

IDAHO ADMINISTRATIVE BULLETIN

Table of Contents

June 4, 2003 -- Volume 03-6

TABLE OF CONTENTS	1
PREFACE	5
<u>OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR</u>	
<u>IDAHO DEPARTMENT OF ADMINISTRATION</u>	
Omnibus Rulemaking Notice of Legislative Approval of Final Rules and Extension of Temporary Rules.....	14
<u>HOUSE CONCURRENT RESOLUTION</u>	
House Concurrent Resolution No. 12	
Rejecting Certain Rules of the Idaho Outfitters and Guides Licensing Board Relating to Qualifications and License Requirements and First Aid Cards	23
House Concurrent Resolution No. 16	
Rejecting Certain Rules of the Department of Environmental Quality Relating to Individual/Subsurface Sewage Disposal	24
House Concurrent Resolution No. 18	
Rejecting Certain Rules of the Department of Parks and Recreation Relating to the Administration of Park and Recreation Areas and Facilities	25
House Concurrent Resolution No. 19	
Approving Certain Administrative Rules of the Department of Parks and Recreation that Impose a Fee or Charge, Concerning Campsite and Reservation Fees	26
House Concurrent Resolution No. 22	
Rejecting Certain Rules of the Department of Environmental Quality Relating to Underground Storage Tanks and Leaking Petroleum Storage Tanks, and Water Quality Standards and Wastewater Treatment Requirements.....	27
House Concurrent Resolution No. 25	
Rejecting Certain Rules of the Department of Environmental Quality Relating to the Control of Air Pollution in Idaho	28
<u>SENATE CONCURRENT RESOLUTION</u>	
Senate Concurrent Resolution No. 106	
Rejecting a Certain Rule of the State Board of Education Relating to Rules Governing Administration and Federally Funded Programs.....	29
Senate Concurrent Resolution No. 109	
Approving Administrative Rules that Impose a Fee or Charge, with Exceptions, and Rejecting Certain Agency Rules that Are Not Approved.....	30
Senate Concurrent Resolution No. 110	
Approving and Extending Temporary Rules Reviewed by the Legislature	32

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE**02.04.21 - Rules Governing The Importation Of Animals**

Docket No. 02-0421-0301

Notice of Rulemaking - Temporary and Proposed Rule33

IDAPA 08 - STATE BOARD OF EDUCATION**08.02.01 - Rules Governing Administration**

Docket No. 08-0201-0301L

Notice of Legislative action - Rejection of Final Rule.....36

IDAPA 15 - OFFICE OF THE GOVERNOR**IDAHO COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED****15.02.30 - Business Enterprise Program**

Docket No. 15-0230-0301

Notice of Rulemaking - Temporary and Proposed Rule37

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**16.03.09 - Rules Governing The Medical Assistance Program**

Docket No. 16-0309-0103

Notice of Rescission of Temporary Rule39

Docket No. 16-0309-0214

Pending Rule and Amendment to Temporary Rule40

Docket No. 16-0309-0216L

Notice of Legislative Action - Rejection of Temporary Rule45

Docket No. 16-0309-0216

Notice of Vacation of Proposed Rulemaking46

Docket No. 16-0309-0301

Notice of Rulemaking - Pending Rule.....47

Docket No. 16-0309-0302

Notice of Rulemaking - Temporary and Proposed Rule48

16.03.10 - Rules Governing Medicaid Provider Reimbursement In Idaho

Docket No. 16-0310-0203

Pending Rule and Amendment to Temporary Rule72

Docket No. 16-0310-0301

Notice of Rulemaking - Pending Rule.....74

16.03.23 - Rules Governing Uniform Assessment For State-Funded Clients

Docket No. 16-0323-0101

Notice of Rescission of Temporary Rule75

16.04.11 - Rules Governing Developmental Disabilities Agencies

Docket No. 16-0411-0101

Notice of Rescission of Temporary Rule76

16.04.14 - Rules Governing The Low Income Home Energy Assistance Program	
Docket No. 16-0414-0301	
Notice of Rulemaking - Pending Rule.....	77
16.04.17 - Rules Governing Residential Habilitation Agencies	
Docket No. 16-0417-0101	
Notice of Rescission of Temporary Rule	78
16.05.03 - Rules Governing Contested Case Proceedings And Declaratory Rulings	
Docket No. 16-0503-0101	
Notice of Rescission of Temporary Rule	79
<u>IDAPA 22 - BOARD OF MEDICINE</u>	
22.01.03 - Rules For The Licensure Of Physician Assistants	
Docket No. 22-0103-0201 (Fee Rule)	
Notice of Rulemaking - Final Rule	80
<u>IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD</u>	
25.01.01 - Rules Of The Outfitters And Guides Licensing Board	
Docket No. 25-0101-0202	
Notice of Rulemaking - Final Rule	81
<u>IDAPA 27 - BOARD OF PHARMACY</u>	
27.01.01 - Rules Of The Idaho Board Of Pharmacy	
Docket No. 27-0101-0201 (Fee Rule)	
Notice of Rulemaking - Final Rule	82
27.01.01 - Rules Of The Idaho Board Of Pharmacy	
Docket No. 27-0101-0301	
Notice of Rescission of Temporary Rule	83
27.01.01 - Rules Of The Idaho Board Of Pharmacy	
Docket No. 27-0101-0302 (Fee Rule)	
Notice of Rulemaking - Temporary and Proposed Rule	84
<u>IDAPA 50 - COMMISSION OF PARDONS AND PAROLE</u>	
50.01.01 - Rules Of The Commission Of Pardons And Parole	
Docket No. 50-0101-0301	
Notice of Rescission of Temporary Rule	87
Docket No. 50-0101-0302	
Notice of Rulemaking - Temporary and Proposed Rule	88
<u>IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY</u>	
58.01.01 - Rules For The Control Of Air Pollution In Idaho	
Docket No. 58-0101-0201	
Notice of Rulemaking - Final Rule	95
58.01.02 - Water Quality Standards And Wastewater Treatment Requirements	
Docket No. 58-0102-0202	
Notice of Rejection of Rulemaking - Final Rule.....	96

58.01.03 - Individual/Subsurface Sewage Disposal Rules
Docket No. 58-0103-0201
Notice of Rejection of Rulemaking - Final Rule.....97

**58.01.07 - Rules For Owners And Operators Of Underground Storage Tanks
And Leaking Petroleum Storage Tanks**
Docket No. 58-0107-0201
Notice of Rejection of Rulemaking - Final Rule.....98

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
59.01.03 - Contribution Rules For The Public Employee Retirement System Of Idaho
Docket No. 59-0103-0301
Notice of Rulemaking - Temporary and Proposed Rule99

SUBJECTS AFFECTED INDEX101

LEGAL NOTICE - SUMMARY OF PROPOSED RULEMAKINGS103

**ABRIDGED EDITION OF THE CUMULATIVE RULEMAKING INDEX
OF IDAHO ADMINISTRATIVE RULES.....105**

SUBJECT INDEX135

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.***

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS AND THE 2002 ADMINISTRATIVE CODE VOLUME NUMBERS		
IDAPA 01	ACCOUNTANCY , Board of	VOLUME 1
IDAPA 38	ADMINISTRATION , Department of	VOLUME 8
IDAPA 44	ADMINISTRATIVE RULES COORDINATOR , Office of the	VOLUME 8
IDAPA 02	AGRICULTURE , Idaho Department of	VOLUME 1
IDAPA 40	ARTS , Idaho Commission on the	VOLUME 8
IDAPA 03	ATHLETIC COMMISSION	VOLUME 1
IDAPA 04	ATTORNEY GENERAL , Office of the	VOLUME 1
IDAPA 53	BARLEY COMMISSION , Idaho	VOLUME 9
IDAPA 51	BEEF COUNCIL , Idaho	VOLUME 9
IDAPA 07	BUILDING SAFETY , Division of Electrical Board Plumbing Board Building Code Advisory Board Public Works Contractors License Board	VOLUME 1
IDAPA 43	CANOLA AND RAPESEED COMMISSION , Idaho	VOLUME 8
IDAPA 48	COMMERCE , Idaho Department of	VOLUME 8
IDAPA 06	CORRECTION , Board of	VOLUME 1
IDAPA 19	DENTISTRY , Board of	VOLUME 6
IDAPA 08	EDUCATION , Board of	VOLUME 2
IDAPA 10	ENGINEERS AND LAND SURVEYORS , Board of Professional	VOLUME 2
IDAPA 58	ENVIRONMENTAL QUALITY , Department of	VOLUME 9
IDAPA 12	FINANCE , Department of	VOLUME 2
IDAPA 13	FISH AND GAME , Department of	VOLUME 2
IDAPA 14	GEOLOGISTS , Board of Registration of Professional	VOLUME 2
IDAPA 15	GOVERNOR , Office of the Idaho Commission on Aging Idaho Commission for the Blind Idaho Forest Products Commission Division of Human Resources and Personnel Commission Idaho Liquor Dispensary Emergency Response Commission	VOLUME 3

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS AND THE 2002 ADMINISTRATIVE CODE VOLUME NUMBERS		
IDAPA 16	HEALTH AND WELFARE , Department of	VOLUMES 3, 4, & 5
IDAPA 45	HUMAN RIGHTS COMMISSION	VOLUME 8
IDAPA 30	IDAHO STATE LIBRARY	VOLUME 7
IDAPA 11	IDAHO STATE POLICE	VOLUME 2
IDAPA 17	INDUSTRIAL COMMISSION	VOLUME 5
IDAPA 18	INSURANCE , Department of	VOLUME 5
IDAPA 05	JUVENILE CORRECTIONS , Department of	VOLUME 1
IDAPA 09	LABOR , Idaho Department of	VOLUME 2
IDAPA 20	LANDS , Department of	VOLUME 6
IDAPA 52	LOTTERY COMMISSION , Idaho State	VOLUME 9
IDAPA 22	MEDICINE , Board of	VOLUME 6
IDAPA 23	NURSING , Board of	VOLUME 6
IDAPA 24	OCCUPATIONAL LICENSES , Board of Board of Architectural Examiners Board of Barber Examiners Board of Chiropractic Physicians Board of Cosmetology Board of Environmental Health Specialist Examiners Board of Hearing Aid Dealers and Fitters Board of Landscape Architects Board of Morticians Board of Examiners of Nursing Home Administrators Board of Optometry Board of Podiatry Board of Psychologist Examiners Board of Social Work Examiners Idaho Counselor Board Board of Dentistry Board of Acupuncture Real Estate Appraiser Board Board of Residential Care Facility Administrators	VOLUME 6
IDAPA 25	OUTFITTERS AND GUIDES LICENSING BOARD	VOLUME 6
IDAPA 50	PARDONS AND PAROLE , Commission for	VOLUME 9
IDAPA 26	PARKS AND RECREATION , Department of	VOLUME 6
IDAPA 59	PUBLIC EMPLOYEES RETIREMENT SYSTEM OF IDAHO - PERSI	VOLUME 9
IDAPA 27	PHARMACY , Board of	VOLUME 6

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS AND THE 2002 ADMINISTRATIVE CODE VOLUME NUMBERS		
IDAPA 29	POTATO COMMISSION, Idaho	VOLUME 7
IDAPA 31	PUBLIC UTILITIES COMMISSION	VOLUME 7
IDAPA 41	PUBLIC HEALTH DISTRICTS	VOLUME 8
IDAPA 33	REAL ESTATE COMMISSION	VOLUME 7
IDAPA 56	RANGELAND RESOURCES COMMISSION, Idaho	VOLUME 9
IDAPA 34	SECRETARY OF STATE, Office of the	VOLUME 7
IDAPA 49	SHORTHAND REPORTERS, Board of Certified	VOLUME 8
IDAPA 36	TAX APPEALS, Idaho Board of	VOLUME 7
IDAPA 35	TAX COMMISSION, State	VOLUME 7
IDAPA 39	TRANSPORTATION, Department of	VOLUME 8
IDAPA 54	TREASURER, Office of the State	VOLUME 9
IDAPA 21	VETERANS SERVICES, Division of	
IDAPA 46	VETERINARY MEDICAL EXAMINERS, Board of	VOLUME 8
IDAPA 55	VOCATIONAL AND TECHNICAL EDUCATION, Division of	VOLUME 9
IDAPA 47	VOCATIONAL REHABILITATION, Division of	VOLUME 8
IDAPA 37	WATER RESOURCES, Department of	VOLUME 8
IDAPA 42	WHEAT COMMISSION, Idaho	VOLUME 8

**OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR
IDAHO DEPARTMENT OF ADMINISTRATION**

**RULES APPROVED AND EXTENDED BY THE FIFTY-SEVENTH LEGISLATURE
FIRST REGULAR SESSION - 2003**

**OMNIBUS RULEMAKING NOTICE OF LEGISLATIVE APPROVAL OF FINAL
RULES AND EXTENSION OF TEMPORARY RULES**

AUTHORITY: In compliance with Sections 67-5224(7) and 67-5226(3), Idaho Code, notice is hereby given by the Office of the Administrative Rules Coordinator that the Fifty-seventh Legislature in the First Regular Session - 2003, has approved final rules and extended temporary rules. The docket numbers of the effected rulemakings and their effective dates are listed below.

DESCRIPTIVE SUMMARY: The following list of final and temporary rules includes those rules which were reviewed during the 2003 first regular session of the fifty-seventh legislature of the state of Idaho. The final rules were approved by the legislature and the temporary rules were extended by Senate Concurrent Resolution 110. Pending fee rules were adopted by Senate Concurrent Resolution 109. The lists include the docket number of the rulemaking, the volume of the Idaho Administrative Bulletin in which the text was published, and the final or temporary effective date of the rule..

RULES APPROVED AS FINAL RULES				
Docket Number	Bulletin Vol. No. of Pending Rule Publication	Bulletin Vol. No. of Proposed Rule Publication	Final Rule Effective Date	Action Taken By Concurrent Resolution
01-0101-0201	02-11	02-7	(5-3-03)	
01-0101-0202	02-11	02-7	(5-3-03)	
01-0101-0203	02-11	02-7	(4-2-03)	Fee Approved by SCR 109
02-0212-0201	03-1	02-7	(5-3-03)	
02-0213-0201	03-4	02-7	(5-3-03)	
02-0214-0201	02-11	02-9	(5-3-03)	
02-0215-0101	02-12	01-12	(5-3-03)	
02-0215-0201	03-1	02-7	(4-2-03)	Fee Approved by SCR 109
02-0216-0101	02-12	01-12	(5-3-03)	
02-0403-0202	02-10	02-7	(5-3-03)	
02-0403-0203	03-1	02-9	(5-3-03)	
02-0403-0204	02-12	02-10	(5-3-03)	
02-0403-0205	02-12	02-10	(5-3-03)	
02-0416-0201	03-1	02-10	(5-3-03)	
02-0419-0201	03-1	02-9	(4-2-03)	Fee Approved by SCR 109
02-0420-0201	02-10	02-7	(5-3-03)	
02-0421-0201	02-10	02-7	(5-3-03)	
02-0422-0201	02-12	02-10	(5-3-03)	
02-0423-0201	03-1	02-9	(5-3-03)	
*02-0600-0201	02-12	02-10	(5-3-03)	

RULES APPROVED AS FINAL RULES				
Docket Number	Bulletin Vol. No. of Pending Rule Publication	Bulletin Vol. No. of Proposed Rule Publication	Final Rule Effective Date	Action Taken By Concurrent Resolution
02-0601-0201	02-12	02-6	(4-2-03)	Fee Approved by SCR 109
02-0606-0201	02-12	02-10	(5-3-03)	
02-0606-0202	02-12	02-10	(4-2-03)	Fee Approved by SCR 109
02-0608-0201	02-12	02-9	(5-3-03)	
02-0608-0202	02-12	02-9	(5-3-03)	
02-0609-0201	02-12	02-1	(5-3-03)	
02-0610-0201	02-12	02-9	(5-3-03)	
02-0616-0101	02-12	01-8	(5-3-03)	
02-0619-0201	02-12	02-9	(5-3-03)	
02-0623-0201	02-12	02-9	(5-3-03)	
02-0626-0201	02-12	02-1	(5-3-03)	
02-0626-0202	02-12	02-1	(5-3-03)	
02-0627-0201	02-12	02-1	(5-3-03)	
02-0628-0201	02-12	02-1	(5-3-03)	
02-0633-0101	02-12	01-12	(4-2-03)	Fee Approved by SCR 109
02-0637-0201	02-12	02-1	(5-3-03)	
05-0103-0201	03-1	02-10	(5-3-03)	
07-0103-0201	02-11	02-9	(5-3-03)	
07-0104-0201	02-11	02-9	(5-3-03)	
07-0106-0201	02-9	02-6	(5-3-03)	
07-0204-0201	02-11	02-8	(5-3-03)	
07-0206-0201	02-11	02-8	(5-3-03)	
07-0301-0101	03-1	02-10	(5-3-03)	
07-0302-0201	03-1	02-10	(5-3-03)	
07-0303-0201	03-1	02-10	(5-3-03)	
07-0305-0201	03-1	02-10	(5-3-03)	
07-0306-0201	03-1	02-10	(5-3-03)	
07-0307-0201	03-1	02-10	(5-3-03)	
07-0307-0202	03-1	02-10	(5-3-03)	
07-0308-0201	03-1	02-10	(5-3-03)	
07-0310-0201	03-1	02-10	(5-3-03)	
07-0310-0202	03-1	02-10	(5-3-03)	

RULES APPROVED AS FINAL RULES				
Docket Number	Bulletin Vol. No. of Pending Rule Publication	Bulletin Vol. No. of Proposed Rule Publication	Final Rule Effective Date	Action Taken By Concurrent Resolution
07-0312-0201	03-1	02-10	(5-3-03)	
08-0202-0201	03-1	02-10	(5-3-03)	
08-0202-0202	03-1	02-10	(5-3-03)	
08-0202-0203	03-1	02-10	(5-3-03)	
08-0203-0201	02-9	02-6	(5-3-03)	
08-0203-0202	03-1	02-10	(5-3-03)	
08-0203-0203	03-1	02-10	(5-3-03)	
08-0203-0204	03-1	02-10	(5-3-03)	
09-0106-0201	02-12	02-8	(5-3-03)	
09-0130-0201	02-12	02-9	(5-3-03)	
10-0101-0201	02-12	02-9	(5-3-03)	
10-0102-0201	02-12	02-9	(5-3-03)	
11-0501-0102	02-2	01-11	(5-3-03)	
11-0701-0201	02-12	02-9	(5-3-03)	
11-0702-0201	02-12	02-9	(5-3-03)	
11-0703-0201	02-12	02-9	(5-3-03)	
11-1003-0201	02-10	02-6	(5-3-03)	
11-1101-0201	02-12	02-10	(4-2-03)	Fee Approved by SCR 109
11-1102-0201	02-10	02-8	(5-3-03)	
11-1103-0201	02-10	02-6	(5-3-03)	
11-1201-0201	02-10	02-6	(5-3-03)	
13-0103-0201	03-1	02-10	(5-3-03)	
13-0104-0201	03-1	02-10	(5-3-03)	
13-0107-0201	03-1	02-10	(5-3-03)	
13-0109-0201	03-1	02-10	(5-3-03)	
13-0113-0201	03-1	02-10	(5-3-03)	
13-0114-0201	03-1	02-10	(5-3-03)	
13-0115-0201	03-1	02-10	(5-3-03)	
13-0116-0201	03-1	02-10	(5-3-03)	
15-0101-0201	02-12	02-10	(5-3-03)	
15-0102-0201	02-12	02-10	(5-3-03)	
15-0121-0201	02-12	02-10	(5-3-03)	

RULES APPROVED AS FINAL RULES				
Docket Number	Bulletin Vol. No. of Pending Rule Publication	Bulletin Vol. No. of Proposed Rule Publication	Final Rule Effective Date	Action Taken By Concurrent Resolution
15-0301-0201	02-12	02-9	(5-3-03)	
16-0000-0201	03-1	02-10	(5-3-03)	
16-0205-0201	03-1	02-10	(5-3-03)	
16-0210-0201	03-1	02-7	(5-3-03)	
16-0212-0201	03-1	02-7	(5-3-03)	
16-0212-0202	03-1	02-7	(5-3-03)	
16-0304-0103	02-2	01-11	(5-3-03)	
16-0304-0201	02-10	02-7	(5-3-03)	
16-0305-0201	02-8	02-5	(5-3-03)	
16-0305-0202	02-11	02-8	(5-3-03)	
16-0307-0101	02-7	01-10	(5-3-03)	
16-0308-0201	02-10	02-7	(5-3-03)	
16-0309-0201	02-4	02-1	(5-3-03)	
16-0309-0202	02-8	02-5	(5-3-03)	
16-0309-0204	02-8	02-5	(5-3-03)	
16-0309-0206	02-8	02-5	(5-3-03)	
16-0309-0207	02-10	02-7	(5-3-03)	
16-0309-0208	02-11	02-8	(5-3-03)	
16-0309-0209	02-11	02-8	(5-3-03)	
16-0309-0210	03-1	02-10	(5-3-03)	
16-0309-0211	03-1	02-10	(5-3-03)	
16-0310-0201	02-11	02-8	(5-3-03)	
16-0310-0202	02-11	02-8	(5-3-03)	
16-0314-0201	03-1	02-10	(5-3-03)	
16-0319-0101	02-7	01-11	(5-3-03)	
16-0319-0102	02-7	01-11	(5-3-03)	
16-0322-0101	02-7	01-11	(5-3-03)	
16-0322-0201	03-1	02-10	(5-3-03)	
16-0411-0201	03-1	02-10	(5-3-03)	
16-0504-0101	02-2	01-11	(5-3-03)	
16-0505-0201	02-12	02-8	(5-3-03)	
16-0506-0201	02-7	02-1	(5-3-03)	

RULES APPROVED AS FINAL RULES				
Docket Number	Bulletin Vol. No. of Pending Rule Publication	Bulletin Vol. No. of Proposed Rule Publication	Final Rule Effective Date	Action Taken By Concurrent Resolution
16-0601-0101	02-7	01-11	(5-3-03)	
16-0601-0201	03-1	02-5	(5-3-03)	
16-0602-0201	03-1	02-7	(5-3-03)	
16-0612-0101	02-4	01-12	(5-3-03)	
17-0701-0201	03-1	02-10	(5-3-03)	
18-0117-0201	02-12	02-9	(5-3-03)	
18-0118-0201	02-12	02-9	(5-3-03)	
18-0132-0201	02-12	02-7	(5-3-03)	
18-0142-0201	02-12	02-7	(5-3-03)	
18-0143-0201	02-12	02-7	(5-3-03)	
18-0148-0201	03-1	02-9	(5-3-03)	
18-0149-0201	02-12	02-7	(5-3-03)	
18-0150-0201	02-12	02-9	(5-3-03)	
18-0152-0201	02-12	02-9	(5-3-03)	
18-0153-0201	02-12	02-7	(5-3-03)	
18-0154-0201	02-12	02-9	(5-3-03)	
18-0155-0201	02-12	02-7	(5-3-03)	
18-0162-0201	02-12	02-7	(5-3-03)	
18-0165-0201	02-12	02-9	(5-3-03)	
18-0178-0201	02-12	02-7	(5-3-03)	
19-0101-0201	02-12	02-10	(4-2-03)	Fee Approved by SCR 109
21-0101-0201	03-1	02-10	(5-3-03)	
21-0102-0201	03-1	02-10	(5-3-03)	
21-0103-0201	03-1	02-10	(5-3-03)	
21-0104-0201	03-1	02-10	(5-3-03)	
21-0105-0201	02-10	02-7	(5-3-03)	
22-0101-0101	02-10	01-11	(5-3-03)	
22-0101-0201	03-1	02-10	(5-3-03)	
22-0103-0201	03-1	02-10	(4-2-03)	Rejected by SCR 109
22-0105-0201	03-1	02-10	(5-3-03)	
22-0109-0201	03-1	02-10	(4-2-03)	Fee Approved by SCR 109
22-0113-0201	03-1	02-10	(4-2-03)	Fee Approved by SCR 109

RULES APPROVED AS FINAL RULES				
Docket Number	Bulletin Vol. No. of Pending Rule Publication	Bulletin Vol. No. of Proposed Rule Publication	Final Rule Effective Date	Action Taken By Concurrent Resolution
23-0101-0201	02-10	02-8	(4-2-03)	Fee Approved by SCR 109
23-0101-0202	02-12	02-10	(5-3-03)	
24-0301-0201	03-1	02-10	(5-3-03)	
24-0401-0201	03-1	02-10	(5-3-03)	
24-0501-0201	03-1	02-10	(5-3-03)	
24-0901-0201	03-1	02-10	(5-3-03)	
24-1101-0201	03-1	02-10	(5-3-03)	
24-1201-0201	03-1	02-10	(5-3-03)	
24-1201-0202	03-1	02-10	(5-3-03)	
24-1401-0201	03-1	02-10	(5-3-03)	
24-1501-0201	03-1	02-10	(4-2-03)	Fee Approved by SCR 109
24-1601-0201	03-1	02-10	(4-2-03)	Fee Approved by SCR 109
24-1701-0201	031-	02-10	(5-3-03)	
24-1801-0201	03-1	02-10	(5-3-03)	
24-1901-0201	03-1	02-10	(4-2-03)	Fee Approved by SCR 109
24-1901-0202	03-1	02-10	(5-3-03)	
25-0101-0202	03-1	02-10	(5-3-03)	Partially rejected by HCR 12
26-0120-0202	03-1	02-10	(5-3-03)	Partially rejected by HCR 18; Fee approved by HCR 19
27-0101-0201	02-12	02-9	(4-2-03)	Rejected by SCR 109
27-0101-0202	02-12	02-10	(5-3-03)	
27-0101-0203	02-12	02-10	(5-3-03)	
27-0101-0204	02-12	02-10	(5-3-03)	
31-1101-0201	03-1	02-9	(5-3-03)	
31-2101-0201	03-1	02-10	(5-3-03)	
31-7102-0201	02-12	02-9	(5-3-03)	
33-0101-0201	03-1	02-10	(5-3-03)	
33-0101-0202	03-1	02-10	(4-2-03)	Fee Approved by SCR 109
33-0102-0201	03-1	02-10	(5-3-03)	
35-0101-0201	02-12	02-10	(5-3-03)	
35-0102-0201	02-12	02-9	(5-3-03)	
35-0102-0202	02-12	02-10	(5-3-03)	

RULES APPROVED AS FINAL RULES				
Docket Number	Bulletin Vol. No. of Pending Rule Publication	Bulletin Vol. No. of Proposed Rule Publication	Final Rule Effective Date	Action Taken By Concurrent Resolution
35-0103-0201	02-12	02-9	(5-3-03)	
35-0103-0202	02-12	02-9	(5-3-03)	
35-0103-0203	02-12	02-8	(5-3-03)	
35-0103-0204	02-12	02-8	(5-3-03)	
35-0103-0205	02-12	02-9	(5-3-03)	
35-0105-0201	02-12	02-10	(5-3-03)	
35-0109-0201	02-12	02-9	(5-3-03)	
35-0110-0201	02-12	02-9	(5-3-03)	
35-0112-0201	02-12	02-9	(5-3-03)	
35-0201-0201	02-12	02-10	(5-3-03)	
37-0203-0201	03-1	02-10	(5-3-03)	
37-0303-0202	03-1	02-10	(5-3-03)	
39-0273-0201	02-12	02-10	(5-3-03)	
39-0346-0201	02-12	02-10	(5-3-03)	
39-0360-0201	02-12	02-10	(5-3-03)	
39-0381-0102	02-12	01-12	(5-3-03)	
45-0101-0201	02-12	02-7	(5-3-03)	
47-0101-0201	02-12	02-10	(5-3-03)	
47-0102-0201	02-12	02-10	(5-3-03)	
47-0103-0201	02-12	02-10	(5-3-03)	
48-0103-0101	02-9	01-11	(5-3-03)	
48-0103-0201	02-12	02-10	(5-3-03)	
50-0101-0101	03-1	01-11	(5-3-03)	
54-0201-0201	02-9	02-6	(5-3-03)	
56-0101-0201	02-12	02-10	(5-3-03)	
58-0101-0201	02-12	02-8	(5-3-03)	Partially rejected by HCR 25
58-0101-0202	03-1	02-9	(5-3-03)	
58-0101-0203	03-1	02-9	(4-2-03)	Fee Approved by SCR 109
58-0102-0201	03-1	02-8	(4-2-03)	Fee Approved by SCR 109
58-0102-0202	02-12	02-7	(5-3-03)	Rejected by HCR 22
58-0102-0203	02-12	02-8	(5-3-03)	
58-0102-0204	02-12	02-8	(5-3-03)	

RULES APPROVED AS FINAL RULES				
Docket Number	Bulletin Vol. No. of Pending Rule Publication	Bulletin Vol. No. of Proposed Rule Publication	Final Rule Effective Date	Action Taken By Concurrent Resolution
58-0103-0201	03-1	02-7	(5-3-03)	Rejected by HCR 16
58-0104-0201	02-12	02-8	(5-3-03)	
58-0105-0201	03-1	02-8	(5-3-03)	
58-0106-0201	02-12	02-6	(4-2-03)	Fee Approved by SCR 109
58-0106-0202	02-12	02-6	(5-3-03)	
58-0107-0201	02-12	02-7	(5-3-03)	Rejected by HCR 22
58-0108-0102	02-12	02-7	(5-3-03)	
58-0108-0201	02-12	02-7	(5-3-03)	
58-0111-0201	02-8	02-5	(5-3-03)	
58-0112-0201	02-10	02-8	(5-3-03)	
58-0113-0201	02-10	02-6	(5-3-03)	
58-0114-0201	02-12	02-8	(4-2-03)	Fee Approved by SCR 109
58-0117-0201	02-10	02-6	(5-3-03)	
58-0120-0201	02-12	02-8	(5-3-03)	
58-0122-0201	02-12	02-8	(5-3-03)	
59-0105-0201	02-9	02-5	(5-3-03)	
59-0106-0201	02-9	02-5	(5-3-03)	

TEMPORARY RULES THAT WERE EXTENDED BY SENATE CONCURRENT RESOLUTION 110			
Docket Number	Temporary Rule Published	Temporary Effective Date	Action Taken By Concurrent Resolution
02-0801-0301	03-1	(11-12-02)T	
11-1301-0201	02-11	(10-1-02)T	
16-0301-0201	02-11	(7-1-02)T	
16-0304-0202	02-11	(10-1-02)T	
16-0305-0203	02-12	(10-1-02)T & (1-1-03)T	
16-0309-0212	02-12	(10-1-02)T	
16-0309-0213	02-12	(7-1-02)T	
16-0309-0214	02-12	(5-20-02)T	
16-0309-0215	02-12	(12-1-02)T	
16-0309-0216	02-12	(7-1-02)T	Rejected by SCR 110
16-0309-0217	02-12	(4-1-03)T & (4-3-03)T	

TEMPORARY RULES THAT WERE EXTENDED BY SENATE CONCURRENT RESOLUTION 110			
Docket Number	Temporary Rule Published	Temporary Effective Date	Action Taken By Concurrent Resolution
16-0309-0218	02-12	(12-1-02)T	
16-0309-0301	03-1	(8-1-02)T	
16-0310-0203	02-12	(11-1-02)T	
16-0310-0204	02-12	(8-1-02)T	
16-0310-0301	03-1	(8-1-02)T	
16-0311-0101	01-1; 02-4	(7-1-11)T & (1-1-02)T	
16-0414-0301	03-1	(12-1-02)T	
16-0601-0301	03-1	(7-1-02)	
16-0603-0301	03-1	(11-1-01)T & (7-1-02)T	
16-0614-0201	02-12	(12-31-02)T	
18-0119-0201	03-1	(1-1-03)T	
33-0101-0301	03-1	(10-13-02)T	
37-0307-0201	02-12	(9-23-02)T	
39-0341-0201	02-12	(10-1-02)T	
39-0363-0201	02-12	(1-1-03)T	
48-0103-0301	03-1	(10-3-02)T	

*Omnibus Rulemaking affecting Department of Agriculture chapters 02.06.05, 02.06.07, 02.06.11, 02.06.14, 02.06.15, 02.06.17, 02.06.18, 02.06.20, 02.06.24, 02.06.26, 02.06.29, 02.06.32, 02.06.35, 02.06.36, 02.06.38, and 02.06.40.

FINAL RULES THAT WERE REJECTED BY SENATE CONCURRENT RESOLUTION 106			
Idapa Number	Effective Date Of Final Rule	Section(S) Affected	Action Taken By Concurrent Resolution
08.02.01	(4-1-97)	Section 100	Section Rejected by SCR 106

ASSISTANCE ON QUESTIONS: For assistance on questions concerning this notice, contact Karen L. Gustafson at (208) 332-1821 or Dennis R. Stevenson at (208) 332-1822.

DATED this 5th day of May, 2003.

Rick Thompson
 Administrative Rules Coordinator
 Department of Administration
 P.O. Box 83720
 Boise, ID 83720-0306
 Phone: (208) 332-1820 / FAX: (208) 332-1896

HOUSE CONCURRENT RESOLUTION NO. 12

LEGISLATURE OF THE STATE OF IDAHO
Fifty-Seventh Legislature First Regular Session - 2003

IN THE HOUSE OF REPRESENTATIVES
HOUSE CONCURRENT RESOLUTION NO. 12
BY RESOURCES AND CONSERVATION COMMITTEE

A CONCURRENT RESOLUTION STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD RELATING TO QUALIFICATIONS AND LICENSE REQUIREMENTS AND FIRST AID CARDS

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Idaho Outfitters and Guides Licensing Board relating to qualifications and license requirements and first aid cards are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 25.01.01, Section 003, Subsection 02, a rule of the Idaho Outfitters and Guides Licensing Board relating to qualifications and first aid cards, and IDAPA 25.01.01, Section 004, Subsection 01, a rule of the Idaho Outfitters and Guides Licensing Board relating to license requirements and first aid cards, adopted as pending rules under Docket Number 25-0101-0202, be, and the same are hereby rejected and declared null, void and of no force and effect.

Statement of Purpose / Fiscal Impact

STATEMENT OF PURPOSE RS 12656

This concurrent resolution would reject a pending rule change of the Idaho outfitters and guides licensing board relating to licensing requirements and first aid cards. The effect of this resolution, if adopted by both houses, would be to prevent the agency rule from going into effect.

FISCAL IMPACT

This concurrent resolution has no fiscal impact

Signed: March 10, 2003

CONTACT:

Carl Bianchi
Director of Legislative Services
334-2475

HOUSE CONCURRENT RESOLUTION NO. 16

LEGISLATURE OF THE STATE OF IDAHO
Fifty-Seventh Legislature First Regular Session - 2003

IN THE HOUSE OF REPRESENTATIVES
HOUSE CONCURRENT RESOLUTION NO. 16
BY ENVIRONMENTAL AFFAIRS COMMITTEE

A CONCURRENT RESOLUTION STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY RELATING TO INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Department of Environmental Quality relating to individual/subsurface sewage disposal are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 58.01.03, pending rules of the Department of Environmental Quality relating to individual/subsurface sewage disposal, adopted as pending rules under Docket Number 58-0103-0201, the entire pending rules docket, be, and the same are hereby rejected and declared null, void and of no force and effect.

Statement of Purpose / Fiscal Impact

STATEMENT OF PURPOSE RS 12895

This concurrent resolution would reject certain rules of the Department of Environmental Quality relating to individual/subsurface sewage disposal. The effect of this resolution, if adopted by both houses, would be to prevent the agency rules from going into effect.

FISCAL NOTE

This concurrent resolution has no fiscal impact

Signed: March 4, 2003

CONTACT:
Carl Bianchi
Director of Legislative Services
334-2475

HOUSE CONCURRENT RESOLUTION NO. 18

LEGISLATURE OF THE STATE OF IDAHO
Fifty-Seventh Legislature First Regular Session - 2003

IN THE HOUSE OF REPRESENTATIVES
HOUSE CONCURRENT RESOLUTION NO. 18
BY RESOURCES AND CONSERVATION COMMITTEE

A CONCURRENT RESOLUTION STATING FINDINGS OF THE LEGISLATURE
AND REJECTING CERTAIN RULES OF THE DEPARTMENT OF PARKS
AND RECREATION RELATING TO THE ADMINISTRATION OF PARK
AND RECREATION AREAS AND FACILITIES

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Department of Parks and Recreation relating to the administration of park and recreation areas and facilities are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 26.01.20, Section 010, subsection 04, a rule of the Department of Parks and Recreation relating to the definition of a camping unit, and IDAPA 26.01.20, Section 200, subsection 01, a rule of the Department of Parks and Recreation relating to camping occupancy, adopted as pending rules under Docket Number 26-0120-0202, be, and the same are hereby rejected and declared null, void and of no force and effect.

Statement of Purpose / Fiscal Impact

STATEMENT OF PURPOSE RS 12892

This concurrent resolution would reject a pending rule change of the Department of Parks and Recreation relating to the administration of park and recreation areas and facilities, and concerning camping units and camping occupancy. The effect of this resolution, if adopted by both houses, would be to prevent the agency rule from going into effect.

FISCAL NOTE

This concurrent resolution has no fiscal impact

Signed: March 10, 2003

CONTACT:
Carl Bianchi
Director of Legislative Services
334-2475

HOUSE CONCURRENT RESOLUTION NO. 19

LEGISLATURE OF THE STATE OF IDAHO
Fifty-Seventh Legislature First Regular Session - 2003

IN THE HOUSE OF REPRESENTATIVES
HOUSE CONCURRENT RESOLUTION NO. 19
BY RESOURCES AND CONSERVATION COMMITTEE

A CONCURRENT RESOLUTION STATING LEGISLATIVE FINDINGS
AND APPROVING CERTAIN ADMINISTRATIVE RULES OF THE DEPARTMENT
OF PARKS AND RECREATION THAT IMPOSE A FEE OR CHARGE,
CONCERNING CAMPSITE AND RESERVATION FEES

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature, pursuant to Section 67-5224, Idaho Code, must approve certain administrative rules that impose a fee or charge by adoption of a concurrent resolution before the rules become effective; and

WHEREAS, certain pending rules of the Department of Parks and Recreation concerning campsite and reservation fees inadvertently were submitted as nonfee rules, making it necessary to consider the pending rule separately as a pending fee rule for approval by both houses of the Legislature by concurrent resolution before the pending fee rule can go into effect by law; and

WHEREAS, the Legislature finds that it is in the public interest to adopt this resolution.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that certain administrative rules of the Department of Parks and Recreation that impose a fee or charge concerning campsite and reservation fees, IDAPA 26.01.20, Section 250, Subsection 01, relating to campsite fees, and IDAPA 26.01.20, Section 250, Subsection 02, relating to reservation fees, adopted as pending rules under Docket Number 26-0120-0202, pursuant to the Administrative Procedure Act during the prior calendar year, and submitted through the Office of Rules Coordinator to the Legislature for review during the 2003 Legislative Session, be, and the same are approved.

Statement of Purpose / Fiscal Impact

STATEMENT OF PURPOSE RS 12912

Under Idaho Code, Section 67-5224, the Legislature must approve administrative rules that propose a fee or charge through a concurrent resolution passed by both houses, before a fee rule can go into effect. This year, certain rules of the department of parks and recreation that impose a fee, concerning campsites and reservations, were inadvertently submitted as non-fee rules. This resolution would separately approve those agency rules and make clear that the fees to be charged by the Department can go into effect by law.

FISCAL NOTE

This concurrent resolution has no fiscal impact

Signed: March 7, 2003

CONTACT:

Carl Bianchi
Director of Legislative Services
334-2475

HOUSE CONCURRENT RESOLUTION NO. 22

LEGISLATURE OF THE STATE OF IDAHO
Fifty-Seventh Legislature First Regular Session - 2003

IN THE HOUSE OF REPRESENTATIVES
HOUSE CONCURRENT RESOLUTION NO. 22
BY ENVIRONMENTAL AFFAIRS COMMITTEE

A CONCURRENT RESOLUTION STATING FINDINGS OF THE LEGISLATURE
AND REJECTING CERTAIN RULES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY
RELATING TO UNDERGROUND STORAGE TANKS AND LEAKING PETROLEUM STORAGE TANKS,
AND WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Department of Environmental Quality relating to underground storage tanks and leaking petroleum storage tanks, and water quality standards and wastewater treatment requirements are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 58.01.07, pending rules of the Department of Environmental Quality relating to underground storage tanks and leaking petroleum storage tanks, adopted as pending rules under Docket Number 58-0107-0201, the entire pending rules docket, and IDAPA 58.01.02, pending rules of the Department of Environmental Quality relating to water quality standards and wastewater treatment requirements, adopted as pending rules under Docket Number 58-0102-0202, the entire pending rules docket, be, and the same are hereby rejected and declared null, void and of no force and effect.

Statement of Purpose / Fiscal Impact

STATEMENT OF PURPOSE RS 12981

This concurrent resolution would reject pending rules of the Department of Environmental Quality relating to underground storage tanks and leaking petroleum storage tanks, and water quality standards and wastewater treatment requirements. The effect of this resolution, if adopted by both houses, would be to prevent the agency rules from going into effect.

FISCAL NOTE

This concurrent resolution has no fiscal impact

Signed April 18, 2003

Contact:

Carl Bianchi
Director of Legislative Services
334-2475

HOUSE CONCURRENT RESOLUTION NO. 25

LEGISLATURE OF THE STATE OF IDAHO
Fifty-Seventh Legislature First Regular Session - 2003

IN THE HOUSE OF REPRESENTATIVES
HOUSE CONCURRENT RESOLUTION NO. 25
BY WAYS AND MEANS COMMITTEE

A CONCURRENT RESOLUTION STATING FINDINGS OF THE LEGISLATURE AND REJECTING
CERTAIN RULES OF THE DEPARTMENT OF ENVIRONMENTAL
QUALITY RELATING TO THE CONTROL
OF AIR POLLUTION IN IDAHO

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Department of Environmental Quality relating to the control of air pollution in Idaho are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 58.01.01, Section 605, concerning reasonable control of open burning, IDAPA 58.01.01, Section 608, concerning weed control fires, IDAPA 58.01.01, Section 611, concerning domestic household solid waste disposal fires, and IDAPA 58.01.01, Section 614, concerning prescribed fire management burning, pending rules of the Department of Environmental Quality relating to the control of air pollution in Idaho, adopted as pending rules under Docket Number 58-0101-0201, be, and the same are hereby rejected and declared null, void and of no force and effect.

Statement of Purpose / Fiscal Impact

STATEMENT OF PURPOSE RS 13052

This concurrent resolution would reject certain rules of the Department of Environmental Quality relating to the control of air pollution in Idaho. The effect of this resolution, if adopted by both houses, would be to prevent the agency rules from going into effect.

FISCAL NOTE

This concurrent resolution has no fiscal impact

Signed March 21, 2003

Contact:

Carl Bianchi
Director of Legislative Services
334-2475

SENATE CONCURRENT RESOLUTION NO. 106

LEGISLATURE OF THE STATE OF IDAHO
Fifty-Seventh Legislature First Regular Session - 2003

IN THE SENATE
SENATE CONCURRENT RESOLUTION NO. 106
BY STATE AFFAIRS COMMITTEE

A CONCURRENT RESOLUTION STATING FINDINGS OF THE LEGISLATURE
AND REJECTING A CERTAIN RULE OF THE STATE BOARD OF EDUCATION
RELATING TO RULES GOVERNING ADMINISTRATION
AND FEDERALLY FUNDED PROGRAMS

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the State Board of Education relating to rules governing administration and federally funded programs is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 08.02.01, Section 100, a final rule of the State Board of Education relating to rules governing administration and federally funded programs, previously adopted as a pending rule under Docket Number 08-0201-9602, be, and the same is hereby rejected and declared null, void and of no force and effect.

Statement of Purpose / Fiscal Impact

STATEMENT OF PURPOSE
RS 13049

This concurrent resolution would reject a final rule of the State Board of Education relating to rules governing administration and federally funded programs. The effect of this resolution, if adopted by both houses, would be to prevent the agency rule from remaining in effect beyond the date of the legislative action.

FISCAL NOTE

This concurrent resolution has no fiscal impact

Signed: March 20, 2003

Contact:
Sen. Robert L. Geddes, Pro Tem
332-1300

SENATE CONCURRENT RESOLUTION NO. 109

LEGISLATURE OF THE STATE OF IDAHO
Fifty-Seventh Legislature First Regular Session - 2003

IN THE SENATE
SENATE CONCURRENT RESOLUTION NO. 109
BY STATE AFFAIRS COMMITTEE

A CONCURRENT RESOLUTION STATING LEGISLATIVE FINDINGS AND APPROVING ADMINISTRATIVE RULES THAT IMPOSE A FEE OR CHARGE, WITH EXCEPTIONS, AND REJECTING CERTAIN AGENCY RULES THAT ARE NOT APPROVED

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature pursuant to Section 67-5224, Idaho Code, must approve certain administrative rules that impose a fee or charge by adoption of a concurrent resolution before the rules become effective; and

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Idaho State Board of Medicine relating to the licensure of physician assistants are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Idaho State Board of Pharmacy relating to prescription drugs are not consistent with legislative intent; and

WHEREAS, the Legislature finds that it is in the public interest to adopt this resolution.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that all pending administrative rules or portions of pending administrative rules adopted by state agencies pursuant to the Administrative Procedure Act during the prior calendar year, and submitted through the Office of Rules Coordinator to the Legislature for review during the 2003 legislative session, which impose a fee or charge, be, and the same are approved, with the exception of the following enumerated pending fee rules:

IDAPA 22.01.03, Rules of the Idaho State Board of Medicine, relating to the licensure of physician assistants, adopted as pending fee rules under Docket Number 22-0103-0201, the entire pending fee docket; and

IDAPA 27.01.01, Rules of the Idaho State Board of Pharmacy relating to prescription drugs, adopted as pending fee rules under Docket Number 27-0101-0201, the entire pending fee docket.

BE IT FURTHER RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 22.01.03, Rules of the Idaho State Board of Medicine, relating to the licensure of physician assistants, adopted as pending fee rules under Docket Number 22-0103-0201, the entire pending fee docket; and IDAPA 27.01.01, Rules of the Idaho State Board of Pharmacy relating to prescription drugs, adopted as pending fee rules under Docket Number 27-0101-0201, the entire pending fee docket, be, and the same are hereby rejected and not approved and thereby pursuant to Sections 67-5291 and 67-5224, Idaho Code, are declared null, void and of no force and effect.

Statement Of Purpose / Fiscal Impact

STATEMENT OF PURPOSE
RS 13073

By statute, agency rules adopted under the administrative Procedure Act that impose a fee or charge do not go into effect unless approved by concurrent resolution by both houses of the legislature. This concurrent resolution would approve agency fee or charge rules that have been adopted during the last calendar year, and which were submitted through the Office of the Rules Coordinator to the legislature for review during the current legislative session, with exceptions for those fee rules that were not approved by one committee that reviewed them.

FISCAL NOTE

Adoption of this concurrent resolution, in and of itself, would have no fiscal impact upon any state or local government funds, beyond the scope or impact of the individual rules themselves.

Signed: April 2, 2003

Contact:

Carl Bianchi
Director of Legislative Services
334-2475

SENATE CONCURRENT RESOLUTION NO. 110

LEGISLATURE OF THE STATE OF IDAHO
Fifty-Seventh Legislature First Regular Session - 2003

IN THE SENATE
SENATE CONCURRENT RESOLUTION NO. 110
BY STATE AFFAIRS COMMITTEE

A CONCURRENT RESOLUTION STATING LEGISLATIVE FINDINGS
AND APPROVING AND EXTENDING TEMPORARY RULES
REVIEWED BY THE LEGISLATURE, WITH AN EXCEPTION

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature by statute must approve temporary rules by adoption of a concurrent resolution approving the rule if the temporary rule is to remain in effect beyond the end of the current legislative session; and

WHEREAS, the expiration of temporary rules would occasion additional expense to state agencies in readopting and republishing temporary rules needed to conduct state business; and

WHEREAS, the Legislature finds that it is in the public interest to adopt this resolution.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that all temporary rules adopted by state agencies pursuant to the Administrative Procedure Act and submitted to the Legislature at the Legislature's request through the Office of Rules Coordinator for review during the 2003 legislative session, and all temporary rules previously approved and extended by concurrent resolution adopted in a prior regular session of the Idaho Legislature, be, and the same are approved, with the exception of the following enumerated temporary rule section:

IDAPA 16.03.09, the entire rulemaking docket, related to governing the medical assistance program and concerning dental services, denturist policy guidelines, denturist procedure codes, PWC codes, covered emergency dental codes for adults, and dental prior authorization, rules of the Department of Health and Welfare, adopted as temporary rules under Docket Number 16-0309-0216.

BE IT FURTHER RESOLVED that a temporary rule or partial temporary rule approved by this concurrent resolution shall remain in effect until it expires by its own terms or by operation of law or until it is replaced by a final rule, but in no event shall a temporary rule remain in effect beyond the conclusion of the Second Regular Session of the Fifty-seventh Idaho Legislature unless it is further extended by adoption of a concurrent resolution by both houses of the Legislature. Temporary rules or sections of temporary rules which are excepted from approval hereunder or which were not submitted to the Legislature for review during the 2003 legislative session shall expire by operation of statute upon adjournment of the First Regular Session of the Fifty-seventh Idaho Legislature, unless approved by adoption of a separate concurrent resolution by both houses of the Legislature.

Statement of Purpose / Fiscal Impact

STATEMENT OF PURPOSE RS 13074

Temporary rules adopted by state agencies under the Administrative Procedure Act, by statute expire at the end of the current legislative session. This concurrent resolution would approve and extend agency temporary rules beyond the current session.

FISCAL NOTE

Adoption of this concurrent resolution, in and of itself, would have no fiscal impact upon any state or local government funds or accounts, beyond the scope or impact of the individual rules themselves. By adopting this concurrent resolution, the Legislature avoids having necessary agency rules expire, which would occasion additional expense to state agencies for re-adopting and republishing temporary rules needed to conduct state business.

Contact:

Carl Bianchi
Director of Legislative Services
334-475

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.04.21 - RULES GOVERNING THE IMPORTATION OF ANIMALS
DOCKET NO. 02-0421-0301
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rules is April 15, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 25-203, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency not later than June 18, 2003.

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

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

This temporary and proposed rule amends IDAPA 02.04.21.220 and 240 by clarifying that T.B. tests may be required for grazing permits, that the ownership of herds moved under grazing permits may not change while the permit is in force, and the identification and T.B. testing requirements for feeder cattle.

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

The rule confers a benefit.

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

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted because of the necessity to have this rule in place for the spring grazing season.

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

Anyone may submit written comments regarding this temporary and proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 25, 2003.

DATED this 14th day of April, 2003.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0421-0301

220. GRAZING CATTLE.

~~Grazing~~ Cattle herds moved into Idaho or from Idaho to other western states for seasonal grazing periods shall be moved only under special grazing permits issued jointly by the Division of Animal Industries and the chief livestock sanitary official in a western state which reciprocates with Idaho in honoring grazing permits. (4-15-03)T

01. Grazing Permits. Grazing permits shall be for one (1) specified season only and shall be issued on a case-by-case basis. (4-15-03)T

02. Tests. The Administrator, in cooperation with the appropriate agency of the reciprocating state, shall have the authority to impose a tuberculosis or brucellosis herd test or tests on cattle entering for grazing purposes. This test requirement shall be evaluated on an annual basis by the Administrator and the chief livestock sanitary official of the reciprocating state. ~~(7-1-02)~~(4-15-03)T

03. Herd Ownership. Cattle herds permitted to move under the provisions of Section 220 shall be established herds. Change of ownership of the herd shall not be allowed while the herd is under the requirements of the grazing permit, and the cattle shall be moved interstate with such certification, identification and testing requirements as the Administrator may require. (4-15-03)T

(BREAK IN CONTINUITY OF SECTIONS)

240. TUBERCULOSIS TEST REQUIREMENTS.

Cattle and domestic bison may enter the state of Idaho provided: (7-1-02)T

01. Tuberculosis Accredited Free State Or Zone. Cattle and bison that originate from a bovine tuberculosis accredited free state or zone, as defined by USDA in Title 9, Part 77, CFR, in which there are no animals or herds infected with or exposed to tuberculosis may enter the state without a tuberculosis test. (7-1-02)T

02. Tuberculosis Accredited Free Herd. Cattle and bison that originate in an accredited tuberculosis free herd in either an accredited free state or zone, a modified accredited advanced state or zone, or a modified accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, and for which both an accredited herd number and date of last tuberculosis test are shown on the certificate of veterinary inspection, may enter the state without a tuberculosis test. (8-15-02)T

03. Tuberculosis Modified Accredited Advanced State Or Zone. Cattle and bison that originate from a modified accredited advanced state or zone, as defined by USDA in Title 9, Part 77, CFR, and are not known to be infected with or exposed to tuberculosis, may be imported upon meeting the following requirements: (8-15-02)T

a. Steers, spayed heifers, and ~~individually identified~~ intact heifers of beef breeds that are less than fifteen (15) months of age, which are consigned for grazing, or steers, spayed heifers, and intact heifers of beef breeds that are consigned directly to a feedlot approved for finish feeding of cattle or bison relative to tuberculosis, may enter without individual identification or testing for tuberculosis; and ~~(7-1-02)~~(4-15-03)T

b. All other cattle and bison, except those moving on grazing permits issued by the Administrator under the provisions of Section 220 and those consigned for immediate slaughter at an approved slaughter establishment, shall be tested for tuberculosis with negative results within sixty (60) days prior to entry into Idaho. ~~(7-1-02)~~(4-15-03)T

04. Tuberculosis Modified Accredited State Or Zone. Cattle and bison that originate in a modified

accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, and which are not known to be infected with or exposed to tuberculosis, may enter Idaho under one (1) of the following conditions: (7-1-02)T

a. The cattle and bison are steers, spayed heifers or intact heifers which are consigned directly to a feedlot approved for finish feeding of cattle and bison relative to tuberculosis and that have been individually identified and classified negative on an official tuberculosis test within sixty (60) days prior to entry into Idaho; or (8-15-02)T

b. The cattle and bison are consigned for immediate slaughter at an approved slaughter establishment; or (7-1-02)T

c. The cattle and bison have been subjected to two (2) official tuberculosis tests, the results of which are negative, the first test shall be a whole herd test, the second test shall be at least sixty (60) days, and no more than six (6) months, after the whole herd test and shall be not more than sixty (60) days prior to entry into Idaho. (7-1-02)T

05. Tuberculosis Accredited Preparatory State Or Zone. Cattle and bison that originate in an accredited preparatory state or zone, as defined by USDA in Title 9, Part 77, CFR, and which are not known to be infected with or exposed to tuberculosis, may enter Idaho under one (1) of the following conditions: (8-15-02)T

a. The cattle and bison are steers, spayed heifers or intact heifers which are consigned directly to a feedlot approved for finish feeding of cattle and bison relative to tuberculosis and that are individually identified and have been classified negative on two (2) official tuberculosis tests conducted at least sixty (60) days but not more than six (6) months apart with the second test being conducted not more than sixty (60) days prior to entry into Idaho; or (7-1-02)T

b. The cattle and bison originate in a tuberculosis accredited free herd, are individually identified, and have been tested negative on an official tuberculosis test within sixty (60) days prior to entry into Idaho; or (7-1-02)T

c. The cattle and bison are individually identified, are from a herd that has been subjected to a complete tuberculosis herd test with negative results within the past twelve (12) months and the animals being imported have been subjected to two (2) additional official tuberculosis tests with negative results, conducted not less than sixty (60) days apart with the second test being conducted not more than sixty (60) days prior to the date of importation. (7-1-02)T

06. Tuberculosis Non-Accredited State Or Zone. Cattle and bison that originate in a non-accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, may not enter Idaho except by special permit issued by the administrator and under the conditions specified by the administrator at the time the permit is issued. (7-1-02)T

IDAPA 08 - STATE BOARD OF EDUCATION

08.02.01 - RULES GOVERNING ADMINISTRATION

DOCKET NO. 08-0201-0301L

NOTICE OF LEGISLATIVE ACTION - REJECTION OF FINAL RULE

AUTHORITY: In compliance with Section 67-5203 and 67-5291, Idaho Code, notice is hereby given the First Regular Session of the Fifty-seventh Idaho Legislature has rejected a final rule of the State Board of Education. Section 100 of IDAPA 08.02.01, "Rules Governing Administration," is hereby rejected by Senate Concurrent Resolution 106 and is declared null and void and of no force and effect. The action is authorized pursuant to Section 67-5291, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for the rejection IDAPA 08.02.01, Section 100 of the final rule:

Section 100 of IDAPA 08.02.01, "Rules Governing Administration," a final rule promulgated under Title 67, Chapter 53, Idaho Code, relating to federally funded programs administered by the State Board of Education, has been rejected. It was determined that Section 100 failed to meet Legislative Intent language and was rejected by Senate Concurrent Resolution 106, effective March 21, 2003 and is declared null and void and of no force and effect.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rule rejection by legislative concurrent resolution, contact Dennis Stevenson at (208) 332-1820.

DATED this 8th day of May, 2003.

Dennis Stevenson
Assistant Administrative Rules Coordinator
Office of Administrative Rules
Department of Administration
650 West State Street, Room 100
P.O. Box 83720
Boise, Idaho 83720-0306
(208) 332-1820 phone
(208) 332-1896 fax

**IDAPA 15 - OFFICE OF THE GOVERNOR
IDAHO COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED**

15.02.30 - BUSINESS ENTERPRISE PROGRAM

DOCKET NO. 15-0230-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 31, 2003.

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-5401, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 18, 2003.

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

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

This temporary rule proposes that the penalty be removed in the rule that penalizes vendors participating in the Blind Enterprise Program when they withdraw funds from their private retirement accounts.

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

Confers a benefit. Adoption of the rule as a temporary rule with immediate effect is necessary to allow participants in the Idaho Blind Enterprise Program to have immediate access to their private retirement accounts and release the Commission from the duty to supervise and monitor these private accounts.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed rulemaking was requested by a vote of the affected parties: the vendors participating in the Blind Enterprise Program.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Michael Graham, Administrator, at (208) 334-3220.

Anyone may submit written comments regarding this temporary and proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 25, 2003.

DATED this 28th day of April, 2003.

Michael Graham
Administrator
Idaho Commission for the Blind and Visually Impaired
341 W. Washington St.
P. O. Box 83720
Boise, ID 83720-0012
Phone: (208) 334-3220
Fax: (208) 334-2963

THE FOLLOWING IS THE TEXT OF DOCKET NO. 15-0230-0301

120. OPERATOR BENEFITS.

01. Vending Machine Income. The Program shall provide licensees with information regarding benefits. Upon a majority vote of licensees, the Program may retain vending machine income from federal property in accordance with 34 CFR 395.8(a). Such income may be used for the establishment and maintenance of retirement or pension plans, for health insurance contributions, and for the provision of paid sick leave and vacation time for operators. Distribution of benefit payments shall be determined by a majority vote of licensees and established as policy. (3-15-02)

02. Eligibility. Only operators of a primary location pursuant to an agreement shall be eligible to receive benefits. There shall be a ninety (90) day waiting period before a new operator is eligible to receive benefits. Benefit payments will not be interrupted when an operator transfers from one primary location to another. Benefits shall be paid only after the appropriate documentation is submitted to the Program. (3-15-02)

03. Medical Insurance. If a majority of licensees determines that operators shall be reimbursed for medical insurance premiums, operators shall be responsible for acquiring their own policies. The Program shall reimburse the operator in an amount determined by the vote of licensees. Operators shall provide documentation to the Program proving payment of their premiums, prior to any reimbursement. (3-15-02)

04. Retirement And Pension Accounts. If a majority vote of licensees determines that operators shall have retirement accounts, the Program shall deposit into approved retirement accounts an amount determined by a majority vote of licensees, up to the maximum federal allowance for IRAs per year. The funds shall be deposited on a monthly basis directly into each operator's retirement account. Not later than February 21 of each year, each Operator shall provide the Program a statement, signed and notarized, that the operator has made no unauthorized withdrawals from his retirement account. Deposit of funds shall be withheld from any operator's account until their statement is received. Withdrawals must have prior approval of the Program and shall only be made for uses approved for retirement accounts. If unauthorized withdrawals are made from an account, the operator shall have their License and Operating Agreement terminated. (3-15-02)(1-31-03)T

05. Sick Leave And Vacation Funds. If a majority vote of licensees determines that operators shall have sick and/or vacation leave funds, the Program shall remit to each operator an amount determined by a majority vote of licensees. (3-15-02)

06. Non Fully Funded Benefits. If funds are not available for full payment of benefits, as voted by the licensees, the Program may pro-rate the payments from available funds, unless another method of disbursement of non-fully funded benefits was voted by a majority of the licensees. (3-15-02)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

DOCKET NO. 16-0309-0103

NOTICE OF RESCISSION OF TEMPORARY RULE

AUTHORITY: In compliance with Section 67-5221, 67-5224, and 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule previously adopted under this docket. The action is authorized pursuant to Sections 56-202(b); 56-203(g), (i), (j); 56-1003(1); 56-1004(1(a), (e), and 56-1005(8), Idaho Code.

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

The Department of Health and Welfare, Division of Medicaid did not request the 2003 Legislature to extend this Temporary Rule docket through 2003. The rules in this docket are associated with the Utilization Management Project and its pilot which was conducted in Region 2 from October 1, 2001 through June 30, 2002. These rules were not continued because they were developed for the purpose of implementing the pilot which is now ended. The Department is continuing to develop its Utilization Management process and is currently drafting rules for prior authorization of behavioral health services. The original text of the temporary rule was published in the Idaho Administrative Bulletin, September 5, 2001, Volume 01-9, pages 107 through 115. The temporary rule was amended in the Idaho Administrative Bulletin, July 3, 2002, Volume 02-7, page 156.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation, contact Jean Christensen at (208) 364-1828.

DATED this 30th day of April, 2003.

Sherri Kovach
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IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM
DOCKET NO. 16-0309-0214
NOTICE OF RULEMAKING
PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is May 20, 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(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 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.

Changes to this rule are based on comments received in the public hearing, testimony presented before the Senate Health and Welfare Committee and negotiations during the 2003 Legislative session.

Section 805 was amended by deleting the reference to when a prescription drug was “medically necessary” and reference was made to the definition of “medically necessary” as cited in IDAPA 16.03.09.003.40.

Subsection 812.03, “Prior Authorization Drugs,” was deleted, renamed “Prior Authorization” and moved to Section 810. The term “less costly” was deleted and the term “therapeutically interchangeable” was defined. Language was added to clarify what resources the Department may use to determine drugs that are therapeutically interchangeable. The list of items contained in a request for authorization was removed and reference is made to the format prescribed by the Department. Text was added to provide for a seventy-two (72) hour emergency supply of a covered outpatient prescription drug and a twenty-four (24) hour response to a request for prior authorization.

Pursuant to Section 67-5228, Idaho Code, transcriptional 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 that are different from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the December 4, 2002, Administrative Bulletin, Volume 02-12, pages 83 through 87.

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

DATED this 30th day of April, 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 83 through 87.

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. 16-0309-0214

805. PRESCRIPTION DRUGS.

The Department will pay for those prescription drugs not excluded by Section 811 of these rules which are legally obtainable by the order of a licensed prescriber whose licensing allows for the prescribing of legend drugs, ~~under Idaho law as defined by Section 54-1705(27), Idaho Code, and which are deemed medically necessary as defined in Subsection 003.40 of this chapter. A prescription drug is considered medically necessary if it is reasonably calculated to prevent or treat conditions in the client that endanger life, cause pain, or cause functionally significant deformity or malfunction and if there is no other therapeutically interchangeable prescription drug available or suitable for the client requesting the service which is more conservative or substantially less costly; and the prescription drug meets professionally recognized standards of health care and must be substantiated by prescriber's records including evidence of such medical necessity. Those records must be made available to the Department upon request.~~

~~(5-20-02)~~(5-20-02)T

(BREAK IN CONTINUITY OF SECTIONS)

~~808.~~ ~~809.~~ (RESERVED).

~~8709.~~ **LIMITATIONS ON PAYMENT.**

Medicaid payment for prescription drugs will be limited as follows:

(5-20-02)T

01. Days' Supply. Medicaid will not cover any days' supply of prescription drugs which exceeds the quantity or dosage allowed by these rules.

(5-20-02)T

02. Brand Name Drugs. Medicaid will not pay for a brand name product which is part of the FUL (federal upper limit) or SMAC (state maximum allowable cost) listing when the physician has not specified the brand name drug to be medically necessary.

(5-20-02)T

03. Medication For Multiple Persons. When the medication dispensed is for more than one (1) person, Medicaid will only pay for the amount prescribed for the person or persons covered by Medicaid.

(5-20-02)T

04. No Prior Authorization. Medicaid will not pay for a covered drug or pharmacy item that requires, but has not received, prior authorization for Medicaid payment as required in Subsection 812.03 in these rules.

(5-20-02)T

05. Limitations To Discourage Waste. Medicaid may conduct drug utilization reviews and impose limitations for clients whose drug utilization exceeds the standard client profile or disease management guidelines determined by the Department. (5-20-02)T

810. PRIOR AUTHORIZATION.

01. Items Requiring Prior Authorization. Pharmaceutical items requiring prior authorization include: (5-20-02)T

a. Amphetamines and related CNS stimulants; (5-20-02)T

b. Growth hormones; (5-20-02)T

c. Retinoids; (5-20-02)T

d. Brand name drugs when an acceptable generic form exists; (5-20-02)T

e. Medication otherwise covered by the Department for which there is a therapeutically interchangeable alternate medication identified by the Department. For purposes of Subsection 810.01, therapeutically interchangeable means a medication that is interchangeable with another medication within the same pharmacologic or therapeutic class and is as effective as the medication for which it is being interchanged. The Department determines, and will make available to providers, which drugs are therapeutically interchangeable using a number of resources that may include: (5-20-02)T

i. Peer-reviewed medical literature; (5-20-02)T

ii. Randomized clinical trials; (5-20-02)T

iii. Drug comparison studies; (5-20-02)T

iv. Pharmacoeconomic studies; (5-20-02)T

v. Outcomes research data; (5-20-02)T

vi. Idaho practice guidelines; and (5-20-02)T

vii. Consultation with practicing physicians, pharmacists, and the Idaho Medicaid Medical Director. (5-20-02)T

f. Medications prescribed in quantities which exceed the Food and Drug Administration (FDA) dosage guidelines. (5-20-02)T

g. Lipase inhibitors. (5-20-02)T

h. Medications prescribed outside of the Food and Drug Administration approved indications. (5-20-02)T

i. Medications excluded in Section 811 of these Rules that the Department accepts for other medically approved indications. (5-20-02)T

02. Request For Prior Authorization. The prior authorization procedure is initiated by the prescriber who must submit the request to the Department in the format prescribed by the Department. (5-20-02)T

03. Notice Of Decision. The Department will determine coverage based on this request, and will notify

the client, prescriber, and pharmacy, if known. (5-20-02)T

04. Emergency Situation. The Department will provide for the dispensing of at least a seventy two (72) hour supply of a covered outpatient prescription drug in an emergency situation as required in 42 USC 1396r-8(d)(5)(B). (5-20-02)T

05. Response To Request. The Department will respond within twenty four (24) hours to a request for prior authorization of a covered outpatient prescription drug as required in 42 USC 1396r-8(d)(5)(A). (5-20-02)T

(BREAK IN CONTINUITY OF SECTIONS)

812. ADDITIONAL COVERED DRUG PRODUCTS.

Additional drug products will be allowed as follows: (4-5-00)

01. Therapeutic Vitamins. Therapeutic vitamins may include: (4-5-00)

a. Injectable vitamin B12 (cyanocobalamin and analogues); (4-5-00)

b. Vitamin K and analogues; (4-5-00)

c. Pediatric legend vitamin-fluoride preparations; (4-5-00)

d. Legend prenatal vitamins for pregnant or lactating women; (4-5-00)

e. Legend folic acid; (4-5-00)

f. Oral legend drugs containing folic acid in combination with Vitamin B12 and/or iron salts, without additional ingredients; and (4-5-00)

g. Legend vitamin D and analogues. (4-5-00)

02. Prescriptions For Nonlegend Products. Prescriptions for nonlegend products may include: (4-5-00)

a. Insulin; (4-5-00)

b. Disposable insulin syringes and needles; (4-5-00)

c. Oral iron salts; and (4-5-00)

d. Permethrin. (4-5-00)

~~**03. Prior Authorization Drugs.** Drug products that are prior authorized. (5-20-02)T~~

~~a. Medications requiring prior authorization include: (4-5-00)~~

~~i. Amphetamines and related CNS stimulants; (4-5-00)~~

~~ii. Growth hormones; (4-5-00)~~

~~iii. Retinoids. (4-5-00)~~

~~iv. Brand name drugs when an acceptable generic form exists. (3-30-01)~~

~~v. Medications otherwise covered by the Department for which there is a less costly, therapeutically interchangeable alternate medication covered by the Department. (5-20-02)F~~

~~vi. Medications prescribed in quantities which exceed the Food and Drug Administration (FDA) dosage guidelines. (5-20-02)F~~

~~vii. Lipase inhibitors. (5-20-02)F~~

~~viii. Medications prescribed outside of the Food and Drug Administration approved indications. (5-20-02)F~~

~~b. Some medications excluded in Section 811 may be accepted for other medically approved indications, provided that prior authorization is obtained. (4-5-00)~~

~~c. The prior authorization procedure is initiated by the prescriber who must submit the dated and signed request to the Department. This request must include: (5-20-02)F~~

~~i. Recipient name; (4-5-00)~~

~~ii. Medicaid identification number; (4-5-00)~~

~~iii. Date of birth; (4-5-00)~~

~~iv. Diagnosis; (4-5-00)~~

~~v. Specific drug; (4-5-00)~~

~~vi. Strength and dosage; (4-5-00)~~

~~vii. Statement of medical necessity as to why this drug is needed versus other therapies; and (4-5-00)~~

~~viii. Duration of therapy desired, not to exceed twelve (12) months. (4-5-00)~~

~~d. The Department will determine coverage based on this request, and will notify the client, prescriber, and pharmacy, if known. Specific details on the prior authorization procedure can be found in the pharmacy guidelines issued by the Department. (4-5-00)~~

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

DOCKET NO. 16-0309-0216L

NOTICE OF LEGISLATIVE ACTION - REJECTION OF TEMPORARY RULE

AUTHORITY: In compliance with Section 67-5203 and 67-5291, Idaho Code, notice is hereby given that this temporary rule previously promulgated under docket number 16-0309-0216, is hereby rejected by the First Regular Session of the Fifty-seventh Idaho Legislature by Senate Concurrent Resolution 110 and is declared null and void and of no force and effect. The action is authorized pursuant to Section 67-5291, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for the rejection of the temporary rule:

The temporary rule promulgated under Docket No. 16-0309-0216, relating to governing the medical assistance program and concerning dental services, denturist policy guidelines, denturist procedure codes, PWC codes, covered emergency dental codes for adults, and dental prior authorization, and was required to comply with 2002 Legislative Intent language as described in the Department's Appropriations Bill for fiscal year 2003, that define Medicaid dental coverage for adults (persons 21 years of age or older) as "emergency services only". The legislature found that the temporary rule failed to meet Legislative Intent language and rejected the temporary rule by Senate Concurrent Resolution 110 effective April 2, 2003. The proposed rulemaking published under this docket is being vacated. This docket included temporary and proposed rules adopted by the Department and published in the December Administrative Bulletin, Volume 02-12, pages 105 through 111.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this temporary rule rejection by legislative concurrent resolution, contact Dennis Stevenson at (208) 332-1820.

DATED this 8th day of May, 2003.

Dennis Stevenson
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Department of Administration
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IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

DOCKET NO. 16-0309-0216

NOTICE OF VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the proposed rulemaking previously initiated under this docket. The action is authorized pursuant to Sections 56-202(b) and 56-203(g), Idaho Code.

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

This docket included temporary and proposed rules adopted by the Department and published in the December 2002 Administrative Bulletin, Volume 02-12, pages 105 through 111. These rules were required to comply with 2002 Legislative Intent language as described in the Department's Appropriations Bill for fiscal year 2003, that defines Medicaid dental coverage for adults (persons 21 years of age or older) as "emergency services only". The 2003 Legislature rejected the temporary rule under this docket by Senate Concurrent Resolution 110, on April 2, 2003 because it failed to meet the Legislative Intent language provided in the appropriations bill. The proposed rulemaking published under this docket number is being vacated. The original text of the proposed rule was published in the December 4, 2002, Administrative Bulletin, Volume 02-12, pages 105 through 111.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation, contact Arla Farmer (208) 364-1958.

DATED this 30th day of April, 2003.

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

DOCKET NO. 16-0309-0301

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 Sections 56-202, 56-203, 56-1003(l), 56-1004(l)(a), Idaho Code.

DESCRIPTIVE SUMMARY: The pending rules are being adopted as proposed. The original text of the proposed rules was published in the January 1, 2003 Administrative Bulletin, Volume 03-1, pages 92 and 93.

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

DATED this 10th day of April, 2003.

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IDAPA 13, TITLE 01, CHAPTER 03

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 03-01, January 1, 2003, pages 92 and 93.

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. 16-0309-0302

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective April 2, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202(b) and 56-203(g), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 18, 2003.

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

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

2002 Legislative Intent Language in the Department's Appropriations Bill mandated that dental coverage for adults be reduced to "emergency services" only. This was completed, effective April 1, 2002, under Docket 16-0309-0216, which was subsequently rejected by 2003 Senate Concurrent Resolution 110, on April 2, 2003. New temporary rules are needed to continue the emergency services adult dental program as directed by 2003 Legislative Intent Language, and to add specific preventative and restorative adult dental services for high risk clients in cases where infection or other medical conditions represent a significant risk to their physical health. In addition, rule changes are needed to incorporate the updated 2003 Current Dental Terminology (CDT) Handbook procedure code changes adopted by the American Dental Association, which is the national standard and is with the Health Insurance Portability and Accountability Act (HIPAA) compliant.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. Public comment should be addressed to these additions and deletions.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to comply with amendments to governing law or federal programs.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted with the 2003 Legislative Committees and the Idaho Dental Association because of the many requests for exceptions and special considerations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Arla Farmer at (208) 364-1958.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before June 25, 2003.

DATED this 25th day of April, 2003.

Sherri Kovach, Administrative Procedures Coordinator
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-0302

900. DENTAL SERVICES.

01. **Dental Services Provided.** Dental services are provided for the relief of dental pain, prosthetic replacement, and the correcting of handicapping malocclusion and are purchased from a licensed dentist or dentist. A Medicaid dental consultant will review requests for prior authorization, with accompanying documentation, to determine approval or denial. (3-15-02)

02. **Covered Dental ~~Covered Benefits And Limitations~~ Services.** Dental services are covered by Medicaid ~~with specific limitations and exclusions~~ as described in Subsections 900.02.a. through 900.02.d. of these rules. Idaho uses the procedure codes contained in the ~~most recent~~ Current Dental Terminology (CDT) handbook published by the American Dental Association. (~~3-15-02~~)(4-2-03)T

a. Dental services for children (through the month of their twenty-first birthday) are covered in Sections 900 through 914 and Section 916 of these rules. (4-2-03)T

b. Emergency dental services for Medicaid eligible adults (persons who are past the month of their twenty-first birthday) without eligibility restrictions are covered for emergency services as listed in Section 915 of these rules. Dental services considered to be an emergency are those necessitated by an unforeseen, sudden, or acute onset of symptoms or injuries requiring immediate dental treatment, and if treatment is delayed, may jeopardize or cause permanent damage to a person's oral or medical health. (4-2-03)T

c. Dental services for adults (persons who are past the month of their twenty-first birthday) without eligibility restrictions who are high risk, are covered as listed in Section 915 of these rules. A high risk adult is: (4-2-03)T

i. A person in need of dental intervention because infection or advanced treatment needs represents a significant risk to his physical health; or (4-2-03)T

ii. A person at considerable risk for rapidly advancing dental disease and increased emergency or acute care without the preventative and restorative dental services listed in Section 915 of these rules; or (4-2-03)T

iii. A person with tooth and gum conditions at risk for periodontal infection which may likely lead to bacteremia or other serious health conditions. (4-2-03)T

d. Dental services for women on the Pregnant Women and Children (PWC) Program are listed in Section 912 of these rules. (4-2-03)T

03. **Customary Fees.** Medicaid reimburses dentists for procedures on a fee-for-service basis. Usual and customary fees are paid up to the Medicaid maximum allowance. Dentists may make arrangements for private payment with families for services not covered by Medicaid. If the provider accepts any Medicaid payment for a covered service, the Medicaid payment must be accepted as payment in full for the service, and the client cannot be billed for the difference between the billed amount and the Medicaid allowed amount. (~~3-15-02~~)(4-2-03)T

04. **Non-Covered Services.** Non-covered services are procedures not recognized by the American Dental Association (ADA) ~~and~~ or services not listed in these rules. (~~3-15-02~~)(4-2-03)T

901. DENTAL DIAGNOSTIC PROCEDURES.

~~The following examinations are not allowed in combination on the same day:~~

TABLE 901 - DENTAL DIAGNOSTIC PROCEDURES	
Dental Code	Description
01. General Oral Evaluations.	
The following evaluations are not allowed in combination on the same day:	
D0120	Periodic oral evaluation. <u>Includes periodontal screening.</u> One (1) periodic examination is allowed every six (6) months.
D0140	Limited oral evaluation. An evaluation or re-evaluation limited to a specific oral health problem. Not to be used when a client returns on a later date for follow-up treatment subsequent to either a comprehensive or periodic exam. This may require interpretation of information acquired through additional diagnostic procedures. Report additional diagnostic procedures separately. Definitive procedures may be required on the same date as the evaluation.
D0150	Comprehensive oral evaluation. One (1) comprehensive examination is allowed every twelve (12) months. Six (6) months must elapse before a periodic exam can be paid.
D0160	Detailed and extensive oral evaluation. A detailed and extensive problem focused evaluation that entails extensive diagnostic and cognitive modalities based on the findings of a comprehensive oral evaluation. One (1) detailed and extensive oral evaluation is allowed every twelve (12) months.
D0170	Re-evaluation, limited, problem focused. Established client, not post-operative visit.
02. Radiographs/Diagnostic Images.	
D0210	Intraoral - complete series (including bitewings). Complete series x-rays are allowed only once in a three-year period. A complete intraoral series consists of fourteen (14) periapicals and one (1) series of four (4) bitewings.
D0220	Intraoral periapical - first film.
D0230	Intraoral periapical - each additional film.
D0240	Intraoral occlusal film.
D0270	Bitewing - single film. Total of four (4) bitewings allowed every six (6) months.
D0272	Bitewings - two (2) films. Total of four (4) bitewings allowed every six (6) months.
D0274	Bitewings - four (4) films. Total of four (4) bitewings allowed every six (6) months.
D0277	Vertical bitewings. Total of four (4) bitewings Seven (7) to eight (8) films. a Allowed every six (6) months.
D0330	Panoramic film. Panorex, panelipse or orthopantograph are also allowed under this code. Panoramic-type films are allowed once in a thirty-six (36) month period. This time limitation does not apply to preoperative or postoperative surgery cases. Doing both a panoramic film and an intraoral complete series is not allowed. Up to four bitewings or periapicals are allowed in addition to a panoramic film.
D0340	Cephalometric film. Allowed once in a twelve (12)-month period.
03. Test And Laboratory Examination.	
D0460	Pulp vitality tests. Includes multiple teeth and contralateral comparison(s) as indicated. Allowed once per visit per day. Limited to six (6) teeth per visit.
D0470	Diagnostic casts.

TABLE 901 - DENTAL DIAGNOSTIC PROCEDURES	
Dental Code	Description
D0504	Histopathologic examinations.
04. Diagnostic.	
D0999	Unspecified diagnostic procedure, by report. Narrative required when prior authorizing.

(~~3-15-02~~)(4-2-03)T

902. DENTAL PREVENTIVE PROCEDURES.

Medicaid provides no additional allowance for a cavitron or ultrasonic prophylaxis.

TABLE 902 - DENTAL PREVENTIVE PROCEDURES	
Dental Code	Description
01. Dental Prophylaxis.	
D1110	Prophylaxis - Adult (twelve (12) years of age and older). A prophylaxis is allowed once every six (6) months. <u>Includes polishing procedures to remove coronal plaque, calculus, and stains.</u>
D1120	Prophylaxis - Children/young adult (under age twelve (12)). A prophylaxis is allowed once every six (6) months.
02. Fluoride Treatments.	
D1203	Topical application of fluoride - one (1) treatment. Prophylaxis not included. Allowed once every six (6) months for clients under <u>age twenty-one</u> (21).
D1204	Topical application of fluoride - adult, twenty-one (21) years of age and over. Prophylaxis not included. Allowed once every six (6) months.
03. Other Preventive Services.	
D1351	Sealant - per tooth. Mechanically and/or chemically prepared enamel surface. Allowed for clients under twenty-one (21) years of age. Limited to once per tooth every three (3) years. Tooth designation required.
04. Space Management Therapy.	
Space maintainers are allowed to hold space for missing teeth for clients under age twenty-one (21). No reimbursement is allowed for removing maintainers, unless by dentist other than providing dentist. Vertical space maintainers are not covered.	
D1510	Space maintainer - fixed - unilateral. Limited up to age twenty-one (21). Only allowed once per tooth space. Tooth space designation required.
D1515	Space maintainer - fixed - bilateral. Limited up to age twenty-one (21). Only allowed once per arch. Arch designation required.
D1520	Space maintainer, removable - unilateral. Allowed once every two (2) years up to twenty-one (21) years of age. Arch designation required.
D1525	Space maintainer, removable - bilateral. Allowed once every two (2) years up to twenty-one (21) years of age. Arch designation required.

TABLE 902 - DENTAL PREVENTIVE PROCEDURES	
Dental Code	Description
D1550	Re-cementation of space maintainer. Limited up to age twenty-one (21). Only allowed once per quadrant or arch. Quadrant or arch designation required.

~~(3-15-02)~~(4-2-03)T

903. DENTAL RESTORATIVE PROCEDURES.

All restorations must be documented in the client's record to include: procedure, surface, and tooth number (if applicable). This record must be maintained for a period of five (5) years. (3-15-02)

01. Posterior Restoration. (3-15-02)

a. A one (1) surface posterior restoration is one in which the restoration involves only one (1) of the five (5) surface classifications: mesial, distal, occlusal, lingual, or facial (including buccal or labial). (3-15-02)

b. A two (2) surface posterior restoration is one in which the restoration extends to two (2) of the five (5) surface classifications. (3-15-02)

c. A three (3) surface posterior restoration is one in which the restoration extends to three (3) of the five (5) surface classification surface classifications. (3-15-02)

d. A four (4) or more surface posterior restoration is one in which the restoration extends to four (4) or more of the five (5) surface classifications. (3-15-02)

02. Anterior Proximal Restoration. (3-15-02)

a. A one (1) surface anterior proximal restoration is one in which neither the lingual nor facial margin of the restoration extends beyond the line angle. (3-15-02)

b. A two (2) surface anterior proximal restoration is one in which either the lingual or facial margin of the restoration extends beyond the line angle. (3-15-02))

c. A three (3) surface anterior proximal restoration is one in which both the lingual and facial margins of the restorations extend beyond the line angle. (3-15-02)

d. A four (4) or more surface anterior restoration is one in which both the lingual and facial margins extend beyond the line angle and the incisal angle is involved. (3-15-02)

03. Amalgams And Resin Restoration. (3-15-02)

a. Reimbursement for pit restoration is allowed as a one (1) surface restoration. (3-15-02)

b. Adhesives (bonding agents), bases, and the adjustment and/or polishing of sealant and restorations are included in the allowance for the major restoration. (3-15-02)

c. Liners and bases are included as part of the restoration. If pins are used, they should be reported separately. (3-15-02)

04. Crowns. (3-15-02)

a. When submitting for prior authorization, either an x-ray showing the root canal or an x-ray with a justification detailing the reason for the crown is required. (3-15-02)

b. Requests for re-doing crowns must be submitted for prior approval and include x-ray and justification. (3-15-02)

~~e. Prosthodontics, fixed, procedure codes 06210 through 06920 are not Medicaid covered benefits.~~
~~(3-15-02)~~

05. Restorations By Codes. (3-15-02)

TABLE 903.05.a. - RESTORATION BY CODES	
Dental Code	Description
a. Amalgam Restorations.	
D2110	Amalgam - one (1) surface, primary. Tooth designation required.
D2120	Amalgam - two (2) surfaces, primary. Tooth designation required.
D2130	Amalgam - three (3) surfaces, primary. Tooth designation required.
D2131	Amalgam - four (4) or more surfaces, primary. Tooth designation required.
D2140	Amalgam - one (1) surface, <u>primary or permanent</u> . Tooth designation required.
D2150	Amalgam - two (2) surfaces, <u>primary or permanent</u> . Tooth designation required.
D2160	Amalgam - three (3) surfaces, <u>primary or permanent</u> . Tooth designation required.
D2161	Amalgam - four (4) or more surfaces, <u>primary or permanent</u> . Tooth designation required.
b. Resin Restorations. Resin refers to a broad category of materials including but not limited to composites. May include bonded composite, light-cured composite, etc. Light-curing, acid-etching, and adhesives (including resin bonding agents) are part of the restoration. Report glass ionomers when used as restorations. If pins are used, report them separately.	
D2330	Resin - one (1) surface, anterior. Tooth designation required.
D2331	Resin - two (2) surfaces, anterior. Tooth designation required.
D2332	Resin - three (3) surfaces, anterior. Tooth designation required.
D2335	Resin - four (4) or more surfaces or involving incisal angle, anterior. Tooth designation required.
D2337	Resin based composite crown, anterior - permanent. Tooth designation required.
D2380	Resin - one (1) surface, posterior - primary. Tooth designation required. Not a preventive procedure.
D2381	Resin - two (2) surfaces, posterior - primary. Tooth designation required.
D2382	Resin - three (3) or more surfaces, posterior - primary. Tooth designation required.
D2385	Resin - one (1) surface, posterior - permanent. Tooth designation required. Not a preventive procedure.
D2386	Resin - two (2) surfaces, posterior - permanent. Tooth designation required.
D2387	Resin - three (3) surfaces, posterior - permanent. Tooth designation required.
D2388	Resin based composite - four (4) or more surfaces, posterior - permanent. Tooth designation required.
D2390	Resin based composite crown, anterior, <u>primary or permanent</u> . Tooth designation required.
D2391	Resin based composite - one (1) surface, posterior, <u>primary or permanent</u> .
D2392	Resin based composite - two (2) surfaces, posterior, <u>primary or permanent</u> .
D2393	Resin based composite - three (3) surfaces, posterior, <u>primary or permanent</u> .

TABLE 903.05.a. - RESTORATION BY CODES	
Dental Code	Description
D2394	Resin based composite - four (4) surfaces, posterior, primary or permanent.
c. Crowns.	
D2710	Crown resin (laboratory) indirect. Tooth designation required. Prior authorization required.
D2721	Crown resin with predominantly base metal. Tooth designation required. Prior authorization required.
D2750	Crown, porcelain fused to high noble metal. Tooth designation required. Prior authorization required.
D2751	Crown porcelain fused too predominantly base metal. Tooth designation required. Prior authorization required.
D2752	Crown, porcelain fused to noble metal. Tooth designation required. Prior authorization required.
D2790	Crown, full cast, high noble metal. Tooth designation required. Prior authorization required.
D2791	Crown full cast predominantly base metal. Tooth designation required. Prior authorization required.
D2792	Crown, full cast noble metal. Tooth designation required. Prior authorization required.
d. Other Restorative Services.	
D2920	Re-cement crown. Tooth designation required.
D2930	Prefabricated stainless steel crown - primary tooth. Tooth designation required.
D2931	Prefabricated stainless steel crown - permanent tooth. Tooth designation required.
D2932	Prefabricated resin crown. Tooth designation required.
D2940	Sedative filling. Tooth designation required. Surface is not required.
D2950	Core buildup, including any pins. Tooth designation required. Limited to two (2) pins per tooth.
D2951	Pin retention - per tooth, in addition to restoration. Tooth designation required. Limited to two (2) pins per tooth.
D2954	Prefabricated post and core in addition to crown. Tooth designation required.
D2955	Post removal. Tooth designation required.
D2980	Crown repair. Tooth designation required..
D2999	Unspecified restorative procedure, by report. Narrative and tooth designation required when prior authorizing. Requires prior authorization.

~~(3-15-02)~~(4-2-03)T

904. ENDODONTICS.

Pulpotomies and root canal procedures cannot be paid with the same date of service for the same tooth. (3-15-02)

TABLE 904 - ENDODONTICS	
Dental Code	Description
01. Pulp Capping.	
D3110	Pulp cap - direct (excluding final restoration). Tooth designation required.

TABLE 904 - ENDODONTICS	
Dental Code	Description
02. Pulpotomy.	
D3220	Therapeutic pulpotomy (excluding final restoration). Once per tooth. Tooth designation required. Not to be construed as the first step <u>stage</u> of root canal therapy.
D3221	Gross P Pulpal debridement, primary & permanent teeth. For relief of acute pain prior to conventional <u>not to be construed as the first stage of</u> root canal therapy. <u>Not allowed same day as endodontic therapy.</u> Tooth designation required.
03. Root Canal Therapy. Pulpectomy is part of root canal therapy. Includes all appointments necessary to complete treatment; also includes intra-operative radiographs. Does not include diagnostic evaluation and necessary radiographs/diagnostic images. Root canal therapy (includes treatment plan, x-rays, clinical procedures and follow-up care) is for permanent teeth only. Separate charges are allowable for open and drain if the procedure is done on different days.	
D3310	Anterior (excluding final restoration). Tooth designation required.
D3320	Bicuspid (excluding final restoration). Tooth designation required.
D3330	Molar (excluding final restoration). Tooth designation required.
D3346	Retreatment of previous root canal therapy, anterior. Tooth designation required.
D3347	Retreatment of previous root canal therapy, bicuspid. Tooth designation required.
D3348	Retreatment of previous root canal therapy, molar. Tooth designation required.
04. Apicoectomy/Periradicular Services.	
D3410	Apicoectomy/Periradicular surgery-anterior surgery or root of anterior tooth. Does not include placement of retrograde filling material. Tooth designation required.
D3421	Apicoectomy/Periradicular surgery-bicuspid (first root). Surgery on one root of a bicuspid does not include placement of retrograde filling material. Tooth designation required.
D3425	Apicoectomy/Periradicular surgery-Molar (first root). Does not include placement of retrograde filling material. Tooth designation required.
D3426	Apicoectomy/Periradicular surgery (each additional root). For molar surgeries when more than one root is being treated during the same procedure. Does not include retrograde filling material placement. Tooth designation required.
D3430	Retrograde filling - per root. For placement of retrograde filling material during Periradicular surgery procedures. Tooth designation required.
D3999	Unspecified restorative procedure, by report. Narrative and tooth designation required. Requires prior authorization.

(3-15-02)(4-2-03)T

905. PERIODONTICS.

TABLE 905 - PERIODONTICS	
Dental Code	Description
01. Surgical Services.	

TABLE 905 - PERIODONTICS	
Dental Code	Description
D4210	Gingivectomy or gingivoplasty - <u>four (4) or more contiguous teeth in quadrant</u> . Quadrant designation required.
D4211	Gingivectomy or gingivoplasty - per tooth <u>one (1) to three (3) teeth in quadrant</u> . Tooth <u>Quadrant</u> designation required.
D4220	Gingival curettage, surgical, per quadrant. Designate quadrant.
02. Non-surgical Periodontal Services.	
D4320	Provisional splinting - intracoronal.
D4321	Provisional splinting - extracoronal.
D4341	Periodontal scaling and root planing - <u>four (4) or more contiguous teeth</u> (per quadrant). Allowed once in a twelve-month period. This procedure is indicated for clients with periodontal disease and is therapeutic, not prophylactic, in nature. Quadrant designation required.
<u>D4342</u>	<u>Periodontal scaling and root planing one (1) to three (3) teeth per quadrant. Allowed once in a twelve-month period. This procedure is indicated for clients with periodontal disease and is therapeutic, not prophylactic, in nature. Quadrant designation required.</u>
D4355	Full mouth debridement to enable comprehensive periodontal evaluation and diagnosis. Allowed once in a twelve-month period. The removal of subgingival and/or supragingival plaque and calculus. This is a preliminary procedure and does not preclude the need for other procedures.
03. Other Periodontal Services.	
D4910	Periodontal maintenance procedures (following active therapy) . Allowed once in a three-month period. This procedure is for clients who have completed periodontal treatment (surgical and /or non-surgical periodontal therapies exclusive of D4355) and includes removal of the bacterial flora from crevicular and pocket areas, scaling and polishing of the teeth, periodontal evaluation, and a review of the client's plaque control efficiency.
D4999	Unspecified periodontal procedure. Narrative required when prior authorizing. Requires prior authorization.

~~(3-15-02)~~(4-2-03)T

906. PROSTHODONTICS.

01. Removable Prosthodontics. (3-15-02)

a. The Medicaid dental program covers only one (1) set of full dentures in a five (5) year period. Full dentures placed immediately must be of structure and quality to be considered the final set. Transitional or interim treatment dentures are not covered. No additional reimbursements are allowed for denture insertions. (3-15-02)

b. If full dentures are inserted during a month when the client is not eligible, but other work, including laboratory work, is completed during an eligible period, the claim for the dentures is allowed. (3-15-02)

c. Medicaid pays for partial dentures once every five (5) years. Partial dentures are limited to clients age twelve (12) and older. One (1) partial per arch is covered. When a partial is inserted during a month when the client is not eligible but all other work, including laboratory work, is completed during an eligible period, the claim for the partial is allowed. ~~(3-15-02)~~(4-2-03)T

~~**d.** Laboratory and professional fees may be paid for a partial or complete denture if the client:~~

Decides not to complete the partial or complete denture; Leaves the state; Cannot be located; Expires. An invoice listing lab and professional fees is required when prior authorizing. (3-15-02)

02. Removable Prosthodontics By Codes.

TABLE 906.02 - PROSTHODONTICS	
Dental Code	Description
a. Complete Dentures. This includes six (6) months of adjustments following placement.	
D5110	Complete denture - maxillary.
D5120	Complete denture - mandibular.
D5130	Immediate denture - maxillary.
D5140	Immediate denture - mandibular.
b. Partial Dentures. This includes six (6) months of care following placement. Limited to 12 (twelve) years and older.	
D5211	Maxillary partial denture - resin base. Includes any conventional clasps, rests, and teeth.
D5212	Mandibular partial denture - resin base. Includes any conventional clasps, rests, and teeth.
D5213	Maxillary partial denture - cast metal framework with resin denture bases. Includes any conventional clasps, rests, and teeth.
D5214	Mandibular partial denture - cast metal framework with resin denture bases. Includes any conventional clasps, rests, and teeth.
c. Adjustments to Complete and Partial Dentures. No allowance for adjustments for six (6) months following placement. Adjustments done during this period are included in complete/partial allowance.	
D5410	Adjust complete denture - maxillary.
D5411	Adjust complete denture - mandibular.
D5421	Adjust partial denture - maxillary.
D5422	Adjust partial denture - mandibular.
d. Repairs to Complete Dentures.	
D5510	Repair broken complete denture base. Arch designation required.
D5520	Replace missing or broken teeth - complete denture (each tooth) - six (6) tooth maximum. Tooth designation required.
e. Repairs to Partial Dentures.	
D5610	Repair resin denture base. Arch designation required.
D5620	Repair cast framework. Arch designation required.
D5630	Repair or replace broken clasp. Arch designation required.
D5640	Replace broken teeth, per tooth. Tooth designation required.
D5650	Add tooth to existing partial denture. Does not involve clasp or abutment tooth. Tooth designation required.
D5660	Add clasp to existing partial denture. Involves clasp or abutment tooth.

TABLE 906.02 - PROSTHODONTICS	
Dental Code	Description
D5670	Replace all teeth and acrylic on cast metal framework (maxillary).
D5671	Replace all teeth and acrylic on cast metal framework (mandibular).
f. Denture Relining. Relines will not be allowed for six (6) months following placement of denture and then only once every two (2) years.	
D5730	Reline complete maxillary denture (chairside).
D5731	Reline complete mandibular denture (chairside).
D5740	Reline maxillary partial denture (chairside).
D5741	Reline mandibular partial denture (chairside).
D5750	Reline complete maxillary denture (laboratory).
D5751	Reline complete mandibular denture (laboratory).
D5760	Reline maxillary partial denture (laboratory).
D5761	Reline mandibular partial denture (laboratory).
g. Other Removable Prosthetic Services.	
D5850	Tissue conditioning, maxillary - per denture unit.
D5851	Tissue conditioning, mandibular per denture unit.
D5899	Unspecified removable prosthetic procedure, by report. Narrative required when prior authorizing. Requires prior authorization.
0515D	Unable to deliver full or partial denture. Laboratory cost may be paid. An <u>Prior authorization required. If the client does not complete the process for the denture, leaves the state, cannot be located, or dies, the laboratory and professional fees may be billed to Medicaid with an invoice listing lab fees and arch designation required when prior authorizing.</u>

(3-15-02)(4-2-03)T

(BREAK IN CONTINUITY OF SECTIONS)

909. ORAL SURGERY.

Extraction codes include services for local anesthesia and routine preoperative and postoperative care.

TABLE 909 - ORAL SURGERY	
Dental Code	Description
01. Simple Extraction.	
D7110	Single tooth. Tooth designation required.
D7111	Extraction, coronal remnants - deciduous tooth. Including soft-tissue retained coronal remnants.
D7120	Each additional tooth. Tooth designation required.

TABLE 909 - ORAL SURGERY	
Dental Code	Description
D7130	Root removal – exposed roots. Tooth designation required.
D7140	Extraction, erupted tooth or exposed root, routine removal.
02. Surgical Extractions.	
D7210	Surgical removal of erupted tooth requiring elevation of mucoperiosteal flap and removal of bone and/or section of tooth. Includes cutting of gingiva and bone, removal of tooth structure, and closure. Tooth designation required.
D7220	Removal of impacted tooth - soft tissue. Occlusal surface of tooth covered by soft tissue; requires mucoperiosteal flap elevation. Tooth designation required.
D7230	Removal of impacted tooth -- partially bony. Part of crown covered by bone; requires mucoperiosteal flap elevation, bone removal, and may require segmentalization of tooth. Tooth designation required.
D7240	Removal of impacted tooth - completely bony. Most or all of crown covered by bone; requires mucoperiosteal flap elevation, bone removal, and may require segmentalization of tooth. Tooth designation required.
D7241	Removal of impacted tooth - completely bony, with unusual surgical complications. Most or all of crown covered by bone; usually difficult or complicated due to factors such as nerve dissection required, separate closure of maxillary sinus required or aberrant tooth position. Allowed only when pathology is present. Tooth designation required.
D7250	Surgical removal of residual tooth roots (cutting procedure). Includes cutting of gingiva and bone, removal of tooth structure, and closure. Can be completed for the same tooth number as previously extracted without prior approval. Tooth designation required.
03. Other Surgical Procedures.	
D7270	Tooth reimplantation and/or stabilization of accidentally avulsed or displaced tooth and/or alveolus. Permanent tooth only. Tooth designation required. Includes splinting and/or stabilization.
D7280	Surgical exposure of impacted or unerupted tooth for orthodontic reasons. Includes orthodontic attachments. Tooth designation required. Limited to clients under twenty-one (21) years of age.
D7281	Surgical exposure of impacted or unerupted tooth to aid eruption. Tooth designation required. Limited to clients under twenty-one (21) years of age.
D7286	Biopsy of oral tissue - soft. <u>For surgical removal of specimen only.</u>
<u>D7287</u>	<u>Cytology sample collection via mild scraping of oral mucosa.</u>
04. Alveoloplasty.	
D7320	Alveoloplasty not in conjunction with extractions - per quadrant. Quadrant designation is required.
05. Excision of Bone Tissue.	
D7471	Removal of <u>lateral</u> exostosis. Maxilla or mandible. Arch designation required.
06. Surgical Incision.	
D7510	Incision and drainage of abscess - intraoral soft tissue, <u>including periodontal origins.</u>
07. Repair of Traumatic Wounds.	
D7910	Suture of recent small wounds up to five (5) cm.

TABLE 909 - ORAL SURGERY	
Dental Code	Description
08. Other Repair Procedures.	
D7960	Frenulectomy (frenectomy or frenotomy) - separate procedure. The frenum may be excised when the tongue has limited mobility; for large diastema between teeth; or when the frenum interferes with a prosthetic appliance; or when it is the etiology of periodontal tissue disease.
D7970	Excision of hyperplastic tissue - per arch. Arch designation required.
D7971	Excision of pericoronal gingiva. Arch designation required.
D7999	Unspecified oral surgery, by report. Narrative required when prior authorizing. Requires prior authorization.

(3-15-02)(4-2-03)T

910. ORTHODONTICS.

01. Orthodontics. Limited to clients age zero (0) to twenty-one (21) years who meet the eligibility requirements, and the Handicapping Malocclusion Index as evaluated by the State Medicaid dental consultant. ~~Transfers:~~ Clients already in orthodontic treatment who transfer to Idaho Medicaid must have their continuing treatment justified and authorized by the State Medicaid dental consultants. (3-15-02)(4-2-03)T

TABLE 910.02 - LIMITED ORTHODONTICS	
Dental Code	Description
02. Limited Orthodontics. Orthodontic treatment with a limited objective, not involving the entire dentition may be directed at the only existing problem, or one aspect of a larger problem in which a decision is made to defer or forgo more comprehensive therapy.	
D8010	Limited orthodontic treatment of primary dentition. Justification and treatment plan required when prior authorizing. Requires prior authorization.
D8020	Limited orthodontic treatment of transitional dentition. Justification and treatment plan required when prior authorizing. Requires prior authorization.
D8030	Limited orthodontic treatment of adolescent dentition. Justification and treatment plan required when prior authorizing. Requires prior authorization.
D8040	Limited orthodontic treatment of adult dentition. Justification and treatment plan required when prior authorizing. Requires prior authorization.
03. Interceptive Orthodontics. Treatment, using codes for interceptive orthodontic treatment, is for procedures to lessen the severity of future effects of a malformation and to eliminate its cause. An extension of preventive orthodontics that may include localized tooth movement in an otherwise normal dentition. Such treatment may occur in the primary or transitional dentition and may include such procedures as the redirection of ectopically erupting teeth, correction of isolated dental crossbite, or recovery of recent minor space loss where overall space is adequate.	
TABLE 910.03 INTERCEPTIVE ORTHODONTICS	

TABLE 910.02 - LIMITED ORTHODONTICS	
Dental Code	Description
D8050	<i>Interceptive orthodontic treatment of primary dentition, per arch. Justification, treatment plan and arch designation required when prior authorizing. Upper and lower arch may be billed separately. Indicate arch. Requires prior authorization.</i>
D8060	<i>Interceptive orthodontic treatment of transition dentition, per arch. Justification, treatment plan and arch designation required when prior authorizing. Upper and lower arch may be billed separately. Indicate arch. Requires prior authorization.</i>
043. Comprehensive Orthodontic Treatment.	
The coordinated diagnosis and treatment leading to the improvement of a client's craniofacial dysfunction and/or dentofacial deformity including anatomical, functional, and aesthetic relationships. Treatment usually, but not necessarily, utilizes fixed orthodontic appliances, and can also include removable appliances, headgear, and maxillary expansion procedures. Must score at least eight (8) points on the State's Handicapping Malocclusion Index.	
TABLE 910.04 - COMPREHENSIVE ORTHODONTIC TREATMENT	
D8070	Comprehensive orthodontic treatment of transition dentition. Models, panorex, and treatment plan are required when prior authorizing. Requires prior authorization.
D8080	Comprehensive orthodontic treatment of adolescent dentition, up to sixteen (16) years of age. Models, panorex, and treatment plan are required when prior authorizing. Requires prior authorization.
D8090	Comprehensive orthodontic treatment of adult dentition. Justification required. Models, panoramic film, and treatment plan are required when prior authorizing. Requires prior authorization.
054. Minor Treatment to Control Harmful Habits.	
TABLE 910.05 - MINOR TREATMENT TO CONTROL ORTHODONTIC TREATMENT	
D8210	Removable appliance therapy. Removable indicates client can remove; includes appliances for thumb sucking and tongue thrusting. Justification required when prior authorizing. Will be allowed up to two (2) adjustments when prior authorizing. Replacement appliances are not covered. Requires prior authorization.
D8220	Fixed appliance therapy. Fixed indicates client cannot remove appliance; includes appliances for thumb sucking and tongue thrusting. Justification required when prior authorizing. Will be allowed up to two (2) adjustments when prior authorizing. Replacement appliances are not covered. Requires prior authorization.
065. Other Services.	
TABLE 910.06 - OTHER SERVICES	
D8670	Adjustments monthly. When utilizing treatment codes D8050, D8060, D8070, D8080 or D8090 a maximum of 24 adjustments over two (2) years will be allowed (twelve (12) per year) when prior authorizing. When utilizing treatment codes D8210 or D8220, two (2) adjustments will be allowed per treatment when prior authorizing. Requires prior authorization.
D8680	Orthodontic retention, removal of appliances, construction and placement of retainer(s). Replacement appliances are not covered. Includes both upper and lower retainer if applicable.
D8691	Repair of orthodontic appliance. Limited to one (1) occurrence.

TABLE 910.02 - LIMITED ORTHODONTICS	
Dental Code	Description
D8999	Unspecified orthodontics. Narrative required when prior authorizing. No payment for lost or destroyed appliances. Requires prior authorization.

(3-15-02)(4-2-03)T

911. ADJUNCTIVE GENERAL SERVICES.

TABLE 911 - ADJUNCTIVE GENERAL SERVICES	
Dental Code	Description
01. Unclassified Treatment.	
D9110	Palliative (emergency) treatment of dental pain - minor procedure (open and drain abscess, etc.). Open and drain is included in the fee for root canal when performed during the same sitting. Tooth or quadrant designation required.
02. Anesthesia.	
D9220	Deep sedation/ General anesthesia - first thirty (30) minutes. Not included as general anesthesia are tranquilization; nitrous oxide; or enteral or parenteral administration of analgesic, sedative, tranquilizing, or dissociative agents.
D9221	Deep sedation/ General anesthesia - each additional fifteen (15) minutes.
D9230	Analgesia - includes nitrous oxide.
D9241	Intravenous <u>conscious</u> sedation/analgesia - first thirty (30) minutes. Provider certification required.
D9242	Intravenous <u>conscious</u> sedation/analgesia - each additional fifteen (15) minutes. Provider certification required.
03. Professional Consultation.	
D9310	Consultation. Provided by dentist or physician whose opinion or advice regarding the evaluation, management and/or treatment of a specific problem or condition is requested by another dentist or physician. The written or verbal request for a consult must be documented in the client's medical record. The consultant's opinion and any services that were ordered or performed must also be documented in the client's medical record and communicated to the requesting dentist or physician. A dental consultant may initiate diagnostic and/or therapeutic services at the same or subsequent visit.
04. Professional Visits.	
D9410	House/Extended Care Facility Calls. Includes visits to nursing homes, long-term care facilities, hospice sites, institutions, etc. Report in addition to reporting appropriate code numbers for actual services performed. Limited to once per day per client. To be used when client's health restrictions require treatment at the house/extended care facility. If procedures are done in the hospital, use procedure code D9420.
D9420	Hospital Calls. May be reported when providing treatment in hospital or ambulatory surgical center, in addition to reporting appropriate code numbers for actual services performed. Limited once per day per client. Not covered for routine preoperative and postoperative. If procedures are done in other than hospital or surgery center use procedure code D9410 found in this table.

TABLE 911 - ADJUNCTIVE GENERAL SERVICES	
Dental Code	Description
D9430	Office visit for observation (during regularly scheduled hours). No other services performed.
D9440	Office visit after regularly scheduled hours.
05. Miscellaneous Service.	
D9920	Behavior Management. May be reported in addition to treatment provided when the client is developmentally disabled, mentally ill, or is especially uncooperative and difficult to manage, resulting in the dental staff providing additional time, skill and/or assistance to render treatment. Notation and justification must be written in the client's record identifying the specific behavior problem and the technique used to manage it. Allowed once per client per day.
D9930	Treatment of complication (post-surgical) - unusual circumstances.
D9940	Occlusal guards - removable dental appliances which are designed to minimize the effects of bruxism (tooth grinding) and other occlusal factors. No payment for replacement of lost or destroyed appliances.
D9951	Occlusal adjustment, limited. May also be known as equilibration; reshaping the occlusal surfaces of teeth to create harmonious contact relationships between the maxillary and mandibular teeth. Presently includes discing/odontoplasty/enamoplasty. Typically reported on a per-visit basis. Allowed once every twelve (12) months.
D9952	Occlusal adjustment, complete. Occlusal adjustment may require several appointments of varying length and sedation may be necessary to attain adequate relaxation of the musculature. Study casts mounted on an articulating instrument may be used for analysis of occlusal disharmony. It is designed to achieve functional relationships and masticatory efficiency in conjunction with restorative treatment, orthodontics, orthognathic surgery, or jaw trauma, when indicated. Occlusal adjustment enhances the healing potential of tissues affected by the lesions of occlusal trauma. Justification required when prior authorizing. Requires prior authorization.
D9999	Unspecified adjunctive procedure, by report. Narrative required when prior authorizing. Requires prior authorization.

(3-15-02)(4-2-03)T

912. PREGNANT WOMEN AND CHILDREN (PWC) CODES.

The following are the only codes covered for women on the Pregnant Women and Children (PWC) program.

TABLE 912 - PREGNANT WOMEN AND CHILDREN (PWC) CODES	
Dental Code	Description
01. Clinical Oral Examinations.	
D0140	Limited oral evaluation. <u>An evaluation or re-evaluation limited to a specific oral health problem.</u>
02. Radiographs.	
D0220	Intraoral - periapical - first film.
D0230	Intraoral - periapical - each additional film.
D0330	Panoramic film.

TABLE 912 - PREGNANT WOMEN AND CHILDREN (PWC) CODES	
Dental Code	Description
03. Restorative Services.	
D2940	Sedative filling. Tooth designation required.
04. Pulp Capping.	
D3110	Pulp cap—direct (excluding final restoration). Tooth designation required.
D3220	Therapeutic pulpotomy (excluding final restoration). Once per tooth. Tooth designation required.
05. Adjunctive Periodontal Services.	
D04341	Periodontal scaling, root planning, <u>four (4) or more contiguous teeth</u> per quadrant. Allowed once in a twelve-month period. This procedure is indicated for clients with periodontal disease and is therapeutic, not prophylactic, in nature. Quadrant designation required.
D4342	<u>Periodontal scaling and root planing one (1) to three (3) teeth per quadrant. Allowed once in a twelve-month period. This procedure is indicated for clients with periodontal disease and is therapeutic, not prophylactic, in nature. Quadrant designation required.</u>
D4355	Full mouth debridement to enable comprehensive periodontal evaluation and diagnosis.
06. Oral Surgery. Extractions - includes local anesthesia and routine postoperative care.	
D7110	Single tooth. Tooth designation required.
D7111	Extraction, coronal remnants - <u>deciduous tooth. Including soft-tissue retained coronal remnants.</u>
D7120	Each additional tooth. Tooth designation required.
D7130	Root removal—exposed roots. Tooth designation required.
D7140	Extraction, erupted tooth or exposed root, <u>routine removal.</u>
07. Surgical. Extractions - includes local anesthesia and routine postoperative care.	
D7210	Surgical removal of an erupted tooth requiring elevation of the mucoperiosteal flap and removal of tooth structure, and closure. Tooth designation required.
D7220	Removal of impacted tooth - soft tissue. Tooth designation required.
D7230	Removal of impacted tooth - partially bony. Tooth designation required.
D7240	Removal of impacted tooth—completely bony. Tooth designation required.
D7241	Removal of impacted tooth—complicated. Tooth designation required.
D7250	Surgical removal of residual tooth roots (cutting procedure). Tooth designation required.
08. Surgical Incision.	
D7510	Incision and drainage of abscess - <u>intraoral soft tissue, including periodontal origins.</u>
09. Unclassified Treatment.	
D9110	Palliative (emergency) treatment of dental pain - minor procedures.
10. Professional Consultation.	

TABLE 912 - PREGNANT WOMEN AND CHILDREN (PWC) CODES	
Dental Code	Description
D9310	Consultation. Provided by dentist or physician whose opinion or advice regarding the evaluation, management and/or treatment of a specific problem or condition is requested by another dentist or physician. The written or verbal request for a consult must be documented in the client's medical record. The consultant's opinion and any services that were ordered or performed must also be documented in the client's medical record and communicated to the requesting dentist or physician. A dental consultant may initiate diagnostic and/or therapeutic services at the same or subsequent visit.
11. Professional Visits.	
D9420	Hospital Call. May be reported when providing treatment in hospital or ambulatory surgical center, in addition to reporting appropriate code numbers for actual services performed. Limited to once per day per client.
D9430	Office visit for observation - regular office hours - no other services performed.
D9440	Office visit - after regularly scheduled hours.
<u>D9930</u>	<u>Treatment of complication (post-surgical) - unusual circumstances.</u>

~~(3-15-02)(4-2-03)T~~

913. DENTURIST POLICY GUIDELINES.

01. Overview. Idaho Medicaid processes charges submitted by Idaho licensed denturists for services provided to eligible clients. Approved services are limited to those services allowed by Idaho code for Idaho licensed denturists. (3-15-02)

02. Client Eligibility. ~~Clients without eligibility restrictions are eligible for denturist services.~~ Clients eligible for the Pregnant Women and Children (PWC) program or who have only QMB eligibility are not eligible for denturist services. ~~(3-15-02)(4-2-03)T~~

03. Prior Authorization. Prior authorization is not required for the denturist procedures except for dental code 0515D found in Section ~~839~~14 of these rules. ~~Eligibility must be checked with VRS.~~ (3-15-02)(4-2-03)T

04. Payment. Denturists will be reimbursed for procedures on a fee-for-service basis. Usual and customary charges will be paid up to the Medicaid maximum allowance. If a provider accepts Medicaid payment for a covered service, the Medicaid payment must be accepted as full payment for that service, and the client cannot be billed for the difference between the billed amount and the Medicaid allowed amount. ~~(3-15-02)(4-2-03)T~~

05. Service Limitations. Medicaid allows complete and immediate denture construction once every five (5) years. Denture relines are allowed once every two (2) years. Complete and partial denture adjustment is considered part of the initial denture construction service for the first six (6) months. (3-15-02)

914. DENTURIST PROCEDURE CODES.

The following codes are valid denturist procedure codes:

TABLE 914 - DENTURIST PROCEDURE CODES	
Dental Code	Description
0515D	Unable to deliver full denture. Arch designation required. Prior authorization required. Laboratory cost may be paid for full dentures if the client: a) decides does not to complete the process for the denture; b) leaves the state; c) cannot be located; d) expires or dies, laboratory and professional fees may be billed to Medicaid with an invoice listing lab fees and arch designation.
5110D	Complete denture, upper
5120D	Complete denture, lower
5130D	Immediate denture, upper
5140D	Immediate denture, lower
5410D	Adjust complete denture, upper
5411D	Adjust complete denture, lower
5421D	Adjust partial denture, upper
5422D	Adjust partial denture, lower
5510D	Repair broken complete denture base; arch designation required.
5520D	Replace missing or broken teeth, complete denture (each tooth); six (6) teeth maximum. Tooth designation required.
5610D	Repair resin saddle or base; arch designation required.
5620D	Repair cast framework; arch designation required.
5630D	Repair or replace broken clasp; arch designation required.
5640D	Replace broken teeth per tooth; tooth designation required.
5650D	Add tooth to existing partial denture; tooth designation required.
5660D	Add clasp to existing partial denture; not requiring the altering of oral tissue or natural teeth. Tooth designation required.
5730D	Reline complete upper denture (chairside)
5731D	Reline complete lower denture (chairside)
5740D	Reline upper partial denture (chairside)
5741D	Reline lower partial denture (chairside)
5750D	Reline complete upper denture (laboratory)
5751D	Reline complete lower denture (laboratory)
5760D	Reline upper partial denture (laboratory)
5761D	Reline lower partial denture (laboratory)

(3-15-02)(4-2-03)T

915. DENTAL CODES FOR ADULT EMERGENCY SERVICES AND HIGH RISK ADULTS.

The following dental codes are covered for adults after the month of their twenty-first birthday who are in need of emergency dental treatment or are considered at high risk.

TABLE 915 - DENTAL CODES FOR ADULT EMERGENCY SERVICES AND HIGH RISK ADULTS	
Dental Code	Description
01. Dental Diagnostic Procedures. The definitions for these codes are in Section 901 of these rules.	
a. General Oral Evaluations.	
D0120	Periodic oral evaluation.
D0140	Limited oral evaluation.
D0150	Comprehensive oral evaluation.
b. Radiographs/Diagnostic Images.	
D0210	Intraoral - complete series.
D0220	Intraoral periapical - first film.
D0230	Intraoral periapical - each additional film.
D0270	Bitewing - single film.
D0272	Bitewings - two (2) films.
D0274	Bitewings - four (4) films.
D0277	Vertical bitewings - seven (7) to eight (8) films.
D0330	Panoramic film.
02. Dental Preventive Procedures. The definitions for these codes are in Section 902 of these rules.	
a. Dental Prophylaxis.	
D1110	Prophylaxis - adult.
b. Fluoride Treatments.	
D1204	Topical application of fluoride - prophylaxis not included - adult.
03. Dental Restorative Procedures. The definitions for these codes are in Subsection 903.05 of these rules.	
a. Amalgam Restorations.	
D2140	Amalgam - one (1) surface, primary or permanent.
D2150	Amalgam - two (2) surfaces, primary or permanent.
D2160	Amalgam - three (3) surfaces, primary or permanent.
D2161	Amalgam - four (4) or more surfaces, primary or permanent.
b. Resin Restorations.	
D2330	Resin - one (1) surface, anterior.
D2331	Resin - two (2) surfaces, anterior.
D2332	Resin - three (3) surfaces, anterior.
D2335	Resin - four (4) or more surfaces or involving incisal angle, anterior.
D2390	Resin based composite crown, anterior, primary or permanent.

TABLE 915 - DENTAL CODES FOR ADULT EMERGENCY SERVICES AND HIGH RISK ADULTS	
Dental Code	Description
D2391	Resin based composite - one (1) surface, posterior, primary or permanent.
D2392	Resin based composite - two (2) surfaces, posterior, primary or permanent.
D2393	Resin based composite - three (3) surfaces, posterior, primary or permanent.
D2394	Resin based composite - four (4) surfaces, posterior, primary or permanent.
c. Other Restorative Services.	
D2920	Re-cement crown. Tooth designation required.
D2931	Prefabricated stainless steel crown - permanent tooth.
D2940	Sedative filling.
04. Endodontics.	
The definitions for these codes are in Section 904 of these rules.	
D3220	Therapeutic pulpotomy.
D3221	Pulpal debridement, permanent teeth.
05. Periodontics.	
The definitions for these codes are in Section 905 of these rules.	
a. Non-Surgical Periodontal Service.	
D4341	Periodontal scaling and root planing - four (4) or more contiguous teeth per quadrant.
D4342	Periodontal scaling and root planing one (1) to three (3) teeth per quadrant.
D4355	Full mouth debridement.
b. Other Periodontal Services.	
D4910	Periodontal maintenance procedures.
06. Prosthodontics.	
The definitions for these codes are in Section 906 of these rules.	
a. Complete Dentures.	
D5110	Complete denture - maxillary.
D5120	Complete denture - mandibular.
D5130	Immediate denture - maxillary.
D5140	Immediate denture - mandibular.
b. Partial Dentures.	
D5211	Maxillary partial denture - resin base.
D5212	Mandibular partial denture - resin base.
c. Adjustments to Dentures.	
D5410	Adjust complete denture - maxillary.
D5411	Adjust complete denture - mandibular.
D5421	Adjust partial denture - maxillary.

TABLE 915 - DENTAL CODES FOR ADULT EMERGENCY SERVICES AND HIGH RISK ADULTS	
Dental Code	Description
D5422	Adjust partial denture - mandibular.
d. Repairs to Complete Dentures.	
D5510	Repair broken complete denture base.
D5520	Replace missing or broken teeth - complete denture, each tooth.
e. Repairs to Partial Dentures.	
D5610	Repair resin denture base.
D5620	Repair cast framework.
D5630	Repair or replace broken clasp.
D5640	Replace broken teeth, per tooth.
D5650	Add tooth to existing partial denture.
D5660	Add clasp to existing partial denture.
D5670	Replace all teeth and acrylic on cast metal framework (maxillary).
D5671	Replace all teeth and acrylic on cast metal framework (mandibular).
f. Denture Relining.	
D5730	Reline complete maxillary denture (chairside).
D5731	Reline complete mandibular denture (chairside).
D5740	Reline maxillary partial denture (chairside).
D5741	Reline mandibular partial denture (chairside).
D5750	Reline complete maxillary denture (laboratory).
D5751	Reline complete mandibular denture (laboratory).
D5760	Reline maxillary partial denture (laboratory).
D5761	Reline mandibular partial denture (laboratory).
07. Oral Surgery. The definitions for these codes are in Section 909 of these rules.	
a. Extractions.	
D7111	Extraction, coronal remnants - deciduous tooth.
D7140	Extraction, erupted tooth or exposed root, routine removal.
b. Surgical Extractions	
D7210	Surgical removal of erupted tooth.
D7220	Removal of impacted tooth - soft tissue.
D7230	Removal of impacted tooth -- partially bony.
D7240	Removal of impacted tooth - completely bony.
D7241	Removal of impacted tooth - completely bony, with unusual surgical complications.

TABLE 915 - DENTAL CODES FOR ADULT EMERGENCY SERVICES AND HIGH RISK ADULTS	
Dental Code	Description
D7250	Surgical removal of residual tooth roots.
c. Other Surgical Procedures.	
D7286	Biopsy of oral tissue - soft. For surgical removal of specimen only.
d. Surgical Incision.	
D7510	Incision and drainage of abscess - including periodontal origins.
e. Repair of Traumatic Wounds.	
D7910	Suture of recent small wounds up to five (5) cm.
f. Other Repair Procedures.	
D7970	Excision of hyperplastic tissue.
D7971	Excision of pericoronal gingiva.
08. Adjunctive General Services The definitions for these codes are in Section 911 of these rules.	
a. Unclassified Treatment.	
D9110	Palliative (emergency) treatment of dental pain.
b. Anesthesia.	
D9220	Deep sedation/general anesthesia - first thirty (30) minutes.
D9221	Deep sedation/general anesthesia - each additional fifteen (15) minutes.
D9230	Analgesia - includes nitrous oxide.
D9241	Intravenous conscious sedation/analgesia - first thirty (30) minutes.
D9242	Intravenous conscious sedation/analgesia - each additional fifteen (15) minutes.
c. Professional Consultation.	
D9310	Consultation requested by other dentist or physician.
d. Professional Visits.	
D9410	House, institutional, or extended care facility calls.house/extended care facility.
D9420	Hospital calls.
D9440	Office visit after regularly scheduled hours.
D9930	Treatment of complication (post-surgical) - unusual circumstances.

(4-02-03)T

09. Required Documentation. Providers must document in the client record the evidence of an emergency medical condition or the reasoning for high risk status, using the prevailing standards within the dental community. (4-2-03)T

10. Covered Denturist Services. Denturist services listed in Section 906 of these rules are covered when the client has a referral and documentation from a dentist stating that a dental emergency exists or the client meets the criteria for a high risk adult. (4-2-03)T

11. Clients Eligible For Other Programs. Clients who are eligible for the Pregnant Women and Children (PWC) program or have only Qualified Medicare Beneficiary (QMB) eligibility are not covered under this section of rule. (4-2-03)T

9156. DENTAL PRIOR AUTHORIZATION.

All procedures that require prior authorization must be approved by the Medicaid dental consultant prior to the service being rendered. Prior authorization requires written submission including diagnostics. Verbal authorizations will not be given. Retroactive authorization will be given only in an emergency situation or as the result of retroactive eligibility. Prior authorization of Medicaid dental procedures does not guarantee payment. Client Medicaid eligibility must be verified by the provider before the authorized service is rendered. (3-15-02)

9167. -- 995. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO

DOCKET NO. 16-0310-0203

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is November 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 56-120, 56-202, 56-203, 56-1003(1), 56-1004(1)(a), Idaho Code. Also, Title XIX (Medicaid) of the Social Security Act (see 42 CFR Section 447).

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

In Section 451 of these rules the maximum reimbursement for covered charges was reduced by three and a half percent (3.5%) to reflect the holdback being made to comply with Executive Orders 2002-08 and 09.

The reimbursement floor percentage was reduced by three and a half percent (3.5%) and now applies to all hospitals licensed and Medicare certified for the State Fiscal Year ending June 30, 2002.

Pursuant to Section 67-5228, Idaho Code, transcriptional 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 differ from the proposed text are printed in this bulletin. The original text of the proposed rules was published in the December 4, 2002, Idaho Administrative Bulletin, Volume 02-12, pages 130 through 134.

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

DATED this 10th day of April, 2003.

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IDAPA 16, TITLE 03, CHAPTER 10

RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-12, December 4, 2002, pages 130 through 134.

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. 16-0310-0203

SUBSECTIONS 451.09 and 451.25

451. DEFINITIONS.

In determining hospital reimbursement on the basis either of Customary Charges or of the Reasonable Cost of services under Medicaid guidelines, whichever is less, the following will apply: (4-5-00)

09. Customary Charges. Customary Charges reflect the regular rates for inpatient or outpatient services charged to patient(s) liable for payment for their services on a charge basis. Implicit in the use of charges as the basis for comparability (or for apportionment under certain apportionment methods) is the objective that services are related to the cost of services billed to the Title XIX program. No more than ~~one hundred ninety-six and a half percent (100 96.5%)~~ of covered charges will be reimbursed for the separate Operating Costs for either total inpatient services or total outpatient services at the time of final cost settlement for any fiscal year with the exception set forth in Subsection 453.02. ~~(7-1-97)~~(11-1-02)T

25. Reimbursement Floor Percentage. The percentage of allowable Medicaid costs guaranteed to all hospitals ~~with more than forty (40) licensed and Medicare certified inpatient beds during the following state fiscal years is as follows:~~ for State Fiscal Year Ending November 1, 2002 and thereafter - eighty one and a half percent (81.5%). ~~(7-1-97)~~(11-1-02)T

- ~~a. State Fiscal Year Ending June 30, 1996 - eighty percent (80%); (7-1-97)~~
- ~~b. State Fiscal Year Ending June 30, 1997 - eighty-one percent (81%); (7-1-97)~~
- ~~c. State Fiscal Year Ending June 30, 1998 - eighty-two percent (82%); (7-1-97)~~
- ~~d. State Fiscal Year Ending June 30, 1999 - eighty-three percent (83%); (7-1-97)~~
- ~~e. State Fiscal Year Ending June 30, 2000 - eighty-four percent (84%); (7-1-97)~~
- ~~f. State Fiscal Year Ending June 30, 2001 - eighty-five percent (85%); (11-1-02)F~~
- ~~g. State Fiscal Year Ending June 30, 2002 and thereafter - eighty-five percent (85%); (11-1-02)F~~

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO

DOCKET NO. 16-0310-0301

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 Sections 56-101 through 135, 56-202, 56-203, 56-1003(1), 56-1004(1)(a), Idaho Code; and 42 CFR Part 447.

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 Idaho Administrative Bulletin, January 1, 2003, Volume 03-1, pages 94 through 100.

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

DATED this 30th day of April, 2003.

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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 03-1, January 1, 2003, pages 94 through 100.

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

16.03.23 - RULES GOVERNING UNIFORM ASSESSMENT FOR STATE-FUNDED CLIENTS

DOCKET NO. 16-0323-0101

NOTICE OF RESCISSION OF TEMPORARY RULE

AUTHORITY: In compliance with Section 67-5221, 67-5224, and 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule previously adopted under this docket. The action is authorized pursuant to Sections 39-3308, 39-3508 and 56-202(b), Idaho Code.

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

The Department of Health and Welfare, Division of Medicaid did not request the 2003 Legislature to extend this Temporary Rule docket through 2003. The rules in this docket are associated with the Utilization Management Project and its pilot which was conducted in Region 2 from October 1, 2001 through June 30, 2002. These rules were not continued because they were developed for the purpose of implementing the pilot which is now ended. The Department is continuing to develop its Utilization Management process and is currently drafting rules for prior authorization of behavioral health services. The original text of the temporary rule was published in the Idaho Administrative Bulletin, November 7, 2001, Volume 01-11, pages 41 through 42.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation, contact Jean Christensen at (208) 364-1828.

DATED this 30th day of April, 2003.

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IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.04.11 - RULES GOVERNING DEVELOPMENTAL DISABILITIES AGENCIES

DOCKET NO. 16-0411-0101

NOTICE OF RESCISSION OF TEMPORARY RULE

AUTHORITY: In compliance with Section 67-5221, 67-5224, and 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule previously adopted under this docket. The action is authorized pursuant to Sections 39-4601 et seq. and 56-1005(8), Idaho Code.

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

The Department of Health and Welfare, Division of Medicaid did not request the 2003 Legislature to extend this Temporary Rule docket through 2003. The rules in this docket are associated with the Utilization Management Project and its pilot which was conducted in Region 2 from October 1, 2001 through June 30, 2002. These rules were not continued because they were developed for the purpose of implementing the pilot which is now ended. The Department is continuing to develop its Utilization Management process and is currently drafting rules for prior authorization of behavioral health services. The original text of the temporary rule was published in the Idaho Administrative Bulletin, November 7, 2001, Volume 01-11, pages 43 and 44.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation, contact Diane Helton at (208) 334-5512.

DATED this 30th day of April, 2003.

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IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.04.14 - RULES GOVERNING THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

DOCKET NO. 16-0414-0301

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 and 56-203, Idaho Code and Section 2602, Title XXVI, Public Law No. 97-203, also known as the Low Income Home Energy Assistance Program.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the January 2003 Administrative Bulletin, Volume 03-1, pages 105 through 107.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Linda Stokes at (208) 334-5734.

DATED this 7th day of April, 2002.

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kovachs@idhw.state.id.us e-mail

IDAPA 16, TITLE 04, CHAPTER 14

RULES GOVERNING THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-1, January 1, 2003, pages 105 through 107.

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
16.04.17 - RULES GOVERNING RESIDENTIAL HABILITATION AGENCIES

DOCKET NO. 16-0417-0101

NOTICE OF RESCISSION OF TEMPORARY RULE

AUTHORITY: In compliance with Section 67-5221, 67-5224, and 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule previously adopted under this docket. The action is authorized pursuant to Sections 39-4601 et seq. and 56-1005(8), Idaho Code.

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

The Department of Health and Welfare, Division of Medicaid did not request the 2003 Legislature to extend this Temporary Rule docket through 2003. The rules in this docket are associated with the Utilization Management Project and its pilot which was conducted in Region 2 from October 1, 2001 through June 30, 2002. These rules were not continued because they were developed for the purpose of implementing the pilot which is now ended. The Department is continuing to develop its Utilization Management process and is currently drafting rules for prior authorization of behavioral health services. The original text of the temporary rule was published in the Idaho Administrative Bulletin, November 7, 2001, Volume 01-11, pages 45 and 46.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation, contact Diane Helton at (208) 334-5512.

DATED this 30th day of April, 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
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IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.03 - RULES GOVERNING CONTESTED CASE PROCEEDINGS AND DECLARATORY RULINGS

DOCKET NO. 16-0503-0101

NOTICE OF RESCISSION OF TEMPORARY RULE

AUTHORITY: In compliance with Section 67-5221, 67-5224, and 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule previously adopted under this docket. The action is authorized pursuant to Sections 56-202(b), 56-216, 56-1003(1),(2); 56-1004(1)(a); and 56-1005(8), Idaho Code.

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

The Department of Health and Welfare, Division of Medicaid did not request the 2003 Legislature to extend this Temporary Rule docket through 2003. The rules in this docket are associated with the Utilization Management Project and its pilot which was conducted in Region 2 from October 1, 2001 through June 30, 2002. These rules were not continued because they were developed for the purpose of implementing the pilot which is now ended. The Department is continuing to develop its Utilization Management process and is currently drafting rules for prior authorization of behavioral health services. The original text of the temporary rule was published in the Idaho Administrative Bulletin, November 7, 2001, Volume 01-11, page 47.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation, contact Jean Christensen at (208) 364-1828.

DATED this 30th day of April, 2003.

Sherri Kovach
Administrative Procedures Coordinator
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IDAPA 22 - BOARD OF MEDICINE

22.01.03 - RULES FOR THE LICENSURE OF PHYSICIAN ASSISTANTS

DOCKET NO. 22-0103-0201 (FEE RULE)

NOTICE OF RULEMAKING - FINAL RULE

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the legislature has taken action by concurrent resolution on this rulemaking under Docket No. 22-0103-0201. This agency action for this final rulemaking is authorized pursuant to Section 54-1806(2), Idaho Code.

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

Pursuant to Senate Concurrent Resolution No. 109 and upon the agency's request, Docket No. 22-0103-0201 is not consistent with legislative intent and is being rejected accordingly. In accordance with the concurrent resolution the final rules are rejected and pursuant to Sections 67-5291 and 67-5224, Idaho Code are declared null, void and of no force and effect.

The original text of the proposed rule was published in the October 2, 2002, Idaho Administrative Bulletin, Volume 02-10, pages 458 through 465. The pending rule was published in the January 1, 2003, Idaho Administrative Bulletin, Volume 03-1, page 174.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

DATED this 30th day of April, 2003.

Nancy M. Kerr
Executive Director
Idaho State Board of Medicine
1755 Westgate Drive
PO Box 83720, Boise, Idaho 83720-0058
(208) 327-7000, Fax (208) 327-7005

IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD

25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 25-0101-0202

NOTICE OF RULEMAKING - FINAL RULE

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given the First Regular Session of the Fifty-seventh Idaho Legislature has adopted permanent rules of the Outfitters and Guides Licensing Board. This action is authorized pursuant to Sections 67-5291 and 67-5292, Idaho Code and by the adoption of House Concurrent Resolution 12, Subsections 003.02 and 004.01 have been rejected by the legislature and therefore will not take effect.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the final rules:

The original text of the proposed rule was published in the October 2, 2002, Idaho Administrative Bulletin, Volume 02-10, pages 566 through 575. By the adoption of a concurrent resolution, HCR12, Subsections 003.02 and 004.01 have been rejected by the legislature and therefore will not take effect.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning these final rules, contact: Jake Howard, Executive Director, (208) 327-7380 - FAX (208) 327-7382.

DATED this 29th day of May, 2003.

Jake Howard, Executive director
Outfitters and Guides Licensing Board
1365 North Orchard, Suite 172
Boise, Idaho 83706
(208) 327-7380 - FAX (208) 327-7382

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY

DOCKET NO. 27-0101-0201 (FEE RULE)

NOTICE OF RULEMAKING - FINAL RULE

EFFECTIVE DATE: The effective date of Final Rule is April 2, 2003.

AUTHORITY: In compliance with Sections 67-5224 and 67-5291, Idaho Code, notice is hereby given that the 2003 Legislature has taken action by concurrent resolution on this rulemaking.

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

Pursuant to Senate Concurrent Resolution No. 109, Docket No. 27-0101-0201, adopted by the board as pending rules, was rejected and not approved, and has been reverted back to the original text.

The original text of the proposed rule was published in the September 4, 2002 Idaho Administrative Bulletin, Volume 02-9, pages 178 through 180. The pending rule was published in the December 4, 2002 Idaho Administrative Bulletin, Volume 02-12, page 165.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact R. K. "Mick" Markuson, Director, at (208) 334-2356.

DATED this 29th day of April, 2003.

R.K. "Mick" Markuson
Director
Idaho State Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356
Fax: (208) 334-3536

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY

DOCKET NO. 27-0101-0301

NOTICE OF RESCISSION OF TEMPORARY RULE

AUTHORITY: In compliance with Section 67-5221, 67-5224, and 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule previously adopted under this docket. The action is authorized pursuant to Section 37-2702(D), Idaho Code.

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

This rulemaking is being rescinded effective the date 2003 House Bill No. 237, July 1, 2003, amending Sections 37-2705, 37-2709, and 37-2713, Idaho Code, becomes effective. The original text of the temporary rule was published in the Idaho Administrative Bulletin, February 5, 2003, Volume 03-2, pages 20 and 21.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the rescission of this temporary rule, contact R. K. "Mick" Markuson, Director, at (208) 334-2356.

DATED this 29th day of April, 2003.

R.K. "Mick" Markuson
Director
Idaho State Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356
Fax: (208) 334-3536

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY

DOCKET NO. 27-0101-0302 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 10, 2002.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-1706, 54-1717, and 54-1719(1) and (4), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 18, 2003.

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

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

The current rule treats "preparations containing ephedrine or salts of ephedrine" as prescription drugs. The proposed rule sets out specific criteria for ephedrine products that can be sold without prescription. These criteria include maximum dosage requirements and label disclosure and warnings.

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

The temporary rules are necessary to protect the public health, safety, or welfare.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed is justified and necessary to avoid immediate danger and the fee is described herein:

An immediate danger is inherent in ephedrine products if they are sold in dosage amounts in excess of the rule or containing synthetic rather than naturally occurring ephedrine alkaloids. The fee charged under this rule is necessary to fund testing of these products to ensure compliance with the requirements of the rule.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because there was a need for temporary rulemaking in order to protect the public health, safety, or welfare.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary and proposed rule, contact R.K. "Mick" Markuson, Director, at (208) 334-2356.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 25, 2003.

DATED this 30th day of April, 2003.

R.K. "Mick" Markuson
Director
Idaho Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise, Idaho 83720-0067
Telephone: (208) 334-2356
Facsimile: (208) 334-3536

THE FOLLOWING IS THE TEXT OF DOCKET NO. 27-0101-0302

158. PRESCRIPTION DRUGS.

01. Designated Drugs. In addition to those drugs designated as prescription or legend drugs as defined in Section 54-1705(23), Idaho Code, the Idaho Board of Pharmacy includes preparations containing ephedrine or salts of ephedrine, as prescription drugs. (7-1-93)

02. Exempt Drugs. A product that meets all the criteria set forth in Subsection 158.02.a. is exempt from the designation as prescription drugs under Subsection 158.01 and exempt from inclusion as a Schedule II controlled substance under Section 37-2707, Idaho Code, unless it is being used or possessed as an immediate precursor of another controlled substance. (7-1-98)

a. Products containing a formula with a ratio of twelve and one half (12.5) milligrams ephedrine to two hundred (200) milligrams guaifenesin or twenty-five (25) milligrams ephedrine to four hundred (400) milligrams guaifenesin; and not exceeding a maximum of twenty-five (25) milligrams of ephedrine per tablet, capsule, or dose; and in addition to such formula, may include only inert or inactive ingredients or substance. (7-1-98)

b. Provided, however, that hemorrhoidal ointments containing not more than two tenths percent (.2%) Ephedrine Sulfate and suppositories not exceeding four (4) milligrams Ephedrine Sulfate per suppository are also exempt pursuant to Subsection 158.02. (7-1-98)

c. Ephedrine products that meet the following criteria are exempt from the designation as prescription drug. (7-10-02)T

i. The product label must state the total amount in milligrams of ephedrine or ephedrine group alkaloids in a serving or dosage unit and the amount of the product that constitutes a serving or dosage unit. (7-10-02)T

ii. The product label must state the maximum recommended twenty-four (24) hour serving or dosage for an adult human is one hundred (100) milligrams. (7-10-02)T

iii. The product label must state that consumption of more than the recommended serving or dosage for the food or dietary supplement, or that consumption of a serving or dosage at a more frequent interval than recommended, may increase the risk of adverse effects. (7-10-02)T

iv. The product label must contain the following warning in distinct contrast to other label printing or graphics: WARNING: Not intended for use by anyone under the age of eighteen (18). Do not use this product if you are pregnant or nursing. Consult a health care professional before using this product if you have heart disease, thyroid disease, diabetes, high blood pressure, depression or other psychiatric condition, glaucoma, difficulty in urinating, prostate enlargement, or seizure disorder, if you are using a monoamine oxidase inhibitor (MAOI) or any other prescription drug, or if you are using an over-the-counter drug containing ephedrine, pseudoephedrine or phenylpropanolamine (ingredients found in certain allergy, asthma, cough/cold, and weight control products). Discontinue use and call a health care professional immediately if you experience rapid heartbeat, dizziness, severe headache, shortness of breath or other similar symptoms. (7-10-02)T

v. The product label must contain the statement: "This statement has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease." (7-10-02)T

vi. The product must contain only naturally occurring ephedrine or ephedrine alkaloids and contain no hydrochloride or sulfate salts of ephedrine alkaloids. (7-10-02)T

vii. The single serving or dosage must not contain more than twenty-five (25) milligrams of ephedrine alkaloids and the single serving or dosage must not contain ephedrine alkaloids in excess of five (5) percent of the

total capsule weight. (7-10-02)T

viii. Sale of the product to persons under the age of eighteen (18) is prohibited. (7-10-02)T

ix. The product must not be marketed, advertised or represented in any manner for the indication of stimulation, mental alertness, euphoria, ecstasy, a buzz or high, heightened sexual performance or increased muscle mass. (7-10-02)T

x. Manufacturers of the product must provide an analysis of the product to the Board of Pharmacy to ensure that the product meets the requirements of applicable laws. (7-10-02)T

xi. The manufacturer, wholesaler, or other entity which first produces the product in Idaho or first brings the product into Idaho for sale or resale must register the product with the Board using the appropriate registration form provided by the Board and provide a one hundred dollar (\$100) registration fee to the Board. Registration shall expire twelve (12) months after issuance. Registration shall be renewed for a twelve (12) month period upon receipt by the Board of a one hundred dollar (\$100) renewal fee. The requirements to register and to pay a fee shall terminate upon the federal Food and Drug Administration's publication in the Federal Register of a final rule establishing good manufacturing practices for dietary supplements or five (5) years after the effective date of this rule, whichever date occurs first. Upon any violation of this rule or other applicable law, the Board may revoke the registration. (7-10-02)T

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 RESCISSION OF TEMPORARY RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, And Section 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule previously adopted under this docket. The action is authorized pursuant to Section 20-223, Idaho Code.

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

Confers a benefit to the State of Idaho and its citizens. Agency rule 50.01.01.250.06 has been revised and expanded to include placing parolees, who meet certain criteria, on unsupervised parole. The original text of the temporary rule was published in the Idaho Administrative Bulletin, April 2, 2003, Volume 03-4, pages 31 through 37.

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 1st day of May 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)

IDAPA 50 - COMMISSION OF PARDONS AND PAROLE
50.01.01 - RULES OF THE COMMISSION OF PARDONS AND PAROLE
DOCKET NO. 50-0101-0302
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is June 4, 2003.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has initiated temporary and proposed rules. The proposed action is authorized pursuant to Section 20-223, Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearings will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 18, 2003.

Any hearing site will be accessible to the physically handicapped. Interpreters for persons with hearing impairments and Braille or taped information for persons with visual impairments can be provided upon five days notice. For arrangements, contact the undersigned at (208) 334-2520.

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

Confers a benefit to the State of Idaho and its citizens. 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. Allows a parolee to be on unsupervised parole which saves the state the cost of supervision, while he is monitored for repayment of fines, fees and court ordered restitution.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 25, 2003.

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 1st day of May 2003.

Olivia Craven, Executive Director
Commission of Pardons and Parole
3125 So. Shoshone
P.O. Box 83720
Boise ID 83720-1807
208-334-2520 (phone)
208-334-3501 (fax)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 50-0101-0302

250. PAROLE.

- 01. Parole Determination.** Parole determination is at the complete discretion of the commission. (3-23-98)
- all.
- a.** The commission may release an inmate to parole on or after the date of parole eligibility, or not at (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

TABLE 1	
Length Of Sentence	Minimum Time To Be Served Before Initial Hearing
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)(6-4-03)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)(6-4-03)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. (6-4-03)T

ii. Monthly reports may be required at the discretion of community corrections. (6-4-03)T

iii. Communication from the parolee is to be directed to the district office where last supervised, or as otherwise directed after initial contact. (6-4-03)T

iv. At any time, the parolee may be placed under the regular supervision of a parole officer. (6-4-03)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)(6-4-03)T

i. The parolee must have served at least one (1) year on parole. (6-4-03)T

ii. Monthly payments will be monitored. Such monitoring will usually be accomplished by community corrections. (6-4-03)T

iii. At any time, the parolee may be placed under the regular supervision of a parole officer. (6-4-03)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)~~(6-4-03)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)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0201

NOTICE OF RULEMAKING - FINAL RULE

EFFECTIVE DATE: The effective date of the Final Rule is March 21, 2003.

AUTHORITY: In compliance with Sections 67-5224 and 67-5291, Idaho Code, notice is hereby given that the 2003 Idaho Legislature has taken action by concurrent resolution on this rulemaking docket.

DESCRIPTIVE SUMMARY: Pending Rule Docket No. 58-0101-0201 was submitted to the 2003 Idaho Legislature for review. Under House Concurrent Resolution 25, the Idaho Legislature rejected Sections 605, 608, 611, 614. Those sections will remain in effect as codified in the Idaho Administrative Code prior to initiation of this rulemaking.

The proposed rule was published in Idaho Administrative Bulletin, Volume 02-8, August 7, 2002, pages 77 through 82. The pending rule was published in the Idaho Administrative Bulletin, Volume 02-12, December 4, 2002, pages 214 through 217.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking action, contact the undersigned.

DATED this 30th day of April, 2003.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418
Fax No. (208)373-0481
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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0202

NOTICE OF REJECTION OF RULEMAKING - FINAL RULE

AUTHORITY: In compliance with Sections 67-5224 and 67-5291, Idaho Code, notice is hereby given that the 2003 Idaho Legislature has taken action by concurrent resolution on this rulemaking docket.

DESCRIPTIVE SUMMARY: Pending Rule Docket No. 58-0102-0202 was submitted to the 2003 Idaho Legislature for review. Under House Concurrent Resolution 22, the Idaho Legislature rejected this rule docket in its entirety. The rule sections included in this pending rule docket will remain in effect as codified in the Idaho Administrative Code prior to initiation of this rulemaking.

The proposed rule was published in Idaho Administrative Bulletin, Volume 02-7, July 3, 2002, page 252. The pending rule was published in the Idaho Administrative Bulletin, Volume 02-12, December 4, 2002, page 218.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking action, contact the undersigned.

DATED this 30th day of April, 2003.

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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.03 - INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL RULES

DOCKET NO. 58-0103-0201

NOTICE OF REJECTION OF RULEMAKING - FINAL RULE

AUTHORITY: In compliance with Sections 67-5224 and 67-5291, Idaho Code, notice is hereby given that the 2003 Idaho Legislature has taken action by concurrent resolution on this rulemaking docket.

DESCRIPTIVE SUMMARY: Pending Rule Docket No. 58-0103-0201 was submitted to the 2003 Idaho Legislature for review. Under House Concurrent Resolution 16, the Idaho Legislature rejected this rule docket in its entirety. The rule sections included in this pending rule docket will remain in effect as codified in the Idaho Administrative Code prior to initiation of this rulemaking.

The proposed rule was published in Idaho Administrative Bulletin, Volume 02-7, July 3, 2002, pages 253 through 277. The pending rule was published in the Idaho Administrative Bulletin, Volume 03-1, January 1, 2003, pages 247 through 256.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking action, contact the undersigned.

DATED this 30th day of April, 2003.

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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.07 - RULES FOR OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS AND LEAKING PETROLEUM STORAGE TANKS

DOCKET NO. 58-0107-0201

NOTICE OF REJECTION OF RULEMAKING - FINAL RULE

AUTHORITY: In compliance with Sections 67-5224 and 67-5291, Idaho Code, notice is hereby given that the 2003 Idaho Legislature has taken action by concurrent resolution on this rulemaking docket.

DESCRIPTIVE SUMMARY: Pending Rule Docket No. 58-0107-0201 was submitted to the 2003 Idaho Legislature for review. Under House Concurrent Resolution 22, the Idaho Legislature rejected this rule docket in its entirety.

The proposed rule was published in Idaho Administrative Bulletin, Volume 02-7, July 3, 2002, pages 278 through 307. The pending rule was published in the Idaho Administrative Bulletin, Volume 02-12, December 4, 2002, pages 236 through 237.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking action, contact the undersigned.

Dated this 30th day of April, 2003.

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IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.03 - CONTRIBUTION RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

DOCKET NO. 59-0103-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule is effective July 1, 2003.

AUTHORITY: In compliance with Sections 67-5222(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 18, 2003.

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The 2003 legislature has enacted Senate Bill 1050, which essentially transfers administration and funding of most public safety death benefits to PERSI, and expands eligibility for such benefits to firefighters who are active members of PERSI or FRF retirement funds. The bill's fiscal note indicated an estimated increase in employer costs of one-tenth of one percent (.10%) of payroll.

The bill adds a new Section, 59-1361A, Idaho Code, which governs the benefit. Subsection 59-1361A(5), Idaho Code, requires that the costs associated with this benefit be paid as an additional contribution component by the employers of those public safety officers who are eligible for the benefit. Because this benefit is effective July 1, 2003, the Retirement Board finds that it is necessary to adopt a temporary rule to comply with the legislation and fund the required benefits. The rules are being amended to increase the employer rate on public safety officers by one-tenth of one percent (.10%).

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: This rule change implements changes in governing law made by the 2003 legislature that are effective July 1, 2003.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Retirement Board has exclusive fiduciary responsibility for plan operations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rules, contact Alan H. Winkle, Executive Director of PERSI, 334-3365.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 25, 2003.

DATED this 22nd day of April, 2003.

Alan H. Winkle
Executive Director
Public Employee Retirement System of Idaho
607 N. 8th, Boise, ID 83702
P.O. Box 83720, Boise, ID 83720-0078
Phone: 208-334-3365 / FAX: 208-334-3804

THE FOLLOWING IS TEXT OF DOCKET NO. 59-0103-0301

027. FIREFIGHTER RETIREMENT FUND EMPLOYER RATE (Rule 27).

The Firefighter Retirement Fund employer rate shall be: (10-1-94)

01. Option I And II Firefighters. For option I and II firefighters hired before October 1, 1980, thirty-five ~~six point ninety~~ percent (~~356.90%~~) of payroll, as follows:

Option I And II Firefighters	
PERSI Employer Contribution Rate:	Ten point zero <u>one</u> -one percent (10.0 <u>1</u> 1%) until next determined by the Board.
Additional Employer Rate:	One percent (1.00%)
Social Security Rate:	Seven point sixty-five percent (7.65%)
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) until next determined by the Board.
TOTAL Contribution:	Thirty-five six point ninety percent (356.90%)

~~(3-30-01)~~(7-1-03)T

02. Class D Firefighters. For class D firefighters (firefighters employed on or after October 1, 1980, by a city or fire district that employs paid firefighters who are participating in the Firefighters' Retirement Fund) twenty-seven point ~~twenty~~ thirty-five percent (27.235%) of payroll, as follows:

Class D Firefighters	
PERSI Employer Contribution Rate:	Ten point zero <u>one</u> -one percent (10.0 <u>1</u> 1%) until next determined by the Board.
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) until next determined by the Board.
TOTAL Contribution:	Twenty-seven point twenty <u>thirty</u> -five percent (27.2 <u>3</u> 5%)

Statutory References: Sections 59-1302(16), 59-1391, 59-1394, 59-1397, 72-1403, and 72-1434, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (~~Amended 3-30-01~~) ~~(3-30-01)~~(7-1-03)T

028. PERSI EMPLOYER CLASS II CONTRIBUTION RATE (Rule 28).

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, for an employee classified as a police member excluding those listed in Rule 29 of this chapter and firefighters excluding those listed in Rule 27 of this chapter shall be ten point ~~zero~~ one-one percent (10.011%) of payroll until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (~~Amended 3-30-01~~) ~~(3-30-01)~~(7-1-03)T

Subjects Affected Index

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.04.21 - Rules Governing The Importation Of Animals

Docket No. 02-0421-0301

220. Grazing Cattle.	34
240. Tuberculosis Test Requirements.	34

IDAPA 15 - OFFICE OF THE GOVERNOR

IDAHO COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED

15.02.30 - Business Enterprise Program

Docket No. 15-0230-0301

120. Operator Benefits.	38
------------------------------	----

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - Rules Governing The Medical Assistance Program

Docket No. 16-0309-0214

805. Prescription Drugs.	41
808. (Reserved).	41
809. Limitations On Payment.	41
810. Prior Authorization.	42
812. Additional Covered Drug Products.	43

Docket No. 16-0309-0302

900. Dental Services.	49
901. Dental Diagnostic Procedures.	49
902. Dental Preventive Procedures.	51
903. Dental Restorative Procedures.	52
904. Endodontics.	54
905. Periodontics.	55
906. Prosthodontics.	56
909. Oral Surgery.	58
910. Orthodontics.	60
911. Adjunctive General Services.	62
912. Pregnant Women And Children (PWC) Codes.	63
913. Denturist Policy Guidelines.	65
914. Denturist Procedure Codes.	65
915. Dental Codes For Adult Emergency Services And High Risk Adults.	66
916. Dental Prior Authorization.	70

16.03.10 - Rules Governing Medicaid Provider Reimbursement In Idaho

Docket No. 16-0310-0203

451. Definitions.	73
------------------------	----

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - Rules Of The Idaho Board Of Pharmacy

Docket No. 27-0101-0302 (Fee Rule)

158. Prescription Drugs.	85
-------------------------------	----

IDAPA 50 - COMMISSION OF PARDONS AND PAROLE

50.01.01 - Rules Of The Commission Of Pardons And Parole

Docket No. 50-0101-0302

250. Parole.	88
-------------------	----

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.03 - Contribution Rules For The Public Employee Retirement System Of Idaho

Docket No. 59-0103-0301

027. Firefighter Retirement Fund Employer Rate (Rule 27).....	100
028. Persi Employer Class II Contribution Rate (Rule 28).	100

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.

IDAPA 02 – DEPARTMENT OF AGRICULTURE PO Box 790, Boise, ID 83701

02-0421-0301, Rules Governing the Importation of Animals. Clarifies that T.B. tests may be required for grazing permits; that the ownership of herds moved under grazing permits may not change while the permit is in force; and the identification and T.B. testing requirements for feeder cattle. Comment by: 6/25/03.

IDAPA 15 – OFFICE OF THE GOVERNOR COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED PO Box 83720, Boise, ID 83720-0012

15-0230-0301, Business Enterprise Program. Removes penalty for participating vendors for withdrawing funds from their private retirement accounts. Comment by: 6/25/03.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE PO Box 83720, Boise, ID 83720-0036

16-0309-0302, Rules Governing the Medical Assistance Program. Implements legislative intent language by continuing the emergency services adult dental program and adds specific preventative and restorative adult dental services for high risk clients in cases where infection or other medical conditions represent a significant risk to their physical health; and incorporates the 2003 Current Dental Terminology Handbook procedure code changes adopted by the American Dental Association. Comment by: 6/25/03.

IDAPA 27 – IDAHO BOARD OF PHARMACY PO Box 83720, Boise, ID 83720-0067

27-0101-0302, Rules of the Idaho State Board of Pharmacy. Changes set out specific criteria for ephedrine products that can be sold without prescription and include maximum dosage requirements and label disclosure and warnings. Comment by: 6/25/03.

IDAPA 50 – COMMISSION OF PARDONS AND PAROLE PO Box 83720, Boise, ID 83720-1807

50-0101-0302, Rules of the Commission of Pardons and Parole. Revises and expands rule to include placing parolees, who meet certain criteria, on unsupervised parole. Comment by: 6/25/03.

**IDAPA 59 – PUBLIC EMPLOYEES RETIREMENT SYSTEM OF IDAHO
PO Box 83720, Boise, ID 83720-0078**

59.01.03, Contribution Rules of PERSI. Changes comply with Senate Bill 1050 by transferring administration and funding of most public safety death benefits to PERSI, and expands eligibility for such benefits to firefighters who are active members of PERSI or FRF retirement funds. Increases the employer rate on public safety officers by one-tenth of one percent (.10%). Comment by: 6/25/03

Please refer to the Idaho Administrative Bulletin, **June 4, 2003, Volume 03-6** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact names.

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

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

The Idaho Administrative Bulletin and Administrative Code are available on-line at: <http://www2.state.id.us/adm/adminrules/>

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

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

Subject Index

A
Additional Covered Drug Products 43
Adjunctive General Services 62
Adjunctive General Services, Adult
Dental Emergency Services 70
Amalgams & Resin Restoration, Dental
Restorative Procedures 52
Anterior Proximal Restoration, Dental
Restorative Procedures 52

B
Brand Name Drugs, Limitations On
Payment by Department 41

C
Class D Firefighters 100
Client Eligibility, Denturist Policy
Guidelines 65
Clients Eligible For Other Programs,
Adult Dental Emergency
Services 70
Comprehensive Orthodontic
Treatment 61
Covered Denturist Services, Adult
Dental Emergency Services 70
Crowns, Dental Restorative
Procedures 52
Customary Charges, Regular Rates For
Inpatient/Outpatient Services 73
Customary Fees, Dental Services 49

D
Day's Supply, Limitations On Payment
by Department 41
Definitions, Hospital
Reimbursement 73
Dental Codes For Adult Emergency
Services & High Risk Adults 66
Dental Covered Benefits & Limitations,
Dental Services 49
Dental Diagnostic Procedures 49
Dental Diagnostic Procedures, Adult
Dental Emergency Services 66
Dental Preventive Procedures 51
Dental Preventive Procedures, Adult
Dental Emergency Services 67
Dental Prior Authorization 70
Dental Restorative Procedures 52
Dental Restorative Procedures, Adult
Dental Emergency Services 67
Dental Services 49
Denturist Policy Guidelines 65
Denturist Procedure Codes 65
Designated Drugs, Prescription
Drugs 85
Detainers, Idaho Commission Of
Pardons & Parole 94
Discharge From Parole, Idaho

Commission Of Pardons &
Parole 93

E
Eligibility, Business Enterprise
Program, Blind & Visually
Impaired 38
Emergency Situation, Prior
Authorization, Pharmaceutical 43
Endodontics 54
Endodontics, Adult Dental Emergency
Services 68
Exempt Drugs, Prescription Drugs 85

F
Firefighter Retirement Fund Employer
Rate 100

G
General Conditions Of Parole, Idaho
Commission Of Pardons &
Parole 90
Grazing Cattle, The Importation Of
Animals 34

I
Institutional Parole, Considered At The
Discretion Of The Idaho Commission
Of Pardons & Parole 91
Intensive Supervision, Idaho
Commission Of Pardons &
Parole 93
Interceptive Orthodontics 60
Items Requiring Prior Authorization,
Pharmaceutical 42

L
Limitations On Payment 41
Limitations To Discourage Waste,
Financial Obligations Of
Recipients 42
Limited Orthodontics 60

M
Medical Insurance, Business Enterprise
Program, Blind & Visually
Impaired 38
Medical Parole, Idaho Commission Of
Pardons & Parole 93
Medication For Multiple Persons,
Financial Obligation Of
Recipient 41
Minor Treatment To Control Harmful
Habits, Orthodontics 61

N
No Prior Authorization, Financial
Obligations Of Recipients 41

O
Operator Benefits, Business Enterprise
Program, Blind & Visually
Impaired 38
Option I & II Firefighters 100
Oral Surgery 58
Oral Surgery, Adult Dental Emergency
Services 69
Orthodontics 60
Overview, Denturist Policy
Guidelines 65

P
PERSI Employer Class II Contribution
Rate 100
Parole Determination, Idaho
Commission Of Pardons &
Parole 89
Parole, Idaho Commission Of Pardons
& Parole 88
Payment, Denturist Policy
Guidelines 65
Periodontics 55
Periodontics, Adult Dental Emergency
Services 68
Posterior Restoration, Dental
Restorative Procedures 52
Prescription Drugs 41, 85
Prescriptions For Nonlegend
Products 43
Primary Review, Idaho Commission Of
Pardons & Parole 89
Prior Authorization Drugs 42, 43
Prior Authorization, Denturist Policy
Guidelines 65
Prosthodontics 56
Prosthodontics, Adult Dental
Emergency Services 68

R
Reimbursement Floor Percentage 73
Removable Prosthodontics 56
Removable Prosthodontics By
Codes 57
Request For Prior Authorization,
Pharmaceutical 42
Required Documentation, Adult Dental
Emergency Services 70
Restorations By Codes, Dental
Restorative Procedures 52
Retirement & Pension Accounts,
Business Enterprise Program, Blind
& Visually Impaired 38

S
Service Limitations, Denturist Policy
Guidelines 65
Sick Leave & Vacation Funds, Business

Enterprise Program, Blind & Visually
Impaired 38
Special Conditions Of Parole, Idaho
Commission Of Pardons &
Parole 91
Special Progress Reports, Idaho
Commission Of Pardons &
Parole 94

T

Therapeutic Vitamins 43
Tuberculosis Accredited Free Herd, The
Importation Of Animals 34
Tuberculosis Accredited Free State Or
Zone, The Importation Of
Animals 34
Tuberculosis Accredited Preparatory
State Or Zone, The Importation Of
Animals 35
Tuberculosis Modified Accredited
Advanced State Or Zone, The
Importation Of Animals 34
Tuberculosis Modified Accredited State
Or Zone, The Importation Of
Animals 34
Tuberculosis Non-Accredited State Or
Zone, The Importation Of
Animals 35
Tuberculosis Test Requirements, The
Importation Of Animals 34

U

Unsupervised Parole, Idaho
Commission Of Pardons &
Parole 92