

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	January 1, 2003	February 5, 2003	February 26, 2003
03-3	March, 2003	February 5, 2003	March 5, 2003	March 26, 2003
03-4	April, 2003	March 5, 2003	April 2, 2003	April 23, 2003
03-5	May, 2003	April 2, 2003	May 7, 2003	May 28, 2003
03-6	June, 2003	May 7, 2003	June 4, 2003	June 25, 2003
03-7	July, 2003	June 4, 2003	July 2, 2003	July 23, 2003
03-8	August, 2003	July 2, 2003	August 6, 2003	August 27, 2003
03-9	September, 2003	August 1, 2003	September 3, 2003	September 24, 2003
03-10	October, 2003	**August 20, 2003	October 1, 2003	October 22, 2003
03-11	November, 2003	October 1, 2003	November 5, 2003	November 26, 2003
03-12	December, 2003	November 5, 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 19, 2003	January 7, 2004	January 28, 2004
04-2	February, 2004	January 7, 2002	February 4, 2004	February 25, 2004
04-3	March, 2004	February 4, 2004	March 3, 2004	March 24, 2004
04-4	April, 2004	March 3, 2004	April 4, 2004	April 25, 2004
04-5	May, 2004	April 4, 2004	May 5, 2004	May 26, 2004
04-6	June, 2004	May 5, 2004	June 2, 2004	June 22, 2004
04-7	July, 2004	June 2, 2004	July 7, 2004	July 28, 2004
04-8	August, 2004	July 7, 2004	August 4, 2004	August 25, 2004
04-9	September, 2004	August 1, 2004	September 1, 2004	September 22, 2004
04-10	October, 2004	**August 25, 2004	October 6, 2004	October 27, 2004
04-11	November, 2004	October 6, 2004	November 3, 2004	November 24, 2004
04-12	December, 2004	November 3, 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 08 - IDAHO STATE BOARD OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0301

NOTICE OF RULEMAKING - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 33-1501 through 33-1512 and 33-1006, Idaho Code.

HEARING SCHEDULE: Hearings on the negotiated rulemaking will be held as follows:

May 28, 2003, 12:00 p.m. to 5:00 p.m.
Idaho State Department of Education,
LBJ Building - 2nd floor Conference Room
650 State St., Boise, ID 83720-0027

The meeting site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the meeting. For arrangements, contact the undersigned at (208) 332-6811.

METHOD OF PARTICIPATION: Persons wishing to participate in the informal negotiated rulemaking must do the following:

Interested persons may submit written comments through May 28, 2003. Requests to give oral presentation during the May 28, 2003 public hearing must be submitted prior to May 28, 2003.

Copies of the preliminary draft of the text of the rule being promulgated will be provided to superintendents and other interested parties during regional superintendents meetings.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

Current administrative rules related to Idaho's pupil transportation support program became effective secondary to State Board of Education and legislative review on July 1, 2002. Minor changes in Standards for Idaho School Buses and Operations related to new school bus construction standards are anticipated. Changes in Standards for Idaho School Buses and Operations related to operations and bus purchasing are anticipated in response to legislative inquiries, legislation and State Board of Education requests.

The goal of the State Department of Education is to clarify standards language where appropriate and continue in its support of rules and procedures designed to promote safety, equity, accountability and efficiency.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the rule text being negotiated, contact Rodney D. McKnight, State Department of Education, Finance and Transportation, P.O. Box 83720, Boise, Idaho, (208) 332-6851 or fax to (208) 334-3484.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before May 28, 2003.

DATED this 7th day of March, 2003.

Dr. Marilyn Howard
Superintendent of Public Instruction
State Department of Education
650 West State Street - P.O. Box 83720
Boise, Idaho 83720-0027
(208) 332-6811 - (208) 332-6836 fax

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

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

DOCKET NO. 16-0305-0203

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is October 1, 2002. This pending rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section 56-1004(1), Idaho Code.

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

Subsection 106.03.c. is being deleted because it duplicated a requirement that was covered in Subsection 106.01.b. and the subsection is not necessary.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rules was published in the December Idaho Administrative Bulletin, Volume 02-12, pages 61 through 66.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Maggie Manzo, (208) 334-5753.

DATED this 17th day of January, 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, TITLE 03, CHAPTER 05

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

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-12, December 4, 2002, pages 61 through 66.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0305-0203

SUBSECTION 106.03.b. and 106.03.c.

106. CITIZENSHIP AND LEGAL NON-CITIZEN REQUIREMENT.

Individuals must be U.S. citizens or nationals or qualified legal non-citizens to be eligible. Nationals of American Samoa or Swain's Island are the equivalent of U.S. citizens. Only groups of legal non-citizens listed in Subsections 106.01 through 106.09 may be eligible. (7-1-99)

03. Permanent Residents Admitted On Or After August 22, 1996. A lawful permanent resident admitted on or after August 22, 1996 must: (10-1-02)T

a. Be a veteran honorably discharged for a reason other than alienage or is on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty; or (10-1-02)T

b. Have lived in the U.S. for at least five (5) years and have forty (40) quarters of work; ~~or~~ (10-1-02)F(10-1-02)T

c. ~~Be blind or disabled of any age under the SSI disability criteria.~~ (10-1-02)F

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

DOCKET NO. 16-0309-0212

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202(b); 56-203(g), (i), (j); 56-1003(l); 56-1004(l)(a), Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the December 4, 2002, Idaho Administrative Bulletin, Volume 02-12, pages 69 through 80.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Arla Farmer at (208) 364-1958.

DATED this 21st day of March, 2003.

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

RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-12, December 4, 2002, pages 69 through 80.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

DOCKET NO. 16-0309-0213

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202(b) and 56-203(g), Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the December 4, 2002, Idaho Administrative Bulletin, Volume 02-12, pages 81 and 82.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Arla Farmer at (208) 364-1958.

DATED this 9th day of January, 2003.

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IDAPA 16, TITLE 03, CHAPTER 09

RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-12, December 4, 2002, pages 81 and 82.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

DOCKET NO. 16-0309-0215

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is April 28, 2003. This pending rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section(s) 56-202(b); 56-203(g), (i), (j); 56-1003(l); 56-1004(l)(a), Idaho Code.

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

In response to comments received in hearings, testimony presented before the Department's legislative committees, and negotiation with providers held during the 2003 Legislative Session, the following amendments have been made to the Temporary rule to address the issue of access to crisis case management services:

1. Maintains the cap for ongoing case management services at four (4) hours per month;
2. Identifies crisis case management as a case management service;
3. Allows agencies to provide up to four (4) hours per month of crisis case management without Department authorization;
4. Requires that a recipient meet newly-developed criteria for a "crisis" before a provider may bill for crisis case management services;
5. Establishes that crisis case management services are linking, coordinating, and advocacy services and not provision of direct services such as crisis counseling, transportation, or skills building;
6. Allows the Department or its designee to authorize beyond the four (4) hour crisis limit if a more restrictive set of criteria are met;
7. Changes the interval for one hundred twenty (120) day service plan reviews to one hundred eighty (180) days;
8. Requires providers to document crisis services and to submit written justification to the Department or its designee for any additional crisis case management authorization; and
9. Allows licensed clinical professional counselors without private practice licensure and marriage and family therapists to provide case management services.

Pursuant to Section 67-5228, Idaho Code, transcriptional, and clerical corrections have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes differing from the proposed text are printed in this bulletin. The original text of the proposed rules was published in the December 4, 2002, Administrative Bulletin, Volume 02-12, pages 88 through 104.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Lloyd Forbes at (208) 364-1833.

DATED this 17th day of March, 2003.

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IDAPA 16, TITLE 03, CHAPTER 09

RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-12, December 4, 2002, pages 88 through 104.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0309-0215

SUBSECTIONS 478.03, 478.04, and 478.05

478. CASE MANAGEMENT SERVICES.

CM services shall be designed to foster independence and be delivered by eligible providers to assist the Medicaid recipient to obtain and coordinate needed health, educational, vocational and social services in the least restrictive, most appropriate and most cost-effective setting. CM services shall consist of the following core functions:

(12-1-02)T

03. Crisis Case Management. Crisis case management services are linking, coordinating and advocacy services provided to assist a recipient with accessing emergency community resources in order to resolve a crisis. Crisis case management services do not include crisis counseling, transportation to emergency service providers, direct skills building services, or encouragement of independence as identified in Subsection 478.05 of these rules. The crisis must be precipitated by an unanticipated event, circumstance, or life situation that places a recipient at risk of:

(4-28-03)T

a. Hospitalization: or

(4-28-03)T

- b.** Incarceration; or (4-28-03)T
- c.** Becoming homeless; or (4-28-03)T
- d.** Losing employment or major source of income; or (4-28-03)T
- e.** Physical harm to self or others, including family altercation or psychiatric relapse. (4-28-03)T

034. Linking/Coordination Of Services. Through negotiation and referrals, the case manager links the recipient to various providers of services/care and coordinates service delivery. Coordination of service delivery includes activities such as: assuring that needed services have been delivered, consulting with service providers to ascertain whether they are adequate for the needs of the recipient, and consulting with the client to identify the need for changes in a specific service or the need for additional services. The case manager may refer to his own agency for services but may not restrict the recipient's choice of service providers. It may be necessary to mobilize more than one set of resources to make adequate services available. The case manager may be needed to act as an advocate for the recipient. There must be a minimum of one face-to-face contact with the recipient at least every thirty (30) days. (10-22-93)

045. Case Manager. The case manager will encourage independence of the recipient by demonstrating to the individual how to best access service delivery systems such as transportation and Meals on Wheels, etc. Such assistance must be directed toward reducing the number of case management hours needed. Such assistance is limited to thirty (30) days per service delivery system. (3-30-01)

SUBSECTION 480.02.c.

480. CM PROVIDER AGENCY QUALIFICATIONS.

Case management provider agencies must meet the following criteria: (8-1-92)

02. Core Elements. Demonstrated capacity in providing all core elements of case management services to the target population including: (3-30-01)

- a.** Comprehensive assessment; and (8-1-92)
- b.** Comprehensive service plan development and implementation; and (8-1-92)
- c.** Crisis case management services which include arranging access to emergency community resources; and (4-28-03)T
- ed.** Linking/coordination of services; and (8-1-92)
- de.** Encouragement of independence. (10-22-93)

SUBSECTIONS 481.07 and 481.08

481. PROVIDER QUALIFICATIONS.

All individual CM providers must be employees of an organized provider agency that has a valid CM provider agreement with the Department. The employing entity will supervise individual CM providers and assure that the following qualifications are met for each individual CM provider. A provider must be a(n): (12-1-02)T

- 07. Licensed Clinical Professional Counselor.** Licensed Clinical Professional Counselor—~~Private~~

Practice Licensure; or

~~(12-1-02)F~~(4-28-03)T

08. **Licensed Marriage And Family Therapist.** Licensed Marriage and Family Therapist; or
(4-28-03)T

089. **Clinician.** Clinician employed by a state agency and who meets the requirements of the Division of Human Resources and the Personnel Commission; or
(12-1-02)T

0910. **Holder Of A Bachelor's Degree In A Human Services Field.** Individual having a B.A. or B.S. in a human services field and at least one (1) year experience with the target population. Individuals without the one (1) year of experience may gain this experience by working for one (1) year under the supervision of a fully-qualified case manager.
(12-1-02)T

SUBSECTIONS 483.06, 483.07, and 483.13

483. PAYMENT FOR SERVICES.

When an assessment indicates the need for medical, psychiatric, social, educational, or other services, referral or arrangement for such services may be included as CM services, however, the actual provision of the service does not constitute CM. Medicaid will reimburse only for core services (Section 480 of these rules) provided to members of the eligible target group by qualified staff.
(12-1-02)T

06. **Services Delivered Prior To Assessment.** The Department will not provide Medicaid reimbursement for on-going non-crisis case management services delivered prior to the completion of the assessments and individual service plan ~~if an immediate need is documented~~.
(12-1-02)F(4-28-03)T

07. **Crisis Case Management.** The Department will provide Medicaid reimbursement for crisis case management services identified under Subsection 478.03 of these rules. Crisis case management services may be delivered prior to, or after, the completion of the assessment and individual service plan. Without authorization by the Department or its designee, crisis case management services are limited to a total of four (4) hours per calendar month. The Department or its designee may authorize additional crisis case management services beyond the four (4) hour limit if a recipient still has severe or prolonged crisis case management needs that meet all of the following criteria:
(4-28-03)T

a. The service recipient is at imminent risk (within fourteen (14) days) of hospitalization or institutionalization, including jail or nursing home; and
(4-28-03)T

b. The service recipient is experiencing symptoms of psychiatric decompensation; and
(4-28-03)T

c. The service recipient has already received the maximum number of monthly hours of ongoing case management and crisis case management services; and
(4-28-03)T

d. No other crisis assistance services are available to the recipient under other Medicaid mental health option services, including Psychosocial Rehabilitation Services (PSR).
(4-28-03)T

078. **Audit Reviews.** Audit reviews will be conducted at least once a calendar year by the Department or its designee. Review findings may be referred to the Department's Surveillance and Utilization Review Section for appropriate action.
(12-1-02)T

089. **Recoupment.** Failure to provide services for which reimbursement has been received or to comply with these rules will be cause for recoupment of payments for services, sanctions, or both.
(3-30-01)

0910. **Information.** The provider will provide the Department with access to all information required to review compliance with these rules.
(3-30-01)

101. Group Case Management. The Department will not provide Medicaid reimbursement for case management services provided to a group of recipients. (3-30-01)

112. Case Management In A Facility. Medicaid will reimburse for case management services on the same date a recipient is admitted or discharged from a hospital, nursing facility, or other institutional setting, as long as the recipient is not yet admitted or has been discharged at the time of service delivery. Services may be provided during the last thirty (30) days of inpatient stay or if the inpatient stay is not expected to last longer than thirty (30) days, when not duplicating those included in the responsibilities of the facility. (3-30-01)

123. On-Going Non-Crisis Case Management. On-going non-crisis case management services are limited to a total of four (4) hours per calendar month. (~~12-1-02~~)(4-28-03)T

SUBSECTIONS 484.06 and 484.07

484. RECORD REQUIREMENTS.

In addition to the development and maintenance of the service plan, the following documentation must be maintained by the provider: (8-1-92)

06. Activity Record. Activity record describing the recipient and the service provided. The activity record must also include the dated signature and credential(s), including professional license(s), of the service provider. (~~3-30-01~~)(4-28-03)T

07. Documentation. Documented review of progress toward each CM service plan goal, and assessment of the recipient's need for CM and other services at least every one hundred ~~twenty~~ eighty (1280) days. Documentation to support authorization of crisis case management services beyond the monthly limitation must be submitted to the Department or its designee before such authorization may be granted. Documentation to support delivery of crisis case management services must also be maintained in the recipient's agency record and must include: (~~3-30-01~~)(4-28-03)T

a. A description of the crisis including identification of unanticipated event(s) that precipitate the need for crisis case management services; and (4-28-03)T

b. A brief review of case management and other services or supports available to, or already provided to, the recipient to resolve the crisis; and (4-28-03)T

c. A crisis resolution plan; and (4-28-03)T

d. Outcomes of crisis case management service provision. (4-28-03)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

DOCKET NO. 16-0309-0217

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202(b) and 56-203(g), Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the December 4, 2002, Idaho Administrative Bulletin, Volume 02-12, pages 112 through 127.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Dr. Thomas Young at (208) 334-5747.

DATED this 9th day of January, 2003.

Sherri Kovach
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IDAPA 16, TITLE 03, CHAPTER 09

RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-12, December 4, 2002, pages 112 through 127.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

DOCKET NO. 16-0309-0218

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202(b) and 56-203(g), Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the December 4, 2002, Idaho Administrative Bulletin, Volume 02-12, pages 128 and 129.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Arla Farmer at (208) 364-1958.

DATED this 9th day of January, 2003.

Sherri Kovach
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IDAPA 16, TITLE 03, CHAPTER 09

RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-12, December 4, 2002, pages 128 and 129.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO

DOCKET NO. 16-0310-0204

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 56-202(b) and 56-203(g), Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the December 4, 2002, Administrative Bulletin, Volume 02-12, pages 135 through 141.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Lloyd Forbes at (208) 364-1831.

DATED this 9th day of January, 2003.

Sherri Kovach
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IDAPA 16, TITLE 03, CHAPTER 10

RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-12, December 4, 2002, pages 135 through 141.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.14 - RULES GOVERNING THE PREVENTION OF MINORS' ACCESS TO TOBACCO PRODUCTS

DOCKET NO. 16-0614-0201

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) Title 39, Chapter 57, Idaho Code and 42 U.S.C. 300x - 26, 45 C.F.R., 96.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the December 4, 2002 Administrative Bulletin, Volume 02-12, pages 143 through 146.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Terry Pappin at (208) 334-6542.

DATED this 9th day of January, 2003.

Sherri Kovach
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IDAPA 16, TITLE 06, CHAPTER 14

RULES GOVERNING THE PREVENTION OF MINORS' ACCESS TO TOBACCO PRODUCTS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-12, December 4, 2002, pages 143 through 146.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0301

NOTICE OF RULEMAKING - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality," Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation prior to initiating formal rulemaking procedures. This rulemaking action is authorized by Chapter 1, Title 39, Idaho Code.

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

May 28, 2003, 9:00 a.m.
Department of Environmental Quality
Conference Room A
1410 N. Hilton, Boise, Idaho

PRELIMINARY DRAFT: By May 14, 2003, a preliminary draft of the rule can be obtained at www.state.id.us/deq/rules/58-0108-0301_negotiated_rulemaking.htm or by contacting Joan Thomas at (208) 373-0502 or jthomas@deq.state.id.us.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to make the following changes to the Idaho Rules for Public Drinking Water Systems, IDAPA 58.01.08, Sections 003 (Definitions) and 553 through 562 (Drinking Water Operator Certification Rules).

1. Conform to Idaho Code, Section 39-119, which requires that established fee standards be included in rule text wherever a fee is going to be imposed. The proposed changes will include the standards by which fees will be imposed for operator applications, certification exams, certification renewals, and course evaluations for continuing education units (CEUs).
2. Make the Drinking Water Operator Certification Rules consistent, where applicable, with the recently adopted changes to the Water Quality Standards and Wastewater Treatment Requirements, IDAPA 58.01.02, Sections 403 through 413 (Wastewater Operator Certification Rules). These proposed changes include making rule language consistent with the Wastewater Operator Certification Rules for the following: definitions, certification requirements for systems, addition of optional voluntary certification, separate eligibility criteria for certifying treatment operators and distribution operators, length of certification renewal cycle, number of CEUs required per certification renewal cycle, and certificate signatures.

It is equally important that federal requirements already in place in the Idaho Rules for Public Drinking Water Systems related to drinking water operator certification not be changed. Federal baseline standards were required for inclusion in the state rule by Section 1419 (b) of the federal Safe Drinking Water Act. Failure to comply with the federal provisions will result in the loss of 20% of the state's annual Drinking Water Revolving Loan Fund capitalization grant from the federal government.

Public drinking water system treatment and distribution operators, owners of public drinking water systems, water purveyors, Association of Idaho Cities, Idaho Water/Wastewater Operator Certification Board, operator training providers, industry associations, Water Utilities Commission and the general public may be interested in this rulemaking.

The Department of Environmental Quality (DEQ) intends to conclude the negotiations in June 2003 and publish a proposed rule for public comment in the August 2003 issue of the Idaho Administrative Bulletin. DEQ intends to present the rule to the Board of Environmental Quality for adoption of a pending rule in the fall of 2003.

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

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

Anyone may submit written comments on the preliminary draft by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before June 4, 2003.

Dated this 27th day of March, 2003.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
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(208)373-0418
Fax No. (208)373-0481
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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.23 - RULES OF ADMINISTRATIVE PROCEDURE BEFORE THE BOARD OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0123-0301

NOTICE OF RULEMAKING - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality," Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This negotiated rulemaking action is authorized by Section 39-105, Idaho Code. The formal rulemaking action is authorized by Sections 39-105, 39-107, and 67-5206, Idaho Code.

MEETING SCHEDULE: Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting. Additional meetings may be scheduled if necessary. For information regarding additional meetings, contact Paula Gradwohl at (208)373-0418 or pgradwoh@deq.state.id.us.

May 14, 2003, 9:00 a.m.
Department of Environmental Quality
Attorney General's Office Conference Room
1410 N. Hilton, Boise, Idaho

PRELIMINARY DRAFT: A preliminary draft of the rule can be obtained at www2.state.id.us/deq/rules/58-0123-0301_negotiated_rulemaking.htm or by contacting Paula Gradwohl at (208) 373-0418 or pgradwoh@deq.state.id.us.

DESCRIPTIVE SUMMARY: The Rules of Administrative Procedure Before the Board of Environmental Quality were first adopted by the Board of Environmental Quality in 2001. Since that time, several petitions to initiate contested cases have been filed with the Board, giving an opportunity to apply the rules to contested case proceedings. Certain difficulties in implementing the rules have been identified. The purpose of this rulemaking is to address issues such as public notice requirements and intervention procedures. Other issues presented during the negotiations may also be addressed. This rulemaking will affect any citizen of the state of Idaho and/or regulated industry appealing an action of the Department of Environmental Quality to the Board of Environmental Quality or having a direct and substantial interest in a proceeding filed with the Board.

The Department of Environmental Quality (DEQ) intends to conclude the negotiations by June 11, 2003 and publish a proposed rule for public comment in the August 2003 issue of the Idaho Administrative Bulletin. DEQ intends to present the rule to the Board of Environmental Quality for adoption of a pending rule in the fall of 2003.

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

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the negotiated rulemaking, contact Paula Gradwohl at (208) 373-0418 or pgradwoh@deq.state.id.us.

Anyone may submit written comments on the preliminary draft by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before May 28, 2003.

Dated this 24th day of March, 2003.

Paula J. Gradwohl
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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, **May 7, 2003, Volume 03-5** 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

**FOR THE ABOVE LINK TO WORK YOU HAVE
TO BE CONNECTED TO THE INTERNET**

**This index tracks the history of all agency rulemakings from 1993 to the present.
It includes all rulemaking activities on each chapter of rules
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