, shall not be placed into operation until an inspection has been performed and a Certificate to Operate has been issued by the person making the inspection. (11-1-02)T

01. Inspection Prior To Issuance. A Certificate to Operate may be issued only if, after a thorough inspection, the Qualified Elevator Inspector finds that the elevator meets the required safety standards. If the elevator is found to be unsafe, the Qualified Elevator Inspector shall prohibit the use of the elevator until it is made safe. (11-1-02)T

02. Term Of Certificate. A Certificate to Operate shall be in effect for five (5) years, provided that the elevator continues to meet the requirements of the appropriate codes. The Certificate to Operate for any elevator whose periodic elevator inspection is required to be completed between November 1, 2002 and July 1, 2004, shall be extended until that inspection is completed or July 1, 2004, whichever occurs first, provided that the elevator continues to meet the requirements of the appropriate codes. (~~3-30-01~~)(2-6-03)T

03. Revocation Of Certificate. The Certificate to Operate shall remain the property of the state of Idaho and may be revoked at any time if the elevator fails to meet the requirements of the appropriate codes. (3-30-01)

IDAPA 50 - COMMISSION OF PARDONS AND PAROLE
50.01.01 - RULES OF THE COMMISSION OF PARDONS AND PAROLE
DOCKET NO. 50-0101-0301
NOTICE OF RULEMAKING - TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is February 3, 2003.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 20-223, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of the supporting reasons for temporary rulemaking:

Agency rule 50.01.01.250.06 has been revised and expanded to include placing parolees, who meet certain criteria, on unsupervised parole.

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

Confers a benefit to the State of Idaho and its citizens.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Tracy Shearer, Commission of Pardons and Parole, P.O. Box 83720, Boise, ID 83720, 208-334-2520.

Dated this 3rd day of February, 2003.

Olivia Craven, Executive Director
Commission of Pardons and Parole
3125 So. Shoshone
P.O. Box 83720
Boise ID 83720
208-334-2520 (p)
208-334-3501 (f)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 50-0101-0301

250. PAROLE.

- 01. Parole Determination.** Parole determination is at the complete discretion of the commission. (3-23-98)
- a.** The commission may release an inmate to parole on or after the date of parole eligibility, or not at all. (3-23-98)
- b.** Parole consideration is evaluated by the individual merits of each case. (3-23-98)
- c.** The commission allows for parole consideration criteria, but no prediction regarding the granting of parole can be based upon any hearing standard or criteria. (3-23-98)

- i. Seriousness and aggravation and/or mitigation involved in the crime. (3-23-98)
- ii. Prior criminal history of the inmate. (3-23-98)
- iii. Failure or success of past probation and parole. (3-23-98)
- iv. Institutional history to include conformance to established rules, involvement in programs and jobs custody level at time of the hearing, and overall behavior. (3-23-98)
- v. Evidence of the development of a positive social attitude and the willingness to fulfill the obligations of a good citizen. (3-23-98)
- vi. Information or reports regarding physical or psychological condition. (3-23-98)
- vii. The strength and stability of the proposed parole plan, including adequate home placement and employment or maintenance and care. (3-23-98)

02. Primary Review. A review for the purpose of setting the initial parole hearing will be conducted on all inmates, except those serving a court-retained jurisdiction and those inmates sentenced to death; the commission is not responsible for the setting of a hearing until an official sentence calculation sheet has been received. (3-23-98)

a. The executive director or a designee will conduct the review following receipt of the sentence calculation from the department of correction, records office. (3-23-98)

b. The month and year of the initial parole hearing will be established based upon the sentence calculation. (3-23-98)

i. In cases of offenses committed prior to February 1, 1987 or offenses committed after February 1, 1987 with no specified fixed minimum term, the following guideline outlined in "Table 1" will be utilized in scheduling the initial hearings.

TABLE 1	
Length Of Sentence	Minimum Time To Be Served Before Initial Hearing
Three (3) years or less	- Nine (9) months
More than three (3) years to less than five (5) years	- Twelve (12) months
Five (5) years to less than seven (7) years	- Fifteen (15) months
Seven (7) years to less than ten (10) years	- Twenty (20) months
Ten (10) years to less than sixteen (16) years	- Twenty-four (24) months
Sixteen (16) years to less than twenty-six (26) years	- Thirty-six (36) months
Twenty-six (26) years up to life sentence	- Forty-eight (48) months
Life sentence	- Sixty (60) months

(3-23-98)

ii. In cases of offenses committed on or after February 1, 1987, and a minimum fixed term has been specified, the initial hearing may be scheduled prior to the parole eligibility date, during the month of parole

eligibility, or as noted in Subsection 250.02.b.vi. (3-30-01)

iii. Consecutive Sentences. All fixed terms will be served before the indeterminate terms commence. (3-23-98)

iv. When more than one (1) sentence is being served concurrently, the initial hearing will not be scheduled until all fixed terms have been served. (3-23-98)

v. If an inmate escapes prior to the primary review or the initial hearing, the review or hearing will be conducted within a reasonable time of notification of the inmate's return, taking into consideration any additional commitments. (3-23-98)

vi. If an inmate is committed to the department of correction and such inmate is eligible for parole immediately or within a short period of time, the initial parole hearing will be scheduled six (6) months from the month the commission was notified of the commitment. (4-5-00)

c. The commission is not responsible for the accuracy of the sentence calculation as determined by the department of correction, records office. The commission utilizes the documents as being accurate. (3-30-01)

03. General Conditions Of Parole. The commission establishes rules and conditions for every inmate released to parole, and those conditions are. (3-23-98)

a. Parolee will go directly to the destination approved by the commission and, upon arrival, report as instructed to the parole officer or person whose name and address appear on the arrival notice; any deviation in travel plans will require prior permission from the commission staff. (3-23-98)

b. The parolee shall. (3-23-98)

i. Work diligently in a lawful occupation or a program approved by the commission or supervising officer and not change employment or designated program without written permission from the commission or supervising officer. (3-23-98)

ii. Support dependents to the best of his ability. (3-23-98)

iii. Live within lawful income without incurring unnecessary indebtedness. (3-23-98)

c. The parolee shall submit a complete and truthful report to the assigned parole officer, or other person designated by the commission, on forms available, before the fifth day of each month, or as otherwise instructed. (3-23-98)

d. If at any time it becomes necessary to communicate with the assigned parole officer or other official designee and he is unavailable, communication will be directed to the district supervisor. (3-23-98)

e. The parolee will: (3-23-98)

i. Obey all municipal, county, state and federal laws. (3-23-98)

ii. Conduct himself, in a manner which is not, nor intended to be, harmful to himself or others. (3-23-98)

iii. Follow written or oral instructions of the parole officer or commission. (3-23-98)

iv. Not purchase, own, sell, or have in his control, to include storing in residence, vehicle, etc., any type of firearm for whatever purpose. (3-23-98)

v. Not have any dangerous weapons used or intended to be used for other than normal purposes, such as knives for household use. (3-23-98)

- f.** The parolee shall: (3-23-98)
- i. Abstain from excessive use of alcoholic beverages. (3-23-98)
- ii. Abstain completely from the possession, procurement, use, or sale of narcotics or controlled substances, except as prescribed by a licensed medical practitioner. (3-23-98)
- iii. Freely cooperate and voluntarily submit to medical and chemical tests and examinations for the purpose of determining if parolee is using or under the influence of alcohol or narcotics, which may be at the parolee's expense. (3-23-98)
- iv. Participate in treatment programs as specified by the commission or ordered by the parole officer. (3-23-98)
- g.** The parolee will submit to a search of person and/or property, to include residence and vehicle, at any time and place, by any agent of field services or the commission, and he does waive his constitutional right to be free from such searches. (3-23-98)
- h.** The parolee is fully advised that written permission is required to: (3-23-98)
- i. Wilfully change employment; (3-23-98)
- ii. Wilfully change residence; and (3-23-98)
- iii. Leave the assigned district. (3-23-98)
- i.** The parolee will make himself available for supervision and will not actively avoid supervision. (3-23-98)
- 04. Special Conditions Of Parole.** (3-23-98)
- a.** In addition to general rules of parole, the commission may add special conditions appropriate to the individual case. (3-23-98)
- b.** The commission delegates the authority to the executive director to add special conditions, before an inmate has been released to parole or while on parole, once the subject has signed a statement agreeing to the special conditions. (3-23-98)
- 05. Institutional Parole.** (3-23-98)
- a.** An inmate committed to the department of correction, who has a consecutive sentence and one (1) or more commitments do not have a fixed minimum term to serve prior to parole eligibility, may be considered for institutional parole while remaining incarcerated. (3-23-98)
- b.** Institutional parole may be considered at the discretion of the commission. (3-23-98)
- c.** While serving institutional parole, the parolee/inmate is subject to all the rules of the housing facility and conditions ordered by the commission, to include, but not be limited to, submitting monthly reports as directed. (3-23-98)
- d.** If rules of the institution or orders of the commission are violated, the executive director or a commissioner will determine when a report of conduct/violation should be submitted. (3-23-98)
- i. In the case of a report of violation, established rules of the violation/revocation process will apply. (3-23-98)

- ii. The executive director will determine the site of all hearings. (3-23-98)
- iii. If institutional parole is revoked, the time spent on institutional parole may be forfeited in whole or in part, and may not be deemed a part of the sentence for which the offender was committed; however, time served on the consecutive sentence will be credited once that sentence commences to be served. (3-30-01)

e. Conversion. Upon release from custody on any subsequent parole or upon completion of the consecutive sentence, and time remains on the institutional parole sentence, there will be an automatic conversion from institutional parole to regular parole, subject to all regular and special conditions of parole. (3-23-98)

06. Unsupervised Parole. ~~In extraordinary cases, the~~ The commission may elect to grant an unsupervised parole in extraordinary cases; when the parolee has met the minimum discharge requirements but still owes restitution or other court assessments; or if the parolee is medically unable to fulfill the parole obligations. (3-23-98)(2-3-03)T

a. ~~The parolee will be subject to all regular conditions of parole and any ordered special conditions, with the exception of the regular supervision of a parole officer.~~ In extraordinary cases the commission may elect to grant an unsupervised parole. (3-23-98)(2-3-03)T

i. The parolee will be subject to all regular conditions of parole and any ordered special conditions, with the exception of the regular supervision of a parole officer. (2-3-03)T

ii. Monthly reports must be submitted to the commission office. (2-3-03)T

iii. Communication from the parolee is to be directed to the commission office. (2-3-03)T

iv. At any time, the parolee may be placed under the regular supervision of a parole officer. (2-3-03)T

b. ~~Monthly reports must be submitted to the commission office.~~ The commission may elect to place a parolee, who still owes restitution or other court assessments, on unsupervised parole once the minimum discharge requirements have been met. (3-23-98)(2-3-03)T

i. The parolee must have served at least one (1) year on parole. (2-3-03)T

ii. Monthly payments will be monitored. Such monitoring will usually be accomplished by the Idaho Department of Correction Community Corrections. (2-3-03)T

iii. At any time, the parolee may be placed under the regular supervision of a parole officer. (2-3-03)T

c. ~~Communication from the parolee is to be directed to the commission office.~~ If a parolee is medically unable to fulfill the obligations of parole, the commission may suspend any or all parole obligations. (3-23-98)(2-3-03)T

d. ~~At any time, the parolee may be placed under regular supervision of a parole officer.~~ (3-23-98)

e. ~~If a parolee is medically unable to fulfill the obligations of parole, the commission may suspend any or all parole obligations.~~ (3-30-01)

07. Medical Parole. The commission may parole an inmate for medical reasons during the determinate portion of a sentence. (3-23-98)

a. An inmate may be considered for medical parole during the determinate portion of a sentence only when the prisoner is permanently incapacitated or terminally ill and when the commission reasonably believes the prisoner no longer poses a threat to the safety of society. (3-23-98)

b. An inmate or designated department of correction personnel may petition the commission to consider medical parole. (3-23-98)

c. For any consideration or hearing to consider medical parole, the commission will require specific medical information reference the condition, the treatment or care plan if released, and any other information as deemed necessary. (3-23-98)

d. The commission may conduct an actual hearing or review of the case, or may designate commission staff to provide additional information. (3-23-98)

e. An annual report will be submitted to the house and senate judiciary committees and will contain the inmates' names, medical condition, current status and crime for which the inmates were incarcerated. (3-23-98)

08. Intensive Supervision. The commission may order a program of intensive supervision which has been designed by and may be amended by the department of correction. (3-23-98)

09. Discharge From Parole. (3-23-98)

a. When the maximum sentence has expired, a final discharge will be issued by the commission, unless a commission warrant was issued before the full term or the good time release date. (3-23-98)

b. The commission may make a final order of discharge prior to completion of the maximum sentence when the commission believes such a discharge is compatible with the parolee's welfare and that of society, and subject to the following requirements. (3-23-98)

i. The commission will not consider an early discharge from parole in any case until the parolee has served at least one (1) year on parole. (3-23-98)

ii. The commission will not consider an early discharge for a parolee who has a sex crime or violent crime until one-third (1/3) of the remaining time from the parole release date to the maximum expiration date has been served on parole; or until five (5) years have been served on parole on a life sentence for any crime. (3-23-98)

iii. A parole officer or other designated agent may petition the commission to consider an early discharge. (3-23-98)

iv. Any decision by the commission to grant an early discharge will not be effective until the official discharge document has been signed by the executive director or a commissioner. (3-23-98)

v. If a decision has been made by the commission to grant an early discharge, and adverse information is received that was not previously available, the document will not be signed and the discharge will not be effective. (3-23-98)

vi. The executive director may issue a commission warrant based upon the new information and the discharge grant will automatically be voided without further action by the commission. (3-23-98)

vii. If the executive director does not issue a warrant, the information will be referred to the commission for reconsideration. (3-23-98)

c. If the parolee is incapacitated, the commission may consider and/or grant an early discharge after one (1) year for any crime. (3-30-01)

10. Detainers. (3-23-98)

a. The commission may grant a parole to any county, state, or federal detainer which has been lodged against an inmate. (3-23-98)

i. While in the custody of the detaining jurisdiction, the parolee is subject to all rules of the housing facility and must submit monthly reports to commission staff or others as designated. (3-23-98)

ii. If the parolee is released from custody by the detaining jurisdiction, the parolee must contact the commission office immediately and must report to the nearest probation and parole office within five (5) days of release or as otherwise instructed by the commission staff. (3-23-98)

iii. If the parolee is released from custody by the detaining jurisdiction, the parolee must abide by all regular rules of parole and any special conditions ordered by the commission. (3-23-98)

b. The commission may grant a parole to a federal immigration detainer in order that the inmate may be deported to the country of citizenship. (3-23-98)

i. If the parolee is granted a release on bond or it is determined by the federal authorities that the parolee can remain in the United States, the parolee must contact the commission office immediately and must contact the nearest probation and parole office within five (5) days of release or as otherwise instructed by the commission staff. (3-23-98)

ii. If the parolee is deported from the United States to the country of citizenship, the parolee is not to return to the United States; any such return to the United States during the parole period and after deportation, is considered a violation of the parole contract. (3-23-98)

iii. The commission considers this type of parole grant an unsupervised parole, but the parolee is not obligated to submit monthly reports nor maintain contact with the commission as long as he remains outside of the United States. (3-23-98)

11. Special Progress Reports. A special progress report may be submitted by field supervision personnel to request modification of a special condition of parole, advise of problems that have developed, or to request interstate transfer of a case. (3-23-98)

Subjects Affected Index

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02.06.05 - Rules Governing Diseases Of Hops (*Humulus lupulus*)

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16.04.03 - Rules Governing Fees For Community Mental Health Center Services

Docket No. 16-0403-0301

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16.05.01 - Use And Disclosure Of Department Records

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LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

Because of the moratorium on proposed rulemaking during the legislative session, there are no proposed rules being promulgated or published in this month's Bulletin.

Please refer to the Idaho Administrative Bulletin, **April 2, 2003, Volume 03-4** for notices and text of all rulemakings, public hearing schedules, Governor's executives 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 call (208) 332-1820 or write the Office of the Administrative Rules Coordinator, Department of Administration, 650 W. State St., Room 100, Boise, Idaho 83720. Visa and Mastercard accepted on purchases over \$50.

The Idaho Administrative Bulletin and Administrative Code are available on the Internet at the following address:
<http://www2.state.id.us/adm/adminrules/>

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

**This index tracks the history of all agency rulemakings from 1993 to the present.
It includes all rulemaking activities on each chapter of rules
and includes negotiated, temporary, proposed, pending
and final rules, public hearing notices
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